

Offered: 3/1/90
Referred: Finance

go0969sE

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 273 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of insurance
7 agents, general agents, brokers, managers, solici-
8 tors, adjusters, and firms; and providing for an
9 effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 21.27.010(a) is amended to read:

12 (a) A person may not [IN THIS STATE] act as or represent to be
13 an agent, general agent, broker, solicitor, or adjuster unless li-
14 censed by the [THIS] state.

15 * Sec. 2. AS 21.27.010(b) is amended to read:

16 (b) An agent, general agent, solicitor, or broker may not solici-
17 it or take applications for, procure, or place for others any kind of
18 insurance for which the person is not licensed.

19 * Sec. 3. AS 21.27.030(a) is amended to read:

20 (a) The director may not grant an agent, general agent, solici-
21 tor, or broker license to a person if the director has reasonable
22 cause to believe that the [CIRCUMSTANCES OF THE] applicant for the
23 license would, [ARE SUCH THAT] during the 12-month period immediately
24 following issuance of the license, receive an [IF ISSUED, THE] aggre-
25 gate amount in [OF] commissions [TO BE] represented by the controlled
26 business that exceeds [WOULD EXCEED] the aggregate amount of commis-
27 sions [TO BE] represented by all other insurance business that would
28 [TO] be procured by or through the applicant.

29 * Sec. 4. AS 21.27.030(d) is amended to read:

1 (d) The director may revoke an agent, general agent, solicitor,
2 or broker license if the director has reasonable cause to believe that
3 during either of the two preceding calendar years the aggregate amount
4 of commissions represented by the controlled business procured by or
5 through the licensee exceeded the aggregate amount of commissions
6 represented by all other insurance business procured by or through the
7 licensee.

8 * Sec. 5. AS 21.27.050 is amended to read:

9 Sec. 21.27.050. ONE FILING OF PERSONAL DATA SUFFICIENT. (a)
10 The filing of personal data by an individual in connection with one
11 application for an agent or general agent license is [SHALL BE] suffi-
12 cient, regardless of the number of insurers to be represented [BY THE
13 AGENT] or the number of subsequent applications by the same applicant.

14 (b) The director may [FROM TIME TO TIME] require a licensed
15 agent, general agent, solicitor, broker, or adjuster, to supply the
16 information called for in an application for a license.

17 * Sec. 6. AS 21.27.060 is amended to read:

18 Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) An [EACH]
19 applicant for an individual license as agent, general agent, broker,
20 solicitor, or adjuster shall, before the issuance of the license,
21 personally take and pass, to the satisfaction of the director, an
22 examination given by the director as a test of the qualifications and
23 competence of the applicant. This requirement does not apply to

24 (1) applicants for limited licenses, as travel insurance
25 agents only, under AS 21.27.150, or, at the discretion of the direc-
26 tor, to applicants for licenses as disability insurance agents for the
27 purpose of handling limited coverages pertaining to sports and recre-
28 ation;

29 (2) applicants

1 (A) who, at any time within the two-year [FIVE-YEAR]
2 period immediately preceding the date of application, have been
3 licensed in this state under a license requiring qualifications
4 required by the license applied for;

5 (B) [AND] who are considered by the director to be
6 fully qualified and competent; and

7 (C) whose previous license was not revoked for any
8 reason;

9 (3) applicants for a license [AS NONRESIDENT AGENT OR AS
10 NONRESIDENT BROKER] who have fulfilled qualification requirements in
11 their state or province of residence and who are considered by the
12 director to be fully qualified and competent [;

13 (4) APPLICANTS FOR AN AGENT OR SOLICITOR LICENSE COVERING
14 THE SAME KINDS OF INSURANCE AS AN AGENT'S OR SOLICITOR'S LICENSE THEN
15 HELD BY THEM].

16 (b) The director may at any time require an individual licensed
17 as an agent, general agent, broker, solicitor, or adjuster to take and
18 successfully pass an examination testing competence and qualifications
19 as a condition to the continuance of the license if the licensee has
20 been guilty of a violation of this title, or has [SO] conducted af-
21 fairs under the license that [AS TO] cause the director reasonably to
22 desire further evidence of the qualifications of the licensee.

23 * Sec. 7. AS 21.27.080(d) is repealed and reenacted to read:

24 (d) The director may make arrangements, including contracting
25 with an outside testing service, for administering examinations and
26 collecting a nonrefundable fee.

27 * Sec. 8. AS 21.27.090 is repealed and reenacted to read:

28 Sec. 21.27.090. QUALIFICATIONS FOR LICENSING. (a) To qualify
29 for an agent, general agent, broker, solicitor, or adjuster license,

1 an applicant shall comply with this title and

2 (1) be 19 years of age or older with a high school or
3 General Education Development diploma or equivalent;

4 (2) if for a resident license, be a bona fide resident
5 before issuance of the license and actually reside in the state;

6 (3) successfully pass any examination required under
7 AS 21.27.060;

8 (4) be a trustworthy person;

9 (5) not use or intend to use the license for the purpose
10 principally of writing controlled business, as defined in AS 21.27.-
11 030;

12 (6) not have committed an act that is a ground for denial,
13 suspension, or revocation set out in AS 21.27.410;

14 (7) if the application is for an agent or general agent
15 license, be appointed as its agent or general agent by one or more
16 authorized insurers, subject to issuance of the license, except that
17 an individual acting on behalf of a firm is not required to have an
18 appointment as an agent or general agent for that activity;

19 (8) if the application is for a general agent license, have
20 a minimum of three years active working experience in insurance admin-
21 istrative functions, including those listed under the definition of
22 "general agent" in AS 21.90.900, that, in the director's discretion,
23 exhibits the applicant's ability to competently perform the adminis-
24 trative functions for all lines applied for;

25 (9) if the application is for a broker license, have a
26 minimum of three years' active working experience in all lines applied
27 for either as an agent, solicitor, adjuster, general agent, broker, or
28 as an employee of insurers or representative of insurers, or special
29 education or training of sufficient duration and extent to satisfy the

1 director that the applicant possesses the competence necessary to
2 fulfill the responsibilities of a broker;

3 (10) if the application is for a solicitor license, intend
4 to and in fact make the soliciting and handling of insurance business
5 under the license the applicant's principal gainful occupation and
6 represent and be employed by only one licensed agent, general agent,
7 or broker;

8 (11) if the application is for an adjuster license, have at
9 least six months' experience, special education, or training in handl-
10 ing loss claims under insurance contracts, of sufficient duration and
11 extent to make the person reasonably competent to fulfill the respon-
12 sibilities of an adjuster.

13 (b) If the director finds that the applicant is qualified and
14 that the license fee has been paid, the director shall issue the
15 license.

16 (c) The director may adopt regulations establishing additional
17 educational or experience requirements for applicants under (a) of
18 this section.

19 (d) To qualify for a firm agent or broker license an applicant
20 must comply with this title and

21 (1) comply with (a)(4) and (5) of this section;

22 (2) if a corporation, maintain a lawfully established place
23 of business in the state, except as provided in AS 21.27.270.

24 * Sec. 9. AS 21.27 is amended by adding a new section to read:

25 Sec. 21.27.095. LICENSING OF GENERAL AGENTS. (a) A general
26 agent has the authority, consistent with this title, that is conferred
27 by the insurer. A general agent, resident or nonresident, qualified
28 and licensed under AS 21.27.090, may exercise the powers conferred by
29 this title upon agents licensed for the kinds of insurance that the

1 general agent is authorized to transact for the insurer appointing the
2 agent.

3 (b) A person employed on salary by an insurer, including an
4 officer or salaried employee performing the same services as a general
5 agent, is considered to be a service representative and is not re-
6 quired to be licensed.

7 (c) For purposes of this section, a person that performs manage-
8 ment services for an insurer is not required to be licensed as a
9 general agent if the person

10 (1) is a wholly-owned subsidiary of the insurer;

11 (2) wholly owns the insurer; or

12 (3) is a wholly-owned subsidiary of the insurance holding
13 company that owns or controls the insurer.

14 * Sec. 10. AS 21.27.100 is amended to read:

15 Sec. 21.27.100. APPOINTMENT OF AGENTS OR GENERAL AGENTS. An
16 [EACH] insurer [, ON] appointing an agent or general agent in the
17 state [,] shall file written notice of the appointment [IN TRIPLICATE]
18 with the director on forms prescribed and furnished by the director.
19 If the appointee is [THEN] licensed and if the necessary licensing fee
20 is paid, [OR AS SOON AS LICENSED,] the director shall provide to the
21 insurer and to the appointee written notification of the effective
22 date of the appointment [MAIL ONE COPY OF THE APPOINTMENT TO THE AGENT
23 AND RETURN ONE COPY TO THE INSURER WITH THE THIRD COPY BEING RETAINED
24 IN THE DIRECTOR'S OFFICE].

25 * Sec. 11. AS 21.27.100 is amended by adding a new subsection to read:

26 (b) An insurer that enters into an agreement with a general
27 agent shall do so by means of a written contract that specifically
28 sets out the duties, functions, powers, authority, and compensation of
29 all parties to the contract. A contract with a general agent shall be

1 kept in the permanent records of the insurer and general agent, and be
2 open to inspection by the director.

3 * Sec. 12. AS 21.27.110 is amended to read:

4 Sec. 21.27.110. TERM OF APPOINTMENT [OF AGENT]. An [EACH]
5 appointment under AS 21.27.100 continues [SHALL CONTINUE] in force
6 until

7 (1) the 30th of June of each year unless continued [RENEWED]
8 by the insurer by payment to the director on or before the close of
9 business on the 30th day of June of an annual fee set under AS 21.06.-
10 250; [OR]

11 (2) the appointment is revoked by the insurer by written
12 notice of revocation to the appointee and [AGENT; THE INSURER SHALL
13 IMMEDIATELY FILE A DUPLICATE COPY OF THE NOTICE OF REVOCATION WITH]
14 the director; or

15 (3) the appointment is revoked by the director by written
16 notice of revocation to the appointee and insurer [NO FEE SHALL BE
17 CHARGED FOR FILING THE COPY].

18 * Sec. 13. AS 21.27.120(a) is amended to read:

19 (a) Revocation of an appointment is [BY THE INSURER SHALL BE
20 CONSIDERED TO BE] effective as of the date designated in the notice as
21 being the effective date if the notice is actually received by the
22 appointee [AGENT] before the designated date; otherwise, as of the
23 earlier of the following dates:

24 (1) the date the notice of revocation was received by the
25 appointee [AGENT];

26 (2) the date the notice, if mailed to the agent at the
27 appointee's [AGENT'S] last address of record [WITH THE INSURER], in
28 due course should have been received by the appointee [AGENT].

29 * Sec. 14. AS 21.27.130 is amended to read:

1 Sec. 21.27.130. FORM AND CONTENT OF [AGENT, BROKER, SOLICITOR]

2 LICENSES. Agent, general agent, adjuster, solicitor, and broker
3 licenses must be in the form the director prescribes, and must set out

4 (1) the name and address of the licensee, or if the li-
5 censee is required to have a place of business, the address of the
6 place of business;

7 (2) if for [THE AGENT OR BROKER IS] a firm, the name of the
8 principal or manager of the firm [HOLDING AN INDIVIDUAL LICENSE AS
9 REQUIRED BY AS 21.27.140];

10 (3) the kind or kinds of insurance the licensee is licensed
11 to handle;

12 (4) if a solicitor's license, the name and address of the
13 agent or broker represented by the solicitor;

14 (5) the condition under which the license is granted;

15 (6) the date of issuance of the license.

16 * Sec. 15. AS 21.27.160 is amended to read:

17 Sec. 21.27.160. SCOPE [NUMBER] OF LICENSES. An agent, general
18 agent, broker, solicitor, or adjuster is only required to have [BUT]
19 one type of license inclusive of all kinds or combination of kinds of
20 insurance the agent, general agent, broker, adjuster, or solicitor is
21 licensed to handle, regardless of the number of represented insurers
22 [FOR WHOM THE AGENT IS APPOINTED].

23 * Sec. 16. AS 21.27.160 is amended by adding a new subsection to read:

24 (b) The following license types may be issued:

25 (1) an all lines license;

26 (2) a property or casualty lines license; or

27 (3) a life lines license.

28 * Sec. 17. AS 21.27.190 is amended by adding a new subsection to read:

29 (d) The director may adopt, by regulation, an alternative to the

1 bond required by this section.

2 * Sec. 18. AS 21.27.240 is amended to read:

3 Sec. 21.27.240. FEE FOR AND [,] CUSTODY OF SOLICITOR'S LICENSE
4 [AND CANCELLATION]. (a) An agent, general agent, or broker who
5 employs a solicitor shall pay the fee for issuance, or annual fee for
6 continuation, of a solicitor license.

7 (b) The solicitor license [SHALL BE DELIVERED TO AND] shall
8 remain in the possession of the employer [EMPLOYING AGENT OR BROKER].
9 Upon termination of the employment, the license terminates and shall
10 be returned to the director for cancellation.

11 * Sec. 19. AS 21.27.250(a) is amended to read:

12 (a) A solicitor license may not cover [ANY KIND OF] insurance
13 for which the agent, general agent, or broker by whom the solicitor is
14 employed is not [THEN] licensed.

15 * Sec. 20. AS 21.27.250(c) is amended to read:

16 (c) An individual may [SHALL] not be licensed as an agent,
17 general agent, or broker while licensed as a solicitor.

18 * Sec. 21. AS 21.27.260 is amended to read:

19 Sec. 21.27.260. EMPLOYER'S RESPONSIBILITY FOR SOLICITOR [OF
20 EMPLOYING AGENT OR BROKER]. All business transacted by a solicitor
21 under license as a solicitor shall be in the name of the agent, gen-
22 eral agent, or broker by whom the solicitor is employed. The [AND
23 THE] agent, general agent, or broker is [SHALL BE] responsible for all
24 acts or omissions of the solicitor within the scope of employment as
25 solicitor.

26 * Sec. 22. AS 21.27.270(a) is amended to read:

27 Sec. 21.27.270. LICENSING OF NONRESIDENT AGENTS, GENERAL AGENTS,
28 BROKERS, OR ADJUSTERS. (a) The director may license as a nonresident
29 insurance agent, general agent, broker, or adjuster a person who

1 otherwise qualifies under this title, but who is not a resident of or
2 domiciled in the state [ALASKA].

3 * Sec. 23. AS 21.27.280(a) is amended to read:

4 Sec. 21.27.280. DIRECTOR AS AGENT FOR SERVICE OF PROCESS
5 [AGAINST NONRESIDENT AGENT, BROKER, ADJUSTER]. (a) A [EACH] licensed
6 nonresident agent, general agent, broker, or adjuster shall appoint
7 the director as attorney to receive service of legal process issued
8 against the licensee [AGENT, BROKER OR ADJUSTER] in this state upon
9 causes of action arising in this state. Service upon the director as
10 attorney constitutes [SHALL CONSTITUTE] effective legal service upon
11 the licensee [AGENT, BROKER OR ADJUSTER].

12 * Sec. 24. AS 21.27.280(b) is amended to read:

13 (b) The appointment is [SHALL BE] irrevocable for as long as
14 [THERE COULD BE] a cause of action may be brought against the licensee
15 [AGENT, BROKER OR ADJUSTER] arising out of insurance transactions in
16 this state.

17 * Sec. 25. AS 21.27.280(c) is amended to read:

18 (c) Duplicate copies of legal process against the licensee
19 [AGENT, BROKER OR ADJUSTER] shall be served upon the director either
20 by a peace officer or through certified mail with return receipt
21 requested. At the time of service the plaintiff shall pay to the
22 director a fee set under AS 21.06.250, taxable as costs in the action.

23 * Sec. 26. AS 21.27.280(d) is amended to read:

24 (d) Upon receiving a [THE] service of legal process, the direc-
25 tor shall immediately send one of the copies of the process, by cer-
26 tified mail with return receipt requested, to the defendant licensee
27 [AGENT, BROKER OR ADJUSTER] at the defendant's last address of record
28 with the director.

29 * Sec. 27. AS 21.27.310(a) is amended to read:

1 (a) An individual who has not passed the examination required by
2 AS 21.27.090(a)(3) or does not have the experience or special educa-
3 tion with reference to the handling of loss claims required under
4 AS 21.27.090(a)(11), but who otherwise meets the requirements of
5 AS 21.27.090, [AS 21.27.290(3)] may be employed and licensed as a
6 trainee adjuster, subject to the provisions of this section.

7 * Sec. 28. AS 21.27.310(b) is amended to read:

8 (b) A licensed adjuster employing a trainee adjuster shall
9 immediately submit to the director the [INFORM THE DIVISION OF INSUR-
10 ANCE BY CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED, OF THE EMPLOY-
11 MENT OF A TRAINEE ADJUSTER, GIVING THE EXACT DATE OF EMPLOYMENT AND
12 ENCLOSING WITH THE CORRESPONDENCE THE ADJUSTER LICENSE] application
13 [FORM] of the trainee adjuster, with the fee set under AS 21.06.250
14 [PROPERLY COMPLETED].

15 * Sec. 29. AS 21.27.310(c) is amended to read:

16 (c) A trainee adjuster shall comply with the adjuster licensing
17 requirements of AS 21.27.090(a)(3) and (11) within 12 months after the
18 effective date of [MAY TAKE] the trainee adjuster license [EXAMINATION
19 AFTER SIX MONTHS FROM THE DATE OF RECEIPT OF THE APPLICATION BY THE
20 DIVISION OF INSURANCE].

21 * Sec. 30. AS 21.27.310 is amended by adding a new subsection to read:

22 (g) The director shall terminate the license of a trainee ad-
23 juster who is not in compliance with this section. A licensee or
24 other person having possession or custody of the license shall immedi-
25 ately deliver the license to the director either personally or by
26 mail.

27 * Sec. 31. AS 21.27.320(a) is amended to read:

28 Sec. 21.27.320. [ADJUSTMENT BY] AGENT OR GENERAL AGENT AS AD-
29 JUSTER; [AND] NONRESIDENT ADJUSTERS. (a) On behalf of and as

1 authorized by an insurer for which the agent or general agent is ap-
2 pointed [LICENSED AS AGENT], an agent or general agent may occasion-
3 ally [FROM TIME TO TIME] act as an adjuster and investigate and report
4 upon claims without being required to be licensed as an adjuster.

5 * Sec. 32. AS 21.27.330 is amended to read:

6 Sec. 21.27.330. PLACE OF BUSINESS. A [EACH] licensed agent,
7 general agent, broker, and adjuster, other than those [AN AGENT]
8 licensed for life or disability insurances or annuities only, shall
9 have and maintain in this state, or if a nonresident agent or nonresi-
10 dent broker, in the state of domicile, a place of business accessible
11 to the public [. THE PLACE OF BUSINESS IS] where the licensee [AGENT,
12 BROKER, OR ADJUSTER] principally conducts transactions under the
13 licenses. The address of the place of business must [SHALL] appear on
14 all licenses of the licensee, and the licensee must [SHALL] promptly
15 notify the director of any change of address. If the licensee main-
16 tains more than one place of business in this state, the licensee
17 shall obtain a [DUPLICATE OF THE] license or licenses for each addi-
18 tional place, and shall pay an additional license fee for each [DUPLI-
19 CATE] license.

20 * Sec. 33. AS 21.27.340 is amended to read:

21 Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. (a) The license or
22 licenses of each agent, general agent, broker, and adjuster, other
23 than licenses as to life or disability insurances or annuities only,
24 [OR OF EACH BROKER OR ADJUSTER] shall be displayed in a conspicuous
25 place in that part of the place of business that [WHICH] is customar-
26 ily open to the public.

27 (b) The license of a solicitor shall be displayed in each place
28 of business of the agent, general agent, or broker by whom the solici-
29 tor is employed.

1 * Sec. 34. AS 21.27.350 is amended to read:

2 Sec. 21.27.350. MAINTENANCE OF RECORDS; FORM AND CONTENT [OF
3 AGENTS, BROKERS, ADJUSTERS]. (a) An [EACH] agent, general agent,
4 broker, or adjuster shall keep at the address [AS] shown on the li-
5 cense a record of all transactions consummated under the license.
6 This record shall be in organized form and must include

7 (1) if an agent, general agent, or broker,

8 (A) a record of each insurance contract procured,
9 issued, or countersigned, together with the names of the insurers
10 and insureds, the amount of premium paid or to be paid, and a
11 statement of the subject of the insurance;

12 (B) the names of any other licensees from whom busi-
13 ness is accepted, and of persons to whom commissions or allow-
14 ances of any kind are promised or paid;

15 (2) if an adjuster, a record of each investigation or
16 adjustment undertaken or consummated, and a statement of the fee,
17 commission, or other compensation received or to be received by the
18 adjuster on account of the investigation or adjustment;

19 (3) additional information that [WHICH] is customary, or
20 that [WHICH] may reasonably be required by the director.

21 * Sec. 35. AS 21.27.350(c) is amended to read:

22 (c) In addition to the record required under (a) of this sec-
23 tion, each agent, general agent, or broker shall have and maintain at
24 the [AGENT'S OR BROKER'S] principal place of business current account-
25 ing and financial records maintained under [IN ACCORDANCE WITH] gener-
26 ally accepted accounting principles. The director may request summary
27 or detailed copies for examination by the division. Records examined
28 under this subsection are confidential when in the possession of the
29 division, but may be used by the director in a proceeding against the

1 licensee. For purposes of this subsection, the records of a firm are
2 also [SHALL BE CONSIDERED] the records of an individual licensee
3 [AGENT OR BROKER] acting on behalf of the firm.

4 * Sec. 36. AS 21.27.360 is amended to read:

5 Sec. 21.27.360. REPORTING AND ACCOUNTING FOR PREMIUMS. (a) A
6 licensee [AN AGENT OR OTHER REPRESENTATIVE OF AN INSURER] involved in
7 the procuring or issuance of an insurance contract shall report to the
8 insurer the exact amount of consideration charged as a premium for the
9 contract. The amount charged shall be shown in the contract and in
10 the records of the licensee [AGENT].

11 (b) All money [FUNDS], except that [THOSE] made payable to the
12 insurer, representing premiums or return premiums received by the
13 licensee [AN AGENT OR BROKER], shall be received in the fiduciary
14 account of the licensee [AGENT OR BROKER,] and shall be deposited in a
15 bank account or depository separate from any other account or depos-
16 itory, and shall be promptly accounted for and paid to the insured,
17 insurer, or agent entitled to the money [FUNDS]. For purposes of this
18 subsection, the fiduciary account of the firm shall be considered the
19 fiduciary account of an individual licensee [AGENT OR BROKER] acting
20 on behalf of the firm. Money [FUNDS] deposited into a fiduciary
21 account may not be commingled or otherwise combined with other money
22 [FUNDS], except as allowed under (d) of this section.

23 (c) A licensee [AN AGENT, SOLICITOR, OR BROKER] who, [NOT BEING
24 LAWFULLY ENTITLED TO FUNDS,] is determined by the director, following
25 an appropriate hearing as provided in AS 21.06.170 - 21.06.230, to
26 have unlawfully diverted or appropriated money [THEM OR ANY PORTION OF
27 THEM] to personal use, is subject to a civil penalty not to exceed
28 \$25,000 for each violation.

29 (d) A licensee [AN AGENT OR BROKER] may commingle with premium

1 money [FUNDS], additional money [FUNDS] for the purpose of advancing
2 premiums, establishing reserves for the payment of return premiums, or
3 reserves for receiving and transmitting premium or return premium
4 money. Money [FUNDS. FUNDS] collected for the payment of premium
5 taxes, policy or filing fees, late payment charges, and interest from
6 fiduciary money [FUNDS] on deposit, may be commingled in a fiduciary
7 account, but shall be separately accounted for and periodically re-
8 moved from the fiduciary account.

9 (e) A licensee [AN AGENT OR BROKER] may not treat money [FUNDS]
10 required to be in a fiduciary account as a personal asset, as collat-
11 eral for a personal or business loan, or as a personal asset or income
12 on a financial statement, except that money [FUNDS] in a fiduciary
13 account may be included in a financial statement of the licensee
14 [AGENT OR BROKER] if clearly identified as fiduciary account assets.

15 (f) In this section, "fiduciary account" means an account in
16 which the licensee [AGENT OR BROKER] holds money [FUNDS] as a trustee
17 for the insured, insurer, general agent, surplus lines broker, or
18 agent entitled to the money [FUNDS].

19 * Sec. 37. AS 21.27.360 is amended by adding a new subsection to read:

20 (g) The director may adopt regulations as necessary to implement
21 this section.

22 * Sec. 38. AS 21.27.380 is repealed and reenacted to read:

23 Sec. 21.27.380. LICENSE CONTINUATION. (a) A license continues
24 in force, upon payment of

25 (1) an annual fee set under AS 21.06.250 for resident and
26 nonresident agent, general agent, solicitor, and adjuster licenses
27 that must be received by the director on or before the close of busi-
28 ness on the 30th day of June;

29 (2) an annual fee set under AS 21.06.250 for resident and

1 nonresident broker licenses, that must be received by the director on
2 or before the close of business on the 31st day of December.

3 (b) An agent, general agent, or broker shall file the annual fee
4 set under AS 21.06.250 on behalf of a solicitor employed by the agent,
5 general agent, or broker.

6 (c) If payment of the annual license fee is not received by the
7 director before the due date as required under this section, the
8 licensee shall pay to the director and the director shall collect, in
9 addition to the regular fee, a surcharge as established by regulation
10 under AS 21.06.250. This subsection does not exempt a person from a
11 penalty provided by law for transacting business without a valid
12 license.

13 (d) If a licensee does not wish to continue a license issued
14 under this chapter, the licensee shall surrender the license as pro-
15 vided in AS 21.27.460.

16 * Sec. 39. AS 21.27.390(a) is amended to read:

17 (a) The director may issue a [ADOPT REGULATIONS REGARDING THE
18 ISSUANCE OF AN AGENT OR BROKER] temporary license to

19 (1) the surviving spouse or next of kin or to the adminis-
20 trator or executor of a deceased licensed agent, general agent, or
21 broker;

22 (2) the spouse, next of kin, employee, or legal guardian of
23 a licensed agent, general agent, or broker who is disabled because of
24 sickness, insanity, or injury;

25 (3) a surviving member, officer, or employee of a firm
26 licensed as agent, general agent, or broker, upon the death of the
27 principal or manager of the firm holding the same licenses as the
28 firm; or

29 (4) the designee of a licensed agent who enters active

1 service in the armed forces of the United States [;

2 (5) A PERSON PREPARING FOR EXAMINATION FOR PERMANENT LI-
3 CENSE UNDER THE SUPERVISION OF AN AUTHORIZED INSURER].

4 * Sec. 40. AS 21.27.400(b) is amended to read:

5 (b) A person requesting a temporary agent or general agent
6 license because of the death or disability of an agent or general
7 agent may not be appointed by [LICENSED FOR] an insurer for which the
8 agent or general agent was not appointed [LICENSED] at the time of
9 death or commencement of disability.

10 * Sec. 41. AS 21.27.410(a) is amended by adding a new paragraph to
11 read:

12 (10) if the applicant failed to continue or surrender a
13 similar license as provided in AS 21.27.380, that resulted in revoca-
14 tion of the license within the 12 months preceding the date the new
15 application is received.

16 * Sec. 42. AS 21.27.460(a) is amended to read:

17 (a) A [EACH] license issued under this chapter [,ALTHOUGH ISSUED
18 AND DELIVERED TO THE LICENSEE AGENT, BROKER, SOLICITOR, OR ADJUSTER,]
19 is the property of the state. Upon the termination, suspension, or
20 revocation of the license, the licensee or other person having pos-
21 session or custody of the license shall immediately deliver it to the
22 director either personally [BY PERSONAL DELIVERY] or by mail.

23 * Sec. 43. AS 21.34.140(d) is amended to read:

24 (d) A firm or corporation is eligible for license if the firm or
25 corporation complies with AS 21.27.090(d) and 21.27.140

26 [(1) THE LICENSE LISTS INDIVIDUALS WITHIN THE CORPORATION
27 WHO HAVE SATISFIED ALL REQUIREMENTS OF THIS CHAPTER TO BECOME SURPLUS
28 LINES BROKERS; AND

29 (2) ONLY THOSE INDIVIDUALS LISTED ON THE LICENSE WILL

1 **TRANSACT SURPLUS LINES BUSINESS].**

2 * **Sec. 44. AS 21.34.140 is amended by adding a new subsection to read:**

3 **(f) The requirements of (b)(4) of this section do not apply to**
4 **an individual who acts on behalf of a firm that files and maintains in**
5 **force the bond described in (b)(4) of this section. The director may**
6 **adopt, by regulation, an alternative to the bond required by (b)(4) of**
7 **this section.**

8 * **Sec. 45. AS 21.88.050(a) is amended to read:**

9 **(a) The corporation shall**
10 **(1) in the form approved by the director, issue to all**
11 **physicians, nurses, and hospitals who are found to be acceptable risks**
12 **under standards developed under (5) of this subsection, and who pay**
13 **the premiums for it, a contract or contracts indemnifying physicians,**
14 **nurses, and hospitals and their employees who are health care provid-**
15 **ers against loss by reason of liability for covered claims for an act**
16 **or omission in the delivery of professional health care in this state,**
17 **and agreeing to tender on behalf of the physicians, nurses, and hos-**
18 **pitals and their employees who are health care providers a defense to**
19 **a covered claim in a proceeding brought under AS 09.55.530 - 09.-**
20 **55.560; the limits of liability for policies issued by the corporation**
21 **shall be approved by the director; the contract shall cover the de-**
22 **fense against but need not indemnify liability for punitive damages**
23 **arising from a covered claim; at the option of the corporation, if**
24 **approved by the director, and for an additional premium the contract**
25 **may cover claims against the physician, nurse, or hospital that arise**
26 **out of professional services performed by the physician, nurse, or**
27 **hospital for any period before the contract is issued, except that**
28 **coverage will not be provided for a claim already filed or that the**
29 **physician, nurse, or hospital had or reasonably should have had notice**

1 at the time the retroactive insurance was purchased;

2 (2) charge a premium for the protection provided by the
3 contracts issued by the corporation which shall be determined by the
4 board of governors under [IN ACCORDANCE WITH] AS 21.88.080 and subject
5 to the approval of the director;

6 (3) comply with or be subject to AS 21.06.090, 21.06.120,
7 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,
8 [21.09.280,] AS 21.12.020(b) - (e), AS 21.18, AS 21.21, AS 21.24,
9 AS 21.27.100, and AS 21.36; and shall be exempt from participation as
10 a member insurer in the Alaska Insurance Guaranty Corporation;

11 (4) carry out the obligations of the contracts issued by
12 the corporation by defending all covered claims made against insured
13 health care providers and by paying all liabilities that are finally
14 adjudicated against the insured health care provider or that may in
15 the opinion of the corporation reasonably be expected to be finally
16 adjudicated against the health care provider to the extent of the
17 contract obligation;

18 (5) establish standards for the acceptability of risks; in
19 establishing these standards the corporation may exclude an applicant
20 for insurance based on individual risk selection factors, but may not
21 exclude an applicant based only on the classification of the appli-
22 cant.

23 * Sec. 46. AS 21.90.900 is amended by adding new paragraphs to read:

24 (24) "general agent" means a person, firm, or corporation
25 that

26 (A) has authority to exercise general supervision over
27 the business, or any part of the business, of one or more au-
28 thorized insurers in this state, with the authority to appoint
29 agents for the insurer and to terminate the appointment; and

1 (B) for compensation from an authorized insurer per-
2 forms administrative functions normally performed by the insurer
3 including claims administration and payment, marketing adminis-
4 tration, agent appointment, premium accounting, premium billing,
5 coverage verification, final underwriting authority, and certifi-
6 cate issuance; "general agent" includes a third-party administra-
7 tor;

8 (25) "licensee" means a person or firm licensed as provided
9 in AS 21.27 or AS 21.34.

10 * Sec. 47. AS 21.09.280; AS 21.27.180, 21.27.220, 21.27.230, 21.27.-
11 280(e), 21.27.290, and 21.27.300 are repealed.

12 * Sec. 48. This Act takes effect January 1, 1991.