

CS FOR HOUSE BILL NO. 279 (L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/9/91

Referred: Judiciary, Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reinsurance credit, reserves, securities, and investments of certain  
2 insurers; and providing for an effective date."

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

4 \* Section 1. AS 21.12.020(a) is amended to read:

5 (a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as  
6 either an asset or a deduction from liability on account of reinsurance ceded only if the  
7 reinsurance is ceded to an

8 (1) assuming insurer that is licensed to transact insurance or reinsurance in this  
9 state;

10 (2) assuming insurer that is accredited as a reinsurer in this state; an accredited  
11 reinsurer is one that

12 (A) submits to this state's jurisdiction, submits to this state's authority to  
13 examine its books and records, [AND] is licensed to transact insurance or reinsurance in  
14 at least one state, and files annually with the director a copy of the reinsurer's annual

1 statement filed with the insurance department of the reinsurer's state of domicile  
2 and a copy of the reinsurer's most recent audited financial statement; or

3 (B) in the case of a United States branch of an alien assuming insurer, is  
4 entered through, and licensed to transact insurance or reinsurance in, at least one  
5 state, files annually with the director a copy of its annual financial statement that  
6 is filed with the insurance regulatory agency of its state of domicile, and maintains  
7 at least \$20,000,000 in policyholder surplus; the surplus requirements in this  
8 subparagraph do not apply to reinsurance ceded and assumed under a pooling  
9 arrangement among insurers in the same holding company system;

10 (3) assuming insurer that is domiciled in a state, or in the case of a United States  
11 branch of an alien assuming insurer, is entered through a state that employs standards regarding  
12 credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this  
13 subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and  
14 the assuming insurer submits to the authority of this state to examine its books and records; the  
15 surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a  
16 pooling arrangement among insurers in the same holding company system;

17 (4) assuming alien insurer that

18 (A) maintains a trust fund in a qualified United States financial institution  
19 for the payment of the valid claims of its United States policyholders and ceding insurers,  
20 and their assigns and successors in interest, that conforms to the following requirements:

21 (i) the trust shall be established in a form approved by the director;  
22 the trust instrument must provide that contested claims are valid and enforceable  
23 upon the final order of any court of competent jurisdiction in the United States;  
24 the trust shall vest legal title to its assets in the trustees of the trust for its United  
25 States policyholders and ceding insurers, their assigns, and successors in interest;  
26 the trust and the assuming insurer are subject to examination as determined by the  
27 director; the trust must remain in effect for so long as the assuming insurer has  
28 outstanding liabilities due under the reinsurance agreements subject to the trust;

29 (ii) on or before March 1 of each year the trustees shall report in  
30 writing to the director on the balance of the trust and list the trust's investments  
31 at the end of the preceding year, and shall certify the date of termination of the

1 trust, if so planned, or certify that the trust does not expire before the following  
2 December 31;

3 (iii) in the case of a single assuming insurer, the trust shall consist  
4 of trust money representing the assuming insurer's liabilities attributable to  
5 business written in the United States and, in addition, include a trust surplus of not  
6 less than \$20,000,000; the single assuming insurer shall make available to the  
7 director an annual certification of the insurer's solvency by the insurer's  
8 domiciliary regulator and by an independent public accountant;

9 (iv) in the case of a group of individual unincorporated insurers,  
10 the trust shall consist of trust money representing the group's liabilities attributable  
11 to business written in the United States and, in addition, include a trust surplus not  
12 less than \$100,000,000 [\$50,000,000]; the group shall make available to the  
13 director an annual certification of the solvency of each of the individual  
14 unincorporated insurers by the group's domiciliary regulator and by an  
15 independent certified public accountant;

16 (v) in the case of a group of incorporated insurers under  
17 common administration that complies with the reporting requirements  
18 contained in (ii) of this subparagraph, that has continuously transacted an  
19 insurance business outside the United States for at least three years  
20 immediately before making application for accreditation, that submits to this  
21 state's authority to examine its books and records and bears the expense of  
22 the examination, and that has aggregate policyholders' surplus of  
23 \$10,000,000,000, the trust shall be in an amount equal to the group's several  
24 liabilities attributable to business ceded by United States ceding insurers to  
25 a member of the group under reinsurance contracts issued in the name of the  
26 group, and the group shall maintain a joint trustee surplus, of which  
27 \$100,000,000 shall be held jointly for the benefit of United States ceding  
28 insurers of a member of the group as additional security for the group's  
29 liabilities, and each member of the group shall make available to the director  
30 an annual certification of the member's solvency by the member's domiciliary  
31 regulator and the member's independent certified public accountant; and

1 (B) reports annually to the director information substantially the same as  
2 that required to be reported on the National Association of Insurance Commissioners'  
3 annual statement form by licensed insurers to enable the director to determine the  
4 sufficiency of the trust fund;

5 (5) assuming insurer that does not meet the requirements of (1) - (4) of this  
6 subsection, but only with respect to the insurance of risks located in jurisdictions where the  
7 reinsurance is required by applicable law or regulation of that jurisdiction.

8 \* Sec. 2. AS 21.12.020(c) is amended to read:

9 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting  
10 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities  
11 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or  
12 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a  
13 reinsurance contract with the assuming insurer as security for the payment of obligations under  
14 it. If the security is held in the United States subject to withdrawal solely by, and under the  
15 exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States  
16 financial institution, the security must be in the form of

17 (1) cash;

18 (2) securities listed by the Securities Valuation Office of the National Association  
19 of Insurance Commissioners that qualify as admitted assets under AS 21.21;

20 (3) clean, irrevocable, unconditional letters of credit that contain an evergreen  
21 clause issued or confirmed by a qualified United States financial institution not later than  
22 December 31 in the year for which filing is made, and in the possession of the ceding  
23 company on or before the filing date of the ceding company's annual statement; letters of  
24 credit meeting applicable standards of issuer acceptability as of the dates of their issuance or  
25 confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to  
26 meet applicable standards of issuer acceptability, continue to be acceptable as security until their  
27 expiration, extension, renewal, modification, or amendment, whichever occurs first; or

28 (4) other security acceptable to and approved in advance by the director.

29 \* Sec. 3. AS 21.12.020 is amended by adding a new subsection to read:

30 (g) An insurer may receive credit for reinsurance transactions if the reinsurance  
31 agreement meets all applicable requirements established by the director. The director may

1 establish requirements for reinsurance agreements by regulation.

2 \* Sec. 4. AS 21.18.100 is amended to read:

3 Sec. 21.18.100. INCREASE OF [INADEQUATE] RESERVES. If loss experience shows  
4 that an insurer's loss reserves or reserves for incurred but not reported losses, however  
5 computed or estimated, are inadequate, the director shall require the insurer to maintain loss  
6 reserves or reserves for incurred but not reported losses in the increased amount needed to  
7 make them adequate.

8 \* Sec. 5. AS 21.18.130 is amended to read:

9 Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than  
10 those referred to in AS 21.18.120 or AS 21.21.260, held by an insurer shall be valued, in the  
11 discretion of the director, at [THEIR MARKET VALUE, OR AT] their appraised value as  
12 determined by a competent appraisal acceptable to the director, or at prices determined by  
13 the director as representing their fair market value, all consistent with the current method for the  
14 valuation of a security formulated or approved by the National Association of Insurance  
15 Commissioners.

16 (b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried  
17 at a fixed value in lieu of market value at the discretion of the director and consistent [IN  
18 ACCORDANCE WITH] the method of computation the director approves.

19 \* Sec. 6. AS 21.18.130 is amended by adding a new subsection to read:

20 (c) Securities referred to in AS 21.21.260 at any time after the date of investment by an  
21 insurer shall be valued on that insurer's quarterly and annual statement at an amount that may  
22 not exceed the larger of the following amounts:

23 (1) 100 percent of the market value of the real property or leasehold securing the  
24 same as determined by a competent appraisal acceptable to the director or at values determined  
25 by the director as representing fair market value of the real property or leasehold;

26 (2) the amount of insurance or guaranty of the loan by the United States or by  
27 an agency or instrumentality of the United States; or

28 (3) the amount provided in (1) of this subsection plus the amount by which the  
29 excess of the loan over the amount provided in (1) of this subsection is insured or guaranteed by  
30 the United States or by an agency or instrumentality of the United States.

31 \* Sec. 7. AS 21.18.140(b) is amended to read:

1 (b) Other real property held by an insurer shall [MAY NOT] be valued at the lower cost  
2 or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal. If  
3 valuation is based on an appraisal more than three years old, the director may call for and require  
4 a new appraisal in order to determine fair market value. The reasonable cost of the appraisal  
5 shall be borne by the insurer.

6 \* Sec. 8. AS 21.21.050 is amended to read:

7 Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in  
8 or hold as admitted assets categories of investments only within applicable limits as follows:

9 (1) an insurer may not, except with the consent of the director, have a  
10 combination of investments in or loans upon the security of the obligations, property, or securities  
11 of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's  
12 assets; this restriction does not apply to

13 (A) general obligations of the United States; or

14 (B) general obligations of a state of the United States that is not insolvent  
15 and whose securities are not then in default; or

16 (C) policy loans made under AS 21.21.210;

17 (2) an insurer may not invest in or hold at any one time more than 10 percent of  
18 the outstanding voting stock of a corporation, except with the consent of the director given with  
19 respect to voting rights of preference stock during default of dividends; this paragraph does not  
20 apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer  
21 acquired under AS 21.21.170;

22 (3) an insurer, other than title insurer, shall invest and maintain invested funds  
23 in an amount not less than the higher of

24 (A) the minimum basic capital for stock insurers or basic guarantee  
25 surplus for mutual insurers and additional surplus for both stock and mutual insurers  
26 required under AS 21.09.070; or

27 (B) 50 percent of the total capital and surplus shown on the most recent  
28 statement of the insurer's financial condition as filed with the director under  
29 AS 21.09.200 only in

30 (i) cash;

31 (ii) the fully insured portion of bank deposits when the insurance

1 is provided by a solvent agency of the United States government or by collateral  
2 in the form of the securities provided for under AS 21.21.060 and 21.21.080; or  
3 (iii) the securities provided for under AS 21.21.060 and 21.21.080;  
4 (4) a life insurer shall invest and keep invested its funds in an amount not less  
5 than the reserves under its life insurance policies and annuity contracts, other than variable  
6 annuities, in force, in cash or the securities or investments provided for under this chapter;  
7 (5) except with the director's written consent, an insurer may not have invested  
8 at any one time more than 20 percent of its assets in the class of securities described in  
9 AS 21.21.140, exclusive of obligations of public utilities;  
10 (6) an insurer may invest and have invested at any one time in aggregate amount  
11 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and  
12 21.21.200, except with the director's written consent; determination of the amount that an insurer  
13 has invested in common stocks for the purposes of this paragraph is based on the cost of the  
14 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary  
15 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;  
16 (7) except with the director's written consent, an insurer may not have invested  
17 at any one time more than 10 percent of its assets in any one of the class of securities described  
18 in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260.  
19 \* Sec. 9. AS 21.90.900 is amended by adding a new paragraph to read:  
20 (29) "evergreen clause" means a contract clause that provides that the contract is  
21 automatically renewed unless notice to the contrary is given by one of the parties to the contract.  
22 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).