

HOUSE BILL NO. 425

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 1/29/92

Referred: Labor & Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance; and providing for an effective date."

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

3 * Section 1. AS 21.06.120(a) is amended to read:

4 (a) The director may examine the affairs, transactions, accounts, records, and assets of
5 each authorized and formerly authorized insurer and each licensed and formerly licensed
6 managing general agent, reinsurance intermediary broker, reinsurance intermediary
7 manager, surplus lines broker, and surplus lines association as often as the director considers
8 advisable. The director shall [SO] examine each domestic insurer at least once every three years.
9 In scheduling and determining the nature, scope, and frequency of examinations, the
10 director may consider the results of financial statement analysis and ratios, competency of
11 management or change of ownership, actuarial opinions, reports of independent certified
12 public accountants, number and nature of consumer complaints, results of prior
13 examinations, frequency of prior violations of statute and regulation, amount or type of risk
14 being assumed, degree to which the activity is in the public interest, criteria set out in the

1 Examiners' Handbook most recently approved by the National Association of Insurance
2 Commissioners and in effect when the director conducts an examination, and other material
3 that the director determines is relevant. Examination of an alien insurer may be limited to its
4 insurance transactions and affairs in the United States. Examination of a reciprocal insurer may
5 also include examination of its attorney-in-fact to the extent that the transactions of the
6 attorney-in-fact relate to the insurer.

7 * Sec. 2. AS 21.06.120(c) is amended to read:

8 (c) In place of an examination by the director, the director may accept a full report of
9 the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory
10 official of another state, territory, commonwealth, or district of the United States if

11 (1) the insurance regulatory agency conducting the examination was at the
12 time of the examination accredited by the National Association of Insurance Commissioners;

13 (2) the examination is performed under the supervision of an insurance
14 regulatory agency accredited by the National Association of Insurance Commissioners; and
15 the supervising examiner after a review of the examination work papers states under oath
16 that the examination and report complies with the standards and procedures required by
17 their accredited state insurance regulatory agency; or

18 (3) the examiner conducting the examination was employed by an insurance
19 regulatory agency accredited at the time of the examination by the National Association of
20 Insurance Commissioners and the examiner, after review of the examination work papers,
21 states under oath that the examination and report complies with the standards and
22 procedures required by the accredited insurance regulatory agency.

23 * Sec. 3. AS 21.06.120(e) is amended to read:

24 (e) The director may use a contract examiner to carry out the functions of this section.
25 The selection of a contract examiner and the award of a contract is not subject to AS 36.30
26 (State Procurement Code).

27 * Sec. 4. AS 21.06.120 is amended by adding a new subsection to read:

28 (f) For the purpose of completing an examination of a person under this title, the director
29 may extend the examination or investigation as provided under AS 21.06.170.

30 * Sec. 5. AS 21.06.130(a) is amended to read:

31 (a) To determine compliance with this title, the director may as often as the director

1 considers advisable examine or require a written report from a person of the accounts, records,
2 documents, and transactions pertaining to or affecting the insurance affairs or proposed insurance
3 affairs of

4 (1) an insurance producer [AGENT, BROKER, SOLICITOR, GENERAL
5 AGENT,] or independent adjuster; or

6 (2) [A PERSON HAVING A CONTRACT UNDER WHICH THE PERSON
7 ENJOYS IN FACT THE EXCLUSIVE OR DOMINANT RIGHT TO MANAGE OR CONTROL
8 AN INSURER;

9 (3) A PERSON HOLDING THE SHARES OF VOTING STOCK OR
10 POLICYHOLDER PROXIES OF A DOMESTIC INSURER, FOR THE PURPOSE OF
11 CONTROLLING ITS MANAGEMENT, AS VOTING TRUSTEE OR OTHERWISE;

12 (4)] a person engaged in or proposing to be engaged in or assisting in the
13 promotion or formation of a domestic insurer or insurance holding corporation, or corporation
14 to finance a domestic insurer or the production of its business.

15 * Sec. 6. AS 21.06.140(b) is amended to read:

16 (b) Every person being examined and its officers, employees, agents, and representatives
17 shall produce and make freely available to the director the accounts, records, documents, files,
18 information, assets, and matters in their possession or control relating to the subject of the
19 examination, and shall facilitate and aid the examination as far as reasonably possible, including
20 providing to the director, at the expense of the person being examined, a copy of any document
21 requested during the examination. The director may suspend, revoke, or refuse to issue or
22 renew a license or authority of a person engaging in the business of insurance or other
23 business under the jurisdiction of the director if the person or an officer, director,
24 employee, or agent of the person refuses to submit to examination or to comply with a
25 reasonable written request of an examiner.

26 * Sec. 7. AS 21.06.140(c) is amended to read:

27 (c) If the director finds financial or other records [ACCOUNTS] to be inadequate or
28 inadequately kept or posted or if an insurer's financial records are not kept as required by
29 the Accounting Practices and Procedures Manual currently approved by the National
30 Association of Insurance Commissioners after the director has issued an order citing [GIVEN
31 THE PERSON NOTICE OF] the inadequacy of the accounts and given a reasonable opportunity

1 to complete or correct the accounting, the director may employ experts to rewrite, post, or
2 balance them at the expense of the person being examined.

3 * **Sec. 8.** AS 21.06.140(d) is repealed and reenacted to read:

4 (d) When conducting an examination under this section, the director may retain attorneys,
5 appraisers, independent actuaries, independent certified public accountants, or other professionals
6 and specialists as examiners, the cost of which shall be paid by the person being examined under
7 AS 21.06.160(a). The director may adopt regulations limiting the scope of examination work
8 performed by specialists and limiting the amount charged by specialists to the person being
9 examined.

10 * **Sec. 9.** AS 21.06.140 is amended by adding new subsections to read:

11 (f) In conducting an examination under this section, the examiner shall observe those
12 guidelines and procedures set out in the Examiners' Handbook currently approved by the National
13 Association of Insurance Commissioners that are consistent with the scope of the examination
14 as given by the director or the director's designee. The director may also employ other
15 guidelines or procedures that the director finds appropriate.

16 (g) An examiner may not be appointed by the director if the examiner, either directly or
17 indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary
18 interest in a person subject to examination under this title. This section may not be construed
19 to automatically preclude an examiner from being, in the ordinary course of business,

20 (1) a policyholder or claimant under an insurance policy;

21 (2) a grantor of a mortgage or similar instrument on the examiner's residence to
22 a regulated entity if obtained under customary terms;

23 (3) an investment owner in shares of regulated mutual fund companies; or

24 (4) a settlor or beneficiary of a blind trust into which otherwise impermissible
25 holdings have been placed.

26 (h) The director may terminate or suspend an examination in order to pursue other legal
27 or regulatory action under this title.

28 (i) In a judicial or administrative proceeding a finding of fact made in an examination
29 report approved under AS 21.06.150(b)(1) is prima facie evidence of the fact.

30 * **Sec. 10.** AS 21.06.150 is repealed and reenacted to read:

31 **Sec. 21.06.150. EXAMINATION REPORTS.** (a) An examination report may only

1 consist of facts appearing upon the books, records, or other documents of the examined company,
2 the company's agents, or other persons examined, or facts determined from the testimony of
3 officers, agents, or other persons examined concerning the company's affairs, and the conclusions
4 and recommendations that the examiners find reasonably warranted from the facts.

5 (b) The examiner shall file with the division a proposed written report of an examination,
6 signed by the examiner under oath, not later than 60 days following the last day of examination
7 field work. The period for filing the proposed report may be extended for 60 additional days
8 upon approval of the director. Upon receipt of the proposed report, the division shall transmit
9 the report to the person being examined, together with a notice that gives the person being
10 examined a reasonable opportunity of not more than 30 days to make a written submission or
11 rebuttal with respect to matters contained in the proposed examination report. Within 30 days
12 of the end of the period allowed for the receipt of written submissions or rebuttals, the director
13 shall fully consider and review the report, together with any written submissions or rebuttals, and
14 any relevant portions of the examiner's work papers and enter an order

15 (1) approving the examination report as filed or approving the examination report
16 with modification or corrections;

17 (2) rejecting the examination report with directions to the examiners to reopen the
18 examination for the purpose of obtaining additional data, documentation, or information and
19 refiling the report under this subsection; or

20 (3) setting a hearing under AS 21.06.180 for purposes of obtaining additional
21 information.

22 (c) In the event the director determines that regulatory action is appropriate as a result
23 of an examination, the director may initiate proceedings as provided by law. The director may
24 use and, if appropriate, make public an examination report, work papers or other documents, the
25 testimony of the examiners, or other information discovered or developed during the course of
26 an examination in a judicial or administrative proceeding, whether or not a written report of the
27 examination at the time has been made, transmitted, or approved by the director.

28 (d) The director may disclose the content of an examination report, preliminary
29 examination report or results, or a matter relating to it to the insurance division of this or another
30 state or country. Except as allowed by this subsection or other provision of law, the director may
31 not disclose the contents of a preliminary examination report before the report is filed in the

1 office of the director under AS 21.06.060.

2 (e) An order entered under (b)(1) of this section must be accompanied by findings of fact
3 and conclusions of law resulting from the director's consideration and review of the examination
4 report, relevant examiner work papers, and written submissions or rebuttals.

5 (f) Within 30 days of the receipt of the approved report, the person examined shall file
6 affidavits executed by each director and the chief executive officer or equivalent officer stating
7 under oath that they have received and reviewed a copy of the approved report and related orders.

8 (g) The director may withhold a document, information, account, record, examination,
9 or report from the public inspection for as long as the director finds the withholding is necessary
10 to protect a person against unwarranted injury or is in the public interest.

11 * Sec. 11. AS 21.06.160(b) is amended to read:

12 (b) The director shall pay into the general fund of the state all money received under (a)
13 of this section. Instead of charging and collecting the costs and expenses of the examination
14 under (a) of this section [MAKING A DEPOSIT INTO THE GENERAL FUND], the director
15 may give written authorization for [ORDER] the person examined to make direct payment to
16 the contract examiner for all or part of the contract examiner's compensation or expenses. The
17 contract between the state and a contract examiner who will receive direct payment under this
18 subsection must require that the examiner provide the director with a copy of each billing for the
19 examination.

20 * Sec. 12. AS 21.06.165 is amended by adding a new subsection to read:

21 (d) Except as provided in this section, a person may not bring a civil action if the civil
22 action arises out of the act of communicating or delivering information to the director, a
23 representative of the director, or an examiner who is performing an examination under this title.

24 * Sec. 13. AS 21.06.180 is amended by adding a new subsection to read:

25 (d) If the parties agree, the director may conduct a hearing under this section by
26 teleconference.

27 * Sec. 14. AS 21.09.090(a) is amended to read:

28 (a) This section applies to all insurers [OTHER THAN TITLE INSURERS].

29 * Sec. 15. AS 21.09 is amended by adding a new section to read:

30 Sec. 21.09.175. ORDER UPON DETERMINATION OF HAZARDOUS CONDITION.

31 The director may adopt regulations that establish when the continued operation of an insurer

1 transacting business in this state is hazardous to the policyholders, creditors, or the general public.
2 The director may order an insurer to limit or change the insurer's business practices, increase the
3 insurer's capital and surplus, or file additional reports with the director. If an insurer is subject
4 to an order under this section, the insurer may request a hearing under AS 21.06.180.

5 * Sec. 16. AS 21.09.210(b) is amended to read:

6 (b) Each insurer, and each formerly authorized insurer with respect to premiums received
7 while an authorized insurer in this state, shall pay a tax on the total direct premium income
8 received during the year ending on the preceding December 31 and paid for the insurance of
9 property or risks resident or located in the state other than wet marine and transportation
10 insurance, after deducting from the total direct premium income the applicable cancellations,
11 returned premiums, the unabsorbed portion of any deposit premium, all policy dividends,
12 unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other
13 similar returns paid or credited to policyholders with respect to their policies. No deductions may
14 be made of cash surrender value of policies. Considerations received on annuity contracts are
15 not included in the direct premium income and are not subject to tax. The tax shall be paid to
16 the director annually on or before March 1 [APRIL 1], and is computed at the rate of

17 (1) for domestic and foreign insurers, except hospital and medical service
18 corporations, 2.7 percent;

19 (2) for hospital and medical service corporations, six percent of their gross
20 premiums less claims paid.

21 * Sec. 17. AS 21.09.210(d) is amended to read:

22 (d) An authorized insurer shall, with respect to all wet marine and transportation contracts
23 written in this state during the preceding calendar year, on or before March 1 [APRIL 1] of each
24 year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit.
25 The gross underwriting profit is computed by deducting from the net premiums [(I.E., GROSS
26 PREMIUMS LESS ALL RETURN PREMIUMS AND PREMIUMS FOR REINSURANCE),] on
27 wet marine and transportation insurance contracts, the net losses paid [(I.E., GROSS LOSSES
28 PAID, LESS SALVAGE AND RECOVERIES ON REINSURANCE CEDED)] during the
29 calendar year under the contracts. In the case of an insurer issuing participating contracts, the
30 gross underwriting profit may [SHALL] not include, for computation of the tax prescribed by
31 this section, the amounts refunded or paid as participation dividends by the insurers to the holders

1 of the contracts. In this subsection,

2 (1) "net losses" means gross losses less salvage and recoveries on reinsurance
3 ceded;

4 (2) "net premiums" means gross premiums less all return premiums and
5 premiums for reinsurance.

6 * Sec. 18. AS 21.09.210 is amended by adding a new subsection to read:

7 (j) The director may adopt regulations requiring estimated tax payments during the year
8 and a final tax payment on the date specified under (a) of this section.

9 * Sec. 19. AS 21.12.020(a) is amended to read:

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

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

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

17 (A) submits to this state's jurisdiction, submits to this state's authority to
18 examine its books and records, [AND] is licensed to transact insurance or reinsurance in
19 at least one state, and files annually with the director a copy of the reinsurer's annual
20 statement filed with the insurance department of the reinsurer's state of domicile
21 and a copy of the reinsurer's most recent audited financial statement; or

22 (B) in the case of a United States branch of an alien assuming insurer, is
23 entered through, and licensed to transact insurance or reinsurance in, at least one state,
24 files annually with the director a copy of its annual financial statement that is filed with
25 the insurance regulatory agency of its state of domicile, and maintains at least
26 \$20,000,000 in policyholder surplus; the surplus requirements in this subparagraph do not
27 apply to reinsurance ceded and assumed under a pooling arrangement among insurers in
28 the same holding company system;

29 (3) assuming insurer that is domiciled in a state, or in the case of a United States
30 branch of an alien assuming insurer, is entered through a state that employs standards regarding
31 credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this

1 subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and
2 the assuming insurer submits to the authority of this state to examine its books and records; the
3 surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a
4 pooling arrangement among insurers in the same holding company system;

5 (4) assuming alien insurer that

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

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

17 (ii) on or before March 1 of each year the trustees shall report in
18 writing to the director on the balance of the trust and list the trust's investments
19 at the end of the preceding year, and shall certify the date of termination of the
20 trust, if so planned, or certify that the trust does not expire before the following
21 December 31;

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

28 (iv) in the case of a group of individual unincorporated insurers,
29 the trust shall consist of trust money representing the group's liabilities attributable
30 to business written in the United States and, in addition, include a trust surplus not
31 less than \$100,000,000 [\$50,000,000]; the group shall make available to the

1 director an annual certification of the solvency of each of the individual
2 unincorporated insurers by the group's domiciliary regulator and by an
3 independent certified public accountant;

4 (v) in the case of a group of incorporated insurers under
5 common administration that complies with the reporting requirements
6 contained in (ii) of this subparagraph, that has continuously transacted an
7 insurance business outside the United States for at least three years
8 immediately before making application for accreditation, that submits to this
9 state's authority to examine its books and records and bears the expense of
10 the examination, and that has aggregate policyholders' surplus of
11 \$10,000,000,000, the trust shall be in an amount equal to the group's several
12 liabilities attributable to business ceded by United States ceding insurers to
13 a member of the group under reinsurance contracts issued in the name of the
14 group, and the group shall maintain a joint trustee surplus, of which
15 \$100,000,000 shall be held jointly for the benefit of United States ceding
16 insurers of a member of the group as additional security for the group's
17 liabilities, and each member of the group shall make available to the director
18 an annual certification of the member's solvency by the member's domiciliary
19 regulator and the member's independent certified public accountant; and

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

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

27 * Sec. 20, AS 21.12.020(a) is repealed and reenacted to read:

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

31 (1) assuming insurer that is licensed to transact insurance or reinsurance in this

1 state;

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

4 (A) submits to this state's jurisdiction, submits to this state's authority to
5 examine its books and records, is licensed to transact insurance or reinsurance in at least
6 one state, that is accredited by the National Association of Insurance Commissioners, and
7 files annually with the director a copy of the reinsurer's annual statement filed with the
8 insurance department of the reinsurer's state of domicile and a copy of the reinsurer's
9 most recent audited financial statement; or

10 (B) in the case of a United States branch of an alien assuming insurer, is
11 entered through, and licensed to transact insurance or reinsurance in, at least one state
12 accredited by the National Association of Insurance Commissioners, files annually with
13 the director a copy of its annual financial statement that is filed with the insurance
14 regulatory agency of its state of domicile, and maintains at least \$20,000,000 in
15 policyholder surplus; the surplus requirements in this subparagraph do not apply to
16 reinsurance ceded and assumed under a pooling arrangement among insurers in the same
17 holding company system;

18 (3) assuming insurer that is domiciled in a state, or in the case of a United States
19 branch of an alien assuming insurer, is entered through a state accredited by the National
20 Association of Insurance Commissioners that employs standards regarding credit for reinsurance
21 ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming
22 insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits
23 to the authority of this state to examine its books and records; the surplus requirements in this
24 paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among
25 insurers in the same holding company system;

26 (4) assuming alien insurer that

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

30 (i) the trust shall be established in a form approved by the director;
31 the trust instrument must provide that contested claims are valid and enforceable

1 upon the final order of any court of competent jurisdiction in the United States;
2 the trust shall vest legal title to its assets in the trustees of the trust for its United
3 States policyholders and ceding insurers, their assigns, and successors in interest;
4 the trust and the assuming insurer are subject to examination as determined by the
5 director; the trust must remain in effect for so long as the assuming insurer has
6 outstanding liabilities due under the reinsurance agreements subject to the trust;

7 (ii) on or before March 1 of each year the trustees shall report in
8 writing to the director on the balance of the trust and list the trust's investments
9 at the end of the preceding year, and shall certify the date of termination of the
10 trust, if so planned, or certify that the trust does not expire before the following
11 December 31;

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

18 (iv) in the case of a group of individual unincorporated insurers,
19 the trust shall consist of trust money representing the group's liabilities attributable
20 to business written in the United States and, in addition, include a trust surplus not
21 less than \$100,000,000; the group shall make available to the director an annual
22 certification of the solvency of each of the individual unincorporated insurers by
23 the group's domiciliary regulator and by an independent certified public
24 accountant;

25 (v) in the case of a group of incorporated insurers under common
26 administration that complies with the reporting requirements contained in (ii) of
27 this subparagraph, that has continuously transacted an insurance business outside
28 the United States for at least three years immediately before making application
29 for accreditation, that submits to this state's authority to examine its books and
30 records and bears the expense of the examination, and that has aggregate
31 policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal

1 to the group's several liabilities attributable to business ceded by United States
2 ceding insurers to a member of the group under reinsurance contracts issued in the
3 name of the group, and the group shall maintain a joint trustee surplus, of which
4 \$100,000,000 shall be held jointly for the benefit of United States ceding insurers
5 of a member of the group as additional security for the group's liabilities, and
6 each member of the group shall make available to the director an annual
7 certification of the member's solvency by the member's domiciliary regulator and
8 the member's independent certified public accountant; and

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

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

16 * Sec. 21. AS 21.12.020(c) is amended to read:

17 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting
18 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities
19 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or
20 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a
21 reinsurance contract with the assuming insurer as security for the payment of obligations under
22 it, if the security is held in the United States subject to withdrawal solely by, and under the
23 exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States
24 financial institution. The security must be in the form of

25 (1) cash;

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

28 (3) clean, irrevocable, unconditional letters of credit that contain an evergreen
29 clause issued or confirmed by a qualified United States financial institution not later than
30 December 31 in the year for which filing is made, and in the possession of the ceding
31 company on or before the filing date of the ceding company's annual statement; letters of

1 credit meeting applicable standards of issuer acceptability as of the dates of their issuance or
2 confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to
3 meet applicable standards of issuer acceptability, continue to be acceptable as security until their
4 expiration, extension, renewal, modification, or amendment, whichever occurs first; or

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

6 * Sec. 22. AS 21.12.020 is amended by adding new subsections to read:

7 (h) An insurer may receive credit for reinsurance transactions if the reinsurance
8 agreement meets all applicable requirements established by the director. The director may
9 establish requirements for reinsurance agreements by regulation.

10 (i) A domestic ceding insurer may not be allowed credit if the assuming insurer's
11 accreditation has been revoked by the director.

12 * Sec. 23. AS 21.18.100 is amended to read:

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

18 * Sec. 24. AS 21.18.110 is amended by adding new subsections to read:

19 (m) A life insurance company doing business in the state shall annually submit to the
20 director an opinion of a qualified actuary as to whether the reserves and related actuarial items
21 held in support of a policy or contract specified by regulation are computed appropriately, are
22 based on assumptions that satisfy contractual provisions, are consistent with prior reported
23 amounts, and comply with the applicable laws of this state. The director may adopt regulations
24 to define the specific form, substance, and standards of the actuarial opinion.

25 (n) The actuarial opinion must

26 (1) be submitted with the annual statement reflecting the valuation of the reserve
27 liabilities;

28 (2) apply to all business in force, including individual and group health insurance
29 plans;

30 (3) be based on standards adopted by the Actuarial Standards Board; and

31 (4) include an assessment as to whether the reserves and related actuarial items

1 held in support of the policies and contracts, when considered in light of the assets held by a
2 company with respect to the reserves and related actuarial items, including investment earnings
3 on the assets and considerations anticipated to be received and retained under policies and
4 contracts, make adequate provision for a company's obligations under a policy or contract
5 including the benefits under and expenses associated with a policy or contract.

6 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
7 director shall accept an opinion filed by the company with the insurance supervisory official of
8 another state if the director determines that the opinion meets the requirements applicable to a
9 company domiciled in this state.

10 (p) The director may adopt regulations to provide a transition period for establishing
11 higher reserves that a qualified actuary may consider necessary in order to render the opinion
12 required under (n) of this section.

13 (q) A qualified actuary who submits an opinion under (m) of this section

14 (1) is not liable for damages to a person, other than the insurance company and
15 the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion
16 except in a case of fraud or wilful misconduct;

17 (2) may be subject to disciplinary action by the director; and

18 (3) shall include a memorandum, in form and substance acceptable to the director,
19 to support the actuarial opinion.

20 (r) If the insurance company fails to provide a supporting memorandum required by
21 (q)(3) of this section within a period specified by regulation or the director determines that the
22 supporting memorandum fails to meet the standards adopted by regulation or is otherwise
23 unacceptable to the director, the director may engage a qualified actuary, at the expense of the
24 insurance company, to review the opinion and the basis for the opinion and to prepare a
25 supporting memorandum as required under (q) of this section.

26 (s) A memorandum in support of an actuarial opinion and other supporting material
27 provided by an insurance company to the director is confidential and may not be made public
28 by the director or another person and is not subject to a civil subpoena, except for the purpose
29 of defending an action seeking damages from a person by reason of an action required by this
30 section. The memorandum or other material may be released by the director with the written
31 consent of the company or to the American Academy of Actuaries upon a request stating that the

1 memorandum or other material is required for the purpose of a disciplinary proceeding and
2 setting out procedures satisfactory to the director for preserving the confidentiality of the
3 memorandum or other material. Once a portion of the memorandum or other material is cited
4 by the company in its marketing, is cited before a governmental agency other than a state
5 insurance department, or is released by the company to the news media, the remainder of the
6 confidential memorandum or other material is no longer confidential.

7 (t) An insurer's aggregate reserves for

8 (1) all life insurance policies, excluding disability and accidental death benefits,
9 issued on or after the effective date of this act, may not be less than the aggregate reserves
10 calculated under (b)(2), (5), (8), and (l) of this section, and the mortality table and rates of
11 interest used in calculating nonforfeiture benefits for the policies; and

12 (2) all policies, contracts, and benefits may not be less than the aggregate reserves
13 determined by a qualified actuary to be necessary to render the opinion required under (m) of this
14 section.

15 * Sec. 25. AS 21.18.110(o) is repealed and reenacted to read:

16 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
17 director shall accept an opinion filed by the company with the insurance supervisory official of
18 another state that is accredited by the National Association of Insurance Commissioners if the
19 director determines that the opinion meets the requirements applicable to a company domiciled
20 in this state.

21 * Sec. 26. AS 21.18.130 is amended to read:

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

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

1 * Sec. 27. AS 21.18.130 is amended by adding a new subsection to read:

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

5 (1) 100 percent of the market value of the real property or leasehold securing the
6 same as determined by a competent appraisal acceptable to the director or at values determined
7 by the director as representing fair market value of the real property or leasehold;

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

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

13 * Sec. 28. AS 21.18.140(b) is amended to read:

14 (b) Other real property held by an insurer shall [MAY NOT] be valued at the lower of
15 cost or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal.

16 If valuation is based on an appraisal more than three years old, the director may call for and
17 require a new appraisal in order to determine fair market value. The reasonable cost of the
18 appraisal shall be borne by the insurer.

19 * Sec. 29. AS 21.21.050 is amended to read:

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

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

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

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

29 (C) policy loans made under AS 21.21.210;

30 (2) an insurer may not invest in or hold at any one time more than 10 percent of
31 the outstanding voting stock of a corporation, except with the consent of the director given with

1 respect to voting rights of preference stock during default of dividends; this paragraph does not
2 apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer
3 acquired under AS 21.21.170;

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

6 (A) the minimum basic capital for stock insurers or basic guarantee
7 surplus for mutual insurers and additional surplus for both stock and mutual insurers
8 required under AS 21.09.070; or

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

12 (i) cash;

13 (ii) the fully insured portion of bank deposits when the insurance
14 is provided by a solvent agency of the United States government or by collateral
15 in the form of the securities provided for under AS 21.21.060 and 21.21.080; or

16 (iii) the securities provided for under AS 21.21.060 and 21.21.080;

17 (4) a life insurer shall invest and keep invested its funds in an amount not less
18 than the reserves under its life insurance policies and annuity contracts, other than variable
19 annuities, in force, in cash or the securities or investments provided for under this chapter;

20 (5) except with the director's written consent, an insurer may not have invested
21 at any one time more than 20 percent of its assets in the class of securities described in
22 AS 21.21.140, exclusive of obligations of public utilities;

23 (6) an insurer may invest and have invested at any one time in aggregate amount
24 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and
25 21.21.200, except with the director's written consent; determination of the amount that an insurer
26 has invested in common stocks for the purposes of this paragraph is based on the cost of the
27 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary
28 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;

29 (7) except with the director's written consent, an insurer may not have invested
30 at any one time more than 10 percent of its assets in any one of the class of securities described
31 in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260.

1 * **Sec. 30.** AS 21.21.170(b) is amended to read:

2 (b) With the director's consent an insurer may acquire and hold the controlling interest
3 in the outstanding voting stock of another stock insurer formed under the laws of this or another
4 state. All stocks under this subsection shall be subject to the limitations on acquisition
5 [LIMITATION AS TO AMOUNT] as provided in AS 21.21.180.

6 * **Sec. 31.** AS 21.21.180 is repealed and reenacted to read:

7 **Sec. 21.21.180. INVESTMENTS IN SUBSIDIARIES.** (a) A domestic insurer, either
8 alone or in cooperation with one or more persons, may organize or acquire one or more
9 subsidiaries engaged in the following kinds of business:

- 10 (1) insurance business authorized by this title;
- 11 (2) acting as an insurance producer or as an insurance agent for the insurer's
12 parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;
- 13 (3) investing, reinvesting, or trading in securities for the insurer's own account,
14 that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;
- 15 (4) management of an investment company subject to or registered under 15
16 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;
- 17 (5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78
18 (Securities Exchange Act of 1934, as amended);
- 19 (6) rendering investment advice to a government, government agency, corporation,
20 or other organization or group;
- 21 (7) rendering other services related to the operations of an insurance business
22 including actuarial, loss prevention, safety engineering, data processing, accounting, claims,
23 appraisal, and collection services;
- 24 (8) ownership and management of assets that the parent corporation could own
25 or manage;
- 26 (9) acting as administrative agent for a governmental instrumentality that is
27 performing an insurance function;
- 28 (10) financing insurance premiums, agents, and other forms of consumer
29 financing;
- 30 (11) any other business activity determined by the director in writing using the
31 standards set out in this section to be reasonably ancillary to an insurance business; or

1 (12) owning a corporation engaged or organized to engage exclusively in one or
2 more of the businesses specified in this section.

3 (b) A domestic insurer may also

4 (1) invest in securities described in AS 21.21.140 - 21.21.160 of one or more
5 subsidiaries in amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50
6 percent of the insurer's surplus regarding policyholders, if, after the investment, the insurer's
7 surplus regarding policyholders will be reasonable in relation to the insurer's outstanding
8 liabilities and adequate to the insurer's financial needs; in calculating the amount of the
9 investment, investment in domestic or foreign insurance subsidiaries shall be excluded, but the
10 following shall be included:

11 (A) total net moneys or other consideration expended and all obligations
12 assumed in the acquisition or formation of a subsidiary, including all organizational
13 expenses and contributions to capital and surplus of the subsidiary if represented or not
14 represented by the purchase of capital stock or issuance of other securities; and

15 (B) all amounts expended in acquiring additional securities described in
16 AS 21.21.140 - 21.21.160 and all contributions to the capital or surplus of a subsidiary
17 subsequent to the subsidiary's acquisition or formation;

18 (2) invest an amount in securities described in AS 21.21.140 - 21.21.160 of one
19 or more subsidiaries engaged or organized to engage exclusively in the ownership and
20 management of assets authorized as an investment for the insurer if that subsidiary agrees to limit
21 the subsidiary's investment in an asset in a way that the investment does not cause the amount
22 of the total investment of the insurer to exceed the investment limitations specified in (1) of this
23 subsection or AS 21.21.050; for the purpose of this paragraph, the total investment of the insurer
24 includes:

25 (A) a direct investment by the insurer in an asset; and

26 (B) the insurer's proportionate share of an investment in an asset by a
27 subsidiary of the insurer calculated by multiplying the amount of the subsidiary's
28 investment by the percentage of the ownership in the subsidiary; or

29 (3) with the prior written approval of the director, invest a greater amount in those
30 securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the
31 investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's

1 outstanding liabilities and adequate to the insurer's financial needs.

2 (c) A domestic insurer shall determine if an investment meets the applicable requirements
3 under (b) of this section before the investment is made by calculating the applicable investment
4 limitations under AS 21.21.020(d) as though the investment had already been made and by taking
5 into account the then outstanding principal balance on all previous investments under
6 AS 21.21.140 - 21.21.160, calculated at statement value, giving effect to a return of capital
7 invested and not giving effect to dividends.

8 (d) If an insurer ceases to control a subsidiary, it shall dispose of an investment in the
9 subsidiary made under this section within three years from the time of the cessation of control
10 or within a further time that the director prescribes unless, at any time after the investment has
11 been made, the investment meets the requirements for investment under another section of this
12 chapter and the insurer has notified the director regarding the application of another section of
13 this chapter to the investment.

14 * Sec. 32. AS 21.21.255 is amended to read:

15 Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided
16 under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984),
17 securities that are purchased, held, or invested in by an insurer shall be regulated under
18 AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, [AS 21.66.030,] and other applicable
19 provisions of this title.

20 * Sec. 33. AS 21.21.350(b) is amended to read:

21 (b) Before completing investment activities with or through affiliated or controlling
22 persons or completing a transaction of the type listed in AS 21.21.180, an insurer shall fully
23 disclose and document in writing to its board of directors, the committee or committees having
24 responsibility for reviewing the insurer's financial condition under AS 21.22.105(d) or (e),
25 and the committee authorized by the board and charged with the supervision or making of the
26 investment or loan involved, the material facts concerning the affiliation or circumstances of
27 control. An insurer may not complete an investment activity with or through affiliated or
28 controlling persons [,] unless the board of directors, by specific board action, authorizes the
29 transaction and concludes that the transaction complies with (c) and (d) of this section. The vote
30 of the board authorizing the transaction must be recorded in the minutes, on a
31 member-by-member basis, and must indicate each vote approving, disapproving, or abstaining

1 on the transaction.

2 * **Sec. 34.** AS 21.21 is amended by adding new sections to read:

3 **Sec. 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE**
4 **OBLIGATIONS.** (a) A domestic insurer may not acquire, directly or indirectly, a medium grade
5 or lower grade obligation of an institution if, after giving effect to the acquisition,

6 (1) the aggregate amount of all medium grade and lower grade obligations held
7 by the domestic insurer exceeds 20 percent of its admitted assets if not more than

8 (A) 10 percent of its admitted assets consist of obligations rated four, five,
9 or six by the securities valuation office;

10 (B) three percent of its admitted assets consist of obligations rated five or
11 six by the securities valuation office; and

12 (C) one percent of its admitted assets consist of obligations rated six by
13 the securities valuation office; or

14 (2) the aggregate amount of all medium grade or lower grade obligations held by
15 the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the
16 insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.

17 (b) Attaining or exceeding the limit of one category does not preclude an insurer from
18 acquiring an obligation in another category subject to the specific or multi-category limits.

19 (c) A domestic insurer may not invest in medium grade and lower grade obligations
20 issued, guaranteed, or insured by a single institution in an aggregate amount greater than

21 (1) one percent of its admitted assets in medium grade obligations;

22 (2) one-half of one percent of its admitted assets in lower grade obligations; and

23 (3) one percent of its admitted assets in a combination of medium grade or lower
24 grade obligations.

25 (d) The investment limitations in this section apply in addition to the limits on
26 investments under AS 21.21.050 and 21.21.250.

27 (e) The investment limitations in this section and AS 21.21.380(b) shall be calculated
28 after including, as though they were already owned, the medium grade and lower grade
29 obligations that the domestic insurer is committed to acquire at the time of the calculation.

30 **Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM**
31 **GRADE AND LOWER GRADE OBLIGATIONS.** (a) AS 21.21.370 does not prohibit a

1 domestic insurer from acquiring an obligation that it has committed to acquire if the insurer
2 would have been permitted to acquire that obligation under AS 21.21.370 on the date on which
3 the insurer committed to purchase that obligation.

4 (b) Notwithstanding AS 21.21.370, a domestic insurer may acquire an obligation of an
5 institution in which the insurer already has an obligation if the obligation is acquired in order to
6 protect an investment previously made in the obligations of the institution, if all the acquired
7 obligations do not exceed one-half of one percent of the insurer's admitted assets.

8 (c) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation
9 created by a restructuring of a medium grade or lower grade obligation that is already held.

10 (d) AS 21.21.370 does not require a domestic insurer to sell or otherwise dispose of an
11 obligation legally acquired before July 1, 1992.

12 Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM
13 GRADE AND LOWER GRADE OBLIGATIONS. (a) The board of directors of a domestic
14 insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets
15 in medium grade and lower grade obligations, shall adopt a written plan for making these
16 investments.

17 (b) The written plan adopted under (a) of this section must contain

18 (1) guidelines for the quality of the issues in which investments are to be made;

19 and

20 (2) diversification standards including standards for issuer, industry, duration,
21 liquidity, and geographic locations.

22 Sec. 21.21.400. DISPOSITION OR WRITE-DOWN OF LOWER GRADE
23 OBLIGATIONS. If the limitation in AS 21.21.370(a)(2) is exceeded and the director determines
24 that the continued holding of the insurer's medium grade and lower grade obligations would be
25 detrimental to the interests of policyholders, the director may issue an order under AS 21.06.100
26 requiring one or more of the following:

27 (1) the disposition of lower grade obligations;

28 (2) the write-down of lower grade obligations to current market value as
29 determined by the securities valuation office or other person upon whom the director may rely;

30 or

31 (3) action under AS 21.09.150.



1 * **Sec. 35.** AS 21.21.600 is amended by adding new paragraphs to read:

2 (17) "admitted asset" has the meaning given in AS 21.18.900;

3 (18) "aggregate amount" means the aggregate statutory statement value of medium
4 grade and lower grade obligations;

5 (19) "institution" means a corporation, joint stock company, association, trust,
6 business partnership, business joint venture, or similar entity;

7 (20) "lower grade obligation" means an obligation that is rated four, five, or six
8 by the securities valuation office or its successor;

9 (21) "medium grade obligation" means an obligation that is rated three by the
10 securities valuation office or its successor;

11 (22) "securities valuation office" means the organization designated by the
12 National Association of Insurance Commissioners to determine the carrying or admitted asset
13 value of obligations owned by the insurer.

14 * **Sec. 36.** AS 21.22.060 is amended by adding new subsections to read:

15 (k) An insurer subject to registration under (a) of this section shall register annually by
16 April 1 of each year for the previous calendar year unless, for good cause shown, the director
17 extends the time for registration. The director may require an insurer authorized to do business
18 in the state, that is a member of a holding company system and that is not subject to registration
19 under (a) of this section, to furnish a copy of the registration statement, the summary specified
20 in (l) of this section, or other information filed by the insurer with the insurance regulatory
21 authority of the insurer's state of domicile.

22 (l) An annual registration statement filed under (k) of this section must contain a
23 summary outline of items in the current registration statement representing changes from the prior
24 registration statement.

25 * **Sec. 37.** AS 21.22 is amended by adding a new section to read:

26 **Sec. 21.22.065. ACQUISITIONS INVOLVING CHANGE OF CONTROL.** (a) Unless
27 exempted in (j) of this section, this section applies to any acquisition in which there is a change
28 in control of an insurer authorized to do business in this state.

29 (b) If an acquisition violates the standards established in (d) and (f) of this section, the
30 director may enter an order requiring an involved insurer to cease doing business in this state
31 with respect to the line or lines of insurance involved in the violation or denying the application

1 of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of
2 the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive
3 effect of the acquisition within a reasonable time. Based upon a plan or other information
4 submitted, the director shall specify the conditions, if any, under a time period during which the
5 aspects of the acquisition causing a violation of the standards of this section would be remedied
6 and the order vacated or modified. The order is stayed by the insurer's submission of a plan and
7 shall be rescinded if the acquisition is not consummated.

8 (c) An acquisition that meets the requirements under (a) of this section is subject to an
9 order under (b) of this section unless the acquiring person files a preacquisition notification and
10 the waiting period has expired. The person to be acquired may file a preacquisition notification.
11 A preacquisition notification by a person to be acquired may not be filed in place of a
12 preacquisition filing by an acquiring person. The preacquisition notification

13 (1) must be in a form and contain the information prescribed in regulations
14 adopted by the director relating to insurance markets that, under (j)(5) of this section, cause the
15 acquisition not to be exempt from the provisions of this section; the director may require
16 additional material and information the director considers necessary to determine whether the
17 proposed acquisition, if consummated, would violate the competitive standards of this section;

18 (2) may include an opinion of an economist regarding the competitive effect of
19 the acquisition in this state accompanied by a summary of the education and experience
20 indicating the economist's ability to render an informed opinion; and

21 (3) must be followed by a waiting period beginning on the date of receipt by the
22 director of a preacquisition notification and ending on the earlier of the 30th day after the date
23 of receipt or termination of the waiting period by the director unless, before the end of the
24 waiting period, the director requires the submission of additional information relevant to the
25 proposed acquisition, in which event the waiting period shall end on the 30th day after receipt
26 of the additional information by the director or termination of the waiting period by the director,
27 whichever is earlier.

28 (d) The director may enter an order under (b) of this section regarding an acquisition if

29 (1) the insurer fails to file adequate information in compliance with (c) of this
30 section;

31 (2) there is substantial evidence that the acquisition may substantially lessen

1 competition, create a monopoly in a line of insurance in this state or significantly increase an
2 insurer's market concentration; there is substantial evidence when the aggregate market share of
3 any grouping of the largest insurers in the market, from the two largest to the eighth largest, has
4 increased by seven percent or more of the market over a period of time extending from any base
5 year five to 10 years before the acquisition up to the time of the acquisition;

6 (3) after considering an acquisition covered under (a) of this section involving two
7 or more insurers competing in the same market there is evidence of a violation of the competitive
8 standards contained in the following tables:

9 (A) if the market is highly concentrated, the involved insurers possess the
10 following shares of the market:

11	Insurer A	Insurer B
12	4 percent	4 percent or more
13	10 percent	2 percent or more
14	15 percent	1 percent or more;

15 (B) if the market is not highly concentrated, the involved insurers possess
16 the following shares of the market:

17	Insurer A	Insurer B
18	5 percent	5 percent or more
19	10 percent	4 percent or more
20	15 percent	3 percent or more
21	19 percent	1 percent or more.

22 (e) A percentage not shown in the tables contained in (d) of this section may be
23 interpolated proportionately to the percentage that is shown. The insurer with the largest share
24 of the market shall be considered Insurer A. If more than two insurers are involved, a market
25 share that exceeds the total of the two columns in the table by the insurers involved is prima
26 facie evidence of a violation of the competitive standards contained in (d) of this section.

27 (f) Even though an acquisition does not violate the competitive standard under (d) of this
28 section, the director may establish the requisite anticompetitive effect based upon other
29 substantial evidence. Even though an acquisition does violate the competitive standard under (d)
30 of this section, a party may establish the absence of the requisite anticompetitive effect based
31 upon other substantial evidence. Relevant factors in making a determination under (d) of this

1 section include market shares, volatility of ranking of market leaders, number of competitors,
2 concentration, trend of concentration in the industry, and ease of entry into and exit out of the
3 market. The burden of showing substantial evidence of a violation of the competitive standards
4 rests with the director.

5 (g) An order may not be entered under (b) of this section if

6 (1) the acquisition will yield substantial economy of scale or economy in resource
7 utilization that cannot be achieved in another way and the public benefits that would arise from
8 the economy exceed the public benefits that would arise from not lessening competition; or

9 (2) the acquisition will substantially increase the availability of insurance and the
10 public benefits of the increase exceed the public benefits that would arise from not lessening
11 competition.

12 (h) A person who violates a cease and desist order of the director under (b) of this
13 section may, after hearing and on order of the director, be subject to the suspension or revocation
14 of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.

15 (i) An insurer or other person who fails to make a preacquisition filing required by (c)
16 of this section and who also fails to demonstrate a good faith effort to comply with filing
17 requirements shall be subject to a fine of not more than \$50,000.

18 (j) This section does not apply to

19 (1) an acquisition subject to approval or disapproval by the director under
20 AS 21.22.010;

21 (2) a purchase of securities solely for investment purposes if the securities are not
22 used by voting or otherwise to cause or attempt to cause the substantial lessening of competition
23 in an insurance market in this state; if a purchase of securities for investment purposes results
24 in a presumption of control under AS 21.22.200(2), it is not solely for investment purposes unless
25 the insurance supervisory official of the insurer's state of domicile accepts a disclaimer of control
26 or affirmatively finds that control does not exist and the disclaimer action or affirmative finding
27 is communicated by the domiciliary commissioner to the director;

28 (3) the acquisition of a person by another person resulting in a change of control
29 of an insurer when both persons are neither directly nor through affiliates primarily engaged in
30 the business of insurance if preacquisition notification is filed with the director under (c) of this
31 section 30 days before the proposed effective date of the acquisition; however, the preacquisition

1 notification is not required for exclusion if the acquisition would otherwise be excluded under
2 this subsection;

3 (4) the acquisition of an already affiliated person;

4 (5) an acquisition if, as an immediate result of the acquisition,

5 (A) the combined market share of the involved insurers would not exceed
6 five percent of a market;

7 (B) there would not be an increase in a market share of the larger writer,
8 or

9 (C) the combined market share of the involved insurers would not exceed
10 12 percent of a market and the market share of the larger writer would not increase by
11 more than two percent of a market;

12 (6) an acquisition for which a preacquisition notification would be required under
13 this section due solely to the resulting effect on the ocean marine insurance line of business; or

14 (7) an acquisition of an insurer whose domiciliary commissioner affirmatively
15 finds that the insurer is in a failing condition, there are no feasible alternatives to improving this
16 condition, the public benefits of improving the insurer's condition through the acquisition exceed
17 the public benefits that would arise from not lessening competition, and these findings are
18 communicated by the domiciliary commissioner to this state's director.

19 (k) AS 21.22.150 - 21.22.160 and 21.22.180 do not apply to acquisitions covered under
20 this section.

21 * Sec. 38. AS 21.22.080 is amended to read:

22 Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by
23 registered insurers with their affiliates are subject to the following standards:

24 (1) the terms shall be fair and reasonable;

25 (2) charges or fees for services performed shall be reasonable;

26 (3) expenses incurred and payment received shall be allocated to the insurer
27 in conformity with customary insurance accounting practices consistently applied;

28 (4) the books, accounts, and records of each party shall be maintained so as to
29 disclose clearly and accurately the precise nature and details of the transactions including
30 accounting information that is necessary to support the reasonableness of the charges or
31 fees to the respective parties; and

1 (5) [(3)] the insurer's surplus as regards policyholders following any dividends
2 or distributions to shareholder affiliates or performance under a material transaction with an
3 affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its
4 financial needs.

5 * Sec. 39. AS 21.22 is amended by adding a new section to read:

6 Sec. 21.22.085. TRANSACTIONS INVOLVING A DOMESTIC INSURER REQUIRING
7 DIRECTOR REVIEW. (a) The following transactions involving a domestic insurer and a person
8 in its holding company system may not be entered into unless the insurer has notified the director
9 in writing of the insurer's intention to enter into the transaction at least 30 days before the
10 transaction, or a shorter period if allowed by the director, and the director has not disapproved
11 the transaction within the required notice period:

12 (1) a sale, purchase, exchange, loan or extension of credit, guarantee, or
13 investment, provided the transaction is equal to or exceeds

14 (A) with respect to insurers other than life insurers, the lesser of three
15 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
16 policyholder surplus, each calculated under AS 21.21.020(d); or

17 (B) with respect to life insurers, three percent of the insurer's admitted
18 assets calculated under AS 21.21.020(d);

19 (2) a loan or extension of credit to a person who is not an affiliate, where the
20 insurer makes loans or extensions of credit with the agreement or understanding that the proceeds
21 of the transaction, in whole or in substantial part, are to be used to make a loan or extension of
22 credit to, purchase an asset of, or make an investment in an affiliate of the insurer making the
23 loan or extension of credit provided the transaction is equal to or exceeds

24 (A) with respect to insurers other than life insurers, the lesser of three
25 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
26 policyholder surplus, each calculated under AS 21.21.020(d); or

27 (B) with respect to life insurers, three percent of the insurer's admitted
28 assets calculated under AS 21.21.020(d);

29 (3) a reinsurance agreement or modification in which the reinsurance premium
30 or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that
31 pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that

1 may require as consideration the transfer of assets from an insurer to a nonaffiliate if an
2 agreement or understanding exists between the insurer and nonaffiliate that a portion of the assets
3 will be transferred to an affiliate of the insurer;

4 (4) a management agreement, service contract, or cost-sharing arrangement; and

5 (5) a material transaction specified by regulation that the director determines may
6 adversely affect the interests of the insurer's policyholders.

7 (b) Nothing in (a) of this section authorizes or permits a transaction that, in the case of
8 an insurer not a member of the same holding company system, would violate a provision of law.

9 (c) A domestic insurer may not enter into a transaction that is part of a plan or series of
10 similar transactions with persons within the holding company system if the purpose of the
11 separate transaction is to avoid the statutory threshold amount and avoid review that would
12 otherwise occur. If the director determines that this separate transaction is entered into over a
13 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i),
14 21.22.170, AS 21.36.320, and 21.36.360(a).

15 (d) The director, in reviewing a transaction under this section, shall consider whether the
16 transaction complies with the standards provided in AS 21.22.080 and whether the transaction
17 may adversely affect the interests of policyholders.

18 (e) A domestic insurer shall notify the director within 30 days of an investment of a
19 domestic insurer in a corporation if, after the investment, the total investment by the insurance
20 holding company system in a corporation exceeds 10 percent of the corporation's voting
21 securities.

22 * Sec. 40. AS 21.22.090 is amended to read:

23 Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in
24 determining whether an insurer's surplus as regards policyholders is reasonable in relation to the
25 insurer's outstanding liabilities and adequate to its financial needs, the following factors, among
26 others, shall be considered:

27 (1) the size of the insurer as measured by its assets, capital and surplus, reserves,
28 premium writings, insurance in force, and other appropriate criteria;

29 (2) the extent to which the insurer's business is diversified among the several
30 lines of insurance;

31 (3) the number and size of risks insured in each line of business;

- 1 (4) the extent of the geographical dispersion of the insurer's insured risk;
2 (5) the nature and extent of the insurer's reinsurance program;
3 (6) the quality, diversification, and liquidity of the insurer's investment portfolio;
4 (7) the recent past and projected future trend in the size of the insurer's
5 investment portfolio [SURPLUS AS REGARDS POLICYHOLDERS];
6 (8) the surplus as regards policyholders maintained by other comparable insurers;
7 (9) the adequacy of the insurer's reserves; and
8 (10) the quality and liquidity of investments in affiliates [SUBSIDIARIES] made
9 under AS 21.21; the director may treat any such investment as a disallowed asset for purposes
10 of determining the adequacy of surplus as regards policyholders whenever the director determines
11 the investment warrants it.

12 * Sec. 41. AS 21.22.100(b) is amended to read:

13 (b) For purposes of this section, an extraordinary dividend or distribution includes a
14 [ANY] dividend or distribution of cash or other property, the fair market value of which together
15 with that of other dividends or distributions made within the preceding 12 months exceeds the
16 lesser [GREATER] of (1) 10 percent of the insurer's surplus as regards policyholders as of
17 December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the
18 insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the
19 12-month period ending December 31 of the preceding year; but does not include pro rata
20 distributions of any class of the insurer's own securities. In determining whether a dividend
21 or distribution is extraordinary, an insurer other than a life insurer may carry forward net
22 income from the previous two calendar years that has not already been paid out as
23 dividends. The carry forward provision shall be computed by taking the net income from
24 the second and third preceding calendar years, not including realized capital gains, less
25 dividends paid in the second and immediate preceding calendar years.

26 * Sec. 42. AS 21.22 is amended by adding a new section to read:

27 Sec. 21.22.105. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO
28 REGISTRATION. (a) Notwithstanding the control of a domestic insurer by any person, the
29 officers and directors of the insurer may not be relieved of an obligation or liability to which the
30 officers and directors would otherwise be subject to by law, and the insurer shall be managed so
31 as to assure the insurer's separate operating identity consistent with this title.

1 (b) This section does not preclude a domestic insurer from having or sharing a common
2 management or cooperative or joint use of personnel, property, or services with one or more
3 other persons under arrangements meeting the standards of AS 21.22.080.

4 (c) Not less than one-third of the directors of a domestic insurer registered under
5 AS 21.22.060 and not less than one-third of the members of each committee of the board of
6 directors of a domestic insurer registered under AS 21.22.060 shall be persons who are not
7 officers or employees of the insurer or of an entity controlling, controlled by, or under common
8 control with the insurer and who are not beneficial owners of a controlling interest in the voting
9 stock of the insurer or an entity. At least one person who is not an officer, employee, or owner
10 of a controlling interest in stock of an insurer or controlling entity must be included in a quorum
11 for the transaction of business at a meeting of the board of directors or a committee of the board
12 of directors.

13 (d) The board of directors of a domestic insurer shall establish one or more committees
14 comprised solely of directors who are not officers or employees of the insurer or of an entity
15 controlling, controlled by, or under common control with the insurer and who are not beneficial
16 owners of a controlling interest in the voting stock of the insurer or an entity. The committee
17 or committees shall have responsibility for recommending the selection of independent certified
18 public accountants, reviewing the insurer's financial condition, the scope and results of the
19 independent audit, and an internal audit, nominating candidates for director for election by
20 shareholders or policyholders, evaluating the performance of officers that are principal officers
21 of the insurer, and recommending to the board of directors the selection and compensation of the
22 principal officers.

23 (e) The provisions of (c) and (d) of this section do not apply to a domestic insurer if the
24 person controlling the insurer is an insurer having a board of directors and committees that meet
25 the requirements of (c) and (d) of this section, or to a domestic insurer that holds a certificate
26 of authority under this title on December 31, 1991.

27 * Sec. 43. AS 21.22.120 is amended to read:

28 Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the
29 information and documents obtained by or disclosed to the director or any other person in the
30 course of an examination or investigation made under AS 21.22.110 and all information reported
31 under AS 21.22.060 and all preacquisition notification information received under

1 **AS 21.22.065**, shall be given confidential treatment and may not be made public by the director
2 or any other person, except to insurance departments of other states, without the prior written
3 consent of the insurer to which it pertains. However, if the director, after giving the insurer and
4 its affiliates who would be affected by publication of the information notice and opportunity to
5 be heard, determines that the interests of policyholders, shareholders, or the public will be served
6 by the publication of the information, the director may publish all or part of the information in
7 the manner the director considers appropriate.

8 * **Sec. 44.** AS 21.22.150 is amended by adding a new subsection to read:

9 (c) This section does not apply to a security that constitutes an acquisition covered by
10 AS 21.22.065.

11 * **Sec. 45.** AS 21.22.160 is amended by adding a new subsection to read:

12 (b) This section does not apply to a security that constitutes an acquisition covered by
13 AS 21.22.065.

14 * **Sec. 46.** AS 21.22.180 is amended by adding a new subsection to read:

15 (b) This section does not apply to a violation involving a security that constitutes an
16 acquisition covered by AS 21.22.065.

17 * **Sec. 47.** AS 21.22.200 is amended by adding new paragraphs to read:

18 (11) "acquisition" means an agreement, arrangement, or activity the consummation
19 of which results in a person acquiring directly or indirectly the control of another person, and
20 includes the acquisition of voting securities, assets, bulk reinsurance, and mergers;

21 (12) "highly concentrated" means a market in which the share of the four largest
22 insurers is 75 percent or more of the market;

23 (13) "insurer" has the meaning given in AS 21.90.900 and includes a company
24 or group of companies under common management, ownership, or control;

25 (14) "involved insurer" means an insurer that either acquires or is acquired, is
26 affiliated with an acquirer or acquired, or is the result of a merger;

27 (15) "market" or "insurance market" means direct written insurance premium in
28 this state for a line of business as contained in the annual statement required to be filed by
29 insurers licensed to do business in this state; in determining the relevant product and geographical
30 markets, the director shall give due consideration to, among other things, the definitions or
31 guidelines adopted by the National Association of Insurance Commissioners and to information

1 submitted by parties to the acquisition; in the absence of sufficient information to the contrary,
2 the relevant product market is assumed to be the direct written insurance premium for a line of
3 business, the line being that used in the annual statement required to be filed by insurers doing
4 business in this state, and the relevant geographical market is assumed to be this state;

5 (16) "statement value" means the value that an insurer is instructed by the
6 securities valuation office of the National Association of Insurance Commissioners to carry on
7 the insurer's financial statement and that represents an investment.

8 * Sec. 48. AS 21.27.010 is repealed and reenacted to read:

9 Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not act as or represent to be
10 an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance
11 intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a
12 subject resident, located, or to be performed in this state unless licensed under this chapter. A
13 person may not act as or represent to be a managing general agent, reinsurance intermediary
14 broker, or reinsurance intermediary manager representing an insurer domiciled in this state
15 regarding a risk located outside this state unless licensed by this state.

16 (b) An insurance producer, a managing general agent, a reinsurance intermediary broker,
17 a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications
18 for, procure, place for others, or otherwise transact business for a kind or class of insurance for
19 which the person is not licensed.

20 (c) A person who performs administrative functions, including claims administration and
21 payment, marketing administrative functions, premium accounting, premium billing, coverage
22 verification, underwriting authority, or certificate issuance in regard to insurance as a third-party
23 administrator shall be licensed as a managing general agent unless the person only administers
24 claims and is licensed under this chapter as an independent adjuster.

25 (d) A licensee may not use a fictitious name or alias unless the licensee's legal name and
26 fictitious name or alias are on the license.

27 (e) A person who is an employee of an admitted insurer, who acts within the course and
28 scope of that employment, and within the scope of the insurer's certificate of authority is not
29 required to be additionally licensed under this section.

30 (f) A person who performs management services for an admitted insurer or admitted
31 reinsurer is not required to be licensed as a managing general agent or reinsurance intermediary

1 manager if the person's compensation is not based on the volume of premium written and the
2 person

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

4 (2) wholly owns the admitted insurer;

5 (3) is a wholly-owned subsidiary of the insurance holding company that owns or
6 controls the admitted insurer;

7 (4) is a United States manager of the United States branch of an alien admitted
8 insurer; or

9 (5) is the manager of a group, association, pool, or organization of admitted
10 insurers that does joint underwriting if it is subject to examination by the authorized insurance
11 regulator in the state in which the person's principal place of business is located.

12 (g) This chapter does not apply to a person licensed to practice as an attorney at law
13 while the person is acting as an attorney at law.

14 (h) A person licensed under AS 21.75 as an attorney-in-fact is not required to be
15 additionally licensed under this chapter while acting on behalf of subscribers and within the scope
16 and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under
17 AS 21.75.

18 (i) This section does not apply to a person who

19 (1) is employed on salary or hourly wage by a person licensed under this section
20 solely for the performance of accounting, clerical, stenographic, and similar office duties;

21 (2) only secures and forwards information required for the purposes of group
22 insurance covering the unpaid balance, or remaining payments proposed to be made, in
23 connection with the purchase of merchandise or services, if the person receives no compensation,
24 directly or indirectly, arising out of or in any way relating to the insurance transactions; or

25 (3) is employed on salary by a licensee at the licensee's place of business, is
26 supervised by and reports directly to a licensee in the firm, and who, after disclosure that the
27 person is not licensed, may

28 (A) furnish premium estimates from published or printed lists of standard
29 rates if the person does not advise, counsel, or suggest what coverage may be needed, or
30 otherwise solicit insurance coverage;

31 (B) arrange appointments for a licensee if the person does not solicit

1 insurance coverage;

2 (C) record information from an applicant or policyholder and complete for
3 the licensee's personal review and signature, a certificate of insurance that is not a
4 contract of insurance; the licensee's signature may be by facsimile;

5 (D) inform a policyholder of the type of coverage shown in the licensee's
6 policy record if the person does not advise that an event or hypothetical event is or is not
7 covered; or

8 (E) in the physical presence of the licensee, record information from an
9 applicant or policyholder and complete for a licensee's personal review and personal
10 signature, applications, binders, endorsements, or identification cards if the person
11 discloses to the applicant or policyholder that the information provided may be reviewed
12 with a licensee.

13 (j) In addition to the business activities expressly exempt from licensing under this
14 section, the director may adopt regulations that exempt other activities from the licensing
15 requirements of this section.

16 * Sec. 49. AS 21.27.010(f) is repealed and reenacted to read:

17 (f) A person who performs management services for an admitted insurer or admitted
18 reinsurer is not required to be licensed as a managing general agent or reinsurance intermediary
19 manager if the person's compensation is not based on the volume of premium written and the
20 person

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

22 (2) wholly owns the admitted insurer;

23 (3) is a wholly-owned subsidiary of the insurance holding company that owns or
24 controls the admitted insurer;

25 (4) is a United States manager of the United States branch of an alien admitted
26 insurer; or

27 (5) is the manager of a group, association, pool, or organization of admitted
28 insurers that does joint underwriting if it is subject to examination by the authorized insurance
29 regulator in the state in which the person's principal place of business is located and the
30 insurance regulator is accredited by the National Association of Insurance Commissioners.

31 * Sec. 50. AS 21.27.020 is amended to read:

1 **Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE.** For the protection of
2 the people of this state, the director may not issue or renew a license except in compliance with
3 this chapter and may not issue a license to a person, or to be exercised by a person, found by
4 the director to be untrustworthy, incompetent, or who has not established to the satisfaction of
5 the director that the person is qualified under this chapter.

6 * **Sec. 51.** AS 21.27.020 is amended by adding new subsections to read:

7 (b) To qualify for issuance or renewal of an individual or individual in the firm license,
8 an applicant or licensee shall comply with this title and

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

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

13 (3) successfully pass an examination required under AS 21.27.060;

14 (4) be a trustworthy person;

15 (5) not use or intend to use the license for the purpose principally of writing
16 controlled business, as defined in AS 21.27.030;

17 (6) not have committed an act that is a cause for denial, nonrenewal, suspension,
18 or revocation of a license in this state or another jurisdiction.

19 (c) To qualify for issuance or renewal of a license as a firm insurance producer, a firm
20 managing general agent, a firm reinsurance intermediary broker, a firm reinsurance intermediary
21 manager, a firm surplus lines broker, or a firm independent adjuster, an applicant or licensee shall

22 (1) comply with (b)(4) and (5) of this section;

23 (2) have the principal or manager licensed as an individual in the firm;

24 (3) if a corporation or partnership,

25 (A) maintain a lawfully established place of business in this state, except
26 as provided in AS 21.27.330;

27 (B) disclose to the director all officers, directors, or partners, and whether
28 or not they are licensed;

29 (C) designate a licensed officer or partner responsible for the firm's
30 compliance with the insurance statutes and regulations of this state; and

31 (D) provide to the director documents necessary to verify the information

1 contained in or made in connection with the application;

2 (4) notify the director within 30 days in writing by certified mail of a change in
3 a principal or manager of the firm or the termination of employment of an individual in the firm
4 licensee.

5 (d) The director may adopt regulations establishing additional education or experience
6 requirements for applicants or licensees under this chapter.

7 (e) If the director finds that the applicant or licensee is qualified and that application,
8 license, or renewal fees have been paid, the director may issue or renew the license.

9 (f) A licensed individual in the firm who changes employers remains licensed under this
10 chapter pending the issuance of a new license if the licensee otherwise meets the requirements
11 of this chapter.

12 * Sec. 52. AS 21.27 is amended by adding a new section to read:

13 Sec. 21.27.025. REQUIRED NOTICE BY LICENSEE. (a) A licensee shall notify the
14 director within 30 days in writing by certified mail of a change in residence, employment that
15 is licensed under this chapter, place of business, mailing address, or phone number; a suspension
16 or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or
17 felony.

18 (b) A principal or manager shall notify the director in writing within 30 days of a
19 termination of employment of a licensed individual in the firm. Notice required under this
20 subsection must include the licensee's name; the firm's name and address; the date of hire, self-
21 employment, or termination; and other information required by the director.

22 (c) In addition to any other penalty provided by law, a failure to notify the director as
23 required by this section is cause for denial, nonrenewal, suspension, or revocation of a license.

24 * Sec. 53. AS 21.27.030(a) is repealed and reenacted to read:

25 (a) The director may not issue an insurance producer, a managing general agent, or a
26 surplus lines broker license to a person if the director has reasonable cause to believe that the
27 applicant for the license would, during the 12-month period immediately following issuance of
28 the license, earn or receive an aggregate amount in commission, service fees, brokerage, or other
29 valuable consideration, directly or indirectly, by whatever name called, represented by the
30 controlled business that exceeds 50 percent of the aggregate amount of compensation,
31 commission, service fees, brokerage, or other valuable consideration represented by all other

1 insurance business that would be procured by or through the applicant.

2 * **Sec. 54.** AS 21.27.030(c) is repealed and reenacted to read:

3 (c) A licensee may not earn or receive an aggregate amount in commission, service fees,
4 brokerage, or other valuable consideration, directly or indirectly, by whatever name called,
5 represented by the controlled business that exceeds 50 percent of the aggregate amount in
6 compensation, commission, service fees, brokerage, or other valuable consideration represented
7 by all other insurance business in a calendar year.

8 * **Sec. 55.** AS 21.27.030 is amended by adding a new subsection to read:

9 (e) In addition to any other penalty provided by law, a person who violates this section
10 is subject to the penalties provided under AS 21.27.440.

11 * **Sec. 56.** AS 21.27.040(a) is amended to read:

12 (a) Application for a license shall be made to the director upon forms prescribed [AND
13 FURNISHED] by the director. As a part of or in connection with the application, the applicant
14 shall furnish information concerning the identity, personal history, experience, business record,
15 purposes of the applicant [,] and other pertinent facts concerning the applicant that the director
16 may reasonably require. The applicant shall declare under penalty of denial, nonrenewal,
17 suspension, or revocation of a license issued by the director that the statements made in or
18 in connection with the application are true, correct, and complete to the best of the
19 applicant's knowledge and belief. Payment of an application fee established under
20 AS 21.06.250 must be submitted with the application.

21 * **Sec. 57.** AS 21.27.040(c) is amended to read:

22 (c) In addition to any other penalty provided by law, a [A] person wilfully
23 misrepresenting a fact required to be disclosed in or in connection with the application or other
24 information required by this section is subject to the penalties provided for under
25 AS 21.27.440 [IN THIS TITLE].

26 * **Sec. 58.** AS 21.27.040 is amended by adding a new subsection to read:

27 (d) The director may require an applicant or licensee at any time, including at the time
28 of license renewal, to supply current information of the type made in or supplemental to an
29 application.

30 * **Sec. 59.** AS 21.27.060 is repealed and reenacted to read:

31 Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as

1 provided in this chapter, an applicant for an individual license and a principal or manager
2 applicant for a firm license shall, before the issuance of the license, personally take and pass, to
3 the satisfaction of the director, an examination that tests the knowledge and competence of the
4 applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and
5 regulations of the state.

6 (b) If the director determines that a licensee has violated this title or that a licensee has
7 conducted affairs under the license that cause the director reasonably to desire further evidence
8 of the qualifications of the licensee, the director may at any time require the licensee to
9 personally take and pass, to the satisfaction of the director, an examination that tests the
10 knowledge and competence of the licensee as to the licensee's duties and responsibilities as a
11 licensee, or the insurance laws of the state.

12 (c) An applicant who files a current letter of clearance from a prior state of residence
13 certifying that the applicant was in good standing and has held a license in that state that had the
14 same qualifications as the license applied for in this state, including passing an examination, shall
15 personally take and pass, to the satisfaction of the director, an examination pertaining to this
16 state's statutes and regulations and any kind or class of insurance not covered under the license
17 held in the prior state of residence, provided the filing of the letter of clearance is made within
18 180 days of cancellation of the prior state's resident license.

19 (d) This section does not apply, at the discretion of the director, to an applicant

20 (1) for a limited license under AS 21.27.150;

21 (2) who, at any time within the two-year period immediately preceding the date
22 the current pending application is received by the division, had been licensed in good standing
23 in this state under a license requiring substantially similar qualifications as required by the license
24 applied for; or

25 (3) whose license in the resident jurisdiction requires the same qualifications as
26 the license applied for in this state if the license in all jurisdictions is in good standing.

27 (e) The director may make available a printed manual specifying in general terms the
28 subjects that may be covered in an examination for a particular license.

29 * Sec. 60. AS 21.27.060(c) is repealed and reenacted to read:

30 (c) An applicant who files a current letter of clearance from a prior state of residence
31 certifying that the applicant was in good standing and has held a license in that state that had the

1 same qualifications as the license applied for in this state, including passing an examination, shall
2 personally take and pass, to the satisfaction of the director, an examination pertaining to this
3 state's statutes and regulations and any kind or class of insurance not covered under the license
4 held in the prior state of residence, provided the filing of the letter of clearance is made within
5 180 days of cancellation of the prior state's resident license. This subsection only applies if the
6 prior resident state is accredited by the National Association of Insurance Commissioners.

7 * **Sec. 61.** AS 21.27.060(d) is repealed and reenacted to read:

8 (d) This section does not apply, at the discretion of the director, to an applicant

9 (1) for a limited license under AS 21.27.150;

10 (2) who, at any time within the two-year period immediately preceding the date
11 the current pending application is received by the division, had been licensed in good standing
12 in this state under a license requiring substantially similar qualifications as required by the license
13 applied for; or

14 (3) whose license in the resident jurisdiction requires the same qualifications as
15 the license applied for in this state if the license in all jurisdictions is in good standing and its
16 resident jurisdiction is accredited by the National Association of Insurance Commissioners.

17 * **Sec. 62.** AS 21.27.080(b) is amended to read

18 (b) The director shall give examinations at the times and places [WITHIN THIS STATE]
19 that the director considers necessary to reasonably serve the convenience of [BOTH] the director,
20 [AND] applicants, and licensees.

21 * **Sec. 63.** AS 21.27.100 is repealed and reenacted to read:

22 Sec. 21.27.100. APPOINTMENT OF INSURANCE PRODUCER, MANAGING
23 GENERAL AGENT, AND REINSURANCE INTERMEDIARY MANAGER. (a) On forms
24 prescribed by the director, an appointment shall be filed with the director at least 10 days before
25 its proposed effective date by the following licensees:

26 (1) an admitted insurer appointing a managing general agent in this state or
27 relative to a subject resident, located, or to be performed in this state;

28 (2) a managing general agent appointing an insurance producer as its subagent
29 in this state or relative to subjects resident, located, or to be performed in this state;

30 (3) a domestic reinsurer appointing a reinsurance intermediary manager; and

31 (4) a reinsurance intermediary manager appointing an insurance producer as its



1 subagent in this state.

2 (b) On forms prescribed by the director, an admitted insurer appointing an insurance
3 producer as its agent in this state or relative to a subject resident, located, or to be performed in
4 this state shall file written notice of appointment not later than 30 days from the date the written
5 agency contract is executed or the first insurance application is submitted to the admitted insurer
6 by the licensed insurance producer. If the licensed insurance producer has not received written
7 acknowledgement of the appointment from the director within 45 days from the date the written
8 agency contract is executed or the first insurance application is submitted to the admitted insurer
9 by the insurance producer, whichever is later, the insurance producer shall immediately
10 discontinue acting as an insurance producer on behalf of the insurer until an acknowledgement
11 has been received.

12 (c) If the appointee is licensed, the director shall provide written acknowledgement of
13 the appointment, including the effective date to the person making the appointment, to the
14 appointee, and to the insurer or reinsurer.

15 (d) The person making the appointment, the appointee, and the insurer shall review the
16 acknowledgement for accuracy and advise the director of an error within 30 days for correction.

17 * Sec. 64. AS 21.27.110 is repealed and reenacted to read:

18 Sec. 21.27.110. TERM OF APPOINTMENT. (a) An appointment under AS 21.27.100
19 continues in force until the appointment is terminated

20 (1) by the insurer, reinsurer, managing general agent as authorized by the insurer,
21 or reinsurance intermediary manager as authorized by the reinsurer; a written notice of
22 termination shall be mailed at least 10 days before the effective date of the termination to the last
23 known address of the appointee and to the director by first class certified mail, first class
24 registered mail, or first class with a certificate of mailing from the United States Postal Service;
25 or

26 (2) by the director; a written notice of termination shall be mailed at least 10 days
27 before the effective date of the termination by first class certified mail to the last address of
28 record with the director of the appointee and insurer, reinsurer, managing general agent, or
29 reinsurance intermediary.

30 (b) A notice of termination submitted to the director under (a) of this section must
31 include a statement of the reasons for the termination. A statement of the reasons for termination

1 is privileged and may not be admitted as evidence in an action or proceeding against the insurer,
2 reinsurer, managing general agent, or reinsurance intermediary or their representatives by or on
3 behalf of a person affected by the termination, except in an action involving perjury, false
4 statement, fraud, or failure to comply with this subsection.

5 (c) The director may require that an insurer renew an appointment annually and may
6 require payment of a renewal fee under AS 21.06.250 for an appointment in effect on
7 December 31 of the current year. If the director requires that an appointment be renewed or a
8 renewal fee be paid, the director shall terminate an insurer's appointment if the renewal fees have
9 not been received by the director on or before the close of business of March 1 of the renewal
10 year.

11 * Sec. 65. AS 21.27.130 is amended to read:

12 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license [AGENT,
13 GENERAL AGENT, ADJUSTER, SOLICITOR, AND BROKER LICENSES] must be in the
14 form the director prescribes [,] and must set out

15 (1) the name and mailing address of the licensee, and [OR] if the licensee is
16 required to have a place of business, the physical address of the place of business;

17 (2) if for a firm, the name of the principal or manager of the firm;

18 (3) the kind or class [KINDS] of insurance the licensee is licensed to handle;

19 (4) the effective date and expiration date of the license [IF A SOLICITOR'S
20 LICENSE, THE NAME AND ADDRESS OF THE AGENT OR BROKER REPRESENTED BY
21 THE SOLICITOR];

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

23 (6) the date of issuance of the license;

24 (7) each fictitious name and alias under which the licensee may do business;

25 and

26 (8) other information required by the director.

27 * Sec. 66. AS 21.27.140 is repealed and reenacted to read:

28 Sec. 21.27.140. FIRM LICENSES. (a) A firm shall have a firm license of the same
29 scope as each individual employee of the firm.

30 (b) A firm may not be licensed as an insurance producer, managing general agent,
31 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or

1 independent adjuster, or transact insurance unless each individual employed as an insurance
2 producer, managing general agent, surplus lines broker, trainee insurance producer, trainee
3 independent adjuster, or independent adjuster by the firm is licensed as an individual in the firm
4 and the principal or manager of the firm is licensed as an individual in the firm to exercise all
5 the powers conferred by the firm's license.

6 (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew or should
7 have known of an act or representation made on the firm's behalf by a person not licensed as
8 required by this chapter, the firm and the firm's principal or manager are subject to the penalties
9 provided under AS 21.27.440.

10 * Sec. 67. AS 21.27.150 is repealed and reenacted to read:

11 Sec. 21.27.150. LIMITED LICENSES. The director may issue a

12 (1) travel insurance limited producer license to a person whose place of business
13 is located in this state, who sells transportation tickets of a common carrier of persons or
14 property, who is appointed under AS 21.27.100, and whose sole purpose is to be appointed by
15 and to act as an agent for transportation ticket policies of disability insurance, baggage insurance
16 on personal effects, and trip cancellation or trip interruption insurance;

17 (2) disability insurance limited producer license to a resident of this state whose
18 sole purpose is to be appointed by and act as an agent for disability insurance pertaining to sports
19 and recreation;

20 (3) title insurance limited producer license to a person whose place of business
21 is located in this state and whose sole purpose is to be appointed by and act on behalf of a title
22 insurer;

23 (4) bail bond limited producer license to a person whose place of business is
24 located in this state and whose sole purpose is to be appointed by and act on behalf of a surety
25 insurer pertaining to bail bonds;

26 (5) fraternal benefit society limited producer license to a person whose sole
27 purpose is to be appointed by and to act on behalf of a fraternal benefit society licensed under
28 AS 21.84;

29 (6) retired insurance producer license to a resident who is retired or retiring from
30 the business of insurance and surrenders all in-force licenses to allow the person to receive a
31 continuing commission in regard to insurance transacted before retirement; a retired insurance

1 producer licensee may not solicit, induce, negotiate, or effectuate contracts of insurance; the
2 director may renew a retired insurance producer license if the licensee ceases to be a resident of
3 this state;

4 (7) the director may waive the bond required under AS 21.27.530(5) for a person
5 licensed under this section.

6 * Sec. 68. AS 21.27.160 is repealed and reenacted to read:

7 Sec. 21.27.160. SCOPE OF LICENSES. An insurance producer, managing general
8 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker,
9 or independent adjuster is only required to have one license inclusive of all kinds or combination
10 of kinds or all classes or combination of classes of insurance the insurance producer, managing
11 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
12 broker, or independent adjuster is licensed to handle.

13 * Sec. 69. AS 21.27.170 is amended to read:

14 Sec. 21.27.170. INSURANCE VENDING MACHINES LICENSE. (a) A licensed
15 insurance producer that has a place of business in this state [RESIDENT AGENT] may
16 solicit applications for and issue policies on behalf of an admitted insurer providing [OF]
17 personal travel accident insurance by means of a mechanical vending machine supervised by the
18 licensed insurance producer [AGENT] and placed at airports, railroad stations, bus stations, and
19 similar places where transportation tickets are sold as a convenience to the traveling public, if
20 the director finds that

21 (1) the policy to be sold provides reasonable coverage and benefits, is reasonably
22 suited for sale and issuance through vending machines, and that use of a machine in a particular
23 proposed location would be of material convenience to the public;

24 (2) the type of vending machine proposed to be used is reasonably suitable and
25 practical for the purpose;

26 (3) reasonable means are provided for informing the prospective purchaser of the
27 policy of the coverage and restrictions of the policy;

28 (4) reasonable means are provided for refund to the applicant or prospective
29 applicant of money inserted in defective machines and for which no insurance, or a less amount
30 than that paid for is actually received.

31 (b) The director shall issue to the licensed insurance producer [AGENT] a special

1 ~~vending machine~~ license for each machine to be used. The license must specify the name and
2 ~~mailing~~ address of the insurer and insurance producer [AGENT], the name of the policy to be
3 sold, the serial number of the machine, and the physical location [PLACE] where the machine
4 is to be in operation. The special vending machine license is subject to nonrenewal,
5 suspension, or revocation coincidentally with that of the insurance producer [AGENT]. The
6 director shall also revoke the license on a machine if the director finds that the conditions upon
7 which the machine was licensed, under (a) of this section, no longer exist. Proof of the existence
8 of a license shall be displayed on or about each vending machine in use in the manner the
9 director may [REASONABLY] require.

10 * Sec. 70. AS 21.27.190 is repealed and reenacted to read:

11 Sec. 21.27.190. BOND. (a) In addition to any other requirements in this title, a bond
12 or an alternative indemnity permitted under this section shall meet the following requirements:

13 (1) it shall be continuous in form;

14 (2) it shall remain in force until the licensee is released from liability by the
15 director or until cancelled by the issuer;

16 (3) without prejudice to any liability accrued before the effective cancellation, it
17 may be cancelled if the director receives 60 days advance written notice;

18 (4) the amount required to be maintained must be maintained unimpaired; and

19 (5) it shall be in favor of insurers, insureds, and this state.

20 (b) A bond may only be issued by an admitted insurer authorized to transact surety
21 insurance in this state that is acceptable to the director.

22 (c) For a firm licensee, a single bond or an alternative indemnity permitted under this
23 section may combine the sureties required

24 (1) by separate sections of this title; and

25 (2) for separate places of business.

26 (d) An individual in the firm who acts solely on behalf of a firm that has and maintains
27 a bond or an alternative permitted under this section may not be required to also have and
28 maintain a bond if the individual in the firm deposits all money into the firm's fiduciary account.

29 (e) Except as provided in this title, the director may adopt, by regulation, a deposit of
30 cash, a certificate of deposit, or letter of credit as an alternative to a bond if the deposit of cash,
31 certificate of deposit, or letter of credit meets the requirements of this section, other provisions

1 of this title, and other requirements established by the director.

2 * **Sec. 71.** AS 21.27.270(a) is amended to read:

3 (a) The director may license as a nonresident licensee [INSURANCE AGENT,
4 GENERAL AGENT, BROKER, OR ADJUSTER] a person who otherwise qualifies under this
5 title, but who is not a resident of [OR DOMICILED IN] the state.

6 * **Sec. 72.** AS 21.27.270(c) is repealed and reenacted to read:

7 (c) In addition to the other requirements of this chapter, a person may not be licensed
8 as a nonresident licensee until the person files a power of attorney as follows:

9 (1) an applicant shall appoint the director as attorney to receive service of legal
10 process issued against the licensee in this state upon a cause of action arising in this state or
11 relative to a subject resident, located, or to be performed in this state; service upon the director
12 as attorney shall constitute effective legal service upon the licensee; and

13 (2) the appointment shall be irrevocable for as long as there could be a cause of
14 action against the licensee arising out of an insurance transaction in this state or relative to a
15 subject resident, located, or to be performed in this state.

16 * **Sec. 73.** AS 21.27.270 is amended by adding new subsections to read:

17 (d) Duplicate copies of legal process against a licensed or formerly licensed nonresident
18 licensee shall be served upon the director either by a peace officer or through certified mail with
19 return receipt requested. At the time of service, the plaintiff shall pay to the director a fee set
20 under AS 21.06.250.

21 (e) Upon receiving a service of process, the director shall immediately send one of the
22 copies of the process by certified mail with return receipt requested to the licensed or formerly
23 licensed nonresident licensee at the last address of record filed with the director.

24 (f) If, under the law of another state or foreign country, a tax, license, fee, fine, penalty,
25 deposit requirement or other material obligation, prohibition or restriction is or may be imposed
26 upon a licensee of this state that is in excess of the tax, license, fee, fine, penalty, deposit
27 requirement or other material obligation, prohibition or restriction directly imposed upon a similar
28 licensee of another state or country under the statutes of this state, the same tax, license, fee, fine,
29 penalty, deposit requirement or other material obligation, prohibition or restriction may, in the
30 discretion of the director, be imposed by the director upon the licensee of the other state or
31 country transacting or seeking to transact business in this state or relative to a subject resident,

1 located, or to be performed in this state. For the purposes of this section, a tax, license, fee, or
2 other obligation imposed by a city, borough, or other political subdivision or agency or another
3 state or country on a licensee of this state shall be considered imposed by the state or country.

4 * Sec. 74. AS 21.27.330 is repealed and reenacted to read:

5 Sec. 21.27.330. PLACE OF BUSINESS. A licensed insurance producer, managing
6 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
7 broker, and independent adjuster, other than those licensed for life or disability insurance or
8 annuity only, shall have and maintain a place of business physically accessible to the public
9 where the licensee principally conducts transactions under the license in this state, or if a
10 nonresident licensee, in the state of residence. The address of the place of business must appear
11 on each license, and the licensee shall within 30 days notify the director in writing by certified
12 mail of a change of address or place of business. If the licensee maintains more than one place
13 of business, the licensee shall obtain a separate license for each place of business and pay a
14 license fee for each license.

15 * Sec. 75. AS 21.27.340 is repealed and reenacted to read:

16 Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. The license of a licensee other than
17 a licensee whose license has a scope of only life or disability insurance or annuity shall be
18 conspicuously displayed in that part of the place of business that is customarily open to the
19 public.

20 * Sec. 76. AS 21.27.350 is repealed and reenacted to read:

21 Sec. 21.27.350. RECORDS OF LICENSEES. (a) A licensee shall document each action
22 taken in regard to an insurance transaction. The documentation must contain all notes, work
23 papers, documents, and similar material, and be in sufficient detail that relevant events, the dates
24 of those events, and all persons participating in those events can be identified. The
25 documentation must include a record of each insurance contract procured, issued, or
26 ¹²⁵countersigned, together with the names of the insurers and insureds, the amount of premium paid
27 or to be paid, and a statement of the subject of the insurance; the names of other licensees from
28 whom business is accepted, and of persons to whom commissions or allowances are promised
29 or paid; and a record of each investigation or adjustment undertaken or consummated, and a
30 statement of the fee, commission, or other compensation received or to be received on account
31 of the investigation or adjustment.

1 (b) A licensee shall keep at the licensee's place of business or at the place of business
2 of an admitted insurer a complete record of transactions under the license. An admitted insurer
3 shall maintain records received from a licensee as required by this section.

4 (c) The records of a particular transaction shall be retained and kept open for examination
5 and inspection by the director at any business time during the five years immediately after the
6 date of the completion of the transaction or 10 years for reinsurance transactions, unless the
7 director orders a longer period of retention. If a licensee assumes the business of another
8 licensee or former licensee by merger, purchase, or otherwise, the principal or manager of the
9 assuming licensee firm shall provide to the director in writing each location where the assumed
10 licensee's records are maintained by the assuming licensee during the period in which the records
11 must be kept available and open to the inspection of the director. A formerly licensed person
12 shall provide to the director in writing each location where records shall be maintained during
13 the period in which the records of a particular transaction must be kept available and open to the
14 examination and inspection of the director. A formerly licensed person may, with the permission
15 of the director, arrange to have a current licensee or the home office of the last known insurer
16 of each policyholder, maintain the records open to the examination and inspection of the director
17 during the period in which the records must be maintained.

18 (d) In addition to the record required under (a) of this section, a licensee shall have and
19 maintain at the licensee's principal place of business current accounting and financial records
20 maintained under generally accepted accounting principles.

21 (e) A licensee shall reply in writing within 10 working days to a records inquiry of the
22 director. The director may inspect or request summary or detailed copies of records for
23 examination by the division. Accounting and financial records inspected or examined under this
24 section are confidential when in the possession of the division, but may be used by the director
25 in a proceeding against the licensee. For purposes of this section, the records of a firm shall
26 include and be considered the records of an individual licensee acting on behalf of the firm.

27 * Sec. 77. AS 21.27.360(b) is amended to read:

28 (b) All money, except that made payable to the insurer, representing premium taxes
29 and fees, premiums or return premiums received by the licensee, shall be received in the
30 fiduciary account of the licensee [AND SHALL BE DEPOSITED IN A BANK ACCOUNT OR
31 DEPOSITORY SEPARATE FROM ANY OTHER ACCOUNT OR DEPOSITORY,] and shall

1 be promptly accounted for and paid to the ~~person~~ (INSURED, INSURER, OR AGENT) entitled
2 to the money. For purposes of this ~~section~~ (SUBSECTION), the fiduciary account of the firm
3 shall be considered the fiduciary account of an individual licensee acting on behalf of the firm
4 and shall be the responsibility of the firm. Money deposited into a fiduciary account may not
5 be commingled or otherwise combined with other money, except as allowed under (d) of this
6 section ~~and~~ AS 21.27.365.

7 * Sec. 78. AS 21.27.360(c) is repealed and reenacted to read:

8 (c) In addition to any other penalty provided by law, a person who the director has
9 determined has acted to divert or appropriate fiduciary account money for personal use shall be
10 ordered to make restitution and shall be subject to suspension or revocation under AS 21.27.420 -
11 21.27.435 of all licenses and a civil penalty not to exceed \$50,000 for each violation.

12 * Sec. 79. AS 21.27.360(d) is amended to read:

13 (d) A licensee may only commingle premium taxes and fees, premiums, and return
14 premiums with [PREMIUM MONEY,] additional money for the purpose of advancing
15 premiums, establishing reserves for the payment of return premiums, or reserves for receiving
16 and transmitting premium or return premium money. Money collected for the payment of
17 premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money on
18 deposit, may be commingled in a fiduciary account, but shall be separately accounted for and
19 periodically removed from the fiduciary account.

20 * Sec. 80. AS 21.27.360(e) is amended to read:

21 (e) A licensee may not treat money required to be in a fiduciary account as a personal
22 asset, as collateral for a personal or business loan, or as a personal asset or income on a financial
23 statement, except that money in a fiduciary account may be included in a financial statement of
24 the licensee if clearly identified as fiduciary account assets and liabilities.

25 * Sec. 81. AS 21.27.360(f) is repealed and reenacted to read:

26 (f) This section does not apply to an individual in the firm who acts solely on behalf of
27 a firm that maintains compliance with this section and deposits all money into the firm's
28 fiduciary account.

29 * Sec. 82. AS 21.27 is amended by adding a new section to read:

30 Sec. 21.27.365. DEPOSIT OR SURETY BOND IN PLACE OF FIDUCIARY
31 ACCOUNT. (a) Instead of maintaining a separate fiduciary account for premium trust funds,

1 a licensed firm, eligible under (c) of this section, may apply in writing to the director for
2 permission to maintain, while licensed or thereafter as the director may require, the deposit or
3 surety bond described in (b) of this section.

4 (b) A deposit in a financial institution as defined by regulation or a surety bond executed
5 by an authorized insurer acceptable to the director shall be maintained in an amount not less than
6 10 percent of the eligible licensee's prior year's gross written premium on insurance in this state
7 or relative to a risk resident, located, or to be performed in this state, and in trust in favor of the
8 director for the protection of an insurer, insured, and this state.

9 (c) To become and to remain eligible under this section, a licensed firm shall

10 (1) have been licensed in good standing in this state for the last two calendar
11 years;

12 (2) file with the director with its application, and by June 1 of each subsequent
13 year

14 (A) a premium report certified by an independent certified public
15 accountant licensed in this state, of the prior two calendar year's gross written premiums
16 on insurance in this state or relative to a risk resident, located, or to be performed in this
17 state; this report may include all places of business of the firm; and

18 (B) a report that certifies that the licensee's system of accounting, internal
19 control, and procedure is operating effectively to provide reasonable assurance that
20 premium taxes and fees, premiums, and return premiums are promptly accounted for and
21 paid to the person entitled to the money;

22 (3) be current in paying this state's taxes and fees; and

23 (4) satisfy additional requirements that the director may establish by regulation.

24 (d) Deposits under (b) of this section shall be administered under the procedures
25 described in AS 21.24.030 - 21.24.090 and 21.24.120 - 21.24.130, as if the licensee were the
26 insurer. Income from the deposit is the property of the firm making the deposit.

27 (e) If the director approves a licensee's application, the licensee as a fiduciary shall
28 account for premium taxes and fees, premiums, and return premiums received and promptly pay
29 the money to the person entitled to its receipt. The director may exempt the licensee from trust
30 accounting requirements established by regulation.

31 * Sec. 83. AS 21.27.370 is repealed and reenacted to read:

1 ~~Sec. 21.27.370.~~ **SHARING COMPENSATION.** (a) A licensee may not compensate or
2 offer to compensate a person, other than an insurance producer, managing general agent,
3 reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker,
4 licensed by this state who is acting within the scope of their license, for procuring or in any
5 manner helping to procure applications for insurance or to place insurance in this state or relative
6 to a risk resident, located, or to be performed in this state. Nothing in this subsection prohibits
7 the payment of compensation to a regular employee of an insurance producer or managing
8 general agent by the employing licensee that is not contingent upon the volume of business
9 transacted.

10 (b) A licensee may not be promised or paid, directly or indirectly, compensation for
11 procuring an application or for placing a kind or class of insurance for which the licensee is not
12 then licensed to procure or place or for insurance that the licensee is prohibited by this title from
13 procuring or placing.

14 (c) In addition to any other penalty provided by law, the director may suspend or revoke
15 the license of an individual licensee and a firm licensee participating in a violation of this
16 section. The director may order a licensee who violates this section to pay a penalty of not more
17 than three times the compensation promised or paid.

18 * **Sec. 84.** AS 21.27.380 is repealed and reenacted to read:

19 **Sec. 21.27.380. LICENSE RENEWAL, LAPSE, AND REINSTATEMENT.** (a) Except
20 as provided in this title, the director may renew a license biennially on a date set by the director
21 if the licensee continues to be qualified under this chapter and if renewal license fees set under
22 AS 21.06.250 for each license are received by the director on or before the close of business of
23 the renewal date. A licensee is responsible for knowing the date that a license lapses and for
24 renewing a license before expiration. The director shall mail a renewal notice to the licensee's
25 current address on file with the director 30 days before the renewal date.

26 (b) If a license is not renewed on or before the renewal date set by the director, the
27 license lapses. A licensee may not act as or represent to be an insurance producer, managing
28 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
29 broker, or independent adjuster during the time a license has lapsed. The director may reinstate
30 a lapsed license if the person continues to qualify for the license, pays renewal license fees, and
31 a delayed renewal penalty. Reinstatement does not exempt a person from a penalty provided

1 by law for transacting business while unlicensed. A license may not be renewed if it has lapsed
2 for two years or longer.

3 (c) If a licensee does not wish to renew a license issued under this chapter, the licensee
4 shall surrender the license to the director on or before the close of business of the renewal date
5 in the manner prescribed in AS 21.27.460.

6 (d) Notice of lapse from the director shall be mailed to a licensee at the licensee's last
7 address on record with the director. The director shall obtain a certificate of mailing from the
8 United States Postal Service.

9 (e) A trainee license issued to an insurance producer or an independent adjuster shall be
10 for a term not to exceed 12 months and may not be renewed.

11 (f) A two-year trainee license issued to a managing general agent, reinsurance
12 intermediary broker, reinsurance intermediary manager, or surplus lines broker may be renewed
13 only once.

14 * Sec. 85. AS 21.27.390 is repealed and reenacted to read:

15 Sec. 21.27.390. TEMPORARY LICENSE. (a) The director may issue a temporary
16 license only to a person who, except for experience, training, or the taking of an examination,
17 meets all qualifications for a permanent license and if the person is

18 (1) the surviving spouse, next of kin, or the administrator or executor of a
19 deceased licensed insurance producer or managing general agent;

20 (2) the spouse, next of kin, employee, or legal guardian of a licensed insurance
21 producer or managing general agent who is disabled from transacting insurance because of
22 sickness, insanity, or injury;

23 (3) a surviving member, officer, or employee of a firm licensed as insurance
24 producer or managing general agent upon the death of the principal or manager of the firm
25 holding the same licenses as the firm; or

26 (4) the designee of a licensed insurance producer who enters active service in the
27 armed forces of the United States, but only for insurance relating to insurers for whom the
28 licensee was acting as an agent.

29 (b) A temporary license may not be in effect for more than 90 consecutive days, and may
30 not be renewed or reissued for more than one additional 90-day period.

31 (c) A temporary licensee may not be appointed by an insurer for which a licensed

1 insurance producer or managing general agent was not appointed at the time of death or
2 commencement of disability.

3 * **Sec. 86.** AS 21.27 is amended by adding a new section to read:

4 **Sec. 21.27.405. HEARING AND ORDER ON VIOLATION.** (a) On the complaint of
5 a person or on the motion of the director, the director may conduct an investigation to determine
6 whether a person has violated this chapter.

7 (b) If the director determines that a person has violated this chapter, the director shall
8 serve an order upon the person charged requiring that person to cease and desist from engaging
9 in the act or practice. Service required under this subsection shall be by mail with a certificate
10 of mailing from the United States Postal Service. A person aggrieved by the cease and desist
11 order may demand a hearing under AS 21.06.170 - 21.06.240.

12 (c) If the director believes that a person has violated a cease and desist order issued
13 under (b) of this section, the director may certify the relevant facts to the superior court for
14 proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in
15 AS 44.62.590, the superior court, upon finding that the cease and desist order has been violated,
16 may order the violator to comply with the order, pay a penalty of not more than \$100,000 for
17 each violation, revoke or suspend the violator's license, and bar the violator from transacting the
18 business of insurance in the future.

19 * **Sec. 87.** AS 21.27.410 is repealed and reenacted to read:

20 **Sec. 21.27.410. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF**
21 **LICENSES.** (a) The director may deny issuance of or not renew a license, or may suspend or
22 revoke a license issued under this chapter for any of the following:

23 (1) a cause for which issuance of the license or its renewal could have been
24 denied had it then existed and been known to the director;

25 (2) a violation or participation in a violation of a provision of this title;

26 (3) wilful misrepresentation or fraud by the licensee or applicant to obtain or
27 attempt to obtain a license;

28 (4) misappropriation, conversion to personal use, or illegally withholding money
29 required to be held in a fiduciary capacity by a licensee or applicant;

30 (5) with intent to deceive, material misrepresentation of the terms or effect of an
31 insurance contract by a licensee or applicant;

1 (6) twisting in violation of AS 21.36.050 or rebating in violation of AS 21.36.100
2 by a licensee or applicant;

3 (7) conviction of a felony;

4 (8) the conduct of affairs under a license if the licensee exhibits conduct
5 considered by the director to reflect incompetence or untrustworthiness, or to be a source of
6 potential injury and loss to the public;

7 (9) the licensee or applicant dealing with, or attempting to deal with, or to
8 exercise a power relative to, insurance outside the scope of the license of the licensee or
9 applicant;

10 (10) failure to surrender a license as required by this chapter, or revocation of a
11 license within the 12 months preceding the date a new application is received;

12 (11) failure to pass an examination required under this chapter;

13 (12) cheating on an examination required under this title;

14 (13) a licensee or applicant engaging in or about to engage in an unfair or
15 fraudulent insurance transaction;

16 (14) suspension or revocation of a license in another jurisdiction;

17 (15) forgery of another's name to an application for insurance by a licensee or
18 applicant;

19 (16) accepting insurance business from a person not licensed as required by this
20 title if the applicant or licensee knew or should have known that the person was unlicensed.

21 (b) The license of a firm and its principal or manager may be denied, nonrenewed,
22 suspended, or revoked for a violation or cause that relates to a person representing or acting on
23 behalf of the firm.

24 * **Sec. 88.** AS 21.27.420 is repealed and reenacted to read:

25 **Sec. 21.27.420. PROCEDURE FOR SUSPENDING, REVOKING, OR CONDITIONING**
26 **A LICENSE.** (a) After a hearing under AS 21.06.170 - 21.06.240, if the director determines that
27 a person has violated a provision of this title and that the person's license should be suspended
28 or revoked, the director shall issue an order effective 10 days after the date of issuing that the
29 license is suspended or revoked.

30 (b) After a hearing under AS 21.06.170 - 21.06.240, if the director determines the person
31 has violated a provision of this title, the director may place conditions on a person's license if

1 the director finds that the conditions will protect the public from injury or potential injury.

2 * Sec. 89. AS 21.27.430 is repealed and reenacted to read:

3 Sec. 21.27.430. SUSPENSIONS AND REVOCATIONS. (a) An order suspending a
4 license shall specify the period during which the license is suspended. A period of suspension
5 may not exceed 12 months.

6 (b) An order revoking a license shall specify the period during which the person may not
7 seek to be licensed in this state or licensed relative to a subject resident, located, or to be
8 performed in this state.

9 (c) In addition to any other penalty provided by law, a person whose license has been
10 suspended or revoked shall pay a penalty equal to all or a portion of the compensation received
11 during the suspension or revocation relating to the transaction of insurance.

12 * Sec. 90. AS 21.27.440 is repealed and reenacted to read:

13 Sec. 21.27.440. PENALTIES. (a) In addition to any other penalty provided by law, a
14 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
15 of this chapter is subject to

16 (1) a civil penalty equal to the compensation promised, paid, or to be paid,
17 directly or indirectly, to a licensee in regard to each violation;

18 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
19 penalty of not more than \$25,000 for each violation if the director determines that the person
20 wilfully violated the provisions of this chapter; and

21 (3) denial, nonrenewal, suspension, or revocation of a license.

22 (b) An order issued by the director that levies a civil penalty shall specify the time period
23 within which the civil penalty must be fully paid. The period may not be less than 15 days or
24 more than one year after the date of the order. Upon failure to pay a civil penalty when due, the
25 director shall revoke, without further hearing, all licenses of the licensee not already revoked.

26 * Sec. 91. AS 21.27.460(a) is amended to read:

27 (a) A license issued under this chapter is the property of the state. Within 10 days of
28 an order or notice of nonrenewal [UPON THE TERMINATION], suspension, or revocation
29 of the license, the licensee or other person having possession or custody of the license shall
30 [IMMEDIATELY] deliver it to the director either personally or by certified mail.

31 * Sec. 92. AS 21.27.460 is amended by adding a new subsection to read:

1 (c) Upon a change in the state of residence, a place of business, a mailing address, or in
2 the principal or manager of a firm, a license subject to the change shall be surrendered to the
3 director within 10 days either personally or by certified mail and the division shall reissue the
4 license reflecting the changes if the licensee continues to satisfy the qualifications under this
5 chapter.

6 * Sec. 93. AS 21.27 is amended by adding new sections to read:

7 ARTICLE 2. INSURANCE PRODUCERS.

8 Sec. 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition to the
9 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an insurance
10 producer license, an applicant or licensee

11 (1) must possess the competence necessary to fulfill the responsibilities of an
12 insurance producer;

13 (2) if previously licensed in good standing in this state as an insurance producer,
14 must not have had a license suspended or revoked within the previous four calendar years;

15 (3) for a fraternal society limited insurance producer license, shall file with the
16 application a statement by an officer or director of the appointing fraternal society that affirms
17 that the society has satisfied itself that the applicant is trustworthy and competent to act as its
18 insurance agent;

19 (4) for a license with a scope that includes variable contracts, must either be
20 currently registered with the federal Securities and Exchange Commission as a broker-dealer or
21 personally take and pass, to the satisfaction of the director, tests of the knowledge and
22 competence of the applicant concerning securities; and

23 (5) except for an applicant or licensee who represents to be and acts solely on
24 behalf of admitted insurers as an agent and who does not receive money required to be received
25 in the fiduciary account of the licensee, shall file with the application and maintain in force while
26 licensed a bond in the amount of \$10,000, unless a greater amount is required by another
27 provision of this title.

28 Sec. 21.27.540. TRAINEE INSURANCE PRODUCERS. (a) Except for life, disability,
29 and annuity insurance, a person who has not passed the examinations required under
30 AS 21.27.060 but who otherwise meets the requirements of AS 21.27.530, may be employed by
31 a licensed insurance producer as a trainee insurance producer.

1 (b) Before a trainee may transact insurance, the licensed insurance producer employing
2 the trainee insurance producer shall submit to the director the application of the trainee insurance
3 producer, with the fee set under AS 21.06.250, and receive the trainee insurance producer license.

4 (c) The director shall terminate a trainee insurance producer license unless the individual
5 has

6 (1) not later than four months after the effective date of the trainee insurance
7 producer license, complied with the insurance producer licensing requirements of AS 21.27.060
8 concerning the insurance laws and regulations of this state; and

9 (2) within eight months after the effective date of the trainee insurance producer
10 license, complied with the insurance producer licensing requirements of AS 21.27.060 concerning
11 the knowledge and competence of the licensee and the licensee's duties and responsibilities as
12 a licensee.

13 (d) Upon satisfying the requirements of (c) of this section, a trainee insurance producer
14 shall apply within 30 days for an insurance producer license.

15 (e) A licensed trainee insurance producer

16 (1) shall at all times be working at the direction and under the supervision of the
17 employing licensed insurance producer; file and record documentation must reflect the direction
18 and supervision, and activities must be in the name of the employing licensed insurance producer,
19 who is responsible for all actions of the trainee insurance producer;

20 (2) is restricted to assisting the employing licensed insurance producer to prepare
21 applications; binders; certificates of insurance; schedules of equipment, vehicles, drivers; loss
22 notices to insurers; and invoices; and to performing clerical functions for which a license is not
23 required; file and record documentation must reflect compliance with these restrictions;

24 (3) may not transact business with clients or insurers unless a licensed insurance
25 producer is physically present in the same place of business as the trainee or, if business is
26 transacted away from the place of business, a licensed insurance producer physically accompanies
27 the trainee.

28 (f) In addition to any other penalty provided by law, the director shall revoke the trainee
29 license of a trainee insurance producer that the director determines has violated the provisions
30 of this section. A licensee or other person having possession or custody of the license shall
31 immediately surrender the license to the director either personally or by certified mail.

1 (g) In addition to any other penalty provided by law, if the director determines under
2 AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have
3 known that a trainee insurance producer violated this section, the employing licensed insurance
4 producer and firm, principal and manager, if any, are subject to the penalties provided under
5 AS 21.27.440.

6 Sec. 21.27.550. APPOINTMENT OF INSURANCE PRODUCER AS AN AGENT. (a)
7 A person may not act as or represent to be a representative of, authorized or appointed agent of,
8 or other term implying a contractual relationship with a particular admitted insurer, or accept
9 applications on behalf of an admitted insurer, unless the person is licensed as an insurance
10 producer under this chapter and is or becomes an appointed agent of the admitted insurer under
11 AS 21.27.100.

12 (b) An admitted insurer or managing general agent of an admitted insurer may not enter
13 into an agency agreement with an insurance producer unless the managing general agent and the
14 insurance producer are licensed under this chapter, and there is in effect a written agency
15 agreement that specifically sets out the duties, functions, powers, authority, and compensation of
16 all parties to the contract. The written agreement shall be kept in the permanent records of the
17 insurer or managing general agent, if any, and the insurance producer, and be open to inspection
18 by the director.

19 (c) All money collected for the account of an insurer shall be held by the insurance
20 producer in a fiduciary account as described under AS 21.27.360, and the insurance producer
21 shall comply with all applicable fiduciary account statutes and regulations.

22 (d) An agency agreement may not be assigned in whole or in part by the insurance
23 producer.

24 (e) If the agency agreement permits the insurance producer to settle a claim on behalf
25 of the insurer

26 (1) a claim must be reported to the insurer within 30 days;

27 (2) a copy of the claim file shall be sent to the insurer;

28 (3) all insurance claim files shall be the property of the insurer or managing
29 general agent, if any, and insurance producer, but upon an order of liquidation of the insurer, the
30 files shall become the sole property of the insurer or the insurer's estate; the insurance producer
31 shall have reasonable access to and the right to copy the files on a timely basis.

1 (f) An insurance producer is subject to the unfair trade practice and fraud provisions
2 under AS 21.36.

3 (g) The insurance producer may not

4 (1) bind reinsurance or retrocessions on behalf of the insurer;

5 (2) commit the insurer to participate in insurance or reinsurance syndicates;

6 (3) appoint an agent or subagent;

7 (4) jointly employ an individual who is employed by the insurer or by the
8 managing general agent; or

9 (5) delegate insurance producer authority to another person.

10 (h) Except as provided under AS 21.27.560, an agency appointment may not extend,
11 directly or indirectly, to a client for whom the insurance producer is a producing broker or for
12 whom insurance is exported to nonadmitted insurers under AS 21.34.

13 (i) A reinsurance intermediary manager may not enter into an agency agreement with an
14 insurance producer unless both parties are licensed under this chapter, and there is in effect a
15 written agency agreement that specifically sets out the duties, functions, powers, authority, and
16 compensation of all parties to the agreement. The written agreement shall be kept in the
17 permanent records of the reinsurance intermediary manager, the reinsurer, and the insurance
18 producer, and be open to inspection by the director. A written agreement must contain the
19 following minimum provisions:

20 (1) money collected for the account of a reinsurer must be held by the insurance
21 producer in a fiduciary account as described under AS 21.27.360; the insurance producer shall
22 comply with all applicable fiduciary account statutes and regulations;

23 (2) the agreement may not be assigned in whole or in part by the insurance
24 producer;

25 (3) the agreement may not permit the insurance producer to settle claims on
26 behalf of the reinsurer or reinsurance intermediary manager; and

27 (4) the insurance producer may not

28 (A) jointly employ an individual who is employed with the reinsurer or
29 reinsurance intermediary manager; or

30 (B) delegate insurance producer authority to another person.

31 Sec. 21.27.560. APPOINTMENT OF INSURANCE PRODUCERS AS BROKERS. (a)

1 A client who appoints an insurance producer as its broker in this state or relative to a subject
2 resident, located, or to be performed in this state shall execute a written contract that specifically
3 sets out the duties, functions, powers, authority, and compensation of the insurance producer, if
4 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client
5 and a commission paid by an insurer with which coverage has been placed. The written contract
6 shall be kept in the permanent records of the insurance producer and be open to inspection by
7 the director.

8 (b) The insurance producer may not knowingly accept payment of a premium for
9 coverage until the coverage has been authorized by the insurer. This subsection does not apply
10 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for
11 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not
12 obtained within 10 working days.

13 (c) An insurance producer appointed as a client's broker may only receive compensation
14 if the compensation is a

15 (1) fee that requires the insurance producer to offset or reimburse the client for
16 the full amount of a commission earned by the insurance producer;

17 (2) combination of a fee paid by a client and a commission paid by an insurer
18 with which coverage is placed that may offset or reimburse a client for all or part of a
19 commission earned by the insurance producer if the amount of the commission is disclosed to
20 the client; or

21 (3) commission paid by an insurer with which coverage has been placed.

22 (d) A contract between a client and an insurance producer may not be assigned in whole
23 or in part by the insurance producer.

24 (e) An insurance producer appointed as a broker by a client may act as an appointed
25 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium
26 from the client on behalf of the admitted insurer.

27 (f) A controlling insurance producer may not be appointed as a broker by a client in this
28 state or relative to a subject resident, located, or to be performed in this state unless, in a form
29 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
30 the relationship between the controlling insurance producer and the controlled insurer, each client
31 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is

1 maintained by the controlling insurance producer in its records. The records shall be available
2 for inspection by the director.

3 (g) Money paid by a client to an insurance producer for insurance premiums shall be held
4 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the
5 insurance producer shall comply with applicable fiduciary account statutes and regulations.

6 (h) An insured shall be entitled to coverage or a return premium and the premium shall
7 be considered received by the insurer if the premium payment made to the insurance producer
8 was, at the time made, designated for specific coverage, and the insurer accepted or
9 acknowledged coverage by issuing a policy binder or other evidence of temporary insurance, or
10 the insurance producer received information from the insurer in the normal course of business
11 that the insurance had been granted.

12 (i) Except as provided under (c) and (e) of this section, this section does not alter the
13 common law of agency as applied to transactions under this title.

14 Sec. 21.27.570. OPERATING REQUIREMENTS FOR CONTROLLING INSURANCE
15 PRODUCERS. (a) If the aggregate amount of gross written premium on business placed by a
16 controlling insurance producer exceeds five percent of the admitted assets of the controlled
17 insurer for a calendar year as reported in the insurer's most recent financial statement filed with
18 the director, the controlling insurance producer may not place business with the controlled insurer
19 and the controlled insurer may not accept business from the controlling insurance producer unless
20 a written contract is in effect between the parties that

21 (1) establishes the responsibilities of each party, indicates each party's share of
22 responsibility for each particular function, and specifies the division of responsibilities;

23 (2) has been approved by the board of directors of the controlled insurer;

24 (3) contains the following minimum provisions:

25 (A) the controlled insurer may terminate the contract for cause upon
26 written notice sent by certified mail to the controlling producer and shall suspend the
27 authority of the controlling insurance producer to write business during a dispute
28 regarding the cause for termination;

29 (B) the controlling insurance producer shall render accounts to the
30 controlled insurer detailing all transactions including information necessary to support
31 compensation, commissions, charges, and other fees received by, or owing to, the

1 A client who appoints an insurance producer as its broker in this state or relative to a subject
2 resident, located, or to be performed in this state shall execute a written contract that specifically
3 sets out the duties, functions, powers, authority, and compensation of the insurance producer, if
4 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client
5 and a commission paid by an insurer with which coverage has been placed. The written contract
6 shall be kept in the permanent records of the insurance producer and be open to inspection by
7 the director.

8 (b) The insurance producer may not knowingly accept payment of a premium for
9 coverage until the coverage has been authorized by the insurer. This subsection does not apply
10 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for
11 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not
12 obtained within 10 working days.

13 (c) An insurance producer appointed as a client's broker may only receive compensation
14 if the compensation is a

15 (1) fee that requires the insurance producer to offset or reimburse the client for
16 the full amount of a commission earned by the insurance producer;

17 (2) combination of a fee paid by a client and a commission paid by an insurer
18 with which coverage is placed that may offset or reimburse a client for all or part of a
19 commission earned by the insurance producer if the amount of the commission is disclosed to
20 the client; or

21 (3) commission paid by an insurer with which coverage has been placed.

22 (d) A contract between a client and an insurance producer may not be assigned in whole
23 or in part by the insurance producer.

24 (e) An insurance producer appointed as a broker by a client may act as an appointed
25 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium
26 from the client on behalf of the admitted insurer.

27 (f) A controlling insurance producer may not be appointed as a broker by a client in this
28 state or relative to a subject resident, located, or to be performed in this state unless, in a form
29 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
30 the relationship between the controlling insurance producer and the controlled insurer, each client
31 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is

- 1 controlling producer;
- 2 (C) the controlling insurance producer shall remit money due under the
3 contract to the controlled insurer at least monthly;
- 4 (D) premiums or installments collected shall be due not later than 90 days
5 after the effective date of coverage placed with the controlled insurer;
- 6 (E) money collected for the account of a controlled insurer shall be held
7 by the controlling insurance producer in a fiduciary account as described under
8 AS 21.27.360, except a controlling insurance producer not required to be licensed under
9 this chapter shall maintain its fiduciary account in compliance with the requirements of
10 its domiciliary jurisdiction;
- 11 (F) a licensed controlling insurance producer shall comply with all
12 applicable fiduciary account statutes and regulations;
- 13 (G) a fiduciary account must be used for all payments on behalf of the
14 controlled insurer;
- 15 (H) the controlling insurance producer shall maintain separate records for
16 each controlled insurer in a form usable by the controlled insurer; the controlled insurer
17 or its authorized representative shall have the right to audit and the right to copy all
18 accounts and records related to the controlled insurer's business; the director, in addition
19 to authority granted in this title, shall have access to all books, bank accounts, and records
20 of the controlling insurance producer in a form usable to the director;
- 21 (I) the contract may not be assigned in whole or in part by the controlling
22 insurance producer;
- 23 (J) the controlled insurer shall provide, and the controlling producer shall
24 follow, written underwriting standards, rules, procedures, and manuals that must include
25 the conditions for acceptance or rejection of risks, including types of risks that may be
26 written, maximum limits of liability, applicable exclusions, territorial limitations, policy
27 cancellation provisions, the maximum policy term, the rating system, and basis of the
28 rates to be charged;
- 29 (K) the underwriting standards, rules, procedures, and manuals shall be the
30 same as those applicable to comparable business placed with the controlled insurer by
31 licensees other than the controlling licensee;

1 A client who appoints an insurance producer as its broker in this state or relative to a subject
2 resident, located, or to be performed in this state shall execute a written contract that specifically
3 sets out the duties, functions, powers, authority, and compensation of the insurance producer, if
4 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client
5 and a commission paid by an insurer with which coverage has been placed. The written contract
6 shall be kept in the permanent records of the insurance producer and be open to inspection by
7 the director.

8 (b) The insurance producer may not knowingly accept payment of a premium for
9 coverage until the coverage has been authorized by the insurer. This subsection does not apply
10 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for
11 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not
12 obtained within 10 working days.

13 (c) An insurance producer appointed as a client's broker may only receive compensation
14 if the compensation is a

15 (1) fee that requires the insurance producer to offset or reimburse the client for
16 the full amount of a commission earned by the insurance producer;

17 (2) combination of a fee paid by a client and a commission paid by an insurer
18 with which coverage is placed that may offset or reimburse a client for all or part of a
19 commission earned by the insurance producer if the amount of the commission is disclosed to
20 the client; or

21 (3) commission paid by an insurer with which coverage has been placed.

22 (d) A contract between a client and an insurance producer may not be assigned in whole
23 or in part by the insurance producer.

24 (e) An insurance producer appointed as a broker by a client may act as an appointed
25 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium
26 from the client on behalf of the admitted insurer.

27 (f) A controlling insurance producer may not be appointed as a broker by a client in this
28 state or relative to a subject resident, located, or to be performed in this state unless, in a form
29 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
30 the relationship between the controlling insurance producer and the controlled insurer, each client
31 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is

1 maintained by the controlling insurance producer in its records. The records shall be available
2 for inspection by the director.

3 (g) Money paid by a client to an insurance producer for insurance premiums shall be held
4 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the
5 insurance producer shall comply with applicable fiduciary account statutes and regulations.

6 (h) An insured shall be entitled to coverage or a return premium and the premium shall
7 be considered received by the insurer if the premium payment made to the insurance producer
8 was, at the time made, designated for specific coverage, and the insurer accepted or
9 acknowledged coverage by issuing a policy binder or other evidence of temporary insurance, or
10 the insurance producer received information from the insurer in the normal course of business
11 that the insurance had been granted.

12 (i) Except as provided under (c) and (e) of this section, this section does not alter the
13 common law of agency as applied to transactions under this title.

14 Sec. 21.27.570. OPERATING REQUIREMENTS FOR CONTROLLING INSURANCE
15 PRODUCERS. (a) If the aggregate amount of gross written premium on business placed by a
16 controlling insurance producer exceeds five percent of the admitted assets of the controlled
17 insurer for a calendar year as reported in the insurer's most recent financial statement filed with
18 the director, the controlling insurance producer may not place business with the controlled insurer
19 and the controlled insurer may not accept business from the controlling insurance producer unless
20 a written contract is in effect between the parties that

21 (1) establishes the responsibilities of each party, indicates each party's share of
22 responsibility for each particular function, and specifies the division of responsibilities;

23 (2) has been approved by the board of directors of the controlled insurer;

24 (3) contains the following minimum provisions:

25 (A) the controlled insurer may terminate the contract for cause upon
26 written notice sent by certified mail to the controlling producer and shall suspend the
27 authority of the controlling insurance producer to write business during a dispute
28 regarding the cause for termination;

29 (B) the controlling insurance producer shall render accounts to the
30 controlled insurer detailing all transactions including information necessary to support
31 compensation, commissions, charges, and other fees received by, or owing to, the

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controlling producer;

(C) the controlling insurance producer shall remit money due under the contract to the controlled insurer at least monthly;

(D) premiums or installments collected shall be due not later than 90 days after the effective date of coverage placed with the controlled insurer;

(E) money collected for the account of a controlled insurer shall be held by the controlling insurance producer in a fiduciary account as described under AS 21.27.360, except a controlling insurance producer not required to be licensed under this chapter shall maintain its fiduciary account in compliance with the requirements of its domiciliary jurisdiction;

(F) a licensed controlling insurance producer shall comply with all applicable fiduciary account statutes and regulations;

(G) a fiduciary account must be used for all payments on behalf of the controlled insurer;

(H) the controlling insurance producer shall maintain separate records for each controlled insurer in a form usable by the controlled insurer; the controlled insurer or its authorized representative shall have the right to audit and the right to copy all accounts and records related to the controlled insurer's business; the director, in addition to authority granted in this title, shall have access to all books, bank accounts, and records of the controlling insurance producer in a form usable to the director;

(I) the contract may not be assigned in whole or in part by the controlling insurance producer;

(J) the controlled insurer shall provide, and the controlling producer shall follow, written underwriting standards, rules, procedures, and manuals that must include the conditions for acceptance or rejection of risks, including types of risks that may be written, maximum limits of liability, applicable exclusions, territorial limitations, policy cancellation provisions, the maximum policy term, the rating system, and basis of the rates to be charged;

(K) the underwriting standards, rules, procedures, and manuals shall be the same as those applicable to comparable business placed with the controlled insurer by licensees other than the controlling licensee;

1 (L) the rates and terms of the controlling insurance producer's
2 compensation including commissions, charges, and other fees may not be greater than
3 those applicable to comparable business placed with the controlled insurer by licensees
4 other than the controlling licensee;

5 (M) the controlled insurer shall establish a limit, that may be different for
6 each kind or class of business, on the amount of premium that the controlling insurance
7 producer may place with the controlled insurer in relation to the controlled insurer's
8 surplus and total writings;

9 (N) the controlled insurer shall notify the controlling insurance producer
10 if an applicable limit is approached and the controlling insurance producer may not place
11 and the controlled insurer may not accept business if the limit under (M) of this paragraph
12 has been reached;

13 (O) if the contract provides that the controlling insurance producer, on
14 insurance placed with the controlled insurer, is to be compensated contingent upon the
15 controlling insurer's profits on the placed insurance, the contingent compensation may not
16 be determined or paid until

17 (i) at least five years after the premiums are earned on casualty
18 business and at least one year after the premiums are earned on any other
19 insurance;

20 (ii) a later period established by the director for specified kinds or
21 classes of insurance; and

22 (iii) not until the profits have been verified under (b) of this
23 section;

24 (P) the controlling insurance producer may negotiate but may not bind
25 reinsurance on behalf of the controlled insurer on insurance that the controlling insurance
26 producer places with the controlled insurer, except that the controlling insurance producer
27 may bind facultative reinsurance contracts under obligatory agreements if the contract
28 with the controlled insurer contains reinsurance underwriting guidelines including, for
29 both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements
30 are in effect, the coverage and amounts or percentages that may be reinsured, and
31 commission schedules; and

1 (4) provides that the controlled insurer has an audit committee composed of
2 independent members of the board of directors that meet at least annually with management, the
3 insurer's independent certified public accountants, and an independent actuary specialist
4 acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and
5 outstanding.

6 (b) In addition to any other required loss reserve certification, the controlled insurer shall
7 annually obtain the opinion of an independent qualified actuary attesting to the adequacy of loss
8 reserves established for losses incurred and outstanding on business produced by the controlling
9 insurance producer. The controlled insurer shall file with the director on or before April 1 of
10 each year an opinion of an independent actuary attesting to the adequacy of the reserves for
11 losses incurred and outstanding and reporting the loss ratios for each kind and class of business
12 placed with the controlled insurer by the controlling producer.

13 (c) The controlled insurer shall annually report by kind and class of insurance in a form
14 acceptable to the director the amount of compensation paid to the controlling producer, the
15 percentage the compensation represents to the net premiums written, the amount of compensation
16 paid to uncontrolled producers, and the percentage the compensation represents to the net
17 premiums written.

18 (d) A controlling insurance producer may be examined by the director as if it were the
19 controlled insurer.

20 (e) If the conservator, rehabilitator, or liquidator of a controlled insurer or formerly
21 controlled insurer has reason to believe that the controlled insurer or formerly controlled insurer
22 suffered loss or damage arising out of a failure to comply with this section by the controlling
23 producer or another person, the conservator, rehabilitator, or liquidator may maintain a civil
24 action for recovery of damages or other relief for the benefit of the controlled insurer or its
25 estate.

26 (f) In addition to any other liability and without intent to limit in any manner the rights
27 of policyholders, claimants, auditors, creditors, or third parties, if the director determines after
28 a hearing under AS 21.06.170 - 21.06.240 that a controlling insurance producer caused losses
29 arising out of a violation of this section to a controlled insurer, the director may order the
30 controlling insurance producer to make restitution to the controlled insurer, the rehabilitator, or
31 the liquidator of the controlled insurer for the loss.

1 (g) In addition to any other penalty provided by law, a person who violates this section
2 is subject to the penalties provided under AS 21.27.440 and a controlled insurer's certificate of
3 authority may be suspended or revoked. The director may also order the controlling producer
4 to cease placing business with the controlled insurer.

5 (h) This section does not apply to

6 (1) a person appointed to act on behalf of the controlled insurer as a managing
7 general agent under this chapter;

8 (2) a person who receives no compensation based upon the amount of premiums
9 written with the controlled insurer and who places insurance only with the controlled insurer,
10 only with the controlled insurer and an admitted member or admitted members of the insurer's
11 holding company system, or only with the controlled insurer's parent, affiliate, or subsidiary if
12 admitted in this state;

13 (3) a person who does not accept insurance placements directly from an insured
14 and who only accepts insurance placements from a nonaffiliated subagent;

15 (4) a controlled insurer and its controlling insurance producer if, except for
16 insurance written through a residual market facility under this title, insurance placements are
17 accepted only from a controlling producer, an insurance producer controlled by the controlled
18 insurer, or a producer that is a subsidiary of the controlled insurer;

19 (5) a risk retention group under 15 U.S.C. 3901; or

20 (6) a risk apportionment plan under AS 21.39.150 or an assigned risk pool under
21 AS 21.39.155.

22 ARTICLE 3. MANAGING GENERAL AGENTS.

23 Sec. 21.27.590. MANAGING GENERAL AGENT QUALIFICATIONS. (a) In addition
24 to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of a
25 managing general agent license, an applicant or licensee shall have at least three years active
26 working experience within the previous 10 calendar years in insurance administrative functions
27 which, in the director's opinion, exhibits the applicant's ability to competently perform the
28 administrative functions for all kinds and classes of insurance applied for.

29 (b) The director may require that a managing general agent maintain

30 (1) a bond with admitted insurers authorized to transact surety insurance in an
31 amount acceptable to the director and conditioned in that the managing general agent will

1 conduct business as required by this title; and

2 (2) an errors and omissions insurance policy acceptable to the director.

3 **Sec. 21.27.600. TRAINEE MANAGING GENERAL AGENTS.** (a) An individual
4 licensed in this state as an insurance producer who does not have the experience required to be
5 licensed as a managing general agent, but who otherwise meets the requirements of
6 AS 21.27.590, may be employed by a licensed managing general agent as a trainee managing
7 general agent, subject to the provisions of this section.

8 (b) Before an individual may transact insurance as a managing general agent, a managing
9 general agent employing the trainee managing general agent shall submit to the director the
10 application of the trainee managing general agent, with the fee set under AS 21.06.250, and
11 receive the trainee managing general agent license.

12 (c) Upon satisfying the managing general agent experience requirement, a trainee
13 managing general agent shall apply within 30 days for a managing general agent license.

14 (d) A trainee managing general agent shall at all times be working at the direction and
15 under the supervision of the employing licensed managing general agent, and file and record
16 documentation must reflect the direction and supervision. The activities of a managing general
17 agent trainee must be in the name of the employing managing general agent. A managing
18 general agent who employs a trainee is responsible for all actions of the trainee managing
19 general agent.

20 (e) A trainee managing general agent is restricted to assisting the employing licensed
21 managing general agent in preparing applications; binders; certificates of insurance; schedules of
22 equipment, vehicles, drivers; loss notices to insurers; and invoices; and to performing clerical
23 functions for which a license is not required. The file and record documentation must reflect
24 compliance with this subsection.

25 (f) A trainee managing general agent may not transact business with clients or insurers
26 unless a managing general agent is physically present in the same place of business as the trainee
27 or physically accompanies the trainee if business is transacted away from the place of business.

28 (g) In addition to any other penalty provided by law

29 (1) the director shall revoke the trainee license of a trainee managing general
30 agent who the director determines has violated the provisions of this section; a licensee or other
31 person having possession or custody of the license shall immediately surrender the license to the

1 director either personally or by certified mail;

2 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
3 managing general agent knew of or should have known that a trainee managing general agent
4 violated this section, the employing managing general agent and firm, principal, and manager,
5 if any, are subject to the penalties provided under AS 21.27.440.

6 Sec. 21.27.610. **AUTHORITY OF MANAGING GENERAL AGENTS.** A managing
7 general agent has only the authority consistent with this title that is conferred by an admitted
8 insurer. A managing general agent, resident or nonresident, qualified and licensed under this
9 chapter, may exercise the powers conferred by this title upon insurance producers and
10 independent adjusters only for the kinds or classes of insurance and within the scope authorized
11 by the insurer appointing the managing general agent.

12 Sec. 21.27.620. **OPERATING REQUIREMENTS FOR MANAGING GENERAL**
13 **AGENTS.** (a) An insurer may not transact business with a managing general agent unless

14 (1) the insurer holds a certificate of authority in this state;

15 (2) the managing general agent is licensed under this chapter or by the agent's
16 resident insurance regulator in a state that is accredited by the National Association of Insurance
17 Commissioners when the agent is operating only for a foreign insurer;

18 (3) a written contract is in effect between the parties that establishes the
19 responsibilities of each party, indicates both party's share of responsibility for a particular
20 function, and specifies the division of responsibilities;

21 (4) a written contract between an insurer and a managing general agent contains
22 the following provisions:

23 (A) the insurer may terminate the contract for cause upon written notice
24 sent by certified mail to the managing general agent and may suspend the underwriting
25 authority of the managing general agent during a dispute regarding the cause for
26 termination;

27 (B) the managing general agent shall render accounts to the insurer
28 detailing all transactions and remit all money due under the contract to the insurer at least
29 monthly;

30 (C) all money collected for the account of an insurer shall be held by the
31 managing general agent in a fiduciary account as described under AS 21.27.360;

1 (D) the managing general agent shall comply with all applicable fiduciary
2 account statutes and regulations;

3 (E) a fiduciary account shall be used for all payments on behalf of the
4 insurer;

5 (F) the managing general agent may not retain more than three months
6 estimated claims payments and allocated loss adjustment expenses;

7 (G) the managing general agent shall maintain separate records for each
8 insurer in a form usable by the insurer; the insurer or its authorized representative shall
9 have the right to audit and the right to copy all accounts and records related to the
10 insurer's business; the director, in addition to authority granted in this title, shall have
11 access to all books, bank accounts, and records of the managing general agent in a form
12 usable to the director;

13 (H) the contract may not be assigned in whole or in part by the managing
14 general agent;

15 (I) if the contract permits the managing general agent to do underwriting,
16 the contract must include the following:

17 (i) the managing general agent's maximum annual premium
18 volume;

19 (ii) the rating system and basis of the rates to be charged;

20 (iii) the types of risks that may be written;

21 (iv) maximum limits of liability;

22 (v) applicable exclusions;

23 (vi) territorial limitations;

24 (vii) policy cancellation provisions;

25 (viii) the maximum policy term; and

26 (ix) that the insurer shall have the right to cancel or not renew a
27 policy of insurance subject to applicable state law;

28 (J) if the contract permits the managing general agent to settle claims on
29 behalf of the insurer, the contract must include the following:

30 (i) written settlement authority must be provided by the insurer and
31 may be terminated for cause upon the insurer's written notice sent by certified

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mail to the managing general agent or upon the termination of the contract, but the insurer may suspend the settlement authority during a dispute regarding the cause of termination;

(ii) claims shall be reported to the insurer within 30 days;

(iii) a copy of the claim file shall be sent to the insurer upon request or as soon as it becomes known that the claim has the potential to exceed an amount determined by the director or exceeds the limit set by the insurer, whichever is less, involves a coverage dispute, may exceed the managing general agent's claims settlement authority, is open for more than six months, involves extra contractual allegations, or is closed by payment in excess of an amount set by the director or an amount set by the insurer, whichever is less;

(iv) each party shall comply with unfair claims settlement statutes and regulations;

(v) transmission of electronic data at least monthly if electronic claim files are in existence; and

(vi) claim files shall be the property of both the insurer and managing general agent; upon an order of liquidation of the insurer, the files shall become the sole property of the insurer or the insurer's estate; the managing general agent shall have reasonable access to and the right to copy the files on a timely basis;

(K) if the contract provides for sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves, by controlling claim payments, or in any other manner, interim profits may not be paid to the managing general agent until

(i) one year after they are earned for property insurance business and five years after they are earned on casualty business;

(ii) a later period established by the director for specified kinds or classes of insurance; and

(iii) not until the profits have been verified under (d) of this section;

(L) if the insurer is domiciled in this state or the managing general agent

1 has a place of business in this state, a copy of the contract must be filed with and
2 approved by the director at least 30 days before the managing general agent transacts
3 business on behalf of the insurer; and

4 (M) if the contract is not required to be approved in advance by the
5 director, the insurer shall provide written notification to the director within 30 days of the
6 entry into or termination of a contract with a managing general agent; the notice must
7 include a statement of duties to be performed by the managing general agent on behalf
8 of the insurer, the kinds and classes of insurance for which the managing general agent
9 has authorization to act, and other information required by the director.

10 (b) The managing general agent may not

11 (1) bind reinsurance or retrocessions on behalf of the insurer, except that the
12 managing general agent may bind facultative reinsurance contracts under obligatory agreements
13 if the contract with the insurer contains reinsurance underwriting guidelines including, for both
14 reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in
15 effect, the coverage and amounts or percentages that may be reinsured, and commission
16 schedules;

17 (2) commit the insurer to participate in insurance or reinsurance syndicates;

18 (3) appoint a subagent unless the scope of the subagent's license as an insurance
19 producer includes the kinds and classes of insurance for which the subagent is appointed;

20 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of
21 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last
22 completed calendar year without the prior written approval of the insurer for the settlement and
23 the approval is received after the insurer has been notified in writing that the claim settlement
24 will exceed one percent of the insurer's policyholder's surplus as of December 31 of the last
25 completed calendar year;

26 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement
27 with a reinsurer without prior written approval of the insurer, but if prior written approval is
28 given, a complete report must be forwarded to the insurer within 30 days;

29 (6) permit a subagent to serve on the insurer's board of directors;

30 (7) jointly employ an individual who is employed with the insurer; or

31 (8) delegate managing general agent authority to another person.

1 (c) In a form acceptable to the director, a managing general agent shall annually provide
2 and an insurer shall annually obtain a copy of certified financial statements of each managing
3 general agent with which the insurer has done business. The financial statements shall be
4 prepared by an independent certified public accountant if the managing general agent, with or
5 without authority, either separately or with affiliates, directly or indirectly produces or
6 underwrites an amount of gross written premium equal to or more than five percent of the policy
7 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

8 (d) In addition to any other required loss reserve certification, if a managing general
9 agent establishes loss reserves, the insurer shall annually obtain the opinion of an independent
10 qualified actuary attesting to the adequacy of loss reserves established for losses incurred and
11 outstanding on business produced by the managing general agent. The insurer retains an
12 independent responsibility to determine the adequacy of its loss reserves, including those
13 established by its managing general agents.

14 (e) An insurer shall at least semiannually conduct an on-site review of the underwriting
15 and claims processing operations of the managing general agent if the managing general agent,
16 with or without authority, either separately or with affiliates, directly or indirectly produces or
17 underwrites an amount of gross written premium equal to or more than five percent of the policy
18 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

19 (f) An insurer shall review its books and records quarterly to determine if a person or
20 insurance producer has acted as its managing general agent. If an insurer determines that a
21 person or insurance producer has acted as its managing general agent, the insurer shall promptly
22 notify the person or insurance producer and the director of the determination and the insurer and
23 person or insurance producer must fully comply with the provisions of this chapter within 30
24 days.

25 (g) An insurer may not appoint to its board of directors an officer, director, employee,
26 subagent, insurance producer, or controlling shareholder of its managing general agent.

27 (h) The actual or apparently authorized acts of the managing general agent are considered
28 the acts of the insurer upon whose behalf it is acting.

29 (i) A managing general agent may be examined by the director as if it were the insurer.

30 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
31 managing general agent caused loss arising out of a violation of AS 21.27.590 - 21.27.630 to an

1 insurer, the director may order the managing general agent to make restitution to the insurer, the
2 rehabilitator, or the liquidator of the insurer for the loss. Restitution ordered under this
3 subsection is in addition to any other liability of the managing general agent and does not affect
4 the rights of a policy holder, claimant, creditor, or third party.

5 (k) In addition to any other penalty provided by law, a person who violates this section
6 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
7 may be suspended or revoked.

8 ARTICLE 4. REINSURANCE INTERMEDIARY BROKERS.

9 Sec. 21.27.670. REINSURANCE INTERMEDIARY BROKER QUALIFICATIONS. (a)
10 In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal
11 of a reinsurance intermediary broker license, an applicant or licensee shall have at least three
12 years active working experience within the previous 10 calendar years in insurance administrative
13 functions, that, in the director's opinion, exhibit the applicant's ability to competently perform
14 the functions for all kinds and classes of insurance applied for.

15 (b) The director may require that a reinsurance intermediary broker maintain

16 (1) an in-force, unimpaired bond with admitted insurers authorized to transact
17 surety insurance in an amount acceptable to the director in favor of insurers and this state, and
18 with a condition in that the reinsurance intermediary broker conduct business as required under
19 this title; and

20 (2) an errors and omissions insurance policy acceptable to the director.

21 Sec. 21.27.680. TRAINEE REINSURANCE INTERMEDIARY BROKERS. (a) An
22 individual licensed in this state as an insurance producer, who does not have the experience
23 required of a reinsurance intermediary broker but who otherwise meets the requirements of
24 AS 21.27.670, may be employed by a licensed reinsurance intermediary broker as a trainee
25 reinsurance intermediary broker, subject to the provisions of this section.

26 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
27 broker, the reinsurance intermediary broker employing the trainee reinsurance intermediary broker
28 shall submit to the director the application of the trainee reinsurance intermediary broker, with
29 the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary broker license.

30 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary broker
31 shall apply within 30 days for a reinsurance intermediary broker license.

1 (d) A trainee reinsurance intermediary broker shall at all times be working at the
2 direction and under the supervision of the employing licensed reinsurance intermediary broker,
3 and the file and record documentation must reflect the direction and supervision. Insurance
4 activities must be in the name of the employing reinsurance intermediary broker who is
5 responsible for all actions of the trainee reinsurance intermediary broker.

6 (e) A trainee reinsurance intermediary broker is restricted to assisting the employing
7 licensed reinsurance intermediary broker in preparing applications; binders; certificates of
8 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
9 and to performing clerical functions for which a license is not required. The file and record
10 documentation must reflect compliance with this subsection.

11 (f) A trainee reinsurance intermediary broker may not transact business with clients,
12 insurers, or reinsurers unless a reinsurance intermediary broker is physically present in the same
13 place of business as the trainee or physically accompanies the trainee if business is transacted
14 away from the place of business.

15 (g) In addition to any other penalty provided by law,

16 (1) the director shall revoke the license of a trainee reinsurance intermediary
17 broker who the director determines has violated the provisions of this section; a licensee or other
18 person having possession or custody of the license shall immediately surrender the license to the
19 director either personally or by certified mail;

20 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
21 reinsurance intermediary broker knew of or should have known that a trainee reinsurance
22 intermediary broker violated this section, the employing reinsurance intermediary broker and firm,
23 principal and manager, if any, are subject to the penalties provided under AS 21.27.440.

24 Sec. 21.27.690. OPERATING REQUIREMENTS FOR REINSURANCE
25 INTERMEDIARY BROKERS. (a) Except as provided in (b) of this section, an insurer may not
26 transact business with a reinsurance intermediary broker unless the insurer holds a certificate of
27 authority in this state, the reinsurance intermediary broker is licensed in this state, and there is
28 in effect a written contract between the parties that establishes the responsibilities of each party,
29 indicates each party's share of responsibility for each particular function, and specifies the
30 division of responsibilities. The written contract shall be kept in the permanent records of the
31 insurer and the reinsurance intermediary broker, be open to inspection by the director, and must

1 contain the following minimum provisions:

2 (1) the insurer may terminate the reinsurance intermediary broker's authority at
3 any time by written notice sent by certified mail;

4 (2) the reinsurance intermediary broker shall render accounts to the insurer
5 detailing all transactions including information necessary to support all commissions, charges, and
6 other fees received by or owing to the reinsurance intermediary broker and remit the money due
7 under the contract to the insurer within 30 days of receipt;

8 (3) money collected for the account of an insurer shall be held by the reinsurance
9 intermediary broker in a fiduciary account required under AS 21.27.360; the reinsurance
10 intermediary broker shall comply with applicable fiduciary account statutes and regulations;

11 (4) the reinsurance intermediary broker shall maintain separate accounts and
12 records for each insurer and maintain the records in a form usable by the insurer; the insurer or
13 the authorized representative of the insurer shall have access and the right to audit and the right
14 to copy all accounts and records related to the insurer's business; the director, in addition to the
15 other authority granted in this title, shall have access to all books, bank accounts, and records of
16 the insurance intermediary broker in a form usable to the director;

17 (5) the insurer shall establish written standards for the cession or retrocession of
18 all risks, and the reinsurance intermediary broker shall comply with those standards;

19 (6) the reinsurance intermediary broker shall disclose to the insurer all its
20 relationships with insurers and reinsurers to whom risks are ceded or retroceded; and

21 (7) the contract may not be assigned in whole or in part by the reinsurance
22 intermediary broker.

23 (b) A domestic insurer may use a nonresident reinsurance intermediary broker who is not
24 licensed under this chapter if the person is licensed in good standing as a resident reinsurance
25 intermediary broker by an insurance regulator of another state that is accredited by the National
26 Association of Insurance Commissioners. Upon written request, the director may grant written
27 permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed
28 by and without a place of business in a jurisdiction subject to accreditation by the National
29 Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed
30 in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed
31 reinsurance intermediary broker are subject to all other requirements of this section.

1 (c) An insurer may not employ a person who is employed by a reinsurance intermediary
2 broker with which it transacts business, unless the reinsurance intermediary broker is under
3 common control with the insurer and subject to AS 21.22.

4 (d) In a form acceptable to the director, a reinsurance intermediary broker shall annually
5 provide and an insurer shall annually obtain a copy of certified financial statements of each
6 reinsurance intermediary broker with which the insurer has done business, prepared by the
7 independent certified public accountant.

8 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
9 reinsurance intermediary broker caused losses arising out of a violation of AS 21.27.670 -
10 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker
11 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
12 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
13 is in addition to any other liability of the reinsurance intermediary broker and does not affect the
14 rights of a policyholder, claimant, creditor, or third party.

15 (f) In addition to any other penalty provided by law, a person who violates this section
16 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
17 may be suspended or revoked.

18 **Sec. 21.27.700. REINSURANCE INTERMEDIARY BROKER RECORDS.** In addition
19 to any other records requirements under this title, a reinsurance intermediary broker shall
20 maintain in organized form a record of each transaction including

21 (1) the type of contract, limits, underwriting restrictions, classes or risks, and
22 territory;

23 (2) the period of coverage, including effective and expiration dates, cancellation
24 provisions, and required notice of cancellation;

25 (3) the reporting and settlement requirements of balances;

26 (4) the rate used to compute the reinsurance premium;

27 (5) the names and addresses of reinsurers;

28 (6) the rate of all reinsurance commissions, including the commissions on
29 retrocessions handled by the reinsurance intermediary broker;

30 (7) the related correspondence and memoranda;

31 (8) the proof of placement;

1 (9) the details regarding retrocessions handled by the reinsurance intermediary
2 broker including the identity of retrocessionaires and the percentage of each contract assumed or
3 ceded;

4 (10) the financial records of premium and loss accounts;

5 (11) if the reinsurance intermediary broker procures a reinsurance contract on
6 behalf of an admitted ceding insurer

7 (A) written evidence directly from an assuming reinsurer that it has agreed
8 to assume the risk; or

9 (B) written evidence, if placed through a representative of the assuming
10 reinsurer other than an employee, that the reinsurer had delegated binding authority to the
11 representative; and

12 (12) additional information that is customary or that may be required by the
13 director.

14 **ARTICLE 5. REINSURANCE INTERMEDIARY MANAGERS.**

15 **Sec. 21.27.730. REINSURANCE INTERMEDIARY MANAGER QUALIFICATIONS.**

16 (a) In addition to the general qualifications under AS 21.27.020, to qualify for issuance or
17 renewal of a reinsurance intermediary manager license, an applicant or licensee shall have at least
18 three years active working experience within the previous 10 calendar years in insurance
19 administrative functions, that, in the director's opinion, exhibit the applicant's abilities to
20 competently perform the functions for all kinds and classes of insurance applied for.

21 (b) The director may require that a reinsurance intermediary manager maintain

22 (1) a bond with admitted insurers authorized to transact surety insurance in an
23 amount acceptable to the director and with a condition that the reinsurance intermediary manager
24 conduct business as required under this title; and

25 (2) an errors and omissions insurance policy acceptable to the director.

26 **Sec. 21.27.740. TRAINEE REINSURANCE INTERMEDIARY MANAGERS.** (a) An
27 individual licensed in this state as an insurance producer who does not have the experience
28 required of a reinsurance intermediary manager, but who otherwise meets the requirements of
29 AS 21.27.730, may be employed by a licensed reinsurance intermediary manager as a trainee
30 reinsurance intermediary manager, subject to the provisions of this section.

31 (b) Before an individual may transact insurance as a trainee reinsurance intermediary

1 manager, the reinsurance intermediary manager employing the trainee reinsurance intermediary
2 manager shall submit to the director the application of the trainee reinsurance intermediary
3 manager, with the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary
4 manager license.

5 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary
6 manager shall apply within 30 days for a reinsurance intermediary manager license.

7 (d) A trainee reinsurance intermediary manager shall at all times be working at the
8 direction and under the supervision of the employing licensed reinsurance intermediary manager,
9 and the file and record documentation must reflect the direction and supervision. Insurance
10 activities must be in the name of the employing reinsurance intermediary manager, who is
11 responsible for all insurance actions of the trainee reinsurance intermediary manager.

12 (e) A trainee reinsurance intermediary manager is restricted to assisting the employing
13 licensed reinsurance intermediary manager in preparing applications; binders; certificates of
14 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
15 and to performing clerical functions for which a license is not required. The file and record
16 documentation must reflect compliance with this subsection.

17 (f) A trainee reinsurance intermediary manager may not transact business with clients,
18 insurers, or reinsurers unless a reinsurance intermediary manager is physically present in the same
19 place of business as the trainee or physically accompanies the trainee if business is transacted
20 away from the place of business.

21 (g) In addition to any other penalty provided by law,

22 (1) a trainee reinsurance intermediary manager who the director determines has
23 violated the provisions of this section shall have its license revoked; a licensee or other person
24 having possession or custody of the license shall immediately surrender the license to the director
25 either personally or by certified mail;

26 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
27 reinsurance intermediary manager knew of or should have known that a trainee reinsurance
28 intermediary manager violated this section, the employing reinsurance intermediary manager and
29 firm, principal, and manager, if any, are subject to the penalties provided under AS 21.27.440.

30 Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.
31 A reinsurance intermediary manager has only the authority that is consistent with this title and

1 that is conferred by the reinsurer. A reinsurance intermediary manager, resident or nonresident,
2 qualified and licensed under this chapter, may exercise the powers conferred by this title upon
3 insurance producers and independent adjusters only for the kinds or classes of insurance and
4 within the scope that reinsurance intermediary is authorized by the reinsurer appointing the
5 reinsurance intermediary manager.

6 Sec. 21.27.760. OPERATING REQUIREMENTS FOR REINSURANCE
7 INTERMEDIARY MANAGERS. (a) A reinsurer may not transact business with a reinsurance
8 intermediary manager unless there is in effect a written contract approved by the reinsurer's
9 board of directors between the parties that establishes the responsibilities of each party, indicates
10 each party's share of responsibility for each particular function, and specifies the division of
11 responsibilities.

12 (b) The contract required under (a) of this section must include the following provisions:

13 (1) the reinsurer may terminate the contract for cause upon written notice sent by
14 certified mail to the reinsurance intermediary manager and may suspend the underwriting
15 authority of the reinsurance intermediary manager during a dispute regarding the cause for
16 termination;

17 (2) the reinsurance intermediary manager shall render accounts to the reinsurer
18 detailing all transactions including information necessary to support all commissions, charges, and
19 other fees received by or owing to the reinsurance intermediary manager and remit all money due
20 under the contract to the insurer at least monthly;

21 (3) money collected for the account of a reinsurer shall be held by the reinsurance
22 intermediary manager in a fiduciary account as described under AS 21.27.360;

23 (4) the reinsurance intermediary manager shall comply with applicable fiduciary
24 account statutes and regulations;

25 (5) the reinsurance intermediary manager shall maintain a separate bank account
26 for each reinsurer that it represents;

27 (6) a fiduciary account must be used for all payments on behalf of the reinsurer;

28 (7) the reinsurance intermediary manager may retain not more than three months
29 estimated claims payments and allocated loss adjustment expenses;

30 (8) the reinsurance intermediary manager shall maintain separate accounts and
31 records for each reinsurer and maintain the records in a form usable by the reinsurer; the

1 reinsurer or its authorized representative shall have access and the right to audit and the right to
2 copy all accounts and records related to the reinsurer's business; the director, in addition to the
3 other authority granted in this title, shall have access to all books, bank accounts, and records of
4 the reinsurance intermediary manager in a form usable to the director;

5 (9) the contract may not be assigned in whole or in part by the reinsurance
6 intermediary manager;

7 (10) the reinsurer shall establish written underwriting and rating standards for the
8 acceptance, rejection, or cession of all risks and the reinsurance intermediary manager shall
9 comply with the standards;

10 (11) compensation including rates, terms, purposes of commissions, charges, and
11 other fees that the reinsurance intermediary manager may levy against the reinsurer;

12 (12) if the contract permits the reinsurance intermediary manager to settle claims
13 on behalf of the reinsurer,

14 (A) written settlement authority must be provided by the reinsurer and
15 may be terminated for cause upon the insurer's written notice by certified mail to the
16 reinsurance intermediary manager or upon the termination of the contract; the reinsurer
17 may suspend the settlement authority during a dispute regarding the cause of termination;

18 (B) claims shall be reported to the reinsurer within 30 days;

19 (C) a copy of the claim file shall be sent to the reinsurer upon request or
20 as soon as it becomes known that the claim

21 (i) has the potential to exceed an amount determined by the
22 director or exceeds the limit set by the insurer, whichever is less;

23 (ii) involves a coverage dispute;

24 (iii) may exceed the reinsurance intermediary manager's claims
25 settlement authority;

26 (iv) is open for more than six months;

27 (v) involves extra contractual allegations; or

28 (vi) is closed by payment in excess of an amount set by the
29 director or an amount set by the insurer, whichever is less;

30 (D) the reinsurance intermediary manager shall comply with unfair claims
31 settlement statutes and regulations;

1 (E) transmission of electronic data at least once a month if electronic
2 claims files are in existence;

3 (F) claim files shall be the property of both the reinsurer and reinsurance
4 intermediary manager, but upon an order of liquidation of the reinsurer, the files shall
5 become the sole property of the reinsurer or the reinsurer's estate; the reinsurance
6 intermediary manager shall have reasonable access to and the right to copy the files on
7 a timely basis;

8 (13) if the contract provides for sharing of interim profits by the reinsurance
9 intermediary manager, the interim profits may not be paid until

10 (A) one calendar year after the end of each underwriting period for
11 property risks and five years after the end of each underwriting period for casualty risks;

12 (B) a later period established by the director for specified kinds or classes
13 of insurance; and

14 (C) the profits have been verified under (e)(2) of this section;

15 (14) the reinsurance intermediary manager may not

16 (A) cede retrocessions on behalf of the reinsurer, except that the
17 reinsurance intermediary manager may cede facultative retrocessions under obligatory
18 agreements if the contract with the reinsurer contains reinsurance underwriting guidelines
19 including a list of reinsurers with which automatic agreements are in effect, and, for each
20 reinsurer, the coverage and amounts or percentages that may be reinsured, and
21 commission schedules;

22 (B) commit the reinsurer to participate in reinsurance syndicates;

23 (C) appoint a subagent unless the scope of the subagent's license as an
24 insurance producer includes the kinds and classes of insurance for which the subagent is
25 appointed;

26 (D) pay or commit the reinsurer to pay a claim, net of retrocessions, the
27 amount of which exceeds one percent of the reinsurer's policyholder's surplus as of
28 December 31 of the last completed calendar year without the prior written approval of the
29 reinsurer for the settlement and the approval is received after the reinsurer has been
30 notified in writing that the claim settlement will exceed one percent of the reinsurer's
31 policyholder's surplus as of December 31 of the last completed calendar year;

1 (E) collect payment from a retrocessionaire or commit the reinsurer to a
2 claim settlement with a retrocessionaire without prior written approval of the reinsurer,
3 but if prior written approval is given, a complete report shall be forwarded to the reinsurer
4 within 30 days;

5 (F) jointly employ an individual who is employed with the reinsurer; or

6 (G) delegate reinsurance intermediary manager authority to another person;

7 (15) if the insurer is domiciled in this state or the reinsurance intermediary
8 manager has a place of business in this state, a copy of the contract must be filed with and
9 approved by the director at least 30 days before the reinsurance intermediary manager transacts
10 business on behalf of the reinsurer; and

11 (16) if the contract is not required to be approved in advance by the director, the
12 insurer shall provide written notification to the director within 30 days of the entry into or
13 termination of a contract with a reinsurance intermediary manager; the notice must include a
14 statement of duties to be performed by the reinsurance intermediary manager on behalf of the
15 reinsurer, the kinds and classes of insurance for which the reinsurance intermediary manager has
16 authorization to act, and other information required by the director.

17 (c) Binding authority for all retrocession contracts or participation in reinsurance
18 syndicates may only rest with an officer of the reinsurer who is not affiliated with a reinsurance
19 intermediary manager.

20 (d) In a form acceptable to the director, a reinsurance intermediary manager shall
21 annually provide and a reinsurer shall annually obtain a copy of certified financial statements of
22 each reinsurance intermediary manager that the reinsurer has used, prepared by an independent
23 certified public accountant.

24 (e) The reinsurer shall

25 (1) at least semiannually conduct an on-site review of the underwriting and claims
26 processing operations of each reinsurance intermediary manager;

27 (2) in addition to any other required loss reserve certification, annually obtain the
28 opinion of an independent qualified actuary attesting to the adequacy of loss reserves established
29 for losses incurred and outstanding on business produced by the reinsurance intermediary
30 manager if a reinsurance intermediary manager establishes loss reserves; the reinsurer retains an
31 independent responsibility to determine the adequacy of its loss reserves, including those

1 established by its reinsurance intermediary manager; and

2 (3) provide written notification to the director by certified mail within 30 days
3 of the termination of a contract with a reinsurance intermediary manager.

4 (f) The reinsurance intermediary manager shall disclose to the reinsurer a relationship
5 with an insurer before ceding or assuming risks with the insurer under the contract.

6 (g) A reinsurer may not appoint to its board of directors an officer, director, employee,
7 subagent, insurance producer, or controlling shareholder of its reinsurance intermediary manager.

8 (h) Within the scope of the actual or apparent authority, the acts of the reinsurance
9 intermediary manager are considered the acts of the reinsurer upon whose behalf it is acting.

10 (i) A reinsurance intermediary manager may be examined by the director as if it were
11 the insurer.

12 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
13 reinsurance intermediary manager caused losses arising out of a violation of AS 21.27.730 -
14 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager
15 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
16 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
17 is in addition to any other liability of the reinsurance intermediary manager and does not affect
18 the rights of a policyholder, claimant, creditor, or third party.

19 (k) In addition to any other penalty provided by law, a person who violates this section
20 is subject to the penalties provided under AS 21.27.440 and an insurer's or reinsurer's certificate
21 of authority may be suspended or revoked.

22 Sec. 21.27.770. REINSURANCE INTERMEDIARY MANAGER RECORDS. In
23 addition to any other records requirements under this chapter, a reinsurance intermediary manager
24 shall maintain in organized form a complete record of each transaction including

25 (1) the type of contract, limits, underwriting restrictions, classes or risks, and
26 territory;

27 (2) the period of coverage, including effective and expiration dates, cancellation
28 provisions, and required notice of cancellation;

29 (3) disposition of outstanding reserves on covered risks;

30 (4) the reporting and settlement requirements of balances;

31 (5) the rate used to compute the reinsurance premium;

- 1 (6) the names and addresses of reinsurers;
- 2 (7) the rate of all reinsurance commissions, including the commissions on
3 retrocessions handled by the reinsurance intermediary broker and reinsurance intermediary
4 manager;
- 5 (8) related correspondence and memoranda;
- 6 (9) proof of placement;
- 7 (10) details regarding retrocessions handled by the reinsurance intermediary broker
8 and reinsurance intermediary manager including the identity of retrocessionaires and the
9 percentage of each contract assumed or ceded;
- 10 (11) financial records of premium and loss accounts; and
- 11 (12) if the reinsurance intermediary broker procures a reinsurance contract on
12 behalf of an admitted ceding insurer or when the reinsurance intermediary manager places a
13 reinsurance contract on behalf of a ceding insurer, written evidence
- 14 (A) directly from an assuming reinsurer that it has agreed to assume the
15 risk; or
- 16 (B) that the reinsurer had delegated binding authority to the representative,
17 if placed through a representative of the assuming reinsurer other than an employee of the
18 assuming reinsurer.

19 ARTICLE 6. SURPLUS LINES BROKER.

20 Sec. 21.27.790. SURPLUS LINES BROKER QUALIFICATIONS. In addition to the
21 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a surplus
22 lines broker license, an applicant or licensee shall

23 (1) have a minimum two years active working experience within the previous five
24 calendar years as an insurance producer, managing general agent, reinsurance intermediary
25 broker, reinsurance intermediary manager, independent adjuster, or underwriter or claims adjuster
26 employee of an insurer and, in the director's opinion, exhibit the ability to competently perform
27 the responsibilities of the license applied for;

28 (2) have and maintain while licensed, a bond in the sum of not less than \$200,000
29 aggregate liability and with the conditions that the surplus lines broker conduct business under
30 the provisions of this title, promptly remit the taxes and fees provided by law, return premiums
31 promptly when due, and pay proper losses promptly;

1 (3) if the director requires, maintain an errors and omissions insurance policy
2 acceptable to the director.

3 Sec. 21.27.800. TRAINEE SURPLUS LINES BROKER. (a) An individual licensed in
4 this state as an insurance producer who does not have the experience required of a surplus lines
5 broker, but who otherwise meets the requirements of AS 21.27.790, may be employed by a
6 licensed surplus lines broker as a trainee surplus lines broker, subject to the provisions of this
7 section.

8 (b) Before an individual may transact insurance as a trainee surplus lines broker, the
9 licensed surplus lines broker employing the trainee surplus lines broker shall submit to the
10 director the application of the trainee surplus lines broker, with the fee set under AS 21.06.250,
11 and receive the trainee surplus lines broker license.

12 (c) Upon satisfying the experience requirement, a trainee surplus lines broker shall apply
13 within 30 days for a surplus lines broker license.

14 (d) A trainee licensed under this section shall at all times be working at the direction and
15 under the supervision of the employing licensed surplus lines broker, and the file and record
16 documentation shall reflect the direction and supervision. Insurance activities must be in the
17 name of the employing licensed surplus lines broker, who is responsible for all actions of the
18 trainee surplus lines broker.

19 (e) A trainee licensed under this section is restricted to assisting the employing licensed
20 surplus lines broker in preparing applications; binders; certificates of insurance; schedules of
21 equipment, vehicles, and drivers; loss notices to insurers; and invoices; and to perform clerical
22 functions for which a license is not required. The file and record documentation must reflect
23 compliance with this subsection.

24 (f) A trainee licensed under this section may not transact business with clients or insurers
25 unless a licensed surplus lines broker is physically present in the same place of business as the
26 trainee or physically accompanies the trainee if business is transacted away from the place of
27 business.

28 (g) In addition to any other penalty provided by law,

29 (1) the director shall revoke the license of a trainee surplus lines broker who the
30 director determines has violated the provisions of this section; a licensee or other person having
31 possession or custody of the license shall immediately surrender the license to the director either

1 personally or by certified mail;

2 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
3 surplus lines broker knew of or should have known that a trainee licensed under this section
4 violated this section, the employing surplus lines broker and firm, principal, and manager, if any,
5 are subject to the penalties provided under AS 21.27.440.

6 Sec. 21.27.810. SURPLUS LINES BROKER RECORDS. In addition to any other records
7 requirements under this chapter, a surplus lines broker shall maintain in organized form a
8 complete record including

- 9 (1) the amount of insurance and perils insured;
- 10 (2) a complete description of property insured and the location of the property;
- 11 (3) gross premium charged;
- 12 (4) a return premium paid;
- 13 (5) the rate of premium charged upon the several items of property;
- 14 (6) the effective date of the contract and the terms of the contract;
- 15 (7) the name and address of the insured;
- 16 (8) the name and address of the insurer;
- 17 (9) the amount of tax and other sums to be collected from the insured;
- 18 (10) the allocation of taxes by state under AS 21.34.180;
- 19 (11) evidence of insurance issued in compliance with AS 21.34.100;
- 20 (12) the identity and license number of the producing broker;
- 21 (13) any confirming correspondence from the insurer or the representative of the
22 insurer; and
- 23 (14) the application.

24 Sec. 21.27.820. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF
25 SURPLUS LINES BROKER LICENSE. In addition to other action available under this title, the
26 director may deny issuance of or not renew a license, or may suspend or revoke a license of a
27 surplus lines broker issued under this chapter for any of the following causes:

- 28 (1) removal of the resident surplus lines broker's office from this state;
- 29 (2) removal of the resident surplus lines broker's accounts and records from this
30 state during the period within which the accounts and records are required to be maintained under
31 this chapter;

1 (3) removal of the nonresident surplus lines broker's accounts and records
2 required to be maintained under this chapter from the location described in the license without
3 prior approval of the director;

4 (4) closing of the surplus lines broker's office for a period of more than 45
5 calendar days, unless permission is granted by the director;

6 (5) failure to make a required report;

7 (6) failure to transmit a required tax or fee on a surplus line premium to this state
8 or a reciprocal state to which a tax is owing;

9 (7) failure to maintain a required bond.

10 ARTICLE 7. INDEPENDENT ADJUSTERS.

11 Sec.21.27.830. INDEPENDENT ADJUSTER QUALIFICATIONS. In addition to the
12 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an independent
13 adjuster license, an applicant or licensee shall

14 (1) have at least six months active working experience within the previous two
15 calendar years as either an independent adjuster trainee, an insurance producer, a managing
16 general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, a surplus
17 lines broker, an independent adjuster, or an underwriter or claims adjuster employee of an insurer,
18 and, in the director's opinion, exhibit the ability to competently perform the responsibilities of
19 an independent adjuster; or

20 (2) have been previously licensed in good standing in this state as an independent
21 adjuster within the previous four calendar years and not have had a license suspended or revoked.

22 Sec.21.27.840. TRAINEE INDEPENDENT ADJUSTERS. (a) An individual resident
23 who does not have the experience with reference to the handling of loss claims but who
24 otherwise meets the requirements of AS 21.27.830, may be employed by a licensed independent
25 adjuster as a trainee independent adjuster, subject to the provisions of this section.

26 (b) Before the individual may handle loss claims, the licensed independent adjuster
27 employing the trainee independent adjuster shall submit to the director the application of the
28 trainee independent adjuster, with the fee set under AS 21.06.250, and receive the trainee
29 independent adjuster license.

30 (c) The director shall revoke a trainee independent adjuster license unless the individual
31 has

1 (1) not later than four months after the effective date of the trainee adjuster
2 license, complied with the independent adjuster licensing requirements of AS 21.27.060
3 concerning the insurance laws and regulations of this state;

4 (2) not later than eight months after the effective date of the trainee adjuster
5 license, complied with the independent adjuster licensing requirements of AS 21.27.060
6 concerning the knowledge and competence of the licensee concerning handling of loss claims and
7 the licensee's duties and responsibilities as a licensee; and

8 (3) within 12 months after the effective date of the trainee adjuster license,
9 complied with all other independent adjuster licensing requirements.

10 (d) A person whose trainee independent adjuster license was revoked for failure to meet
11 a requirement of (c) of this section may submit a new application for a trainee independent
12 adjuster license after the person has successfully passed both tests required under (c) of this
13 section.

14 (e) Upon satisfying the requirements of (c) of this section, a trainee independent adjuster
15 shall apply within 30 days for an independent adjuster license.

16 (f) A trainee independent adjuster shall at all times be working at the direction and under
17 the supervision of the employing licensed independent adjuster, and the file and record
18 documentation shall reflect the direction and supervision. The employing licensed independent
19 adjuster and its firm, manager, and principal, if any, are responsible for all insurance actions of
20 the trainee independent adjuster.

21 (g) A trainee independent adjuster is restricted to participation in a factual investigation
22 and a tentative closing of a loss subject to review and final determination by the employing
23 licensed independent adjuster, and file and record documentation shall reflect compliance with
24 this subsection.

25 (h) A trainee independent adjuster may not participate in a factual investigation and a
26 tentative closing of a loss unless a licensed independent adjuster is physically present in the same
27 place of business as the trainee or physically accompanies the trainee if an investigation and a
28 tentative closing of a loss is transacted away from the place of business.

29 (i) In addition to any other penalty provided by law,

30 (1) a trainee independent adjuster who the director determines has violated the
31 provisions of this section shall have its license terminated; a licensee or other person having

1 possession or custody of the license shall within 30 days surrender the license to the director
2 either personally or by certified mail;

3 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
4 licensed independent adjuster knew of or should have known that a trainee independent adjuster
5 violated this section, the employing licensed independent adjuster and firm, principal and
6 manager, if any, are subject to the penalties provided under AS 21.27.440.

7 Sec. 21.27.850. INSURANCE PRODUCER, MANAGING GENERAL AGENT,
8 REINSURANCE INTERMEDIARY BROKER, REINSURANCE INTERMEDIARY MANAGER,
9 SURPLUS LINES BROKER AS INDEPENDENT ADJUSTER. Without being required by this
10 chapter to be licensed also as an independent adjuster

11 (1) a licensed insurance producer and a licensed managing general agent,
12 incidental to acting as an insurance producer, may act as an adjuster and investigate, adjust, and
13 report upon claims on behalf of and as authorized by an admitted insurer that has appointed the
14 insurance producer or the managing general agent as its agent under AS 21.27.100;

15 (2) a surplus lines broker may act as an adjuster and investigate, adjust, and report
16 upon claims on behalf of and as authorized by a nonadmitted insurer; and

17 (3) a reinsurance intermediary broker or a reinsurance intermediary manager may
18 act as an adjuster and investigate, adjust, and report upon claims on behalf of and as authorized
19 by an insurer or reinsurer under the contract required by this chapter.

20 Sec. 21.27.860. UNLICENSED NONRESIDENT ADJUSTERS. (a) A nonresident
21 independent adjuster not licensed by this state who is licensed by and in good standing with its
22 resident state may act as an adjuster and adjust a single loss in this state during a calendar year,
23 or may act as an adjuster and adjust losses arising out of a catastrophe as declared by the
24 director, if, within 10 days after the start of an investigation or adjustment under this section, the
25 nonresident independent adjuster has advised the director in writing of the adjustment and
26 provided the following information:

- 27 (1) the individual and firm name;
28 (2) the business mailing address;
29 (3) the business physical address and phone number;
30 (4) the licensing state of residence;
31 (5) the resident license number, and

1 (6) other facts that the director may require.

2 (b) A nonresident independent adjuster may be sued upon a cause of action arising in this
3 state arising from an adjustment under this section under the procedure provided in AS 21.33.

4 Sec. 21.27.870. INDEPENDENT ADJUSTER RECORDS. In addition to any other
5 records requirements under this chapter, an independent adjuster shall maintain in organized form
6 a complete record of each investigation or adjustment undertaken or consummated, and a
7 statement of the fee, commission, or other compensation received or to be received by the
8 adjuster on account of the investigation or adjustment.

9 ARTICLE 8. DEFINITIONS.

10 Sec. 21.27.900. DEFINITIONS. In this chapter,

11 (1) "affiliate" or "affiliated" has the meaning given in AS 21.22.200;

12 (2) "cession" means a unit of insurance, passed to a reinsurer by a primary insurer
13 that issued the policy to the original insured, that may transfer part or all of a single risk, defined
14 in the policy, or a defined group of business as agreed to in a contract of reinsurance;

15 (3) "comparable interest" means the same lines or kinds of insurance, the same
16 classes of risks, similar policy limits, and quality of business;

17 (4) "control," "controlling," and "controlled by" have the meaning given in
18 AS 21.22.200;

19 (5) "controlled insurer" means an admitted insurer that is controlled, directly or
20 indirectly, by an insurance producer;

21 (6) "controlling insurance producer" means an insurance producer that, directly
22 or indirectly, controls an insurer;

23 (7) "fiduciary account" means an account in which the licensee holds money as
24 a trustee for the person entitled to the money;

25 (8) "firm" means an organization of two or more licensees acting in association
26 with each other, either in a partnership, corporation, or otherwise, or an organization in which
27 a single licensee has less than 50 percent ownership interest in the organization;

28 (9) "independent qualified actuary" means an actuary who is a member of the
29 American Academy of Actuaries and who is not affiliated with, an employee, principal, the direct
30 owner or indirect owner of, or in any way controlled by the insurer, managing general agent,
31 reinsurance intermediary broker, or reinsurance intermediary manager;

1 (10) "individual" means a natural person required to be licensed under
2 AS 21.27.010 who is not acting in association with two or more licensees, either in partnership,
3 corporation, or otherwise, or an organization in which a single licensee has 50 percent or more
4 ownership interest in the organization;

5 (11) "individual in the firm" means a natural person required to be licensed under
6 AS 21.27.010 who is employed by a firm;

7 (12) "insurance holding company system" has the meaning given in AS 21.22.200;

8 (13) "interim profits" means the excess of income over expenses and claim
9 reserves determined before the expiration of all claim liabilities and contract obligations of the
10 insurer to the insured;

11 (14) "manager" means the individual in the firm who is designated by the firm
12 to be responsible for the firm's operations and the firm's compliance with insurance laws and
13 regulations at the place of business in which the manager principally works;

14 (15) "physical presence or physically present" means contemporaneously available
15 in the licensee's place of business;

16 (16) "principal" means the sole proprietor, partner, or officer of a firm who is
17 licensed as an individual in the firm and who is designated by the firm to be responsible for the
18 firm's operations and the firm's compliance with insurance laws and regulations;

19 (17) "reinsurance" means an insurance transaction by which the assuming insurer
20 agrees to indemnify the ceding insurer in whole or in part against liability or losses that the
21 ceding insurer might incur under a separate contract of insurance with its insured;

22 (18) "resident" means

23 (A) for an individual or an individual in the firm, a natural person who
24 is domiciled in this state, whose principal place of business is in this state, who has a
25 present intent to remain in this state while licensed, and who manifests that intent by
26 establishing an ongoing physical presence in this state;

27 (B) for a firm, a person whose principal place of business is in this state;

28 (19) "retrocession" means a transaction in which a reinsurer cedes to another
29 reinsurer all or part of the risk that the reinsurer has previously assumed;

30 (20) "subagent" means an agent reporting to a managing general agent or
31 reinsurance intermediary manager and not directly to an insurer;

1 (21) "subsidiary" has the meaning given in AS 21.22.200;

2 (22) "underwrite" means the authority to accept or reject risk on behalf of the
3 insurer.

4 * Sec. 94. AS 21.27.620(a)(4)(L) is repealed and reenacted to read:

5 (L) if the insurer is domiciled in this state or the managing general agent
6 has a place of business in this state, a copy of the contract must be filed with and
7 approved by the director at least 30 days before the managing general agent transacts
8 business on behalf of the insurer; if the insurer is not domiciled in this state or the
9 managing general agent transacts business relative to a subject resident, located, or to be
10 performed in this state from a place of business not physically located in this state, a copy
11 of the contract required in this section must be filed with and approved by the director
12 at least 30 days before the managing general agent transacts business on behalf of the
13 insurer in this state or relative to a subject resident, located, or to be performed in this
14 state if the insurer or the managing general agent are domiciled in a state not accredited
15 by the National Association of Insurance Commissioners; and

16 * Sec. 95. AS 21.27.760(b)(15) is repealed and reenacted to read:

17 (15) if the insurer is domiciled in this state or the reinsurance intermediary
18 manager has a place of business in this state, a copy of the contract must be filed with and
19 approved by the director at least 30 days before the reinsurance intermediary manager transacts
20 business on behalf of the reinsurer; if the reinsurer is not domiciled in this state or the
21 reinsurance intermediary manager transacts business relative to a subject resident, located, or to
22 be performed in this state from a place of business not physically located in this state, a copy of
23 the contract required in this section must be filed with and approved by the director at least 30
24 days before the reinsurance intermediary manager transacts business on behalf of the insurer in
25 this state or relative to a subject resident, located, or to be performed in this state if the insurer
26 or the reinsurance intermediary manager are domiciled in a state not accredited by the National
27 Association of Insurance Commissioners; and

28 * Sec. 96. AS 21.33.011 is amended to read:

29 Sec. 21.33.011. PURPOSE. The legislature declares that insurance transactions with
30 nonadmitted insurers are so affected with a public interest as to require regulation, taxation,
31 supervision, and control of the transactions and matters relating to nonadmitted insurance as

- 1 provided in this chapter in order to
- 2 (1) protect the insureds and claimants of this state in transactions involving the
- 3 purchase of insurance from nonadmitted insurers;
- 4 (2) avoid the obstacle of resorting to distant forums for the purpose of asserting
- 5 legal rights under policies issued by nonadmitted insurers;
- 6 (3) provide a method of substituted service of process upon nonadmitted insurers
- 7 for proceedings before the director and in the courts in this state;
- 8 (4) provide for the public the ability to self-procure insurance directly from
- 9 nonadmitted insurers [, TO THE EXTENT THAT INSURANCE IS NOT PROCURABLE
- 10 FROM ADMITTED INSURERS, OR FROM ELIGIBLE SURPLUS LINES INSURERS
- 11 THROUGH SURPLUS LINES BROKERS];
- 12 (5) protect the revenue of the state;
- 13 (6) protect regulated, admitted insurers from unregulated and unfair competition
- 14 by nonadmitted insurers;
- 15 (7) regulate and supervise the effectuation of nonadmitted insurance under [IN
- 16 ACCORDANCE WITH] the laws of this state and 15 U.S.C. 1011 [P.L. 79-15 (1945)
- 17 (CHAPTER 20, 1ST SESS., S.340), 59 STAT. 33]; and
- 18 (8) maintain reliable insurance markets.

19 * Sec. 97. AS 21.33.021(a) is amended to read:

- 20 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
- 21 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
- 22 the person or insurer, the executor, administrator, or personal representative of the person or
- 23 insurer, or its successor in interest if a corporation, of the director and the successors of the
- 24 director in office to be the lawful attorney of that person or insurer upon whom may be served
- 25 all legal process in any action, suit, or proceeding in any court arising out of a transaction of
- 26 insurance in this state or relative to a subject resident, located, or to be performed in this
- 27 state by that person or nonadmitted insurer, except in an action, suit, or proceeding by the
- 28 director or by the state. The transaction of insurance by an unauthorized person or nonadmitted
- 29 insurer is acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer
- 30 that legal process so served has [IS OF] the same legal force and validity as personal service of
- 31 process in this state upon the person or insurer, or upon the executor, administrator, or personal

1 representative of the person or insurer, or its successor in interest if a corporation.

2 * ~~Sec. 98.~~ AS 21.33.025(a) is amended to read:

3 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
4 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
5 the person or insurer, the executor, administrator, or personal representative of the person or
6 insurer, or its successor in interest if a corporation, of the lieutenant governor and the successors
7 in office of the lieutenant governor to be the lawful attorney of that person or insurer upon whom
8 may be served all legal process in any action, suit, or proceeding in any court by the director or
9 by the state and upon whom may be served any notice, order, pleading, or process in any
10 proceeding before the director and which arises out of the transaction of insurance in this state
11 or relative to a subject resident, located, or to be performed in this state by that person or
12 insurer. The transaction of insurance by an unauthorized person or nonadmitted insurer is
13 acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer that legal
14 process in the court action, suit, or proceeding and any notice, order, pleading, or process in an
15 administrative proceeding before the director so served has [IS OF] the same legal force and
16 validity as personal service of process in this state upon the person or insurer, or upon the
17 executor, administrator, or personal representative of that person or insurer, or its successor in
18 interest if a corporation.

19 * ~~Sec. 99.~~ AS 21.33.031(a) is amended to read:

20 (a) Before an unauthorized person or nonadmitted insurer files or causes to be filed a
21 pleading, a court action, suit, or proceeding or a notice, order, pleading, or process in an
22 administrative proceeding before the director instituted against the person or insurer, by service
23 made as provided in AS 21.33.021 or 21.33.025, the person or insurer shall either

24 (1) deposit with the clerk of the court in which the action, suit, or proceeding is
25 pending, or with the director in administrative proceedings before the director, cash or securities
26 or bond with an admitted insurer [GOOD AND SUFFICIENT SURETIES] to be approved by
27 the court, or the director, in an amount to be fixed by the court or the director sufficient to secure
28 the payment of a final judgment that may be rendered in the court proceeding or in the
29 administrative proceeding before the director; however the court, or the director in administrative
30 proceedings before the director, may in its or the director's discretion make an order dispensing
31 with the deposit or bond where the insurer makes a showing satisfactory to the court or the

1 director that it maintains in a state of the United States funds or securities, in trust or otherwise,
2 sufficient and available to satisfy a final judgment that may be entered in the court action, suit,
3 or proceeding or in an administrative proceeding before the director; or

4 (2) obtain admission to transact insurance in this state through a certificate of
5 authority issued under this title.

6 * **Sec. 100.** AS 21.33.031(c) is amended to read:

7 (c) Nothing in (a) of this section may be construed to prevent an unauthorized person or
8 nonadmitted insurer from filing a motion to quash a writ or to set aside service made as provided
9 in AS 21.33.021 or 21.33.025 on the ground that the unauthorized person or insurer has not
10 transacted insurance in this state or relative to a subject resident, located, or to be performed
11 in this state or that the person on whom service was made under AS 21.33.021(d) was not
12 transacting insurance in this state or relative to a subject resident, located, or to be performed
13 in this state.

14 * **Sec. 101.** AS 21.33.037(b) is amended to read:

15 (b) This section does not apply to

16 (1) matters authorized to be done by the director;

17 (2) surplus lines insurance effected and written under AS 21.34;

18 (3) transactions for which a certificate of authority is not required under this title;

19 (4) reinsurance;

20 (5) the property and operations of railroads or aircraft engaged in interstate or
21 foreign commerce and wet marine and transportation insurance;

22 (6) life insurance, disability insurance, and annuity contracts when solicited solely
23 by mail or when not solicited, negotiated, or procured in this state;

24 (7) transactions subsequent to issuance of a policy not covering a subject
25 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance[,]
26 and lawfully solicited, written, or delivered outside this state.

27 * **Sec. 102.** AS 21.33.037(c) is amended to read:

28 (c) In addition to other penalties under this title, a [A] person who represents or aids
29 a nonadmitted insurer in violation of this chapter [SECTION] is subject to the penalties provided
30 in AS 21.33.065. This chapter does [AN INSURANCE CONTRACT ENTERED INTO IN
31 VIOLATION OF THIS SECTION SHALL] not preclude the insured from enforcing, under

1 [THE INSURED'S RIGHTS IN ACCORDANCE WITH] the terms and provisions of the contract
2 and the laws of this state, the insured's rights under a contract entered into in violation of
3 this chapter.

4 * Sec. 103. AS 21.33.042 is amended to read:

5 Sec. 21.33.042. SUITS BY NONADMITTED INSURERS. A nonadmitted insurer may
6 not commence or maintain an action in law or equity in this state to enforce a right arising out
7 of a transaction of insurance in this state except with respect to

8 (1) claims under policies lawfully written in this state;

9 (2) liquidation of assets and liabilities, other than the collection of new premiums,
10 resulting from its former admitted operations in this state;

11 (3) transactions subsequent to issuance of a policy not covering a subject
12 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance
13 [,] and lawfully solicited, written, or delivered outside this state;

14 (4) surplus lines insurance coverage exported under [IN ACCORDANCE WITH]
15 AS 21.34;

16 (5) reinsurance;

17 (6) the continuation and servicing of life insurance, disability insurance policies,
18 or annuity contracts remaining in force as to residents of this state where the insurer has
19 withdrawn from the state and is not transacting new insurance;

20 (7) servicing of policies written by an admitted insurer in a state to which the
21 insured has moved but in which the insured is not licensed, until the term of the policy expires;

22 (8) claims under policies covering wet marine and transportation insurance,
23 including vessels of 50 displacement tons or less.

24 * Sec. 104. AS 21.33.045(a) is amended to read:

25 (a) When the director has reason to believe that insurance has been effectuated by or for
26 a person in this state with a nonadmitted insurer, the director shall in writing order the person
27 to produce for examination all insurance contracts and other documents evidencing insurance with
28 nonadmitted insurers and to disclose to the director the amount of insurance, name and address
29 of each insurer, gross amount of premium paid [,] or to be paid, [AND] the name and address
30 of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of the
31 insurance, and other information required by the director.

1 * **Sec. 105.** AS 21.33.055(a) is amended to read:

2 (a) Except as to premiums on lawfully procured surplus lines insurance exported under
3 AS 21.34 and premiums on independently procured insurance on which a tax has been paid under
4 AS 21.33.061, every nonadmitted insurer shall pay to the director on or before March 1
5 [APRIL 1] following the calendar year in which the insurance was so effectuated, continued, or
6 renewed a premium-receipts tax of three percent of gross premiums charged for the insurance
7 other than wet marine and transportation insurance and a premium-receipts tax of three-fourths
8 of one percent of gross premiums charged for the wet marine and transportation insurance on
9 subjects resident, located, or to be performed in this state. The insurance on subjects resident,
10 located, or to be performed in this state procured through negotiations or an application, in whole
11 or in part occurring or made in or from in or out of this state, or for which premiums in whole
12 or in part are remitted directly or indirectly from in or out of this state, shall be considered to
13 be insurance procured or continued or renewed in this state. The term "premium" includes all
14 premiums, membership fees, assessments, dues, and any other consideration for insurance. The
15 tax is in lieu of all taxes and fire department dues. On default of a nonadmitted insurer in the
16 payment of the tax, the insured shall pay the tax within 30 days of written notice from the
17 director of the default by the nonadmitted insurer. If the tax prescribed by this section is not
18 paid by the nonadmitted insurer within the time stated or by the insured within the time
19 stated after notice of default by the nonadmitted insurer, the tax may [SHALL] be increased
20 by

21 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is
22 greater;

23 (2) interest at the rate of one percent a month or part of a month from the
24 date the payment was originally due to the date paid; and

25 (3) a [PENALTY OF 25 PERCENT AND BY THE AMOUNT OF AN
26 ADDITIONAL] penalty not to exceed \$100 a day or 25 percent of the tax due, whichever is
27 greater, from the date the payment was due to the date paid.

28 * **Sec. 106.** AS 21.33.055(b) is repealed and reenacted to read:

29 (b) In determining the amount of premiums taxable in this state, all premiums written,
30 procured, or received in this state shall be considered written on property or a subject located or
31 resident in this state, except premiums that are properly allocated or apportioned and reported as

1 taxable premiums of another state. In determining the amount of gross premiums taxable in this
2 state covering a subject resident, located, or to be performed both inside and outside the state,
3 the tax due shall be computed on that portion of the policy premium that is attributable to the
4 subject resident, located, or to be performed in this state and that relates to the kind of insurance
5 being placed as determined by reference to an allocation schedule as follows:

6 (1) if a policy covers more than one classification,

7 (A) for any portion of the coverage identified by a classification on the
8 allocation schedule, the tax shall be computed by using the allocation schedule for the
9 corresponding portion of the premium;

10 (B) for any portion of the coverage not identified by a classification on
11 the allocation schedule, the tax shall be computed by using an alternative equitable
12 method of allocation for the property or subject;

13 (C) for any portion of the coverage where the premium is indivisible, the
14 tax shall be computed by using the method of allocation that pertains to the classification
15 describing the predominant coverage.

16 (2) if the information provided is insufficient to substantiate the method of
17 allocation used or if the director determines that the method is incorrect, the director shall
18 determine the equitable and appropriate amount of tax due to the state as follows:

19 (A) by use of the allocation schedule where the subject is appropriately
20 identified in the schedule;

21 (B) where the allocation schedule does not identify a classification
22 appropriate to the coverage, the director may give acceptance by significant weight to
23 documented evidence of the underwriting bases and other criteria used by the insurer or
24 may give consideration to other available information to the extent it is sufficient and
25 relevant, including the percentage of the insured's physical assets in this state, the
26 percentage of the insured's sales in this state, the percentage of income or resources
27 derived from this state, and the amount of premium tax paid to another jurisdiction for
28 the policy.

29 * **Sec. 107.** AS 21.33.055 is amended by adding a new subsection to read:

30 (c) This section does not apply to insurance of risks of the state, a political subdivision
31 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

1 * **Sec. 108.** AS 21.33.061(a) is amended to read:

2 (a) Every insured who procures or causes to be procured or continues or renews
3 insurance with a nonadmitted insurer, or an insured or self-insurer who so procures or continues
4 excess loss, catastrophe or other insurance, upon a subject of insurance resident, located, or to
5 be performed in this state, other than insurance lawfully procured through a surplus lines broker
6 under AS 21.34 shall, within 30 days after the date the insurance was procured, continued, or
7 renewed, file a report with the director in writing and in a form prescribed [UPON FORMS
8 DESIGNATED] by the director [AND FURNISHED TO THE INSURED UPON REQUEST].
9 The report must show the name and address of the insured, name and address of the insurer, the
10 subject of the insurance, a general description of the coverage, the amount of premium currently
11 charged, and additional pertinent information required [THAT IS REASONABLY
12 REQUESTED] by the director.

13 * **Sec. 109.** AS 21.33.061(c) is amended to read:

14 (c) There is levied upon the obligation, chose in action, or right represented by the
15 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums
16 charged for the insurance other than wet marine and transportation insurance and a premium
17 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and
18 transportation insurance. The term "premium" includes all premiums, membership fees,
19 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and
20 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar
21 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to
22 the director. In event of cancellation and rewriting of the insurance contract the additional
23 premium for premium receipts tax purposes is the premium in excess of the unearned premium
24 of the cancelled insurance contract. If the tax prescribed by this section is not paid within
25 the time stated, the tax may be increased by

26 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is
27 greater;

28 (2) interest at the rate of one percent a month or part of a month from the
29 date the payment was due to the date paid; and

30 (3) a penalty not to exceed \$100 a day or 25 percent of the tax due, whichever
31 is greater, from the date the payment was due to the date paid.

1 * **Sec. 110.** AS 21.33.061(d) is repealed and reenacted to read:

2 (d) In determining the amount of premiums taxable in this state, all premiums written,
3 procured, or received in this state shall be considered written on property or a subject located or
4 resident in this state, except premiums that are properly allocated or apportioned and reported as
5 taxable premiums of another state. In determining the amount of gross premiums taxable in this
6 state, the tax due shall be computed on that portion of the policy premium that is attributable to
7 a subject resident, located, or to be performed in this state and that relates to the kind of
8 insurance being placed as determined by reference to an allocation schedule as follows:

9 (1) if a policy covers more than one classification,

10 (A) for any portion of the coverage identified by a classification on the
11 allocation schedule, the tax shall be computed by using the allocation schedule for the
12 corresponding portion of the premium;

13 (B) for any portion of the coverage not identified by a classification on
14 the allocation schedule, the tax shall be computed by using an alternative equitable
15 method of allocation for the property or subject;

16 (C) for any portion of the coverage where the premium is indivisible, the
17 tax shall be computed by using the method of allocation that pertains to the classification
18 describing the predominant coverage;

19 (2) if the information provided is insufficient to substantiate the method of
20 allocation used, or if the director determines that the method is incorrect, the director shall
21 determine the equitable and appropriate amount of tax due to this state as follows:

22 (A) by use of the allocation schedule where the subject is appropriately
23 identified in the schedule;

24 (B) where the allocation schedule does not identify a classification
25 appropriate to the coverage, the director may give significant weight to documented
26 evidence of the underwriting bases and other criteria used by the insurer or may give
27 consideration to other available information to the extent sufficient and relevant, including
28 the percentage of the insured's physical assets in this state, the percentage of the insured's
29 sales in this state, the percentage of income or resources derived from this state, and the
30 amount of premium tax paid to another jurisdiction for the policy.

31 * **Sec. 111.** AS 21.33.061(g) is amended to read:

1 (g) This section does not apply to insurance of risks of the state, a political
2 subdivision of the state, insurance of aircraft regularly engaged in interstate or foreign
3 commerce, to life insurance, [INDIVIDUAL LIFE OR INDIVIDUAL] disability insurance, or
4 annuity contracts.

5 * Sec. 112. AS 21.33.065(a) is amended to read:

6 (a) A person other than an insured, who in this state represents or aids a nonadmitted
7 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than \$50,000
8 [\$5,000] in addition to applicable criminal penalties and other penalties prescribed in this title
9 [CHAPTER].

10 * Sec. 113. AS 21.33.065(b) is amended to read:

11 (b) In addition to any other penalty provided, a person who violates a provision of this
12 chapter is [SHALL BE] subject to a civil penalty of not more than \$10,000 [\$1,000] for the first
13 offense and not more than \$100,000 [\$2,000] for each succeeding violation.

14 * Sec. 114. AS 21.33.900 is amended to read:

15 Sec. 21.33.900. RECORDS OF INSURED. In order that the director may effectively
16 administer this chapter, a [EACH] person who has placed insurance with an unauthorized insurer
17 shall, upon the director's order, produce for the examination of the director all policies and other
18 documents evidencing the insurance and shall disclose to the director the amount of premiums
19 paid or agreed to be paid for the insurance and other information required by the director.
20 For each refusal to obey the order, in addition to any other penalties prescribed in this title,
21 the person is subject to a civil penalty of not more than \$25,000 [\$2,500] following an
22 appropriate hearing as provided in AS 21.06.170 - 21.06.230.

23 * Sec. 115. AS 21.33.910 is repealed and reenacted to read:

24 Sec. 21.33.910. DEFINITIONS. In this chapter,

- 25 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;
26 (2) "transaction of insurance" means the solicitation, negotiation, procurement,
27 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
28 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
29 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
30 insurance and arising out of it;
31 (3) "unauthorized person" means a person not licensed as a surplus lines broker,

1 or not a salaried employee of the insured;

2 (4) "wet marine and transportation insurance" has the meaning given in
3 AS 21.34.900.

4 * Sec. 116. AS 21.34.020 is repealed and reenacted to read:

5 Sec. 21.34.020. PLACEMENT OF SURPLUS LINES INSURANCE. Insurance other
6 than reinsurance, wet marine and transportation insurance, insurance independently procured, life
7 insurance, disability insurance, and annuity contracts may be procured through a surplus lines
8 broker licensed under AS 21.27 from nonadmitted insurers if

9 (1) the insurer is an eligible surplus lines insurer;

10 (2) the full amount, kind, or class of insurance cannot be obtained from insurers
11 who are admitted to do business in this state;

12 (3) the producing broker has conducted and documented a diligent search among
13 insurers who are admitted to transact business in this state and are actually writing the particular
14 kind or class of insurance required by the client in this state;

15 (4) the director authorizes an exception to (2) of this section by regulation or by
16 written authorization for an individual placement upon written request by the broker; and

17 (5) all other requirements of this chapter are met.

18 * Sec. 117. AS 21.34 is amended by adding a new section to read:

19 Sec. 21.34.025. SUBSCRIPTION POLICIES OR JOINT UNDERWRITING IN
20 COMBINATION WITH ADMITTED INSURERS. Subscription policies or joint underwriting
21 of insurance other than reinsurance, wet marine and transportation insurance, insurance
22 independently procured, life insurance, disability insurance, and annuity contracts by a
23 combination of authorized insurers and nonadmitted insurers is a surplus lines insurance
24 placement in its entirety, is subject to this chapter, is not subject to AS 21.39 or AS 21.42.120 -
25 21.42.130, and losses or claims are not covered by AS 21.80 (Alaska Insurance Guaranty
26 Association Act).

27 * Sec. 118. AS 21.34.040(a) is amended to read:

28 (a) Coverage may be placed in a nonadmitted insurer by a surplus lines broker only [,]
29 if

30 (1) at the time of placement, the nonadmitted insurer meets all the requirements
31 of this section; and

1 **(2) the surplus lines broker is licensed under AS 21.27.**

2 * **Sec. 119.** AS 21.34.040(c) is amended to read:

3 (c) A nonadmitted insurer may be eligible to provide coverage in this state if it qualifies
4 under one of the following:

5 (1) a foreign but nonalien stock insurer may qualify under this subsection if it has
6 the minimum unimpaired basic capital and additional surplus equal to that required in its
7 domiciliary jurisdiction, or maintains [~~\$5,000,000 AS OF JUNE 20, 1987, \$6,000,000 AS OF~~
8 DECEMBER 31, 1990,] \$10,000,000 as of December 31, 1991, \$12,500,000 as of December 31,
9 1992, and \$15,000,000 as of December 31, 1993, whichever is greater;

10 (2) a foreign but nonalien mutual insurer, a reciprocal insurer, or a mutual
11 protection and indemnity association may qualify under this subsection if it has the minimum
12 unimpaired basic surplus and additional surplus equal to that required in its domiciliary
13 jurisdiction or maintains [~~\$6,000,000 AS OF DECEMBER 31, 1990,]~~ \$10,000,000 as of
14 December 31, 1991, \$12,500,000 as of December 31, 1992, and \$15,000,000 as of December 31,
15 1993, whichever is greater;

16 (3) an alien insurer **other than an alien mutual protection and indemnity**
17 **association** may qualify under this subsection if it meets the minimum requirements in (1) or
18 (2) of this subsection and maintains in the United States an irrevocable trust fund [IN EITHER
19 A NATIONAL BANK OR A MEMBER OF THE FEDERAL RESERVE SYSTEM,] in an
20 amount not less than \$2,500,000 **in a solvent federally insured bank acceptable to the**
21 **director**, as security to the full amount, for the protection of all its policyholders and creditors
22 of each member of the mutual insurer, reciprocal insurer, or mutual protection and indemnity
23 association in the United States; the trust fund must consist of instruments of substantially the
24 same character and quality as those that are eligible investments for the capital and statutory
25 reserves of admitted insurers authorized to write like kinds of insurance in this state or of
26 irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date
27 that at no time is less than five years;

28 (4) a Lloyd's or other similar unincorporated group of alien individual insurers
29 may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to
30 the full amount, for the protection of all its policy holders and creditors of each member of the
31 group in the United States; the trust fund must consist of instruments of substantially the same

1 character and quality as those that are eligible investments for the capital and statutory reserves
2 of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable,
3 clean, and unconditional letters of credit; the trust fund must have an expiration date that at no
4 time is less than five years;

5 (5) an ["] insurance exchange ["] created by the laws of individual states may
6 qualify if it maintains capital and surplus, or the substantial equivalent, of not less than
7 \$50,000,000 in the aggregate; for insurance exchanges that maintain funds for the protection of
8 all insurance exchange policyholders, each individual syndicate shall maintain minimum capital
9 and surplus, or the substantial equivalent, of not less than \$3,000,000; in the event the insurance
10 exchange does not maintain funds for the protection of all its policyholders, each individual
11 syndicate shall meet the minimum requirements of (1) or (2) of this subsection;

12 (6) an alien mutual protection and indemnity association may qualify under
13 this subsection if it has the minimum unimpaired basic capital and additional surplus equal
14 to that required in its domiciliary jurisdiction or \$10,000,000, whichever is greater, and
15 maintains in the United States an irrevocable trust fund in an amount not less than
16 \$1,000,000 in a federally insured bank acceptable to the director, as security to the full
17 amount, for the protection of all its policyholders and creditors or each member of the
18 mutual protection and indemnity association in the United States; the trust fund must
19 consist of instruments of substantially the same character and quality as those that are
20 eligible investments for the capital and statutory reserves of admitted insurers authorized
21 to write wet marine and transportation insurance in this state or of irrevocable, clean, and
22 unconditional letters of credit; the trust fund must have an expiration date that at no time
23 is less than five years.

24 * Sec. 120. AS 21.34.040 is amended by adding a new subsection to read:

25 (e) The capital and surplus requirements of this section shall be calculated based upon
26 generally accepted accounting practices used in the United States of America.

27 * Sec. 121. AS 21.34.060 is amended to read:

28 Sec. 21.34.060. OTHER NONADMITTED INSURERS. Only that portion of a risk
29 eligible for export for which the full amount of coverage is not procurable from eligible surplus
30 lines insurers may be placed with another nonadmitted insurer that does not appear on the list
31 of eligible surplus lines insurers published under AS 21.34.050 but nonetheless meets the

1 requirements of AS 21.34.040 and a regulation adopted under this chapter. The surplus lines
2 broker seeking to provide coverage through an unlisted nonadmitted insurer shall within 30 days
3 after placing the coverage notify the director in writing on a form prescribed by the
4 director [MAKE A FILING SPECIFYING] the amount and percentage of each risk to be placed
5 and naming each nonadmitted insurer with which placements are intended. Within 30 days after
6 placing the coverage, the surplus lines broker shall also send written notice to the insured and
7 [OR] the producing broker that the insurance, or a portion of it, has been placed with the unlisted
8 nonadmitted insurer.

9 * Sec. 122. AS 21.34.070(b) is amended to read:

10 (b) The director may issue an order declaring [DECLARE] a nonadmitted insurer
11 ineligible if at any time the director has reason to believe that the nonadmitted insurer

- 12 (1) is in unsound financial condition;
13 (2) is no longer eligible under AS 21.34.040;
14 (3) has wilfully violated the laws of this state or another state; or
15 (4) does not reasonably investigate and make [REASONABLY] prompt payment
16 of just losses and claims in this state or another state [ELSEWHERE].

17 * Sec. 123. AS 21.34.080 is repealed and reenacted to read:

18 Sec. 21.34.080. EVIDENCE OF INSURANCE, AFFIDAVITS, DUTY TO FILE. (a)
19 A surplus lines broker shall execute and file with the monthly report required by AS 21.34.170
20 a written report, which shall be kept confidential, regarding each surplus lines insurance
21 transaction occurring in the preceding calendar month. The report must include

- 22 (1) the name and address of the insured;
23 (2) the identity of each insurer including the National Association of Insurance
24 Commissioners group and company insurer number and the percentage of coverage provided by
25 each;
26 (3) a complete description of the subject and location of the risk;
27 (4) the amount of premium charged for the insurance; and
28 (5) other information required by the director.

29 (b) Instead of the report required in (a) of this section, the director may order that
30 evidence of insurance be filed with the surplus lines association and that the surplus lines
31 association provide periodic reports regarding insurance transactions to the director.

1 (c) A producing broker shall execute and file with the director, or if ordered by the
2 director, with the surplus lines association, on or before the end of each month on a form
3 prescribed by the director, and a surplus lines broker shall file with the written report required
4 by (a) of this section, for surplus lines insurance first placed or renewed in the preceding calendar
5 month, an affidavit that shall be open to public inspection, as to the diligent efforts to place the
6 coverage with admitted insurers, and the results of those efforts. The affidavit must contain a
7 statement by the broker that the insured was expressly informed in writing before placement of
8 the surplus lines insurance that the surplus lines insurer with whom the insurance was to be
9 placed is not licensed in this state, is not subject to this state's supervision, and in the event of
10 the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
11 Insurance Guaranty Association Act).

12 * Sec. 124. AS 21.34.090(a) is amended to read:

13 (a) A surplus lines association of surplus lines brokers may be formed to

14 (1) facilitate and encourage compliance by its members with the laws of this state
15 and the regulations relative to surplus lines insurance;

16 (2) attend National Association of Insurance Commissioners meetings and
17 participate in task forces and work groups [PROVIDE MEANS FOR THE EXAMINATION,
18 WHICH SHALL REMAIN CONFIDENTIAL, OF ALL SURPLUS LINES COVERAGES
19 WRITTEN BY ITS MEMBERS TO DETERMINE WHETHER THE COVERAGES COMPLY
20 WITH THE LAWS AND REGULATIONS OF THIS STATE];

21 (3) communicate with organizations of admitted insurers with respect to the
22 proper use of the surplus lines market;

23 (4) receive and disseminate to its members information relative to surplus lines
24 coverages; and

25 (5) contract with the director to receive reports and affidavits under
26 AS 21.34.080 that verify that coverage has been placed with eligible surplus lines insurers,
27 that verify the amount of taxes under AS 21.34.180 and fees under AS 21.34.190 for surplus
28 lines insurance for each surplus lines broker, and to prepare periodic reports as required
29 by the director [RECEIVE AND COLLECT ON BEHALF OF THE STATE AND REMIT TO
30 THE STATE PREMIUM RECEIPTS TAX FOR SURPLUS LINES INSURANCE].

31 * Sec. 125. AS 21.34.090(c) is repealed and reenacted to read:

1 (c) A surplus lines association is subject to the same penalties under this title as a surplus
2 lines broker.

3 * Sec. 126. AS 21.34.090 is amended by adding a new subsection to read:

4 (e) The surplus lines association shall maintain its place of business in this state.

5 * Sec. 127. AS 21.34.100(a) is amended to read:

6 (a) When surplus lines insurance is placed, the surplus lines broker shall within 30 days
7 after placing the coverage [PROMPTLY] deliver to the insured or the producing broker the
8 policy, or if the policy is not then available, a certificate, cover note, binder, or other evidence
9 of insurance. The certificate, cover note, binder, or other evidence of insurance shall be executed
10 by the surplus lines broker and must [SHALL] contain a complete record of all policy insuring
11 agreements, conditions, exclusions, clauses, endorsements, other material facts that would
12 regularly be included in the policy, description, and location of the subject of insurance, a general
13 description of the coverages of the insurance, the premium and rate charged and taxes to be
14 collected from the insured, the name and address of the insured, the name of each surplus lines
15 insurer and the percentage of the entire risk assumed by each, the name of the surplus lines
16 broker, and the license number of the surplus lines broker.

17 * Sec. 128. AS 21.34.110 is amended to read:

18 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A
19 contract of insurance placed by a surplus lines broker under this chapter is [SHALL] not [BE]
20 binding upon the insured and a premium charged is [SHALL] not [BE] due and payable until the
21 surplus lines broker has notified the insured in writing, a copy of which shall be maintained by
22 the licensee with the records of the contract, available for examination, that the insurer with
23 which the surplus lines broker places the insurance does not hold a certificate of authority
24 issued [IS NOT LICENSED] by this state and is not subject to its supervision, and in the event
25 of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
26 Insurance Guaranty Association Act) [PAID BY THE STATE INSURANCE GUARANTY
27 FUND]. Nothing in this section shall nullify an agreement by an insurer to provide insurance.

28 * Sec. 129. AS 21.34.130 is amended to read:

29 Sec. 21.34.130. EFFECT OF PAYMENT TO SURPLUS LINES BROKER. A payment
30 of premium to a surplus lines broker acting for a person other than itself [ONESELF] in
31 negotiating, continuing, or reviewing a policy of insurance under this chapter, is considered to

1 be payment to the insurer, notwithstanding conditions or stipulations in the policy or contract to
2 the contrary.

3 * **Sec. 130.** AS 21.34.150 is amended to read:

4 **Sec. 21.34.150. SURPLUS LINES BROKERS MAY ACCEPT BUSINESS FROM**
5 **OTHER BROKERS.** A surplus lines broker licensed by this state may originate surplus lines
6 insurance or accept surplus lines insurance from another [BROKER OR] surplus lines broker
7 licensed by [IN] this state or a producing broker licensed by this state as to the kind and class
8 of insurance involved. The surplus lines broker may compensate the producing [LICENSED]
9 broker or surplus lines broker for the insurance.

10 * **Sec. 131.** AS 21.34.170 is repealed and reenacted to read:

11 **Sec. 21.34.170. MONTHLY REPORTS, SUMMARY OF EXPORTED BUSINESS.** (a)
12 A surplus lines broker shall file with the director on or before the end of each month, on forms
13 prescribed by the director, a verified report in duplicate of all surplus lines insurance, by type of
14 insurance as required to be reported in the annual statement that must be filed with the director
15 by admitted insurers. The report must include all surplus lines insurance transactions during the
16 preceding calendar month showing the aggregate gross premiums written, the aggregate return
17 premiums, the amount of aggregate tax remitted to this state, and the amount of aggregate tax
18 remitted to each other state for which an allocation is made under AS 21.34.150.

19 (b) Instead of the report required under (a) of this section, the director may order that
20 evidence of insurance be filed with surplus lines association and that the association file periodic
21 reports regarding insurance transactions to the director.

22 * **Sec. 132.** AS 21.34.180 is repealed and reenacted to read:

23 **Sec. 21.34.180. SURPLUS LINES TAX.** (a) Gross premiums charged, less any return
24 premium, for surplus lines insurance are subject to a premium receipts tax of 2.7 percent, that
25 shall be collected by the surplus lines broker in addition to the full amount of the gross premium
26 charged by the insurer for the insurance. The tax on any portion of the premium unearned at
27 termination of the insurance that is credited by the state to the surplus lines broker shall be
28 returned to the policyholder directly by the surplus lines broker or through the producing broker,
29 if any. If a surplus lines policy procured through a surplus lines broker covers property or a
30 subject resident, located, or to be performed both inside and outside of this state, the tax payable
31 shall be computed on that portion of the gross premiums properly allocated to this state. The

1 surplus lines broker may not absorb the tax or any part of it and may not rebate the tax or a part
2 of the tax.

3 (b) The surplus lines tax is due and shall be paid to the director at the end of January,
4 April, July, and October. The tax shall be reported on forms prescribed by the director for all
5 insurance transacted under this chapter during the preceding calendar quarter.

6 (c) If the tax is not paid when due, an additional late payment fee of \$250 plus two
7 percent of the tax due per month, or part of a month, shall become due and payable by the
8 surplus lines broker.

9 (d) If a surplus lines policy procured through a licensed surplus lines broker covers
10 property, a subject, or exposure only partially resident, located, or to be performed in this state,
11 the tax payable shall be computed on the portions of the premium that are attributable to the
12 property or subject located or to be performed in this state. In determining the amount of a
13 premium taxable in this state, all premiums written, procured, or received in this state shall be
14 considered written on property or subject located or resident in this state, except premiums that
15 are properly allocated or apportioned and reported as taxable premiums of a reciprocal state. The
16 tax payable to this state may not be less than the tax due under this section, except that if the
17 amount of tax due under this section is less than \$50 in any jurisdiction, it shall be payable in
18 the jurisdiction in which the affidavit required in AS 21.34.080 is filed.

19 (e) The director shall, at least annually, furnish to the commissioner, director, or
20 superintendent of a reciprocal state a copy of all filings reporting an allocation of tax as required
21 by (d) of this section.

22 (f) In determining the amount of gross premiums taxable in this state for a placement of
23 surplus lines insurance covering a subject resident, located, or to be performed both inside and
24 outside this state, the tax due shall be computed on that portion of the policy premium that is
25 attributable to a subject resident, located, or to be performed in this state and that relate to the
26 kind of insurance being placed as determined by reference to an allocation schedule as follows:

27 (1) if a policy covers more than one classification,

28 (A) for any portion of the coverage identified by a classification on the
29 allocation schedule, the tax shall be computed by using the allocation schedule for the
30 corresponding portion of the premium;

31 (B) for any portion of the coverage not identified by a classification on

1 the allocation schedule, the tax shall be computed by using an alternative equitable
2 method of allocation for the property or subject;

3 (C) for any portion of the coverage where the premium is indivisible, the
4 tax shall be computed by using the method of allocation that pertains to the classification
5 describing the predominant coverage;

6 (2) if the information provided by the surplus lines broker is insufficient to
7 substantiate the method of allocation used by the surplus lines broker or if the director determines
8 that the surplus lines broker's method is incorrect, the director shall determine the equitable and
9 appropriate amount of tax due to this state as follows:

10 (A) by use of the allocation schedule where the subject is appropriately
11 identified in the schedule;

12 (B) where the allocation schedule does not identify a classification
13 appropriate to the coverage, the director may give significant weight to documented
14 evidence of the underwriting bases and other criteria used by the insurer or may give
15 consideration to other available information to the extent sufficient and relevant, including
16 the percentage of the insured's physical assets in this state, the percentage of the insured's
17 sales in this state, the percentage of income or resources derived from this state, and the
18 amount of premium tax paid to another jurisdiction for the policy.

19 (g) This section does not apply to insurance of risks of the state, or a political subdivision
20 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

21 * Sec. 133. AS 21.34.190 is amended to read:

22 Sec. 21.34.190. FILING FEE. The fee for filing the statement under AS 21.34.180(b)
23 is an amount equal to one percent on gross premium charged less any return premiums during
24 the preceding calendar quarter [YEAR]. The surplus lines broker shall pay the fee at the time
25 of filing of the statement.

26 * Sec. 134. AS 21.34.190 is amended by adding a new subsection to read:

27 (b) If the filing fee is not paid when due, an additional late payment fee of \$250 plus two
28 percent of the fee due per month, or part of a month, shall become due and payable by the
29 surplus lines broker.

30 * Sec. 135. AS 21.34.200(a) is amended to read:

31 (a) If the tax collectible under AS 21.34.180 or the fee collectible under AS 21.34.190

1 by a surplus lines broker is not paid within the time prescribed, the tax, fee, or both, and late
2 payment fees, along with appropriate penalties may be collected by distraint or by an action in
3 court, against the surplus lines licensee and the surety on the bond filed under AS 21.27.790
4 [AS 21.34.140(b)(4)].

5 * Sec. 136. AS 21.34.230 is repealed and reenacted to read:

6 Sec. 21.34.230. PENALTIES. (a) In addition to any other penalty provided by law, a
7 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
8 of this chapter is subject to

9 (1) a civil penalty equal to the compensation promised, paid or to be paid, directly
10 or indirectly, to a licensee in regard to each violation; and

11 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
12 penalty of not more than \$25,000 for each violation if the director determines that the person
13 wilfully violated the provisions of this chapter.

14 (b) A violation of this chapter is cause for denial, nonrenewal, suspension, or revocation
15 of a license.

16 * Sec. 137. AS 21.34.900 is repealed and reenacted to read:

17 Sec. 21.34.900. DEFINITIONS. In this chapter,

18 (1) "capital" means money paid in for stock or other evidence of ownership;

19 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a
20 surplus lines broker may place surplus lines insurance under AS 21.34.040;

21 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;

22 (4) "kind of insurance" means one of the kinds of insurance defined in
23 AS 21.12.040 - 21.12.110;

24 (5) "producing broker" means the insurance producer or surplus lines broker
25 licensed under AS 21.27 dealing directly with the client seeking insurance;

26 (6) "reciprocal state" means a state that the director has determined has enacted
27 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

28 (7) "surplus," as used in the financial requirements of AS 21.34.040, means
29 money over and above liabilities and capital of the company for the protection of policyholders;

30 (8) "transaction of insurance" means the solicitation, negotiation, procurement,
31 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;

1 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
2 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
3 insurance and arising out of it;

4 (9) "wet marine and transportation insurance" means

5 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,
6 except vessels of 50 displacement tons or less;

7 (B) insurance of marine builders risks, marine war risks, and contracts of
8 marine protection and indemnity insurance;

9 (C) insurance of freight and disbursements pertaining to a subject of
10 insurance coming within this paragraph; and

11 (D) insurance of personal property and interests in personal property, in
12 course of exportation from or importation into a country or in the course of coastal or
13 inland water transportation, including transportation by land, water, or air from point of
14 origin to final destination in connection with any and all risks or perils of navigation,
15 transit, or transportation, and while being repaired for and while awaiting shipment, and
16 during any delays, transshipment, or reshipment incident to them.

17 * Sec. 138. AS 21.36.020 is amended to read:

18 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person
19 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject
20 resident, located, or to be performed in this state that is defined in this chapter as, or
21 determined under this chapter to be, an unfair method of competition or an unfair or deceptive
22 act or practice in the business of insurance.

23 * Sec. 139. AS 21.36 is amended by adding a new section to read:

24 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may
25 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,
26 financial counselor, or similar specialist engaged in the business of giving financial planning or
27 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when
28 the person is in fact only engaging in the sale of insurance.

29 (b) A person may not engage in the business of financial planning and solicit the sale
30 of a product or service on the basis that the person is an insurance salesperson or that a
31 commission for the sale of an insurance product will be received in addition to a fee for financial

1 planning without full disclosure to the client before the execution of the agreement required in
2 (c) of this section.

3 (c) A person licensed under this title may not charge a fee other than a commission for
4 financial planning unless the fee is based upon a written agreement signed before the
5 performance of a service under the agreement. The insurance salesperson shall provide the client
6 a copy of the signed agreement at the time of signing. The agreement must specifically state the
7 service for which a fee is to be charged and how the fee will be determined or calculated. The
8 agreement must provide that the client is under no obligation to purchase an insurance product.
9 The licensee shall retain a copy of the agreement for not less than five years after completion of
10 services and the agreement shall be available to the director upon request.

11 * Sec. 140. AS 21.36.150(a) is amended to read:

12 (a) If the director believes that a person engaged in the insurance business is engaging
13 in this state in an unfair method of competition or in an unfair or deceptive act or practice in the
14 conduct of the business that is not defined as being unfair or deceptive under this title
15 [CHAPTER], the director shall hold a hearing on the matter, if the director believes it would be
16 in the public interest to do so after giving notice of the hearing and of the charges. Upon
17 conclusion of the hearing the director shall make a written report of the findings of fact relative
18 to the charges and serve a copy upon the person and any intervenor at the hearing.

19 * Sec. 141. AS 21.36.150(b) is amended to read:

20 (b) If the report charges a violation of this title [CHAPTER] and if the method of
21 competition, act, or practice has not been discontinued, the director may, through the attorney
22 general of this state, at any time after the service of the report, cause an action to be instituted
23 to enjoin and restrain the person from engaging in the method, act, or practice. In the action the
24 court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not
25 be required to give security before the issuance of the order or injunction. If a stenographic
26 [STENOGRAPH] record of the proceedings in the hearing before the director was made, a
27 certified transcript, including all evidence taken and the report and findings, shall be received in
28 evidence in the action.

29 * Sec. 142. AS 21.36.150 is amended by adding a new subsection to read:

30 (d) In addition to the unfair methods and unfair or deceptive acts or practices expressly
31 defined in this title, the director may define other methods of competition and other acts and

1 practices in the conduct of the business of insurance found by the director to be unfair or
2 deceptive.

3 * Sec. 143. AS 21.36.255(a) is amended to read:

4 (a) If an insurance policy is cancelled, rejected, or rescinded by the

5 (1) insurer, the insurer shall refund the unearned premium paid to the insured or
6 premium finance company; or

7 (2) insured, the insurer shall return any unearned premium paid to the insured or
8 premium finance company, less a cancellation fee not to exceed 7.5 percent of the unearned
9 premium; a cancellation fee may not be charged unless the fee is clearly stated in the policy; the
10 insurer shall return or credit the unearned premium less a lawful cancellation fee

11 (A) within 30 days on a policy not subject to audit; or

12 (B) within 30 days of completion of an audit; the insurer shall perform
13 and complete an audit within 30 days unless the audit cannot reasonably be
14 completed using due diligence and the insured is advised in writing of the reason
15 why additional time is necessary to complete the audit and when the audit will be
16 completed.

17 * Sec. 144. AS 21.36.310(1) is amended to read:

18 (1) "business or commercial insurance" means insurance other than personal
19 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title
20 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN
21 AS 21.34.900,] or an annuity contract;

22 * Sec. 145. AS 21.36.320(a) is amended to read:

23 (a) On the complaint of a person or on the motion of the director, the director may
24 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an
25 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

26 * Sec. 146. AS 21.36.320(c) is amended to read:

27 (c) If the director determines that a person violated [ON A FINDING OF A
28 VIOLATION OF] this chapter, the director shall serve upon the person charged an order
29 requiring that person to cease and desist from engaging in the act or practice [STOP THE
30 ACTS OR PRACTICES].

31 * Sec. 147. AS 21.36.320(d) is amended to read:

1 (d) In addition to an order issued under (c) of this section, the director may, after a
2 hearing, order restitution, suspend or revoke the person's license, and [ALSO] order a
3 penalty of not more than \$10,000 [\$1,000] for each act or \$100,000 [\$10,000] for engaging in
4 a general business practice in violation of this chapter.

5 * Sec. 148. AS 21.36.320(e) is amended to read:

6 (e) If the director determines after a hearing that the person charged knew or should
7 have known that the person was in violation of this chapter, a penalty in addition to that
8 prescribed in (d) of this section of not more than \$25,000 [\$1,000] for each act or \$250,000
9 [\$25,000] for engaging in the general business practice in violation of this chapter [, OR
10 SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also be
11 ordered by the director.

12 * Sec. 149. AS 21.36.320(f) is amended to read:

13 (f) If the director believes that a person has violated a cease and desist [STOP] order
14 issued under (c) of this section, the director may certify the relevant facts to the superior court
15 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and
16 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist
17 [STOP] order has been violated, may order the violator to comply with the order, pay an
18 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may
19 revoke or suspend the violator's license, and may bar the violator from transacting the
20 business of insurance in the future [OR BOTH].

21 * Sec. 150. AS 21.36.350 is amended to read:

22 Sec. 21.36.350. ENFORCEMENT. The director may [OF INSURANCE SHALL] adopt
23 regulations to implement, define, and enforce this chapter [AS 21.36.125].

24 * Sec. 151. AS 21.36.370 is amended to read:

25 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING
26 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

27 (1) the charging and collection by surplus line brokers licensed under AS 21.27
28 [AS 21.33] of the amount of applicable state and federal taxes and filing fees under AS 21.34
29 is not considered a premium or charge for insurance [AS 21.34.180 - 21.34.190;

30 (2) THE CHARGING AND COLLECTION BY A LIFE INSURER OF
31 AMOUNTS ACTUALLY TO BE EXPENDED FOR MEDICAL EXAMINATION OF AN

1 **APPLICANT FOR LIFE INSURANCE OR FOR REINSTATEMENT OF A LIFE INSURANCE**
2 **POLICY].**

3 * **Sec. 152.** AS 21.42 is amended by adding a new section to read:

4 **AS 21.42.025. INSTITUTIONAL BENEFICIARY INSTEAD OF INSURABLE**
5 **INTEREST.** (a) Except as provided under (e) of this section, a life insurance contract may be
6 entered into in which a charitable organization is designated as the beneficiary or in which the
7 person or organization paying the premium for the insurance has no insurable interest in the life
8 of the individual insured.

9 (b) To enter into a contract of life insurance described in (a) of this section

10 (1) the person or organization paying the premium shall make and sign the
11 application for life insurance as owner and irrevocably designate a charitable organization as the
12 beneficiary of the life insurance contract; and

13 (2) the application shall be signed by the individual whose life is to be insured.

14 (c) This section does not prohibit any combination of the insured, applicant, premium
15 payer, owner, and beneficiary from being the same person or the insured from modifying the
16 contract.

17 (d) A contract of life insurance described in (a) of this section that is not for the benefit
18 of a charitable organization described in (e) of this section is valid and binding among the parties
19 in the absence of an insurable interest as described in AS 21.42.020.

20 (e) A contract of life insurance may not be entered into by a charitable organization

21 (1) that

22 (A) loans to a controlling person a part of its income or corpus without
23 the receipt of adequate security and a reasonable rate of interest;

24 (B) pays to a controlling person compensation in excess of a reasonable
25 allowance for salaries or other compensation for personal services actually rendered;

26 (C) makes a part of its services available on a preferential basis to a
27 controlling person;

28 (D) makes a substantial purchase of securities or other property for more
29 than adequate consideration in money or money's worth from a controlling person;

30 (E) sells a substantial part of its securities or other property for less than
31 an adequate consideration in money or money's worth to a controlling person; or

1 (F) engages in another transaction that results in a substantial diversion
2 of its income or corpus to a controlling person;

3 (2) if a substantial part of its activities consists of providing commercial type of
4 insurance;

5 (3) that is chartered by or is an instrumentality of the federal government; or

6 (4) if the charter, bylaws, or other governing instrument or a written policy
7 statement contains a provision that provides for discrimination against a person on the basis of
8 race, color, or religion.

9 (f) Paragraph (e)(4) of this section does not apply to

10 (1) an auxiliary or feeder organization of a fraternal beneficiary society if the
11 society is described in 26 U.S.C. 501(c)(8), is exempt from tax under 26 U.S.C. 501(a), and
12 limits its membership to the members of a particular religion; or

13 (2) a club or feeder organization exempt from tax under 26 U.S.C. 501(a) that in
14 good faith limits its membership to the members of a particular religion in order to further the
15 teachings or principles of that religion and not to exclude individuals of a particular race or color.

16 (g) In this section,

17 (1) "charitable organization" means a

18 (A) charitable organization described in 26 U.S.C. 170(b)(1)(A), 26 U.S.C.
19 170(c)(2) - (5), and 42 U.S.C. 701(c);

20 (B) feeder organization; or

21 (C) organization providing child care;

22 (2) "commercial type of insurance" means all other insurance except

23 (A) insurance provided at substantially below cost to a class of charitable
24 recipients; or

25 (B) incidental health insurance provided by a health maintenance
26 organization of a kind customarily provided by the organization;

27 (3) "controlling person" means the creator of a charitable organization, if a trust;
28 a person who has made a substantial contribution to a charitable organization; a member of the
29 family, or a successor of an individual who is the creator of the trust or who has made a
30 substantial contribution to the charitable organization; or a corporation controlled by the creator
31 or person through ownership, directly or indirectly, of 50 percent or more of the total combined

1 voting power of all classes of stock entitled to vote or 50 percent or more of the total value of
2 shares of all classes of stock of the corporation;

3 (4) "feeder organization" means an organization operated on a for profit basis, 95
4 percent or more of whose profits are donated to one or more charitable organizations;

5 (5) "member of the family" has the meaning given in 26 U.S.C. 267(c)(4);

6 (6) "organization providing child care" means a charitable organization providing
7 for care of children away from their homes if

8 (A) substantially all of the care provided by the organization is for
9 purposes of enabling individuals to be gainfully employed; and

10 (B) the services provided by the organization are available to the general
11 public.

12 * Sec. 153. AS 21.66.010(a) is amended to read:

13 (a) Before a domestic or foreign title insurance company is entitled to a certificate of
14 authority to transact a title insurance business in this state it shall have basic capital, additional
15 surplus when first authorized, and additional maintained surplus as required by
16 AS 21.09.070 including a deposit as required in AS 21.09.090 [A PAID-UP UNIMPAIRED
17 CASH CAPITAL EQUAL TO NOT LESS THAN \$250,000, \$100,000 OF WHICH SHALL BE
18 DEPOSITED WITH THE DIRECTOR OF INSURANCE AS A GUARANTY FUND FOR THE
19 PROTECTION OF THE INSURED UNDER POLICIES OF TITLE INSURANCE ISSUED BY
20 THE COMPANY].

21 * Sec. 154. AS 21.66.010(b) is amended to read:

22 (b) A domestic or foreign title insurance company shall have on deposit with the director
23 or insurance commissioner of the state of its domicile, before the issuance of any policy of title
24 insurance in this state, the amount required by AS 21.09.090 for the purpose described in that
25 section [SUM OF \$100,000 AS A GUARANTEE FUND FOR THE SECURITY AND
26 PROTECTION OF ITS POLICYHOLDERS OR THEIR BENEFICIARIES WHEREVER
27 SITUATED]. The amount of this deposit shall be increased by the sum of \$50,000 for each state
28 or territorial subdivision of the United States or the District of Columbia, other than the state of
29 its domicile, in which it becomes qualified to engage in the business of title insurance, less the
30 amount required by and deposited in the other states or territorial subdivisions, provided [
31 HOWEVER,] the deposits shall be for the security and protection of its policyholders or their

1 beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states
2 or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further
3 deposit is required of the title insurance company as a condition of engaging in the business of
4 title insurance in this state.

5 * Sec. 155. AS 21.66.020 is amended to read:

6 Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of
7 each annual statement the title insurance company shall deposit with the director a sum equal to
8 10 percent of the premiums received by it during the preceding year covering property in this
9 state, as shown by the annual statement, until the accumulated deposits, added to the sums
10 originally deposited with the director, as provided in this chapter, total \$750,000 [\$100,000] but
11 [IN NO EVENT MAY] the title insurance company may not be required to deposit more than
12 \$50,000 [\$10,000] in any one year.

13 * Sec. 156. AS 21.66.060 is amended to read:

14 Sec. 21.66.060. DIVIDENDS. A title insurance company may not pay dividends except
15 from net profits remaining on hand after retaining unimpaired

16 (1) the subscribed capital stock;

17 (2) the amount required to be set aside as unearned premium reserve fund under
18 AS 21.18.073;

19 (3) a sum sufficient to pay current liabilities for operating expenses and taxes, and
20 losses established or in process of settlement, without impairment of the unearned premium
21 reserve fund required under AS 21.18.073.

22 * Sec. 157. AS 21.66.080(a) is amended to read:

23 (a) Every [TITLE INSURANCE] company, on or before March 1 of each year, shall
24 furnish the director a sworn statement of assets and liabilities, and of all title premiums received
25 by it during the preceding calendar year, setting out among other things the amounts that
26 [THREE PERCENT OF ALL GROSS PREMIUMS ON TITLE INSURANCE POLICIES
27 ISSUED BY IT DURING THE YEAR, COVERING PROPERTY IN THIS STATE,] have been
28 set aside and held by it in an account required under AS 21.18.073 [KNOWN AS THE TITLE
29 INSURANCE UNEARNED PREMIUM RESERVE FUND, AS PROVIDED IN THIS
30 CHAPTER]. The reporting format for a given year is the most recently approved National
31 Association of Insurance Commissioners [COMMISSIONERS'] Annual Financial Statement

1 blank form and instructions, supplemented for additional information as required by the director.
2 The director may require the statement to be filed on electronic media. The statement must also
3 show all unpaid losses and claims upon title insurance policies of which the title insurance
4 company has received due notice in writing from or on behalf of the insured. With the filing of
5 the statement the title insurance company shall pay a filing fee set under AS 21.06.250.

6 * **Sec. 158.** AS 21.66.090(a) is amended to read:

7 (a) Every company, before engaging in a title insurance business in this state, shall apply
8 to the director for a certificate of authority to transact business under AS 21.09. [THE
9 COMPANY SHALL SUBMIT WITH THE APPLICATION A STATEMENT SWORN TO BY
10 THE PROPER OFFICERS OF THE COMPANY SHOWING ITS ASSETS AND LIABILITIES
11 AND THAT IT HAS COMPLIED WITH THE CAPITAL REQUIREMENTS AND INITIAL
12 GUARANTEE FUND DEPOSIT PRESCRIBED BY THIS CHAPTER.]

13 * **Sec. 159.** AS 21.66.110 is amended to read:

14 Sec. 21.66.110. ANNUAL TAX ON TITLE INSURANCE PREMIUMS. Annually each
15 title insurance company shall pay on or before March 1 [APRIL 1], a tax of one percent of the
16 amount of gross title insurance premiums received by it including as premium income received
17 from guaranteed certificates of title and other guarantees of title during the preceding calendar
18 year covering property in this state, as shown by its annual statement to the director.

19 * **Sec. 160.** AS 21.66.170(a) is amended to read:

20 (a) A policy or contract of title insurance may not be written until the title insurance
21 company conducts or has conducted a reasonable search and examination of the title and has
22 made a determination of insurability of title in accordance with its established underwriting
23 practices. Evidence of the determination shall be preserved and retained in the files of the title
24 insurance company or its agent for a period of not less than 15 years after the policy or contract
25 of title insurance has been issued. In lieu of retaining the original evidence, the title insurance
26 company or the title insurance limited producer [AGENT], may, in the regular course of
27 business, establish a system by which all or part of these writings are recorded, copied, or
28 reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or
29 other process that accurately reproduces or forms a durable medium for reproducing the original.

30 * **Sec. 161.** AS 21.66.180 is amended to read:

31 Sec. 21.66.180. GENERAL POWERS. A title insurance company may

- 1 (1) do business as defined in AS 21.66.480;
2 (2) do any act, directly or through a title insurance limited producer [AGENT],
3 incidental to making a contract or policy of title insurance, including, but not limited to,
4 conducting or holding an escrow, settlement, or closing of a transaction; and,
5 (3) provide other services relative or incidental to the sale and transfer of real or
6 personal property.

7 * Sec. 162. AS 21.66.210(a) is amended to read:

8 (a) Two or more title insurance companies or two or more title insurance limited
9 producers, or a combination of title insurance companies and title insurance limited
10 producers [AND ONE OR MORE TITLE INSURANCE AGENTS] may apply to the director
11 of insurance to form an association, corporation, or other legal entity, for the purpose of engaging
12 in the business of preparing abstracts of title searches from public records or from records to be
13 owned by the entity, upon the basis of which a title insurance limited producer [AGENT] or a
14 title insurance company will issue title policies. The owners or participants are considered to be
15 in compliance with the provisions of this section if the title plant of the association, corporation,
16 or other legal entity complies with the provisions of this section. The application must contain

17 (1) a copy of the proposed articles of incorporation or association and the bylaws
18 or agreement governing the operation of the entity;

19 (2) a list of the owners or participants;

20 (3) the names and addresses of the persons who will operate the entity, with a
21 description of their experience and qualifications;

22 (4) the conditions under which ownership or participation in the entity may be
23 sold or acquired;

24 (5) a statement of whether or not title information will be compiled and sold to
25 persons other than owners of or participants in the entity;

26 (6) a pro forma balance sheet and other financial information to indicate the
27 sufficiency of financing the entity.

28 * Sec. 163. AS 21.66.270 is amended to read:

29 Sec. 21.66.270. TITLE INSURANCE LIMITED PRODUCERS [AGENTS] TO BE
30 LICENSED. A title [TITLE] insurance limited producer [AGENTS] shall be licensed in the
31 manner provided for [AGENTS OF INSURANCE COMPANIES] in AS 21.27. A title

1 insurance limited producer may not be licensed to sell insurance other than title insurance.

2 * Sec. 164. AS 21.66.280 is amended to read:

3 Sec. 21.66.280. TITLE INSURANCE LIMITED PRODUCERS [AGENTS], BOOKS,
4 AND RECORDS. (a) In addition to any other requirement of this title, a [EACH] title
5 insurance limited producer licensee [AGENT] shall maintain books of accounts and records and
6 vouchers pertaining to the business of title insurance in a manner that the director, or an
7 authorized representative, may readily ascertain whether the licensee [AGENT] has complied with
8 the provisions of this chapter.

9 (b) A title insurance limited producer licensee [AGENT] may engage in the business
10 of handling escrows, settlements, and closings in connection with the business of title insurance;
11 however,

12 (1) the licensee [AGENT] shall maintain a separate record of all receipts and
13 disbursements of escrow funds and may not commingle the funds with personal funds or with
14 funds held by the licensee [AGENT] in any other capacity;

15 (2) the licensee [AGENT] shall comply with the standards of solvency that the
16 director requires; and

17 (3) the licensee [AGENT] shall submit financial statements that the director
18 requires.

19 (c) In addition to any other penalty provided by law, if [IF] the director determines
20 that a title insurance limited producer licensee [AN AGENT] has failed to comply with a
21 provision of this section, the director may, after a hearing, revoke the limited producer license
22 [OF THE AGENT].

23 * Sec. 165. AS 21.66.290 is amended to read:

24 Sec. 21.66.290. TITLE INSURANCE LIMITED PRODUCER [AGENT] REPLIES
25 TO DIRECTOR INQUIRIES. A [EACH] title insurance limited producer [AGENT] shall reply
26 in writing promptly, with a copy of the reply mailed to each title insurance company for which
27 the licensee [AGENT] is acting, to an inquiry of the director relating to the licensee's
28 [AGENT'S] acts as a title insurance limited producer [AGENT]. In addition to any other
29 penalty provided by law, failure [FAILURE] to reply is a ground for revocation of the
30 [AGENT'S] license. A [IN ADDITION, A] copy of the inquiry shall be sent by the director to
31 each title insurance company for which the licensee [AGENT] is acting.

1 * **Sec. 166.** AS 21.66.300 is amended to read:

2 **Sec. 21.66.300. CERTAIN [AGENCY] NAMES PROHIBITED.** A title insurance
3 limited producer [AFTER AUGUST 14, 1974, AN AGENT] for a title insurance company may
4 not adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee",
5 unless the words are followed by the words "agent" or "agency" in the same size and type as the
6 words preceding them. This section does not apply to a title insurance company acting as an
7 agent for another title insurance company.

8 * **Sec. 167.** AS 21.66.310(a) is amended to read:

9 (a) A title insurer, or officer, employee, attorney, or title insurance limited producer
10 [AGENT, OR SOLICITOR] of a title insurer, may not pay, allow, or give or offer to pay, allow,
11 or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate,
12 reduction, or abatement of a rate or charge made incident to the issuance of the title insurance,
13 a special favor or advantage, money consideration, or other inducement. A charge made incident
14 to the issuance of the insurance is construed to include, without limitation, escrow, settlement,
15 and closing charges.

16 * **Sec. 168.** AS 21.66.310(c) is amended to read:

17 (c) Nothing in this section prohibits

18 (1) the payment of fees for services actually rendered as a result of a title
19 insurance transaction; or

20 (2) the payment of a commission to a legally appointed title insurance limited
21 producer [AGENT] who issues the policy of title insurance.

22 * **Sec. 169.** AS 21.66.330 is amended to read:

23 **Sec. 21.66.330. EXAMINATION OF RECORDS.** If the director has reason to believe
24 that a title insurance limited producer [AGENT] has violated or is in violation of AS 21.66.310,
25 the director shall immediately examine the title insurance limited producer's [AGENT'S] books
26 of account and record and vouchers pertaining to the business of title insurance. The title
27 insurance limited producer [AGENT] shall pay to the director the cost of an examination
28 conducted under this section.

29 * **Sec. 170.** AS 21.66.350 is amended to read:

30 **Sec. 21.66.350. DIVISION OF RATES.** Nothing in this chapter prohibits the division
31 of rates and charges between or among a title insurance company and its agent, two or more title

1 insurance companies, one or more title insurance companies and one or more title insurance
2 limited producers [AGENTS], or two or more title insurance limited producers [AGENTS,]
3 if the division of rates and charges does not constitute an unlawful rebate and is not in payment
4 of a forwarding fee or finder's fee.

5 * **Sec. 171.** AS 21.66.370(a) is amended to read:

6 (a) A title insurance company shall file with the director its schedules of rates, manuals
7 of classifications, rules and plans relating to schedules of rates or manuals of classification, and
8 every modification of the schedules or manuals that it proposes to use in this state. A filing
9 under this section must contain the effective dates of the documents filed, and indicate the
10 character and extent of the coverage contemplated. [A TITLE INSURANCE COMPANY MAY
11 SATISFY ITS OBLIGATIONS TO MAKE THESE FILINGS BY BECOMING A MEMBER OF,
12 OR A SUBSCRIBER TO, A LICENSED TITLE INSURANCE RATING ORGANIZATION
13 THAT MAKES SUCH FILINGS, AND BY AUTHORIZING THE COMMISSIONER TO
14 ACCEPT THE FILINGS ON ITS BEHALF.]

15 * **Sec. 172.** AS 21.66.370(c) is amended to read:

16 (c) Subject to the provisions of (e) of this section, a [EACH] filing shall be on file for
17 a period of 30 days before it becomes effective. The director may, upon written notice given
18 within the 30-day period to the person making the filing, extend the waiting period for an
19 additional period, not to exceed 30 days, in order to complete the review of the filing. Additional
20 extensions of the waiting period may also be made with the consent of the title insurance
21 company [OR RATING ORGANIZATION]. Upon written application by the title insurance
22 company [OR RATING ORGANIZATION], the director, after review of the application, may
23 authorize a filing or any part of it to become effective upon the expiration of the waiting period
24 or its extension.

25 * **Sec. 173.** AS 21.66.370(f) is amended to read:

26 (f) A title insurance company or title insurance limited producer [AGENT OF A
27 TITLE INSURANCE COMPANY] may not charge a rate for a policy or contract of title
28 insurance except in accordance with filings or rates that are in effect for the title insurance
29 company as provided in this chapter.

30 * **Sec. 174.** AS 21.66.380(a) is amended to read:

31 (a) A rate filing shall be accompanied by a statement of the title insurance company [OR

1 TITLE INSURANCE RATING ORGANIZATION] making the filing, setting out the basis on
2 which the rate was determined, with the rates computed. A filing of rates may be justified by
3 (1) the experience or judgment of the title insurance company [OR TITLE
4 INSURANCE RATING ORGANIZATION] making the filing;
5 (2) its interpretation of any statistical data relied upon;
6 (3) the experience of other title insurance companies [OR TITLE INSURANCE
7 RATING ORGANIZATIONS] making the filings; or
8 (4) any other factors that the title insurance company [OR TITLE INSURANCE
9 RATING ORGANIZATION] considers relevant.

10 * Sec. 175. AS 21.66.390 is amended to read:

11 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company [THAT MAKES
12 ITS OWN RATES AND EACH TITLE INSURANCE RATING ORGANIZATION] shall make
13 rates that are not excessive or inadequate and that do not unfairly discriminate between risks in
14 this state that involve essentially the same exposure to loss and expense elements, and that give
15 due consideration to

16 (1) the desirability for stability of rate structures;
17 (2) the necessity of assuring the financial solvency of title insurance companies
18 in periods of economic depression by encouraging growth in assets of title insurance companies
19 in periods of high business activity; and
20 (3) the necessity for assuring a reasonable margin of underwriting and operating
21 profit.

22 (b) A title insurance company [THAT MAKES ITS OWN RATES AND EACH TITLE
23 INSURANCE RATING ORGANIZATION] shall adopt basic classifications of policies or
24 contracts of title insurance that [WHICH] shall be used as the basis for rate-making.

25 * Sec. 176. AS 21.66.400(a) is amended to read:

26 (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that
27 a filing does not meet the requirements of this chapter, the director shall send to the title
28 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made the filing,
29 written notice of disapproval of the filing specifying in what respects the director finds the filing
30 fails to meet the requirements of this chapter and stating that the filing may not become effective.

31 * Sec. 177. AS 21.66.400(b) is amended to read:

1 (b) If at any time after the applicable review period provided for in AS 21.66.370(c) the
2 director finds that a filing does not meet the requirements of this chapter, the director shall,
3 before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice,
4 specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall
5 be given to each title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
6 that made the filing, and if, after the hearing, the director finds that the filing or a part of the
7 filing does not meet the requirements of this chapter, the director shall issue an order specifying
8 how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is
9 considered no longer effective. A title insurance company [OR TITLE INSURANCE RATING
10 ORGANIZATION] has the right to withdraw a filing or a part of a filing. Copies of the order
11 issued under this section shall be sent to every title insurance company [AND TITLE
12 INSURANCE RATING ORGANIZATION] affected. The order does not affect a contract or
13 policy made or issued before the expiration of the period set out in the order.

14 * Sec. 178. AS 21.66.400(c) is amended to read:

15 (c) A person or organization aggrieved with respect to a filing that is in effect may make
16 a written application to the director for a hearing on the filing. The title insurance company [OR
17 TITLE INSURANCE RATING ORGANIZATION] that made the filing may not proceed under
18 this subsection. The application shall specify in reasonable detail the grounds to be relied on by
19 the applicant. If the director finds that the application is made in good faith, that the applicant
20 would be aggrieved if the applicant's grounds are established, and that the applicant's grounds
21 otherwise justify holding a hearing, the director shall, within 60 days after receipt of the
22 application, hold a hearing upon not less than 10 days written notice to the applicant and to each
23 title insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made such
24 a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the
25 requirements of this chapter, the director shall issue an order specifying how the filing or a part
26 of it fails to meet the requirements of this chapter, stating when, within a reasonable period after
27 the order is issued, the filing or a part of it is considered no longer effective. Copies of the order
28 shall be sent to the applicant and to every affected title insurance company [OR TITLE
29 INSURANCE RATING ORGANIZATION]. The order does not affect a contract or policy made
30 or issued before the expiration of the period set out in the order.

31 * Sec. 179. AS 21.66.400(d) is amended to read:

1 (d) A title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
2 to which the director has issued an order made without a hearing may, within 30 days after notice
3 to it of the order, make a written request to the director for a hearing. The director shall hear
4 the party or parties within 60 days after receipt of the request and shall give not less than 10 days
5 written notice of the time and place of the hearing. Within 15 days after the hearing the director
6 shall affirm, reverse, or modify the previous action, specifying the reasons. Pending the hearing
7 and decision the director may suspend or postpone the effective date of the previous action.

8 * Sec. 180. AS 21.66.410(c) is amended to read:

9 (c) In order to more uniformly administer rate regulations, the director and each title
10 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] may exchange
11 information and experience data with insurance supervisory officials, title insurance companies,
12 and title insurance rating organizations in other states, and may consult with them and with each
13 other with respect to rate making and the application of rating systems.

14 * Sec. 181. AS 21.66.420 is amended to read:

15 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. A title insurance company
16 or title insurance limited producer [AGENT] may not wilfully withhold information from, or
17 knowingly give false or misleading information to the director [OR TO ANY TITLE
18 INSURANCE RATING ORGANIZATION OF WHICH THE TITLE INSURANCE COMPANY
19 IS A MEMBER OR SUBSCRIBER] that will affect the rates chargeable under this chapter.

20 * Sec. 182. AS 21.66.480(4) is amended to read:

21 (4) "rate" means a charge for title insurance risk, abstracting, searching,
22 examination or determination of insurability, and every other activity, exclusive of escrow,
23 settlement, or closing charges, whether denominated premium or otherwise, made by a title
24 insurance company or an agent of a title insurance company to an insured or to an applicant for
25 insurance, for a policy or contract of title insurance; however, "rate" does not include charges
26 paid to and retained by an attorney at law, abstractor, surveyor, tax service, or any other person
27 acting in a capacity other than as a title insurance limited producer [AGENT] and on behalf of
28 a client other than a title insurance company, or charges made for special services, even though
29 performed in connection with a title insurance policy or contract;

30 * Sec. 183. AS 21.66.480(7) is amended to read:

31 (7) "title insurance limited producer [AGENT]" means a person, firm,

1 association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized
2 in writing by a title insurance company to solicit title insurance, collect premiums, determine
3 insurability in accordance with the underwriting rules and standards prescribed by the title
4 insurance company that the licensee [AGENT] represents, and issue policies in its behalf;
5 however, the term "title insurance limited producer [AGENT]" does not include officers and
6 salaried employees of a title insurance company;

7 * Sec. 184. AS 21.66.480(8) is amended to read:

8 (8) "title insurance company" means a domestic company organized under the
9 provisions of this title for the purpose of carrying on the business of title insurance, or any
10 foreign title insurance company issued a certificate of authority to transact a title insurance
11 business in this state and any title insurance company having the power and authority to transact
12 a title insurance business within this state [AS OF AUGUST 14, 1974].

13 * Sec. 185. AS 21.69.390 is amended by adding a new subsection to read:

14 (d) To meet the requirements of (a) of this section, a domestic insurer shall keep at its
15 principal place of business in the state the following records of assets, transactions, and affairs:

16 (1) a general ledger;

17 (2) copies of reports prepared to comply with AS 21.09.200 - 21.09.210;

18 (3) if prepared in the normal course of business, financial statements prepared
19 under general accepted accounting principals on which a licensed certified public accountant has
20 expressed an opinion;

21 (4) filings made by a domestic insurer or affiliates of the domestic insurer with
22 a government agency with which a domestic insurer or affiliates of the domestic insurer's
23 securities may be registered;

24 (5) a state certificate of authority;

25 (6) filings made under AS 21.21;

26 (7) original policy and claim files for insurance of property or a risk resident or
27 located in the state;

28 (8) a corporate minutes book;

29 (9) articles of incorporation;

30 (10) corporate bylaws;

31 (11) contracts; and

1 (12) other records required by the director by regulation.

2 * Sec. 186. AS 21.72.120(c) is amended to read:

3 (c) A copy of the annual statement certified by the director must be filed on or before
4 the first day of March [APRIL] each year by the association in the office of the magistrate in
5 the judicial district in which the business office of the association is located.

6 * Sec. 187. AS 21.75.040(b) is amended to read:

7 (b) The attorney-in-fact [ATTORNEY] of a foreign or alien reciprocal insurer, that [,
8 WHICH INSURER] is authorized to transact insurance in this state, may not, by virtue of
9 discharge of its duties as the attorney-in-fact [ATTORNEY] with respect to the insurer's
10 transactions in this state, be considered to be doing business in this state within the meaning of
11 a law of this state applying to foreign firms or corporations.

12 * Sec. 188. AS 21.75 is amended by adding a new section to read:

13 Sec. 21.75.045. LICENSING OF ATTORNEYS-IN-FACT. A person may not act in the
14 capacity of attorney-in-fact for a subscriber regarding a subject that is resident, located, or to be
15 performed in this state or for a reciprocal insurer licensed to do business in this state unless the
16 person is licensed under this chapter. The director may adopt regulations that establish
17 qualifications for being licensed as an attorney-in-fact. The attorney-in-fact for a domestic
18 reciprocal insurer transacting all of its insurance activities on a subject resident, located, and to
19 be performed in this state is exempt from licensing under this title if the attorney-in-fact

20 (1) is a wholly-owned subsidiary of the reciprocal; and

21 (2) does not act as attorney-in-fact for another unaffiliated reciprocal insurer.

22 * Sec. 189. AS 21.75.060(b) is amended to read:

23 (b) The proposed attorney-in-fact [ATTORNEY] shall fulfill the requirements of and
24 shall execute and file with the director when applying for a certificate of authority, a declaration
25 setting out

26 (1) the name of the insurer;

27 (2) the location of the insurer's principal office, which shall be the same as that
28 of the attorney-in-fact [ATTORNEY] and shall be maintained in this state;

29 (3) the kinds of insurance proposed to be transacted;

30 (4) the names and addresses of the original subscribers;

31 (5) the designation and appointment of the proposed attorney-in-fact

- 1 [ATTORNEY] and a copy of the power of attorney;
- 2 (6) the names and addresses of the officers and directors of the attorney-in-fact
- 3 [ATTORNEY], if a corporation, or its members, if a firm;
- 4 (7) the powers of the subscribers' advisory committee, and the names and terms
- 5 of office of the members;
- 6 (8) that all money paid to the reciprocal insurer shall, after deducting any sum
- 7 payable to the attorney-in-fact [ATTORNEY], be held in the name of the insurer and for
- 8 the purposes specified in the subscribers' agreement;
- 9 (9) a copy of the subscribers' agreement;
- 10 (10) a statement that each of the original subscribers has in good faith applied for
- 11 insurance of a kind proposed to be transacted, and that the insurer has received from each
- 12 subscriber the full premium or premium deposit required for the policy applied for, for
- 13 a term of not less than six months at an adequate rate filed with and approved by the
- 14 director;
- 15 (11) a statement of the financial condition of the insurer, a schedule of its assets,
- 16 and a statement that the surplus as required by AS 21.75.050 is on hand;
- 17 (12) a copy of each policy, endorsement, and application form it then proposes
- 18 to issue or use.
- 19 * Sec. 190. AS 21.75.060(c) is amended to read:
- 20 (c) The declaration shall be acknowledged by the attorney-in-fact [ATTORNEY] in the
- 21 manner required for the acknowledgment of deeds.
- 22 * Sec. 191. AS 21.75.080 is repealed and reenacted to read:
- 23 Sec. 21.75.080. AUTHORITY OF ATTORNEY-IN-FACT. (a) A subscriber's agreement
- 24 providing for an advisory committee consistent with AS 21.75.170 shall be executed by each
- 25 subscriber and shall grant authority to the attorney-in-fact to manage the affairs of the reciprocal
- 26 insurer.
- 27 (b) The duties of the attorney-in-fact shall be specified in the subscriber's agreement.
- 28 The agreement shall be approved by the director and amendments shall be approved by the
- 29 director and the advisory committee. The agreement must, at a minimum, provide that
- 30 (1) the attorney-in-fact shall provide written notice of and make the necessary
- 31 arrangements for the election, in person or by proxy, of the members of the advisory committee;

1 the cost of notice, ballot, or proxy for a meeting and the cost of a meeting that may be called for
2 an election shall be paid by the reciprocal insurer;

3 (2) the attorney-in-fact shall provide written notice to the members of the advisory
4 committee of not less than 10 business days for a regular meeting or a special meeting called
5 under AS 21.75.170(e); the cost of notice shall be paid by the reciprocal insurer;

6 (3) the advisory committee may, upon majority vote of its members at a regular
7 or special meeting and upon written notice of the vote to the director and the attorney-in-fact,
8 recommend termination of the attorney-in-fact for a stated cause and the appointment of a new
9 attorney-in-fact;

10 (4) termination of the attorney-in-fact shall require the approval of a two-thirds
11 majority of the subscribers present in person or by proxy at a meeting called for that purpose;
12 the attorney-in-fact shall provide written notice to all subscribers by certified mail not less than
13 30 days before the meeting; the notice must include the recommendation of termination and
14 replacement drafted by the advisory committee and other appropriate documents drafted by the
15 attorney-in-fact; a copy of all documents mailed and certification of mailing to all subscribers
16 must be provided to all members of the advisory committee; the cost of notice and proxy for the
17 meeting shall be paid by the reciprocal insurer; at least 25 percent of all subscribers shall
18 constitute a quorum for reciprocal insurers with less than 10,000 subscribers; 2,500 subscribers
19 or five percent of all subscribers, whichever is greater, shall constitute a quorum for all other
20 reciprocals;

21 (5) the assets of the reciprocal insurer and its subscribers shall be invested under
22 AS 21.21; investment guidelines shall be approved by the advisory committee and shall be
23 properly accounted for on the financial records of the reciprocal insurer as being held for or on
24 behalf of the subscribers; the cash assets of the reciprocal insurer and its subscribers not
25 otherwise invested in short-term securities, covering policy obligations arising out of policies
26 issued, or issued for delivery in the United States shall be held in one or more appropriately
27 identified accounts in banks that are members of the Federal Reserve System; these accounts
28 shall be drawn on by the attorney-in-fact or by employees or representatives of the reciprocal
29 insurer authorized by the attorney-in-fact for payments on behalf of the reciprocal insurer;

30 (6) if the attorney-in-fact is acting for more than one reciprocal insurer, separate
31 records and accounts shall be maintained for each reciprocal;

1 (7) the attorney-in-fact may not assign responsibilities detailed in the subscriber's
2 agreement in whole or in part without prior approval of the advisory committee and the director;

3 (8) the attorney-in-fact shall

4 (A) establish and maintain underwriting procedures and manuals that state
5 the rates and conditions for the acceptance or rejection of risks;

6 (B) make a report to the advisory committee at each regular meeting of
7 the committee on the financial condition of the reciprocal insurer and all material
8 transactions entered into during the period since the last meeting;

9 (C) annually provide to each member of the advisory committee

10 (i) on or before March 2, a copy of the reciprocal insurer's annual
11 statement and the accompanying statement of actuarial opinion filed with the
12 director under AS 21.75.130; and

13 (ii) on or before June 1, a copy of a statement prepared by an
14 independent certified public accountant addressing the financial condition and
15 solvency of the attorney-in-fact;

16 (D) maintain a financially solvent condition;

17 (9) the forms, amounts, and formulas of compensation the attorney-in-fact will
18 receive for services rendered are specified;

19 (10) the books, accounts, and records of the reciprocal insurer, its subscribers, and
20 the attorney-in-fact are maintained to clearly and accurately disclose the nature and details of
21 each transaction, including all notes, workpapers, documents, and similar material in sufficient
22 detail that relevant events, dates, and persons participating can be identified and information
23 necessary to determine that the compensation received by or owing to the attorney-in-fact
24 conforms to the subscriber's agreement; the books, accounts, and records of the reciprocal insurer
25 are the sole property of the reciprocal insurer;

26 (11) if the subscriber's agreement provides that any of the attorney-in-fact's
27 compensation is contingent upon the reciprocal insurer's profits, that compensation may not be
28 determined and paid until at least five years after the premiums on casualty insurance are earned,
29 at least one year after the premiums are earned on any other kind of insurance, and not until the
30 adequacy of loss reserves on the remaining claims, known and unknown, have been verified
31 under (8) of this subsection; and

1 (12) the attorney-in-fact shall conduct the affairs of the reciprocal insurer as
2 required under this title.

3 (c) Unless subject to AS 21.22, a material transaction between the reciprocal insurer, its
4 subscribers, the attorney-in-fact, and an affiliate of the attorney-in-fact may not be entered into
5 unless it has been filed with the director of the reciprocal insurer's state of domicile, if accredited
6 by the National Association of Insurance Commissioners, or with the director of this state, if not
7 accredited, at least 30 days before its effective date and the director of the accredited state has
8 not disapproved it; however, a transaction involving five percent or more of admitted assets is
9 subject to prior approval of the director of the reciprocal insurer's state of domicile and the
10 transaction must meet the following standards:

11 (1) the terms shall be fair and equitable;

12 (2) charges or fees for services performed shall be reasonable;

13 (3) expenses incurred and payments received shall be allocated to the reciprocal
14 insurer on an equitable basis in conformity with statutory insurance accounting practices being
15 consistently applied; and

16 (4) the books, accounts, and records of each party shall be maintained to disclose
17 clearly and accurately the precise nature and details of the transaction, including accounting
18 information that is necessary to support the reasonableness of the charges or fees to the respective
19 parties.

20 (d) A subscriber's agreement containing the duties of the attorney-in-fact shall be
21 provided by the attorney-in-fact to all subscribers. Renewing subscribers shall be informed that
22 their failure to return a signed rejection of the subscriber's agreement within 30 days after the
23 renewal date will be considered acceptance of the subscriber's agreement.

24 * Sec. 192. AS 21.75.090 is amended to read:

25 Sec. 21.75.090. MODIFICATIONS. Modifications of the terms of the subscribers'
26 agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by
27 the attorney-in-fact [ATTORNEY] and the subscribers' advisory committee. A modification
28 may not be effective retroactively, or apply to an insurance contract issued before the
29 modification.

30 * Sec. 193. AS 21.75.100(a) is amended to read:

31 (a) Concurrently with the filing of the declaration provided in AS 21.75.060, the

1 attorney-in-fact [ATTORNEY] of a domestic reciprocal insurer shall file with the director a
2 bond in favor of this state for the benefit of all persons damaged as a result of a breach by the
3 attorney-in-fact [ATTORNEY] of the conditions of the bond as set out in (b) of this section.
4 The bond shall be executed by the attorney-in-fact [ATTORNEY] and by an authorized
5 corporate surety, shall meet the requirements established under AS 21.27.190 and shall be
6 subject to the director's approval.

7 * Sec. 194. AS 21.75.100(b) is amended to read:

8 (b) The bond shall be in the [PENAL] sum of \$100,000 [\$25,000], aggregate in form,
9 conditioned that the attorney-in-fact [ATTORNEY] will faithfully account for all money and
10 other property of the insurer coming into the hands of the attorney-in-fact [ATTORNEY] and
11 that the attorney-in-fact [ATTORNEY] will not withdraw or appropriate to personal use from
12 the funds of the insurer, money or property to which the attorney-in-fact [ATTORNEY] is not
13 entitled under the subscriber's agreement [POWER OF ATTORNEY].

14 * Sec. 195. AS 21.75.100 is amended by adding a new subsection to read:

15 (d) The director may require the attorney-in-fact, unless wholly owned by the reciprocal
16 insurer, to maintain an errors and omissions policy issued by an admitted insurer acceptable to
17 the director providing coverage in an amount and issued by an insurer approved by the director.
18 This requirement is satisfied if the attorney-in-fact maintains an errors and omissions policy to
19 satisfy the laws of another state in an amount approved by the director.

20 * Sec. 196. AS 21.75.110 is amended to read:

21 Sec. 21.75.110. ACTION ON BOND. Action on the attorney-in-fact's [ATTORNEY'S]
22 bond or to recover against a deposit made in lieu of the bond [THEREOF] may be brought at
23 any time by one or more subscribers suffering loss through a violation of its conditions, or by
24 a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and
25 become part of the insurer's funds. The total aggregate liability of the surety shall be limited to
26 the amount of the penalty of the bond.

27 * Sec. 197. AS 21.75 is amended by adding a new section to read:

28 Sec. 21.75.115. EXAMINATION OF AN ATTORNEY-IN-FACT. An attorney-in-fact
29 of a reciprocal insurer is subject to examination by order of the director under AS 21.06.120 and
30 21.06.140 - 21.06.160 for the purpose of determining compliance with this title relating to the
31 operations of the reciprocal insurer or its attorney-in-fact that the director determines cannot be

1 obtained by examination of the reciprocal insurer. The cost of the examination shall be paid by
2 the attorney-in-fact.

3 * Sec. 198. AS 21.75.120(a) is amended to read:

4 (a) Legal process shall be served upon a domestic reciprocal insurer by serving the
5 insurer's attorney-in-fact [ATTORNEY] at the principal offices of the attorney-in-fact
6 [ATTORNEY] or by serving the director as the insurer's process agent under AS 21.09.180 and
7 21.09.190.

8 * Sec. 199. AS 21.75.130(a) is amended to read:

9 (a) The annual statement of a reciprocal insurer shall be made by its attorney-in-fact
10 [ATTORNEY] and filed with the director, as provided in AS 21.09.200.

11 * Sec. 200. AS 21.75.140 is amended to read:

12 Sec. 21.75.140. CONTRIBUTIONS TO INSURER. The attorney-in-fact [ATTORNEY]
13 or other parties may advance to a domestic reciprocal insurer upon reasonable terms the funds
14 it may require from time to time in its operations. Sums advanced may not be treated as a
15 liability of the insurer, and, except upon liquidation of the insurer, may not be withdrawn or
16 repaid except out of the insurer's realized earned surplus in excess of its minimum required
17 surplus. A withdrawal or repayment may not be made without the advance approval of the
18 director. This section does not apply to bank loans or to loans for which security is given.

19 * Sec. 201. AS 21.75.150 is amended to read:

20 Sec. 21.75.150. DETERMINATION OF FINANCIAL CONDITION. In determining
21 the financial condition of a reciprocal insurer the director shall apply the following rules:

22 (1) the same reserves as are required of incorporated insurers issuing
23 nonassessable policies on a reserve basis shall be charged as liabilities;

24 (2) the surplus deposits of subscribers shall be allowed as assets, except the
25 premium deposits delinquent for 90 days shall first be charged against the surplus deposit;

26 (3) the surplus deposits of subscribers may [SHALL] not be charged as a liability;

27 (4) all premium deposits delinquent less than 90 days shall be allowed as assets;

28 (5) an assessment levied upon subscribers, and not collected, may not be allowed
29 as an asset;

30 (6) the contingent liability of subscribers may not be allowed as an asset;

31 (7) the computation of reserves shall be based upon premium deposits other than

1 membership fees and without deductions for expenses and the compensation of the attorney-in-
2 fact [ATTORNEY].

3 * Sec. 202. AS 21.75.170 is repealed and reenacted to read:

4 Sec. 21.75.170. SUBSCRIBER'S ADVISORY COMMITTEE. (a) The subscriber's
5 advisory committee shall meet at least annually and shall consist of not less than nine individuals
6 elected by the subscribers, at least two-thirds of whom are subscribers or officers or directors of
7 subscriber corporations and, except for a reciprocal insurer that wholly owns its attorney-in-fact,
8 not more than one-third of whom may be

9 (1) the attorney-in-fact or an employee, officer, director, affiliate, or a person
10 having a financial interest in the attorney-in-fact; or

11 (2) a person representing the attorney-in-fact or an employee, officer, director,
12 affiliate, or other person having a financial interest in the attorney-in-fact; a person shall be
13 treated as having a financial interest in the attorney-in-fact if the person

14 (A) owns, directly or indirectly, more than one percent of the outstanding
15 stock in the attorney-in-fact;

16 (B) has an outstanding loan from the attorney-in-fact; or

17 (C) earns a commission or other compensation as a producer for the
18 reciprocal insurer.

19 (b) A member of the subscriber's advisory committee may be elected and reelected to
20 a term of office of not less than one year nor more than four years. Terms of office may be
21 staggered to provide for continuity.

22 (c) The chair of the committee shall be elected by the members of the committee and the
23 committee shall adopt rules consistent with the purposes of the committee.

24 (d) The attorney-in-fact shall appoint a secretary.

25 (e) Special meetings of the committee may be called by the attorney-in-fact, the chair
26 of the committee, three members of the committee, or a signed petition of at least one percent
27 of the subscribers as of the most recent annual report of the reciprocal insurer.

28 (f) The committee shall

29 (1) supervise the finances of the reciprocal insurer;

30 (2) supervise the reciprocal insurer's operations to assure conformity with the
31 subscriber's agreement;

1 (3) procure the audit of the accounts and records of the reciprocal insurer and of
2 the attorney-in-fact at the expense of the reciprocal insurer; and

3 (4) have additional powers and functions that may be conferred by the
4 subscriber's agreement.

5 * Sec. 203. AS 21.75.200(a) is amended to read:

6 (a) Assessments may from time to time be levied upon subscribers of a domestic
7 reciprocal insurer liable [THEREFOR] under the terms of their policies by the attorney-in-fact
8 [ATTORNEY] upon approval in advance by the subscribers' advisory committee and the director,
9 or by the director in liquidation of the insurer.

10 * Sec. 204. AS 21.75.210 is amended to read:

11 Sec. 21.75.210. TIME LIMIT FOR ASSESSMENTS. A [EACH] subscriber of a
12 domestic reciprocal insurer having contingent liability is liable for and shall pay the subscriber's
13 share of any assessment, as computed and limited under [IN ACCORDANCE WITH] this
14 chapter, if

15 (1) while the subscriber's policy is in force or within one year after its
16 termination, the subscriber is notified by either the attorney-in-fact [ATTORNEY] or the director
17 of an intention to levy the assessment; [,] or

18 (2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator
19 of the insurer should not be appointed is issued while the subscriber's policy is in force or within
20 one year after its termination.

21 * Sec. 205. AS 21.75.230(a) is amended to read:

22 (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the
23 minimum capital and surplus required of a domestic stock insurer authorized to transact like
24 kinds of insurance, upon application of the attorney-in-fact [ATTORNEY] and as approved by
25 the subscribers' advisory committee, the director shall issue a certificate authorizing the insurer
26 to extinguish the contingent liability of subscribers under its policies then in force in this state,
27 and to omit provisions imposing contingent liability in all policies delivered or issued for delivery
28 in this state for as long as all the surplus remains unimpaired.

29 * Sec. 206. AS 21.75.250 is amended to read:

30 Sec. 21.75.250. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a
31 domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy

1 obligations, the return of contributions of the attorney-in-fact [ATTORNEY] or other persons
2 to its surplus made as provided in AS 21.75.140, and the return of an unused premium, savings,
3 or credits then standing on subscribers' account, shall be distributed to its subscribers who were
4 subscribers within the 12 months before the last termination of its certificate of authority,
5 according to a reasonable formula that the director may approve.

6 * Sec. 207. AS 21.75.270 is amended to read:

7 Sec. 21.75.270. FINANCIAL IMPAIRMENT: DETERMINATION OF
8 INSOLVENCY [IMPAIRED RECIPROCAL]. (a) If the assets of a reciprocal insurer are at
9 any time insufficient to discharge its liabilities, other than a liability on account of funds
10 contributed by the attorney-in-fact [ATTORNEY] or others, and to maintain the required
11 surplus, its attorney-in-fact [ATTORNEY] shall immediately make up the deficiency or levy an
12 assessment upon the subscribers for the amount needed to make up the deficiency; but subject
13 to the limitation set out in the subscriber's agreement [POWER OF ATTORNEY OR POLICY].

14 (b) If the attorney-in-fact [ATTORNEY] fails to make up the deficiency or to make the
15 assessment within 30 days after the director orders the attorney-in-fact [ATTORNEY] to do so,
16 or if the deficiency is not fully made up within 60 days after the date the assessment was made,
17 the insurer shall be considered insolvent and shall be proceeded against as authorized by this title.

18 (c) If liquidation of an insurer is ordered, an assessment shall be levied upon the
19 subscriber for an amount, subject to limits as provided by this chapter, that the director
20 determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds
21 contributed by the attorney-in-fact [ATTORNEY] or other persons, but including the reasonable
22 cost of the liquidation.

23 * Sec. 208. AS 21.75.270 is amended by adding a new subsection to read:

24 (d) If liquidation of a domestic reciprocal insurer is ordered, the receiver appointed under
25 the order has a right to recover on behalf of the reciprocal insurer a payment in the form of a
26 bonus, termination settlement, or extraordinary lump-sum compensation adjustment made by the
27 reciprocal insurer or its subscribers to the attorney-in-fact if the distribution or payment is made
28 during the 12 months preceding the order of liquidation, unless it can be shown that the payment
29 was lawful and reasonable and that the reciprocal insurer did not know and, using due diligence,
30 could not have known that the distribution might adversely affect the ability of the reciprocal
31 insurer to fulfill its subscriber's contractual obligation.

1 * **Sec. 209.** AS 21.75 is amended by adding a new section to read:

2 **Sec. 21.75.345. DEFINITION.** In this chapter, a "material transaction" means a
3 transaction, other than a claim payment, involving more than one-half of one percent of the
4 reciprocal insurer's admitted assets as of December 31 of the prior year.

5 * **Sec. 210.** AS 21.78 is amended by adding a new section to read:

6 **Sec. 21.78.325. RECOVERY FROM AFFILIATES.** (a) If an order for liquidation or
7 rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has
8 a right to recover on behalf of the insurer (1) from a parent corporation or holding company or
9 person or affiliate who otherwise controlled the insurer, the amount of distributions, other than
10 a distribution of shares of the same class of stock, paid by the insurer on the insurer's capital
11 stock; or (2) a payment in the form of a bonus, termination settlement, or extraordinary lump sum
12 salary adjustment made by the insurer or the insurer's subsidiary to a director, officer, or
13 employee. If the distribution or payment is made during the 12 months preceding the petition
14 for liquidation, conservation, or rehabilitation, the distribution or payment is subject to the
15 limitations of (b) - (d) of this section.

16 (b) A distribution may not be recovered if the parent or affiliate shows that when paid
17 the distribution was lawful and reasonable and that the insurer did not know and could not
18 reasonably have known that the distribution might adversely affect the ability of the insurer to
19 fulfill its contractual obligations.

20 (c) A person who was a parent corporation or holding company or a person who
21 otherwise controlled the insurer or affiliate at the time the distribution was paid is liable up to
22 the amount of the distribution or payment that the person received. If two or more persons are
23 liable with respect to the same distribution, the persons are jointly and severally liable.

24 (d) The maximum amount recoverable under this section is the amount needed in excess
25 of all other available assets of the impaired or insolvent insurer to pay the contractual obligations
26 of the impaired or insolvent insurer and to reimburse any guaranty funds that expended funds or
27 incurred expenses or may expend funds or may incur expenses in connection with the impaired
28 or insolvent insurer.

29 (e) To the extent that a person liable under (c) of this section is insolvent or otherwise
30 fails to pay a claim due under (c) of this section, the person's parent corporation or holding
31 company or person who otherwise controlled the parent corporation or holding company at the

1 time the distribution was paid is jointly and severally liable for the resulting deficiency in the
2 amount recovered from the parent corporation or holding company or the person who otherwise
3 controlled the parent corporation or holding company.

4 * Sec. 211. AS 21.84.010 is amended to read:

5 Sec. 21.84.010. CHAPTER EXCLUSIVE. Except as otherwise provided, societies shall
6 be governed by this chapter and shall be exempt from all other provisions of the insurance laws
7 of this state, not only in governmental relations with the state, but for every other purpose. [A
8 LAW ENACTED AFTER JULY 1, 1966, MAY NOT APPLY TO SOCIETIES UNLESS THEY
9 ARE EXPRESSLY DESIGNATED IN THE LAW.]

10 * Sec. 212. AS 21.84.350(a) is amended to read:

11 (a) As a part of the annual statement required under AS 21.84.340, each society shall,
12 before the second day of March, file with the director a valuation of its certificates in force on
13 the preceding December 31, provided, the director may, for cause shown, extend the time for
14 filing the valuation for not more than two calendar months. The report of valuation must
15 include an opinion of a qualified actuary as to whether the reserves and related actuarial
16 items held in support of the certificates in force are computed appropriately, are based on
17 assumptions that satisfy contractual provisions, are consistent with prior reported amounts,
18 and comply with applicable laws of this state. The report of valuation shall show, as reserve
19 liabilities, the difference between the present mid-year value of the promised benefits provided
20 in the certificates of the society in force and the present mid-year value of the future net
21 premiums as the same are in practice actually collected, not including any value for the right to
22 make extra assessments and not including any amount by which the present mid-year value of
23 future net premiums exceeds the present mid-year value of promised benefits on individual
24 certificates. At the option of a society, in lieu of the above, the valuation may show the net
25 tabular value. The net tabular value on certificates issued before July 1, 1967, shall be
26 determined under [IN ACCORDANCE WITH] the law applicable before July 1, 1966, and on
27 certificates issued on or after July 1, 1967, may not be less than the reserves determined
28 according to the Commissioner's Reserve Valuation Method as defined in this section. If the
29 premium charged is less than the tabular net premium according to the basis of valuation used,
30 an additional reserve equal to the present value of the deficiency in the premiums shall be set up
31 and maintained as a liability. The reserve liabilities shall be properly adjusted if the mid-year

1 or tabular values are not appropriate.

2 * Sec. 213. AS 21.84.480(b) is amended to read:

3 (b) A society, by itself or any other party, and a fraternal benefit society limited
4 producer [AN AGENT OR SOLICITOR], personally or by any other party, may not offer,
5 promise, allow, give, set off, or pay, directly or indirectly, a valuable consideration or inducement
6 to or for insurance on a risk authorized to be taken by the society that [, WHICH] is not
7 specified in the certificate. A member may not receive or accept, directly or indirectly, a rebate
8 of premium or part of a premium, or a fraternal benefit society limited producer's [AGENT'S
9 OR SOLICITOR'S] commission payable on a certificate, or receive or accept a favor or
10 advantage or share in the dividends or other benefits to accrue on, or any valuable consideration
11 or inducement not specified in the contract of insurance.

12 * Sec. 214. AS 21.84.590 is amended to read:

13 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions
14 contained in this chapter, the following provisions of this title apply to fraternal benefit societies
15 to the extent applicable and not in conflict with the express provisions of this chapter and the
16 reasonable implications of this chapter:

- 17 (1) AS 21.03
18 (2) AS 21.06
19 (3) AS 21.09.050 and 21.09.100
20 (4) AS 21.09.200 and 21.09.205
21 (5) AS 21.18
22 (6) AS 21.21
23 (7) AS 21.27
24 (8) AS 21.33
25 (9) [(5)] AS 21.36
26 (10) [(6)] AS 21.42.290 and 21.42.355
27 (11) [(7)] AS 21.53
28 (12) [(8)] AS 21.69.370 and 21.69.640
29 (13) [(9)] AS 21.78
30 (14) [(10)] AS 21.89.060.

31 * Sec. 215. AS 21.84 is amended by adding a new section to read:

1 **Sec. 21.84.900. DEFINITIONS. In this chapter,**

2 (1) "fraternal benefit society" means an incorporated society, order, or supreme
3 lodge, without capital stock, including one exempted under AS 21.84.020(a), whether
4 incorporated or not, conducted solely for the benefit of its members and their beneficiaries and
5 not for profit, operated on a lodge system with ritualistic form of work, having a representative
6 form of government, and that makes provision for the payment of benefits under this chapter;

7 (2) "lodge system" means a society having a supreme legislative or governing
8 body and subordinate lodges or branches by whatever name known, into which members are
9 elected, initiated, or admitted under its constitution, laws, ritual, and rules; subordinate lodges or
10 branches are required by law of the society to hold regular meetings at least once in each month;

11 (3) "premiums" means rates or other required contribution by whatever name
12 known;

13 (4) "representative form of government" means a society in which

14 (A) there is provision in its constitution or laws for a supreme legislative
15 or governing body, composed of representatives elected either by the members or by
16 delegates elected directly or indirectly by the members, together with other members of
17 the body prescribed by the society's constitution and laws;

18 (B) the representatives elected constitute a majority in number and have
19 not less than two-thirds of the votes or less than the votes required to amend its
20 constitution and laws;

21 (C) the meetings of the supreme legislative or governing body and the
22 election of officers, representatives, or delegates are held as often as once in four calendar
23 years;

24 (D) the society has a board of directors charged with the responsibility for
25 managing its affairs in the interim between meetings of its supreme legislative or
26 governing body, subject to control by the body and having powers and duties delegated
27 to it in the constitution or laws of the society;

28 (E) the board of directors is elected by the supreme legislative or
29 governing body, except in case of filling a vacancy in the interim between meetings of
30 the body;

31 (F) the officers are elected either by the supreme legislative or governing

1 body or by the board of directors; and
2 (G) the members, officers, representatives, or delegates may not vote by
3 proxy;
4 (5) "society" unless otherwise indicated, means fraternal benefit society.

5 * Sec. 216. AS 21.89.025(a) is amended to read:
6 (a) An insurer shall provide an appropriate reduction in the premium charged for a motor
7 vehicle casualty insurance policy when the principal operator of the motor vehicle covered by
8 the insurance policy
9 (1) is 55 years of age or older;
10 (2) at renewal requests the insurer to provide the reduction;
11 (3) has had no chargeable accidents as set by established underwriting
12 guidelines in use by the insurer or moving motor vehicle citations within three years
13 preceding the request for the discount;
14 (4) provides the insurer with proof satisfactory to the director that the operator
15 has within the three years before requesting the reduction taken and successfully completed a
16 motor vehicle accident prevention course approved by the Department of Public Safety under
17 AS 28.05.035; and
18 (5) [(4)] did not take and complete the accident prevention course described in
19 (4) [(3)] of this subsection as a result of an order or sentence imposed by a court.

20 * Sec. 217. AS 21.89.025(c) is amended to read:
21 (c) The reduced rate provided for an operator under (a) of this section may not extend
22 beyond three years after the last day of the operator's most recently successfully completed motor
23 vehicle accident prevention course described in (a)(4) [(a)(3)] of this section.

24 * Sec. 218. AS 21.89 is amended by adding a new section to read:
25 Sec. 21.89.035. MANDATORY APPRAISAL. An automobile, homeowner, or dwelling
26 policy issued or delivered in the state must include an appraisal clause providing a contractual
27 means to pursue a dispute over the value of an insured's property loss. The appraisal right shall
28 be the insured's first right of appeal. The insured may invoke the right of appraisal by giving
29 written notice to the insurer of the insured's intent. The notice must include the name, address,
30 and phone number of an appraiser of the insured's choice. Within 10 working days from receipt
31 of information, the insurer shall provide the name, address, and phone number of an independent

1 appraiser of the insurer's choice to the insured. The appraiser shall provide final appraisals
2 within 30 working days from the date of the written demand by the insured to invoke the
3 appraisal provision. If a mutual value is not agreed upon by the two appraisals, the appraisers
4 shall select a third appraiser. A valuation in writing agreed upon by two of the three appraisers
5 shall determine the amount of the loss. The insured and insurer shall pay the cost of their own
6 appraisals and the expense of a third appraiser shall be divided equally between them.

7 * Sec. 219. AS 21.90.900 is amended to read:

8 § Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires
9 otherwise,

10 (1) "admitted insurer" means an authorized insurer ["ADJUSTER" MEANS
11 A PERSON WHO, FOR COMPENSATION AS AN INDEPENDENT CONTRACTOR OR
12 AS AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, OR FOR FEE OR
13 COMMISSION, INVESTIGATES AND ADJUSTS CLAIMS ARISING UNDER INSURANCE
14 CONTRACTS ON BEHALF OF THE INSURER, BUT DOES NOT INCLUDE AN ATTORNEY
15 AT LAW WHO ADJUSTS INSURANCE LOSSES FROM TIME TO TIME INCIDENTAL TO
16 THE PRACTICE OF LAW OR A SALARIED EMPLOYEE OF AN INSURER];

17 (2) "agent" means a person appointed by an insurer to solicit applications for
18 insurance or annuities on its behalf, and if authorized to do so, to effectuate and countersign
19 insurance contracts, except life or disability insurance or annuities, and to collect premiums on
20 insurance or annuities;

21 (3) "alien insurer" means an insurer formed under the laws of a country other than
22 the United States of America, its states, districts, territories, and commonwealths;

23 (4) "attorney-in-fact" means a person designated and appointed by the
24 subscribers of a reciprocal insurer to act for and bind the subscribers in transactions
25 relating to or arising out of the operations of a reciprocal insurer, subject to the limitations
26 that may be lawfully provided;

27 (5) "authorized insurer" means an insurer authorized by a certificate of authority
28 issued by the director to transact insurance in this state;

29 (6) [(5)] "broker" means a person who is not an agent of the insurer and who, on
30 behalf of the insured, for compensation as an independent contractor by commission or fee,
31 solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance of

1 insurance or reinsurance; or in any manner aids in the solicitation, negotiation, procurement,
2 renewal, or continuance of insurance or reinsurance, for insureds or prospective insureds not
3 including the broker;

4 (7) [(6)] "commissioner" means the commissioner of commerce and economic
5 development;

6 (8) [(7)] "court" means superior court;

7 (9) [(8)] "director" means the director of the division of insurance;

8 (10) [(9)] "division" means the division of insurance, Department of Commerce
9 and Economic Development;

10 (11) [(10)] "domestic insurer" means an insurer formed under the laws of this
11 state;

12 (12) "evergreen clause" means a contract clause that provides that the
13 contract is automatically renewed unless notice to the contrary is given by one of the parties
14 to the contract;

15 (13) "examiner" means an individual or firm that has been authorized by the
16 director to conduct an examination under this title;

17 (14) "facultative reinsurance" means a contract of reinsurance for individual
18 risks where the insurer retains the ability to accept or reject each risk offered by the ceding
19 company;

20 (15) [(11)] "firm" means an organization of two or more licensees acting in
21 association with each other, either in a partnership, corporation, or otherwise, or an organization
22 in which a single licensee has less than 50 percent ownership interest in the organization;

23 (16) [(12)] "foreign insurer" means an insurer formed under the laws of a
24 jurisdiction other than this state and includes an alien insurer;

25 (17) [(13)] "GENERAL AGENT" MEANS A PERSON, FIRM, OR
26 CORPORATION THAT

27 (A) HAS AUTHORITY TO EXERCISE GENERAL SUPERVISION
28 OVER THE BUSINESS, OR ANY PART OF THE BUSINESS, OF ONE OR MORE
29 AUTHORIZED INSURERS IN THIS STATE, WITH THE AUTHORITY TO APPOINT
30 AGENTS FOR THE INSURER AND TO TERMINATE THE APPOINTMENT; AND

31 (B) FOR COMPENSATION FROM AN AUTHORIZED INSURER

1 PERFORMS ADMINISTRATIVE FUNCTIONS NORMALLY PERFORMED BY THE
2 INSURER INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,
3 MARKETING ADMINISTRATION, AGENT APPOINTMENT, PREMIUM
4 ACCOUNTING, PREMIUM BILLING, COVERAGE VERIFICATION, FINAL
5 UNDERWRITING AUTHORITY, AND CERTIFICATE ISSUANCE; "GENERAL
6 AGENT" INCLUDES A THIRD-PARTY ADMINISTRATOR;

7 (14) "impaired" or "impairment" means that

8 (A) an insurer's policyholder surplus is greater than zero but less than that
9 required by AS 21.09.070 for the authority to transact the kinds of insurance being
10 transacted; or

11 (B) an insurer is being operated in a manner that has caused or might
12 cause irreparable loss and injury to the insurer or to the public;

13 (18) [(15)] "independent adjuster" means a person who, for compensation as an
14 independent contractor or as an employee of an independent contractor, for fee or
15 commission, investigates and adjusts losses or claims arising under insurance contracts on
16 behalf of an insurer;

17 (19) "independently procured insurance" means insurance procured directly
18 from a nonadmitted insurer directly by an insured, but does not include insurance lawfully
19 procured through a surplus lines broker under AS 21.34 [AN ADJUSTER REPRESENTING
20 THE INTERESTS OF THE INSURER];

21 (20) [(16)] "industrial life insurance" means that form of life insurance written
22 under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted
23 on the face as part of the descriptive matter, and under which premiums are payable monthly or
24 more often;

25 (21) [(17)] "insolvent" or "insolvency" means that an insurer's policyholder surplus
26 is less than or equal to zero;

27 (22) [(18)] "insurance" means a contract whereby one undertakes to indemnify
28 another or pay or provide a specified or determinable amount or benefit upon determinable
29 contingencies;

30 (23) "insurance producer" means a person who solicits, negotiates, effects,
31 procures, delivers, renews, continues, or binds policies of insurance;

1 **(24)** [(19)] "insurer" includes a person engaged as indemnitor, surety, or contractor
2 in the business of entering into contracts of insurance or of annuity;

3 **(25)** [(20)] "licensee" means a person or firm licensed as provided in AS 21.27
4 [OR AS 21.34];

5 **(26)** "**managing general agent**" means a person, firm, or corporation that
6 **(A) has authority to exercise general supervision over the business, or**
7 **any part of the business, of one or more insurers; and**

8 **(B) performs administrative functions normally performed by the**
9 **insurer including claims administration and payment, marketing administration,**
10 **agent appointment, premium accounting, premium billing, coverage verification, final**
11 **underwriting authority, and certificate issuance; "managing general agent" includes**
12 **a third-party administrator;**

13 **(27)** "**nonadmitted insurer**" means an unauthorized insurer;

14 **(28)** [(21)] "person" has the meaning given in AS 01.10.060 and includes an
15 insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in
16 AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged
17 in the business of transacting insurance, including agents, brokers, and claims adjusters;

18 **(29)** [(22)] "policy" means the written contract of or written agreement for or
19 effecting insurance, by whatever name called, and includes all clauses, riders, endorsements, and
20 papers attached to it and a part of it;

21 **(30)** [(23)] "policyholder surplus" means

22 (A) for a stock insurer, the sum of its capital, as represented by the
23 aggregate par value to its outstanding capital stock, and its surplus, if any;

24 (B) for a mutual insurer, its surplus, both basic guaranteed and additional,
25 if any;

26 (C) for an insurer other than a stock or mutual insurer, the net worth of
27 the insurer, calculated as its recorded assets less its liabilities, as determined by the
28 accounting criteria set out in this title;

29 **(31)** [(24)] "premium" means the consideration for insurance, by whatever name
30 called, and by whatever method paid or collected, including an assessment, or membership,
31 policy, survey, inspection, service or similar fee or charge made in consideration for an insurance

1 contract;

2 (32) "reinsurance intermediary" means a person who acts as a producer in
3 soliciting, negotiating, or procuring the making of a reinsurance contract or binder on
4 behalf of a ceding insurer or acts as a producer in accepting a reinsurance contract or
5 binder on behalf of an assuming insurer;

6 (33) "reinsurance intermediary broker" means a person who solicits,
7 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer
8 without the authority or power to bind reinsurance on behalf of the insurer;

9 (34) "reinsurance intermediary manager" means a person including an
10 insurer who has authority to bind or manage all or part of the assumed reinsurance
11 business of a reinsurer, including the management of a separate division, department, or
12 underwriting office, and who acts as an agent for the reinsurer [(25) "SOLICITOR" MEANS
13 AN INDIVIDUAL AUTHORIZED BY AN AGENT OR BROKER TO SOLICIT
14 APPLICATIONS FOR INSURANCE AS A REPRESENTATIVE OF THE AGENT OR
15 BROKER AND TO COLLECT PREMIUMS IN CONNECTION WITH THE INSURANCE];

16 (35) [(26)] "state" means a state, District of Columbia, territory, commonwealth,
17 or possession of the United States of America;

18 (36) "surplus lines broker" means a person licensed under AS 21.27 to place
19 insurance in this state or relative to a subject resident, located, or to be performed in this
20 state with eligible surplus lines insurers under AS 21.34;

21 (37) "surplus lines insurance" means any insurance in this state or relative
22 to a subject resident, located, or to be performed in this state that is permitted under
23 AS 21.34 to be placed through a surplus lines broker licensed under AS 21.27 with
24 nonadmitted insurers eligible to accept insurance other than reinsurance, wet marine and
25 transportation insurance, insurance independently procured, life insurance, and an annuity
26 contract;

27 (38) "third-party administrator" means a person who performs
28 administrative functions such as claims administration and payment, marketing
29 administrative functions, premium accounting, premium billing, coverage verification,
30 underwriting authority, or certificate issuance in regard to insurance;

31 (39) [(27)] "transact" with respect to insurance includes

- 1 (A) solicitation and inducement;
2 (B) preliminary negotiations;
3 (C) effectuation of a contract of insurance;
4 (D) transaction of matters subsequent to effectuation of the contract of
5 insurance and arising out of it;

6 (40) [(28)] "unauthorized insurer" means an insurer not authorized to transact
7 insurance in this state.

8 * Sec. 220. AS 28.05.035 is amended to read:

9 Sec. 28.05.035. APPROVAL OF ACCIDENT PREVENTION COURSES. For the
10 purposes of AS 21.89.025(a)(4) [AS 21.89.025(a)(3)], the commissioner may approve driver
11 education courses intended to prevent motor vehicle accidents and promote safe driving practices.

12 * Sec. 221. AS 21.06.130(b); AS 21.27.050, 21.27.070, 21.27.090, 21.27.095, 21.27.120, 21.27.200,
13 21.27.210, 21.27.240, 21.27.250, 21.27.260, 21.27.280, 21.27.310, 21.27.320, 21.27.360(g), 21.27.400,
14 21.27.450; AS 21.33.061(e), 21.33.061(i), 21.33.065(c); AS 21.34.140, 21.34.160, 21.34.200(b),
15 21.34.210; AS 21.66.030, 21.66.040, 21.66.050, 21.66.100, 21.66.120(b), 21.66.130, 21.66.140,
16 21.66.160, 21.66.260, 21.66.401, 21.66.402, 21.66.403, 21.66.430, 21.66.440; AS 21.75.040(a),
17 21.75.100(c); AS 21.84.290, 21.84.410, 21.84.420, 21.84.430, 21.84.440, 21.84.450, 21.84.460,
18 21.84.560, 21.84.570, 21.84.580; and AS 21.90.910 are repealed.

19 * Sec. 222. APPLICABILITY OF AS 21.18.110(m). The actuarial opinion required under
20 AS 21.18.110(m), as enacted by sec. 24 of this Act, shall be submitted with the annual statement
21 beginning with the year ending December 31, 1993.

22 * Sec. 223. Sections 2, 20, 25, 49, 60, 61, 94, and 95 of this Act take effect January 1, 1994.

23 * Sec. 224. Except as provided in sec. 223 of this Act, this Act takes effect July 1, 1992.