

CS FOR HOUSE BILL NO. 425 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/19/92

Referred: Judiciary

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

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(a) is amended to read:

6 (a) Each authorized insurer, and each formerly authorized insurer with respect to
7 premiums received while an authorized insurer in this state, shall file with the director, on or
8 before March 1 [MARCH 2] in each year, a report of all insurance business written or contracted
9 in the state, [(] with proper proportionate allocation of premium for the property, subjects, or
10 risks in the state insured under policies or contracts covering property, subjects, or risks located
11 or resident in more than one state, [)] during the preceding year ending December 31. The report
12 must show

13 (1) the amounts paid policyholders on losses;

14 (2) the total direct premium income including policy membership and other fees,
15 premiums paid by application of dividends, refunds, savings coupon, and similar returns or credits
16 to payment of premiums for new or additional or extended or renewed insurance, charges for
17 payment of premium in installments, and all other consideration for insurance from all kinds and
18 classes of insurance whether designated a premium or otherwise;

19 (3) the amounts paid policyholders as returned premiums;

20 (4) the amounts paid policyholders as dividends.

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

22 (b) Each insurer, and each formerly authorized insurer with respect to premiums received
23 while an authorized insurer in this state, shall pay a tax on the total direct premium income
24 received during the year ending on the preceding December 31 and paid for the insurance of
25 property or risks resident or located in the state other than wet marine and transportation
26 insurance, after deducting from the total direct premium income the applicable cancellations,
27 returned premiums, the unabsorbed portion of any deposit premium, all policy dividends,
28 unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other
29 similar returns paid or credited to policyholders with respect to their policies. No deductions may
30 be made of cash surrender value of policies. Considerations received on annuity contracts are
31 not included in the direct premium income and are not subject to tax. The tax shall be paid to

1 the director annually on or before March 1 [APRIL 1], and is computed at the rate of

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

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

6 * Sec. 18. AS 21.09.210(d) is amended to read:

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

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

20 (2) "net premiums" means gross premiums less all return premiums and
21 premiums for reinsurance.

22 * Sec. 19. AS 21.09.210 is amended by adding a new subsection to read:

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

25 * Sec. 20. AS 21.12.020(a) is amended to read:

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

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

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

1 reinsurer is one that

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

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

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

21 (4) assuming alien insurer that

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

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

1 outstanding liabilities due under the reinsurance agreements subject to the trust;

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

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

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

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

1 \$100,000,000 shall be held jointly for the benefit of United States ceding
2 insurers of a member of the group as additional security for the group's
3 liabilities, and each member of the group shall make available to the director
4 an annual certification of the member's solvency by the member's domiciliary
5 regulator and the member's independent certified public accountant, or for
6 a Canadian or British insurer, the member's independent Canadian or British
7 chartered accountant; and

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

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

15 * Sec. 21. AS 21.12.020(a) is repealed and reenacted to read:

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

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

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

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

29 (B) in the case of a United States branch of an alien assuming insurer, is
30 entered through, and licensed to transact insurance or reinsurance in, at least one state
31 accredited by the National Association of Insurance Commissioners, files annually with

1 the director a copy of its annual financial statement that is filed with the insurance
2 regulatory agency of its state of domicile, and maintains at least \$20,000,000 in
3 policyholder surplus; the surplus requirements in this subparagraph do not apply to
4 reinsurance ceded and assumed under a pooling arrangement among insurers in the same
5 holding company system;

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

14 (4) assuming alien insurer that

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

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

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

31 (iii) in the case of a single assuming insurer, the trust shall consist

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

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

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

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

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

4 * **Sec. 22.** AS 21.12.020(c) is amended to read:

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

13 (1) cash;

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

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

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

25 * **Sec. 23.** AS 21.12.020 is amended by adding new subsections to read:

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

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

31 * **Sec. 24.** AS 21.18.100 is amended to read:

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

6 * **Sec. 25.** AS 21.18.110 is amended by adding new subsections to read:

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

13 (n) The actuarial opinion must

14 (1) be submitted with the annual statement reflecting the valuation of the reserve
15 liabilities;

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

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

19 (4) include an assessment as to whether the reserves and related actuarial items
20 held in support of the policies and contracts, when considered in light of the assets held by a
21 company with respect to the reserves and related actuarial items, including investment earnings
22 on the assets and considerations anticipated to be received and retained under policies and
23 contracts, make adequate provision for a company's obligations under a policy or contract
24 including the benefits under and expenses associated with a policy or contract.

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

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

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

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

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

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

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

14 (s) A memorandum in support of an actuarial opinion and other supporting material
15 provided by an insurance company to the director is confidential and may not be made public
16 by the director or another person and is not subject to a civil subpoena, except for the purpose
17 of defending an action seeking damages from a person by reason of an action required by this
18 section. The memorandum or other material may be released by the director with the written
19 consent of the company or to the American Academy of Actuaries upon a request stating that the
20 memorandum or other material is required for the purpose of a disciplinary proceeding and
21 setting out procedures satisfactory to the director for preserving the confidentiality of the
22 memorandum or other material. Once a portion of the memorandum or other material is cited
23 by the company in its marketing, is cited before a governmental agency other than a state
24 insurance department, or is released by the company to the news media, the remainder of the
25 confidential memorandum or other material is no longer confidential.

26 (t) An insurer's aggregate reserves for

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

31 (2) all policies, contracts, and benefits may not be less than the aggregate reserves

1 determined by a qualified actuary to be necessary to render the opinion required under (m) of this
2 section.

3 * Sec. 26. AS 21.18.110(o) is repealed and reenacted to read:

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

9 * Sec. 27. AS 21.18.130 is amended to read:

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

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

20 * Sec. 28. AS 21.18.130 is amended by adding a new subsection to read:

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

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

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

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

1 * **Sec. 29.** AS 21.18.140(b) is amended to read:

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

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

7 * **Sec. 30.** AS 21.21.050 is amended to read:

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

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

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

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

17 (C) policy loans made under AS 21.21.210;

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

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

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

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

31 (i) cash;

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

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

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

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

11 (6) an insurer may invest and have invested at any one time in aggregate amount
12 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and
13 21.21.200, except with the director's written consent; determination of the amount that an insurer
14 has invested in common stocks for the purposes of this paragraph is based on the cost of the
15 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary
16 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;

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

20 * **Sec. 31.** AS 21.21.170(b) is amended to read:

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

25 * **Sec. 32.** AS 21.21.180 is repealed and reenacted to read:

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

29 (1) insurance business authorized by this title;

30 (2) acting as an insurance producer or as an insurance agent for the insurer's
31 parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;

1 (3) investing, reinvesting, or trading in securities for the insurer's own account,
2 that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;

3 (4) management of an investment company subject to or registered under 15
4 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;

5 (5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78
6 (Securities Exchange Act of 1934, as amended);

7 (6) rendering investment advice to a government, government agency, corporation,
8 or other organization or group;

9 (7) rendering other services related to the operations of an insurance business
10 including actuarial, loss prevention, safety engineering, data processing, accounting, claims,
11 appraisal, and collection services;

12 (8) ownership and management of assets that the parent corporation could own
13 or manage;

14 (9) acting as administrative agent for a governmental instrumentality that is
15 performing an insurance function;

16 (10) financing insurance premiums, agents, and other forms of consumer
17 financing;

18 (11) any other business activity determined by the director in writing using the
19 standards set out in this section to be reasonably ancillary to an insurance business; or

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

22 (b) A domestic insurer may also

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

30 (A) total net moneys or other consideration expended and all obligations
31 assumed in the acquisition or formation of a subsidiary, including all organizational

1 expenses and contributions to capital and surplus of the subsidiary if represented or not
2 represented by the purchase of capital stock or issuance of other securities; and

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

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

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

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

17 (3) with the prior written approval of the director, invest a greater amount in those
18 securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the
19 investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's
20 outstanding liabilities and adequate to the insurer's financial needs.

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

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

1 this chapter to the investment.

2 * **Sec. 33.** AS 21.21.255 is amended to read:

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

8 * **Sec. 34.** AS 21.21.350(b) is amended to read:

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

21 * **Sec. 35.** AS 21.21 is amended by adding new sections to read:

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

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

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

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

31 (C) one percent of its admitted assets consist of obligations rated six by

1 the securities valuation office; or

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

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

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

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

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

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

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

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

18 Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM
19 GRADE AND LOWER GRADE OBLIGATIONS. (a) AS 21.21.370 does not prohibit a
20 domestic insurer from acquiring an obligation that it has committed to acquire if the insurer
21 would have been permitted to acquire that obligation under AS 21.21.370 on the date on which
22 the insurer committed to purchase that obligation.

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

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

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

31 Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM

1 **GRADE AND LOWER GRADE OBLIGATIONS.** (a) The board of directors of a domestic
2 insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets
3 in medium grade and lower grade obligations, shall adopt a written plan for making these
4 investments.

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

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

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

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

15 (1) the disposition of lower grade obligations;

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

19 (3) action under AS 21.09.150.

20 * **Sec. 36.** AS 21.21.600 is amended by adding new paragraphs to read:

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

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

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

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

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

30 (22) "securities valuation office" means the organization designated by the
31 National Association of Insurance Commissioners to determine the carrying or admitted asset

1 value of obligations owned by the insurer.

2 * **Sec. 37.** AS 21.22.060 is amended by adding new subsections to read:

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

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

13 * **Sec. 38.** AS 21.22 is amended by adding a new section to read:

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

17 (b) If an acquisition violates the standards established in (d) and (f) of this section, the
18 director may enter an order requiring an involved insurer to cease doing business in this state
19 with respect to the line or lines of insurance involved in the violation or denying the application
20 of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of
21 the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive
22 effect of the acquisition within a reasonable time. Based upon a plan or other information
23 submitted, the director shall specify the conditions, if any, under a time period during which the
24 aspects of the acquisition causing a violation of the standards of this section would be remedied
25 and the order vacated or modified. The order is stayed by the insurer's submission of a plan and
26 shall be rescinded if the acquisition is not consummated.

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

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

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

9 (3) must be followed by a waiting period beginning on the date of receipt by the
10 director of a preacquisition notification and ending on the earlier of the 30th day after the date
11 of receipt or termination of the waiting period by the director unless, before the end of the
12 waiting period, the director requires the submission of additional information relevant to the
13 proposed acquisition, in which event the waiting period shall end on the 30th day after receipt
14 of the additional information by the director or termination of the waiting period by the director,
15 whichever is earlier.

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

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

19 (2) there is substantial evidence that the acquisition may substantially lessen
20 competition, create a monopoly in a line of insurance in this state or significantly increase an
21 insurer's market concentration; there is substantial evidence when the aggregate market share of
22 any grouping of the largest insurers in the market, from the two largest to the eighth largest, has
23 increased by seven percent or more of the market over a period of time extending from any base
24 year five to 10 years before the acquisition up to the time of the acquisition;

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

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

Insurer A	Insurer B
4 percent	4 percent or more

1	10 percent	2 percent or more
2	15 percent	1 percent or more;

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

	Insurer A	Insurer B
5		
6	5 percent	5 percent or more
7	10 percent	4 percent or more
8	15 percent	3 percent or more
9	19 percent	1 percent or more.

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

15 (f) Even though an acquisition does not violate the competitive standard under (d) of this
16 section, the director may establish the requisite anticompetitive effect based upon other
17 substantial evidence. Even though an acquisition does violate the competitive standard under (d)
18 of this section, a party may establish the absence of the requisite anticompetitive effect based
19 upon other substantial evidence. Relevant factors in making a determination under (d) of this
20 section include market shares, volatility of ranking of market leaders, number of competitors,
21 concentration, trend of concentration in the industry, and ease of entry into and exit out of the
22 market. The burden of showing substantial evidence of a violation of the competitive standards
23 rests with the director.

24 (g) An order may not be entered under (b) of this section if
25 (1) the acquisition will yield substantial economy of scale or economy in resource
26 utilization that cannot be achieved in another way and the public benefits that would arise from
27 the economy exceed the public benefits that would arise from not lessening competition; or

28 (2) the acquisition will substantially increase the availability of insurance and the
29 public benefits of the increase exceed the public benefits that would arise from not lessening
30 competition.

31 (h) A person who violates a cease and desist order of the director under (b) of this

1 section may, after hearing and on order of the director, be subject to the suspension or revocation
2 of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.

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

6 (j) This section does not apply to

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

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

16 (3) the acquisition of a person by another person resulting in a change of control
17 of an insurer when both persons are neither directly nor through affiliates primarily engaged in
18 the business of insurance if preacquisition notification is filed with the director under (c) of this
19 section 30 days before the proposed effective date of the acquisition; however, the preacquisition
20 notification is not required for exclusion if the acquisition would otherwise be excluded under
21 this subsection;

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

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

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

26 (B) there would not be an increase in a market share of the larger writer;

27 or

28 (C) the combined market share of the involved insurers would not exceed
29 12 percent of a market and the market share of the larger writer would not increase by
30 more than two percent of a market;

31 (6) an acquisition for which a preacquisition notification would be required under

1 this section due solely to the resulting effect on the ocean marine insurance line of business; or
2 (7) an acquisition of an insurer whose domiciliary commissioner affirmatively
3 finds that the insurer is in a failing condition, there are no feasible alternatives to improving this
4 condition, the public benefits of improving the insurer's condition through the acquisition exceed
5 the public benefits that would arise from not lessening competition, and these findings are
6 communicated by the domiciliary commissioner to this state's director.

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

9 * Sec. 39. AS 21.22.080 is amended to read:

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

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

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

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

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

20 (5) [(3)] the insurer's surplus as regards policyholders following any dividends
21 or distributions to shareholder affiliates or performance under a material transaction with an
22 affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its
23 financial needs.

24 * Sec. 40. AS 21.22 is amended by adding a new section to read:

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

31 (1) a sale, purchase, exchange, loan or extension of credit, guarantee, or

1 investment, provided the transaction is equal to or exceeds

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

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

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

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

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

17 (3) a reinsurance agreement or modification in which the reinsurance premium
18 or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that
19 pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that
20 may require as consideration the transfer of assets from an insurer to a nonaffiliate if an
21 agreement or understanding exists between the insurer and nonaffiliate that a portion of the assets
22 will be transferred to an affiliate of the insurer;

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

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

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

28 (c) A domestic insurer may not enter into a transaction that is part of a plan or series of
29 similar transactions with persons within the holding company system if the purpose of the
30 separate transaction is to avoid the statutory threshold amount and avoid review that would
31 otherwise occur. If the director determines that this separate transaction is entered into over a

1 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i),
2 21.22.170, AS 21.36.320, and 21.36.360(a).

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

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

10 * Sec. 41. AS 21.22.090 is amended to read:

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

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

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

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

20 (4) the extent of the geographical dispersion of the insurer's insured risk;

21 (5) the nature and extent of the insurer's reinsurance program;

22 (6) the quality, diversification, and liquidity of the insurer's investment portfolio;

23 (7) the recent past and projected future trend in the size of the insurer's
24 investment portfolio [SURPLUS AS REGARDS POLICYHOLDERS];

25 (8) the surplus as regards policyholders maintained by other comparable insurers;

26 (9) the adequacy of the insurer's reserves; and

27 (10) the quality and liquidity of investments in affiliates [SUBSIDIARIES] made
28 under AS 21.21; the director may treat any such investment as a disallowed asset for purposes
29 of determining the adequacy of surplus as regards policyholders whenever the director determines
30 the investment warrants it.

31 * Sec. 42. AS 21.22.100(a) is amended to read:

1 (a) A domestic insurer [SUBJECT TO REGISTRATION UNDER AS 21.22.060] may
2 not pay any extraordinary dividend or make any other extraordinary distribution to its
3 shareholders until

4 (1) 30 days after the director has received notice of the declaration of the dividend
5 or distribution and has not within that period disapproved its payment; or

6 (2) the director has approved its payment within the 30-day period.

7 * Sec. 43. AS 21.22.100(b) is amended to read:

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

21 * Sec. 44. AS 21.22 is amended by adding a new section to read:

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

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

30 (c) Not less than one-third of the directors of a domestic insurer registered under
31 AS 21.22.060 and not less than one-third of the members of each committee of the board of

1 directors of a domestic insurer registered under AS 21.22.060 shall be persons who are not
2 officers or employees of the insurer or of an entity controlling, controlled by, or under common
3 control with the insurer and who are not beneficial owners of a controlling interest in the voting
4 stock of the insurer or an entity. At least one person who is not an officer, employee, or owner
5 of a controlling interest in stock of an insurer or controlling entity must be included in a quorum
6 for the transaction of business at a meeting of the board of directors or a committee of the board
7 of directors.

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

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

22 * Sec. 45. AS 21.22.120 is amended to read:

23 Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the
24 information and documents obtained by or disclosed to the director or any other person in the
25 course of an examination or investigation made under AS 21.22.110 and all information reported
26 under AS 21.22.060 and all preacquisition notification information received under
27 AS 21.22.065, shall be given confidential treatment and may not be made public by the director
28 or any other person, except to insurance departments of other states, without the prior written
29 consent of the insurer to which it pertains. However, if the director, after giving the insurer and
30 its affiliates who would be affected by publication of the information notice and opportunity to
31 be heard, determines that the interests of policyholders, shareholders, or the public will be served



1 by the publication of the information, the director may publish all or part of the information in
2 the manner the director considers appropriate.

3 * **Sec. 46.** AS 21.22.150 is amended by adding a new subsection to read:

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

6 * **Sec. 47.** AS 21.22.160 is amended by adding a new subsection to read:

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

9 * **Sec. 48.** AS 21.22.180 is amended by adding a new subsection to read:

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

12 * **Sec. 49.** AS 21.22.200 is amended by adding new paragraphs to read:

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

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

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

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

22 (15) "market" or "insurance market" means direct written insurance premium in
23 this state for a line of business as contained in the annual statement required to be filed by
24 insurers licensed to do business in this state; in determining the relevant product and geographical
25 markets, the director shall give due consideration to, among other things, the definitions or
26 guidelines adopted by the National Association of Insurance Commissioners and to information
27 submitted by parties to the acquisition; in the absence of sufficient information to the contrary,
28 the relevant product market is assumed to be the direct written insurance premium for a line of
29 business, the line being that used in the annual statement required to be filed by insurers doing
30 business in this state, and the relevant geographical market is assumed to be this state;

31 (16) "statement value" means the value that an insurer is instructed by the

1 securities valuation office of the National Association of Insurance Commissioners to carry on
2 the insurer's financial statement and that represents an investment.

3 * **Sec. 50.** AS 21.27.010 is repealed and reenacted to read:

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

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

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

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

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

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

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

30 (2) wholly owns the admitted insurer;

31 (3) is a wholly-owned subsidiary of the insurance holding company that owns or

1 ~~controls the admitted insurer;~~

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

4 (5) is the manager of a group, association, pool, or organization of foreign
5 insurers that does joint underwriting and that is subject to examination by its resident insurance
6 regulator in a state that

7 (A) the director has determined has enacted provisions substantially similar
8 to those contained in this chapter; and

9 (B) is accredited by the National Association of Insurance Commissioners.

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

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

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

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

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

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

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

29 (B) arrange appointments for a licensee if the person does not solicit
30 insurance coverage;

31 (C) record information from an applicant or policyholder and complete for

1 the licensee's personal review and signature, a certificate of insurance that is not a
2 contract of insurance; the licensee's signature may be by facsimile;

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

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

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

14 * Sec. 51. AS 21.27.010(f) is repealed and reenacted to read:

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

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

20 (2) wholly owns the admitted insurer;

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

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

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

29 * Sec. 52. AS 21.27.020 is amended to read:

30 Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of
31 the people of this state, the director may not issue or renew a license except in compliance with

1 this chapter ~~and may not issue a license~~ to a person, or to be exercised by a person, found by
2 the director to be untrustworthy, incompetent, or who has not established to the satisfaction of
3 the director that the person is qualified under this chapter.

4 * Sec. 53. AS 21.27.020 is amended by adding new subsections to read:

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

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

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

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

12 (4) be a trustworthy person;

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

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

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

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

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

22 (3) if a corporation or partnership,

23 (A) maintain a lawfully established place of business in this state, except
24 when licensed as a nonresident as provided in AS 21.27.270;

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

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

29 (D) provide to the director documents necessary to verify the information
30 contained in or made in connection with the application;

31 (4) notify the director within 30 days in writing by certified mail of a change in

1 a principal or manager of the firm or the termination of employment of an individual in the firm
2 licensee.

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

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

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

10 * Sec. 54. AS 21.27 is amended by adding a new section to read:

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

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

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

22 * Sec. 55. AS 21.27.030(a) is repealed and reenacted to read:

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

31 * Sec. 56. AS 21.27.030(c) is repealed and reenacted to read:

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

6 * Sec. 57. AS 21.27.030 is amended by adding a new subsection to read:

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

9 * Sec. 58. AS 21.27.040(a) is amended to read:

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

19 * Sec. 59. AS 21.27.040(c) is amended to read:

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

24 * Sec. 60. AS 21.27.040 is amended by adding a new subsection to read:

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

28 * Sec. 61. AS 21.27.060 is repealed and reenacted to read:

29 Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as
30 provided in this chapter, an applicant for an individual license and a principal or manager
31 applicant for a firm license shall, before the issuance of the license, personally take and pass, to

1 the satisfaction of the director, an examination that tests the knowledge and competence of the
2 applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and
3 regulations of the state.

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

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

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

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

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

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

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

27 * **Sec. 62.** AS 21.27.060(c) is repealed and reenacted to read:

28 (c) An applicant who files a current letter of clearance from a prior state of residence
29 certifying that the applicant was in good standing and has held a license in that state that had the
30 same qualifications as the license applied for in this state, including passing an examination, shall
31 personally take and pass, to the satisfaction of the director, an examination pertaining to this

1 state's statutes and regulations and any kind or class of insurance not covered under the license
2 held in the prior state of residence, provided the filing of the letter of clearance is made within
3 180 days of cancellation of the prior state's resident license. This subsection only applies if the
4 prior resident state is accredited by the National Association of Insurance Commissioners.

5 * Sec. 63. AS 21.27.060(d) is repealed and reenacted to read:

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

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

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

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

15 * Sec. 64. AS 21.27.080(b) is amended to read

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

19 * Sec. 65. AS 21.27.100 is repealed and reenacted to read:

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

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

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

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

29 (4) a reinsurance intermediary manager appointing an insurance producer as its
30 subagent in this state.

31 (b) On forms prescribed by the director, an admitted insurer appointing an insurance

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

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

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

15 * Sec. 66. AS 21.27.110 is repealed and reenacted to read:

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

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

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

28 (b) A notice of termination submitted to the director under (a) of this section must
29 include a statement of the reasons for the termination. A statement of the reasons for termination
30 is privileged and may not be admitted as evidence in an action or proceeding against the insurer,
31 reinsurer, managing general agent, or reinsurance intermediary or their representatives by or on

1 behalf of a person affected by the termination, except in an action involving perjury, false
2 statement, fraud, or failure to comply with this subsection.

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

9 * Sec. 67. AS 21.27.130 is amended to read:

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

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

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

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

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

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

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

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

23 and

24 (8) other information required by the director.

25 * Sec. 68. AS 21.27.140 is repealed and reenacted to read:

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

28 (b) A firm may not be licensed as an insurance producer, managing general agent,
29 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or
30 independent adjuster, or transact insurance unless each individual employed as an insurance
31 producer, managing general agent, surplus lines broker, trainee insurance producer, trainee

1 independent adjuster, or independent adjuster by the firm is licensed as an individual in the firm
2 and the principal or manager of the firm is licensed as an individual in the firm to exercise all
3 the powers conferred by the firm's license.

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

8 * **Sec. 69.** AS 21.27.150 is repealed and reenacted to read:

9 **Sec. 21.27.150. LIMITED LICENSES.** The director may issue a

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

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

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

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

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

27 (6) retired insurance producer license to a resident who is retired or retiring from
28 the business of insurance and surrenders all in-force licenses to allow the person to receive a
29 continuing commission in regard to insurance transacted before retirement; a retired insurance
30 producer licensee may not solicit, induce, negotiate, or effectuate contracts of insurance; the
31 director may renew a retired insurance producer license if the licensee ceases to be a resident of

1 this state;

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

4 * Sec. 70. AS 21.27.160 is repealed and reenacted to read:

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

11 * Sec. 71. AS 21.27.170 is amended to read:

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

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

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

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

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

29 (b) The director shall issue to the licensed insurance producer [AGENT] a special
30 vending machine license for each machine to be used. The license must specify the name and
31 mailing address of the insurer and insurance producer [AGENT], the name of the policy to be

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

8 * Sec. 72. AS 21.27.190 is repealed and reenacted to read:

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

11 (1) it shall be continuous in form;

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

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

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

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

18 (b) A bond may only be issued by an admitted insurer authorized to transact surety
19 insurance in this state, or by a surplus lines insurer on the most recent list of eligible surplus
20 lines insurers published by the director, that is acceptable to the director.

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

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

24 (2) for separate places of business.

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

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

1 * Sec. 73. AS 21.27.270(a) is amended to read:

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

5 * Sec. 74. AS 21.27.270(c) is repealed and reenacted to read:

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

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

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

15 * Sec. 75. AS 21.27.270 is amended by adding new subsections to read:

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

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

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

1 other obligation imposed by a city, borough, or other political subdivision or agency or another
2 state or country on a licensee of this state shall be considered imposed by the state or country.

3 * **Sec. 76.** AS 21.27.330 is repealed and reenacted to read:

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

14 * **Sec. 77.** AS 21.27.340 is repealed and reenacted to read:

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

19 * **Sec. 78.** AS 21.27.350 is repealed and reenacted to read:

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

31 (b) A licensee shall keep at the licensee's place of business or at the place of business

1 of an admitted insurer a complete record of transactions under the license. An admitted insurer
2 shall maintain records received from a licensee as required by this section.

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

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

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

26 * Sec. 79. AS 21.27.360(b) is amended to read:

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

1 to the money. For purposes of this section [SUBSECTION], the fiduciary account of the firm
2 shall be considered the fiduciary account of an individual licensee acting on behalf of the firm
3 and shall be the responsibility of the firm. Money deposited into a fiduciary account may not
4 be commingled or otherwise combined with other money, except as allowed under (d) of this
5 section and AS 21.27.365.

6 * Sec. 80. AS 21.27.360(c) is repealed and reenacted to read:

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

11 * Sec. 81. AS 21.27.360(d) is amended to read:

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

19 * Sec. 82. AS 21.27.360(e) is amended to read:

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

24 * Sec. 83. AS 21.27.360(f) is repealed and reenacted to read:

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

28 * Sec. 84. AS 21.27 is amended by adding a new section to read:

29 Sec. 21.27.365. DEPOSIT OR SURETY BOND IN PLACE OF FIDUCIARY
30 ACCOUNT. (a) Instead of maintaining a separate fiduciary account for premium trust funds,
31 a licensed firm, eligible under (c) of this section, may apply in writing to the director for

1 permission to maintain, while licensed or thereafter as the director may require, the deposit or
2 surety bond described in (b) of this section.

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

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

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

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

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

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

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

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

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

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

30 * **Sec. 85.** AS 21.27.370 is repealed and reenacted to read:

31 **Sec. 21.27.370. SHARING COMPENSATION.** (a) A licensee may not compensate or

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

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

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

17 * Sec. 86. AS 21.27.380 is repealed and reenacted to read:

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

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

1 for two years or longer.

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

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

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

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

13 * Sec. 87. AS 21.27.390 is repealed and reenacted to read:

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

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

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

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

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

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

30 (c) A temporary licensee may not be appointed by an insurer for which a licensed
31 insurance producer or managing general agent was not appointed at the time of death or

1 commencement of disability.

2 * **Sec. 88.** AS 21.27 is amended by adding a new section to read:

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

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

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

18 * **Sec. 89.** AS 21.27.410 is repealed and reenacted to read:

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

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

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

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

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

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

31 (6) twisting in violation of AS 21.36.050 or rebating in violation of AS 21.36.100

- 1 by a licensee or applicant;
- 2 (7) conviction of a felony;
- 3 (8) the conduct of affairs under a license if the licensee exhibits conduct
4 considered by the director to reflect incompetence or untrustworthiness, or to be a source of
5 potential injury and loss to the public;
- 6 (9) the licensee or applicant dealing with, or attempting to deal with, or to
7 exercise a power relative to, insurance outside the scope of the license of the licensee or
8 applicant;
- 9 (10) failure to surrender a license as required by this chapter, or revocation of a
10 license within the 12 months preceding the date a new application is received;
- 11 (11) failure to pass an examination required under this chapter;
- 12 (12) cheating on an examination required under this title;
- 13 (13) a licensee or applicant engaging in or about to engage in an unfair or
14 fraudulent insurance transaction;
- 15 (14) suspension or revocation of a license in another jurisdiction;
- 16 (15) forgery of another's name to an application for insurance by a licensee or
17 applicant;
- 18 (16) accepting insurance business from a person not licensed as required by this
19 title if the applicant or licensee knew or should have known that the person was unlicensed.

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

23 * Sec. 90. AS 21.27.420 is repealed and reenacted to read:

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

29 (b) After a hearing under AS 21.06.170 - 21.06.240, if the director determines the person
30 has violated a provision of this title, the director may place conditions on a person's license if
31 the director finds that the conditions will protect the public from injury or potential injury.

1 * Sec. 91. AS 21.27.430 is repealed and reenacted to read:

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

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

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

11 * Sec. 92. AS 21.27.440 is repealed and reenacted to read:

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

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

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

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

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

25 * Sec. 93. AS 21.27.460(a) is amended to read:

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

30 * Sec. 94. AS 21.27.460 is amended by adding a new subsection to read:

31 (c) Upon a change in the state of residence, a place of business, a mailing address, or in



1 the principal or manager of a firm, a license subject to the change shall be surrendered to the
 2 director within 10 days either personally or by certified mail and the division shall reissue the
 3 license reflecting the changes if the licensee continues to satisfy the qualifications under this
 4 chapter.

5 * **Sec. 95.** AS 21.27 is amended by adding new sections to read:

6 **ARTICLE 2. INSURANCE PRODUCERS.**

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

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

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

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

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

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

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

31 (b) Before a trainee may transact insurance, the licensed insurance producer employing

1 the trainee insurance producer shall submit to the director the application of the trainee insurance
2 producer, with the fee set under AS 21.06.250, and receive the trainee insurance producer license.

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

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

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

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

14 (e) A licensed trainee insurance producer

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

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

23 (3) may not transact business away from the place of business with clients or
24 insurers unless a licensed insurance producer physically accompanies the trainee.

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

29 (g) In addition to any other penalty provided by law, if the director determines under
30 AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have
31 known that a trainee insurance producer violated this section, the employing licensed insurance

1 producer and firm, principal and manager, if any, are subject to the penalties provided under
2 AS 21.27.440.

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

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

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

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

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

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

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

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

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

31 (g) The insurance producer may not

- 1 (1) bind reinsurance or retrocessions on behalf of the insurer;
2 (2) commit the insurer to participate in insurance or reinsurance syndicates;
3 (3) appoint an agent or subagent;
4 (4) jointly employ an individual who is employed by the insurer or by the
5 managing general agent; or
6 (5) delegate insurance producer authority to another person.

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

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

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

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

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

24 (4) the insurance producer may not

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

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

28 **Sec. 21.27.560. APPOINTMENT OF INSURANCE PRODUCERS AS BROKERS. (a)**
29 **A client who appoints an insurance producer as its broker in this state or relative to a subject**
30 **resident, located, or to be performed in this state shall execute a written contract that specifically**
31 **sets out the duties, functions, powers, authority, and compensation of the insurance producer, if**

1 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client
2 and a commission paid by an insurer with which coverage has been placed. The written contract
3 shall be kept in the permanent records of the insurance producer and be open to inspection by
4 the director.

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

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

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

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

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

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

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

24 (f) A controlling insurance producer may not be appointed as a broker by a client in this
25 state or relative to a subject resident, located, or to be performed in this state unless, in a form
26 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
27 the relationship between the controlling insurance producer and the controlled insurer, each client
28 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is
29 maintained by the controlling insurance producer in its records. The records shall be available
30 for inspection by the director.

31 (g) Money paid by a client to an insurance producer for insurance premiums shall be held

1 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the
2 insurance producer shall comply with applicable fiduciary account statutes and regulations.

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

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

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

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

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

21 (3) contains the following minimum provisions:

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

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

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

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

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other than the controlling licensee;

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

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

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

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

(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 (b) of this section;

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

(4) provides that the controlled insurer has an audit committee composed of independent members of the board of directors that meet at least annually with management, the insurer's independent certified public accountants, and an independent actuary specialist

1 acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and
2 outstanding.

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

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

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

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

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

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

1 to cease placing business with the controlled insurer.

2 (h) This section does not apply to

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

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

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

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

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

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

19 ARTICLE 3. MANAGING GENERAL AGENTS.

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

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

27 (1) a bond with admitted insurers authorized to transact surety insurance in an
28 amount acceptable to the director and conditioned in that the managing general agent will
29 conduct business as required by this title; and

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

31 Sec. 21.27.600. TRAINEE MANAGING GENERAL AGENTS. (a) An individual

1 licensed in this state as an insurance producer who does not have the experience required to be
2 licensed as a managing general agent, but who otherwise meets the requirements of
3 AS 21.27.590, may be employed by a licensed managing general agent as a trainee managing
4 general agent, subject to the provisions of this section.

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

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

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

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

22 (f) A trainee managing general agent may not transact business away from the place of
23 business with clients or insurers unless a licensed managing general agent physically accompanies
24 the trainee.

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

26 (1) the director shall revoke the trainee license of a trainee managing general
27 agent who the director determines has violated the provisions of this section; a licensee or other
28 person having possession or custody of the license shall immediately surrender the license to the
29 director either personally or by certified mail;

30 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
31 managing general agent knew of or should have known that a trainee managing general agent

1 violated this section, the employing managing general agent and firm, principal, and manager,
2 if any, are subject to the penalties provided under AS 21.27.440.

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

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

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

12 (2) the managing general agent is licensed under this chapter or, when the
13 managing general agent is operating only for a foreign insurer, is licensed by its resident
14 insurance regulator in a state that the director has determined has enacted provisions substantially
15 similar to those contained in this chapter and the state is accredited by the National Association
16 of Insurance Commissioners;

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

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

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

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

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

31 (D) the managing general agent shall comply with all applicable fiduciary

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Account statutes and regulations;

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

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

(G) the managing general agent shall maintain separate records for each insurer in a form usable by the insurer; the insurer or its authorized representative shall have the right to audit and the right to copy all accounts and records related to the 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 managing general agent in a form usable to the director;

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

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

- (i) the managing general agent's maximum annual premium volume;
- (ii) the rating system and basis of the rates to be charged;
- (iii) the types of risks that may be written;
- (iv) maximum limits of liability;
- (v) applicable exclusions;
- (vi) territorial limitations;
- (vii) policy cancellation provisions;
- (viii) the maximum policy term; and
- (ix) that the insurer shall have the right to cancel or not renew a policy of insurance subject to applicable state law;

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

- (i) written settlement authority must be provided by the insurer and may be terminated for cause upon the insurer's written notice sent by certified mail to the managing general agent or upon the termination of the contract, but

1 the insurer may suspend the settlement authority during a dispute regarding the
2 cause of termination;

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

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

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

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

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

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

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

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

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

30 (L) if the insurer is domiciled in this state or the managing general agent
31 has a place of business in this state, a copy of the contract must be filed with and

1 approved by the director at least 30 days before the managing general agent transacts
2 business on behalf of the insurer; and

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

9 (b) The managing general agent may not

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

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

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

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

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

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

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

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

31 (c) In a form acceptable to the director, a managing general agent shall annually provide

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

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

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

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

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

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

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

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

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

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

7 ARTICLE 4. REINSURANCE INTERMEDIARY BROKERS.

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

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

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

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

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

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

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

31 (d) A trainee reinsurance intermediary broker shall at all times be working at the

1 direction and under the supervision of the employing licensed reinsurance intermediary broker,
2 and the file and record documentation must reflect the direction and supervision. Insurance
3 activities must be in the name of the employing reinsurance intermediary broker who is
4 responsible for all actions of the trainee reinsurance intermediary broker.

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

10 (f) A trainee reinsurance intermediary broker may not transact business away from the
11 place of business with clients, insurers, or reinsurers unless a reinsurance intermediary broker
12 physically accompanies the trainee.

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

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

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

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

31 (1) the insurer may terminate the reinsurance intermediary broker's authority at

1 any time by written notice sent by certified mail;

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

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

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

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

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

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

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

30 (c) An insurer may not employ a person who is employed by a reinsurance intermediary
31 broker with which it transacts business, unless the reinsurance intermediary broker is under

1 common control with the insurer and subject to AS 21.22.

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

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

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

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

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

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

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

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

25 (5) the names and addresses of reinsurers;

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

28 (7) the related correspondence and memoranda;

29 (8) the proof of placement;

30 (9) the details regarding retrocessions handled by the reinsurance intermediary
31 broker including the identity of retrocessionaires and the percentage of each contract assumed or

1 ceded;

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

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

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

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

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

12 **ARTICLE 5. REINSURANCE INTERMEDIARY MANAGERS.**

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

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

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

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

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

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

29 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
30 manager, the reinsurance intermediary manager employing the trainee reinsurance intermediary
31 manager shall submit to the director the application of the trainee reinsurance intermediary

1 manager, with the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary
2 manager license.

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

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

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

15 (f) A trainee reinsurance intermediary manager may not transact business away from the
16 place of business with clients, insurers, or reinsurers unless a reinsurance intermediary manager
17 physically accompanies the trainee.

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

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

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

27 **Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.**

28 A reinsurance intermediary manager has only the authority that is consistent with this title and
29 that is conferred by the reinsurer. A reinsurance intermediary manager, resident or nonresident,
30 qualified and licensed under this chapter, may exercise the powers conferred by this title upon
31 insurance producers and independent adjusters only for the kinds or classes of insurance and

1 within the scope that reinsurance intermediary is authorized by the reinsurer appointing the
2 reinsurance intermediary manager.

3 **Sec. 21.27.760. OPERATING REQUIREMENTS FOR REINSURANCE**
4 **INTERMEDIARY MANAGERS.** (a) A reinsurer may not transact business with a reinsurance
5 intermediary manager unless there is in effect a written contract approved by the reinsurer's
6 board of directors between the parties that establishes the responsibilities of each party, indicates
7 each party's share of responsibility for each particular function, and specifies the division of
8 responsibilities.

9 (b) The contract required under (a) of this section must include the following provisions:

10 (1) the reinsurer may terminate the contract for cause upon written notice sent by
11 certified mail to the reinsurance intermediary manager and may suspend the underwriting
12 authority of the reinsurance intermediary manager during a dispute regarding the cause for
13 termination;

14 (2) the reinsurance intermediary manager shall render accounts to the reinsurer
15 detailing all transactions including information necessary to support all commissions, charges, and
16 other fees received by or owing to the reinsurance intermediary manager and remit all money due
17 under the contract to the insurer at least monthly;

18 (3) money collected for the account of a reinsurer shall be held by the reinsurance
19 intermediary manager in a fiduciary account as described under AS 21.27.360;

20 (4) the reinsurance intermediary manager shall comply with applicable fiduciary
21 account statutes and regulations;

22 (5) the reinsurance intermediary manager shall maintain a separate bank account
23 for each reinsurer that it represents;

24 (6) a fiduciary account must be used for all payments on behalf of the reinsurer;

25 (7) the reinsurance intermediary manager may retain not more than three months
26 estimated claims payments and allocated loss adjustment expenses;

27 (8) the reinsurance intermediary manager shall maintain separate accounts and
28 records for each reinsurer and maintain the records in a form usable by the reinsurer; the
29 reinsurer or its authorized representative shall have access and the right to audit and the right to
30 copy all accounts and records related to the reinsurer's business; the director, in addition to the
31 other authority granted in this title, shall have access to all books, bank accounts, and records of

1 the reinsurance intermediary manager in a form usable to the director;

2 (9) the contract may not be assigned in whole or in part by the reinsurance
3 intermediary manager;

4 (10) the reinsurer shall establish written underwriting and rating standards for the
5 acceptance, rejection, or cession of all risks and the reinsurance intermediary manager shall
6 comply with the standards;

7 (11) compensation including rates, terms, purposes of commissions, charges, and
8 other fees that the reinsurance intermediary manager may levy against the reinsurer;

9 (12) if the contract permits the reinsurance intermediary manager to settle claims
10 on behalf of the reinsurer,

11 (A) written settlement authority must be provided by the reinsurer and
12 may be terminated for cause upon the insurer's written notice by certified mail to the
13 reinsurance intermediary manager or upon the termination of the contract; the reinsurer
14 may suspend the settlement authority during a dispute regarding the cause of termination;

15 (B) claims shall be reported to the reinsurer within 30 days;

16 (C) a copy of the claim file shall be sent to the reinsurer upon request or
17 as soon as it becomes known that the claim

18 (i) has the potential to exceed an amount determined by the
19 director or exceeds the limit set by the insurer, whichever is less;

20 (ii) involves a coverage dispute;

21 (iii) may exceed the reinsurance intermediary manager's claims
22 settlement authority;

23 (iv) is open for more than six months;

24 (v) involves extra contractual allegations; or

25 (vi) is closed by payment in excess of an amount set by the
26 director or an amount set by the insurer, whichever is less;

27 (D) the reinsurance intermediary manager shall comply with unfair claims
28 settlement statutes and regulations;

29 (E) transmission of electronic data at least once a month if electronic
30 claims files are in existence;

31 (F) claim files shall be the property of both the reinsurer and reinsurance

1 intermediary manager, but upon an order of liquidation of the reinsurer, the files shall
2 become the sole property of the reinsurer or the reinsurer's estate; the reinsurance
3 intermediary manager shall have reasonable access to and the right to copy the files on
4 a timely basis;

5 (13) if the contract provides for sharing of interim profits by the reinsurance
6 intermediary manager, the interim profits may not be paid until

7 (A) one calendar year after the end of each underwriting period for
8 property risks and five years after the end of each underwriting period for casualty risks;

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

11 (C) the profits have been verified under (e)(2) of this section;

12 (14) the reinsurance intermediary manager may not

13 (A) cede retrocessions on behalf of the reinsurer, except that the
14 reinsurance intermediary manager may cede facultative retrocessions under obligatory
15 agreements if the contract with the reinsurer contains reinsurance underwriting guidelines
16 including a list of reinsurers with which automatic agreements are in effect, and, for each
17 reinsurer, the coverage and amounts or percentages that may be reinsured, and
18 commission schedules;

19 (B) commit the reinsurer to participate in reinsurance syndicates;

20 (C) appoint a subagent unless the scope of the subagent's license as an
21 insurance producer includes the kinds and classes of insurance for which the subagent is
22 appointed;

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

29 (E) collect payment from a retrocessionaire or commit the reinsurer to a
30 claim settlement with a retrocessionaire without prior written approval of the reinsurer,
31 but if prior written approval is given, a complete report shall be forwarded to the reinsurer

1 within 30 days;

2 (F) jointly employ an individual who is employed with the reinsurer; or

3 (G) delegate reinsurance intermediary manager authority to another person;

4 (15) if the insurer is domiciled in this state or the reinsurance intermediary

5 manager has a place of business in this state, a copy of the contract must be filed with and

6 approved by the director at least 30 days before the reinsurance intermediary manager transacts

7 business on behalf of the reinsurer; and

8 (16) if the contract is not required to be approved in advance by the director, the

9 insurer shall provide written notification to the director within 30 days of the entry into or

10 termination of a contract with a reinsurance intermediary manager; the notice must include a

11 statement of duties to be performed by the reinsurance intermediary manager on behalf of the

12 reinsurer, the kinds and classes of insurance for which the reinsurance intermediary manager has

13 authorization to act, and other information required by the director.

14 (c) Binding authority for all retrocession contracts or participation in reinsurance

15 syndicates may only rest with an officer of the reinsurer who is not affiliated with a reinsurance

16 intermediary manager.

17 (d) In a form acceptable to the director, a reinsurance intermediary manager shall

18 annually provide and a reinsurer shall annually obtain a copy of certified financial statements of

19 each reinsurance intermediary manager that the reinsurer has used, prepared by an independent

20 certified public accountant.

21 (e) The reinsurer shall

22 (1) at least semiannually conduct an on-site review of the underwriting and claims

23 processing operations of each reinsurance intermediary manager;

24 (2) in addition to any other required loss reserve certification, annually obtain the

25 opinion of an independent qualified actuary attesting to the adequacy of loss reserves established

26 for losses incurred and outstanding on business produced by the reinsurance intermediary

27 manager if a reinsurance intermediary manager establishes loss reserves; the reinsurer retains an

28 independent responsibility to determine the adequacy of its loss reserves, including those

29 established by its reinsurance intermediary manager; and

30 (3) provide written notification to the director by certified mail within 30 days

31 of the termination of a contract with a reinsurance intermediary manager.

1 (f) The reinsurance intermediary manager shall disclose to the reinsurer a relationship
2 with an insurer before ceding or assuming risks with the insurer under the contract.

3 (g) A reinsurer may not appoint to its board of directors an officer, director, employee,
4 subagent, insurance producer, or controlling shareholder of its reinsurance intermediary manager.

5 (h) Within the scope of the actual or apparent authority, the acts of the reinsurance
6 intermediary manager are considered the acts of the reinsurer upon whose behalf it is acting.

7 (i) A reinsurance intermediary manager may be examined by the director as if it were
8 the insurer.

9 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
10 reinsurance intermediary manager caused losses arising out of a violation of AS 21.27.730 -
11 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager
12 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
13 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
14 is in addition to any other liability of the reinsurance intermediary manager and does not affect
15 the rights of a policyholder, claimant, creditor, or third party.

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

19 Sec. 21.27.770. REINSURANCE INTERMEDIARY MANAGER RECORDS. In
20 addition to any other records requirements under this chapter, a reinsurance intermediary manager
21 shall maintain in organized form a complete record of each transaction including

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

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

26 (3) disposition of outstanding reserves on covered risks;

27 (4) the reporting and settlement requirements of balances;

28 (5) the rate used to compute the reinsurance premium;

29 (6) the names and addresses of reinsurers;

30 (7) the rate of all reinsurance commissions, including the commissions on
31 retrocessions handled by the reinsurance intermediary broker and reinsurance intermediary

1 manager;

2 (8) related correspondence and memoranda;

3 (9) proof of placement;

4 (10) details regarding retrocessions handled by the reinsurance intermediary broker
5 and reinsurance intermediary manager including the identity of retrocessionaires and the
6 percentage of each contract assumed or ceded;

7 (11) financial records of premium and loss accounts; and

8 (12) if the reinsurance intermediary broker procures a reinsurance contract on
9 behalf of an admitted ceding insurer or when the reinsurance intermediary manager places a
10 reinsurance contract on behalf of a ceding insurer, written evidence

11 (A) directly from an assuming reinsurer that it has agreed to assume the
12 risk; or

13 (B) that the reinsurer had delegated binding authority to the representative,
14 if placed through a representative of the assuming reinsurer other than an employee of the
15 assuming reinsurer.

16 ARTICLE 6. SURPLUS LINES BROKER.

17 Sec. 21.27.790. SURPLUS LINES BROKER QUALIFICATIONS. In addition to the
18 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a surplus
19 lines broker license, an applicant or licensee shall

20 (1) have a minimum two years active working experience within the previous five
21 calendar years as an insurance producer, managing general agent, reinsurance intermediary
22 broker, reinsurance intermediary manager, independent adjuster, or underwriter or claims adjuster
23 employee of an insurer and, in the director's opinion, exhibit the ability to competently perform
24 the responsibilities of the license applied for;

25 (2) have and maintain while licensed, a bond in the sum of not less than \$200,000
26 aggregate liability and with the conditions that the surplus lines broker conduct business under
27 the provisions of this title, promptly remit the taxes and fees provided by law, return premiums
28 promptly when due, and pay proper losses promptly;

29 (3) if the director requires, maintain an errors and omissions insurance policy
30 acceptable to the director.

31 Sec. 21.27.800. TRAINEE SURPLUS LINES BROKER. (a) An individual licensed in

1 this state as an insurance producer who does not have the experience required of a surplus lines
2 broker, but who otherwise meets the requirements of AS 21.27.790, may be employed by a
3 licensed surplus lines broker as a trainee surplus lines broker, subject to the provisions of this
4 section.

5 (b) Before an individual may transact insurance as a trainee surplus lines broker, the
6 licensed surplus lines broker employing the trainee surplus lines broker shall submit to the
7 director the application of the trainee surplus lines broker, with the fee set under AS 21.06.250,
8 and receive the trainee surplus lines broker license.

9 (c) Upon satisfying the experience requirement, a trainee surplus lines broker shall apply
10 within 30 days for a surplus lines broker license.

11 (d) A trainee licensed under this section shall at all times be working at the direction and
12 under the supervision of the employing licensed surplus lines broker, and the file and record
13 documentation shall reflect the direction and supervision. Insurance activities must be in the
14 name of the employing licensed surplus lines broker, who is responsible for all actions of the
15 trainee surplus lines broker.

16 (e) A trainee licensed under this section is restricted to assisting the employing licensed
17 surplus lines broker in preparing applications; binders; certificates of insurance; schedules of
18 equipment, vehicles, and drivers; loss notices to insurers; and invoices; and to perform clerical
19 functions for which a license is not required. The file and record documentation must reflect
20 compliance with this subsection.

21 (f) A trainee surplus line broker licensed under this section may not transact business
22 away from the place of business with clients or insurers unless a licensed surplus lines broker
23 physically accompanies the trainee.

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

25 (1) the director shall revoke the license of a trainee surplus lines broker who the
26 director determines has violated the provisions of this section; a licensee or other person having
27 possession or custody of the license shall immediately surrender the license to the director either
28 personally or by certified mail;

29 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
30 surplus lines broker knew of or should have known that a trainee licensed under this section
31 violated this section, the employing surplus lines broker and firm, principal, and manager, if any,

1 are subject to the penalties provided under AS 21.27.440.

2 Sec. 21.27.810. SURPLUS LINES BROKER RECORDS. In addition to any other records
3 requirements under this chapter, a surplus lines broker shall maintain in organized form a
4 complete record including

- 5 (1) the amount of insurance and perils insured;
- 6 (2) a complete description of property insured and the location of the property;
- 7 (3) gross premium charged;
- 8 (4) a return premium paid;
- 9 (5) the rate of premium charged upon the several items of property;
- 10 (6) the effective date of the contract and the terms of the contract;
- 11 (7) the name and address of the insured;
- 12 (8) the name and address of the insurer;
- 13 (9) the amount of tax and other sums to be collected from the insured;
- 14 (10) the allocation of taxes by state under AS 21.34.180;
- 15 (11) evidence of insurance issued in compliance with AS 21.34.100;
- 16 (12) the identity and license number of the producing broker;
- 17 (13) any confirming correspondence from the insurer or the representative of the
18 insurer; and
- 19 (14) the application.

20 Sec. 21.27.820. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF
21 SURPLUS LINES BROKER LICENSE. In addition to other action available under this title, the
22 director may deny issuance of or not renew a license, or may suspend or revoke a license of a
23 surplus lines broker issued under this chapter for any of the following causes:

- 24 (1) removal of the resident surplus lines broker's office from this state;
- 25 (2) removal of the resident surplus lines broker's accounts and records from this
26 state during the period within which the accounts and records are required to be maintained under
27 this chapter;
- 28 (3) removal of the nonresident surplus lines broker's accounts and records
29 required to be maintained under this chapter from the location described in the license without
30 prior approval of the director;
- 31 (4) closing of the surplus lines broker's office for a period of more than 45

- 1 calendar days, unless permission is granted by the director;
2 (5) failure to make a required report;
3 (6) failure to transmit a required tax or fee on a surplus line premium to this state
4 or a reciprocal state to which a tax is owing;
5 (7) failure to maintain a required bond.

6 ARTICLE 7. INDEPENDENT ADJUSTERS.

7 Sec. 21.27.830. INDEPENDENT ADJUSTER QUALIFICATIONS. In addition to the
8 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an independent
9 adjuster license, an applicant or licensee shall

10 (1) have at least six months active working experience within the previous two
11 calendar years as either an independent adjuster trainee, an insurance producer, a managing
12 general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, a surplus
13 lines broker, an independent adjuster, or an underwriter or claims adjuster employee of an insurer,
14 and, in the director's opinion, exhibit the ability to competently perform the responsibilities of
15 an independent adjuster; or

16 (2) have been previously licensed in good standing in this state as an independent
17 adjuster within the previous four calendar years and not have had a license suspended or revoked.

18 Sec.21.27.840. TRAINEE INDEPENDENT ADJUSTERS. (a) An individual resident
19 who does not have the experience with reference to the handling of loss claims but who
20 otherwise meets the requirements of AS 21.27.830, may be employed by a licensed independent
21 adjuster as a trainee independent adjuster, subject to the provisions of this section.

22 (b) Before the individual may handle loss claims, the licensed independent adjuster
23 employing the trainee independent adjuster shall submit to the director the application of the
24 trainee independent adjuster, with the fee set under AS 21.06.250, and receive the trainee
25 independent adjuster license.

26 (c) The director shall revoke a trainee independent adjuster license unless the individual
27 has

28 (1) not later than four months after the effective date of the trainee adjuster
29 license, complied with the independent adjuster licensing requirements of AS 21.27.060
30 concerning the insurance laws and regulations of this state;

31 (2) not later than eight months after the effective date of the trainee adjuster

1 license, complied with the independent adjuster licensing requirements of AS 21.27.060
2 concerning the knowledge and competence of the licensee concerning handling of loss claims and
3 the licensee's duties and responsibilities as a licensee; and

4 (3) within 12 months after the effective date of the trainee adjuster license,
5 complied with all other independent adjuster licensing requirements.

6 (d) A person whose trainee independent adjuster license was revoked for failure to meet
7 a requirement of (c) of this section may submit a new application for a trainee independent
8 adjuster license after the person has successfully passed both tests required under (c) of this
9 section.

10 (e) Upon satisfying the requirements of (c) of this section, a trainee independent adjuster
11 shall apply within 30 days for an independent adjuster license.

12 (f) A trainee independent adjuster shall at all times be working at the direction and under
13 the supervision of the employing licensed independent adjuster, and the file and record
14 documentation shall reflect the direction and supervision. The employing licensed independent
15 adjuster and its firm, manager, and principal, if any, are responsible for all insurance actions of
16 the trainee independent adjuster.

17 (g) A trainee independent adjuster is restricted to participation in a factual investigation
18 and a tentative closing of a loss subject to review and final determination by the employing
19 licensed independent adjuster, and file and record documentation shall reflect compliance with
20 this subsection.

21 (h) A trainee independent adjuster may not participate in a factual investigation and a
22 tentative closing of a loss away from the place of business unless a licensed independent adjuster
23 physically accompanies the trainee.

24 (i) In addition to any other penalty provided by law,

25 (1) a trainee independent adjuster who the director determines has violated the
26 provisions of this section shall have its license terminated; a licensee or other person having
27 possession or custody of the license shall within 30 days surrender the license to the director
28 either personally or by certified mail;

29 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
30 licensed independent adjuster knew of or should have known that a trainee independent adjuster
31 violated this section, the employing licensed independent adjuster and firm, principal and

1 manager, if any, are subject to the penalties provided under AS 21.27.440.

2 Sec. 21.27.850. INSURANCE PRODUCER, MANAGING GENERAL AGENT,
3 REINSURANCE INTERMEDIARY BROKER, REINSURANCE INTERMEDIARY MANAGER,
4 SURPLUS LINES BROKER AS INDEPENDENT ADJUSTER. Without being required by this
5 chapter to be licensed also as an independent adjuster

6 (1) a licensed insurance producer and a licensed managing general agent,
7 incidental to acting as an insurance producer, may act as an adjuster and investigate, adjust, and
8 report upon claims on behalf of and as authorized by an admitted insurer that has appointed the
9 insurance producer or the managing general agent as its agent under AS 21.27.100;

10 (2) a surplus lines broker may act as an adjuster and investigate, adjust, and report
11 upon claims on behalf of and as authorized by a nonadmitted insurer; and

12 (3) a reinsurance intermediary broker or a reinsurance intermediary manager may
13 act as an adjuster and investigate, adjust, and report upon claims on behalf of and as authorized
14 by an insurer or reinsurer under the contract required by this chapter.

15 Sec. 21.27.860. UNLICENSED NONRESIDENT ADJUSTERS. (a) A nonresident
16 independent adjuster not licensed by this state who is licensed by and in good standing with its
17 resident state may act as an adjuster and adjust a single loss in this state during a calendar year,
18 or may act as an adjuster and adjust losses arising out of a catastrophe as declared by the
19 director, if, within 10 days after the start of an investigation or adjustment under this section, the
20 nonresident independent adjuster has advised the director in writing of the adjustment and
21 provided the following information:

- 22 (1) the individual and firm name;
23 (2) the business mailing address;
24 (3) the business physical address and phone number;
25 (4) the licensing state of residence;
26 (5) the resident license number; and
27 (6) other facts that the director may require.

28 (b) A nonresident independent adjuster may be sued upon a cause of action arising in this
29 state arising from an adjustment under this section under the procedure provided in AS 21.33.

30 Sec. 21.27.870. INDEPENDENT ADJUSTER RECORDS. In addition to any other
31 records requirements under this chapter, an independent adjuster shall maintain in organized form

1 a complete record of each investigation or adjustment undertaken or consummated, and a
2 statement of the fee, commission, or other compensation received or to be received by the
3 adjuster on account of the investigation or adjustment.

4 ARTICLE 8. DEFINITIONS.

5 Sec. 21.27.900. DEFINITIONS. In this chapter,

6 (1) "affiliate" or "affiliated" has the meaning given in AS 21.22.200;

7 (2) "cession" means a unit of insurance, passed to a reinsurer by a primary insurer
8 that issued the policy to the original insured, that may transfer part or all of a single risk, defined
9 in the policy, or a defined group of business as agreed to in a contract of reinsurance;

10 (3) "comparable interest" means the same lines or kinds of insurance, the same
11 classes of risks, similar policy limits, and quality of business;

12 (4) "control," "controlling," and "controlled by" have the meaning given in
13 AS 21.22.200;

14 (5) "controlled insurer" means an admitted insurer that is controlled, directly or
15 indirectly, by an insurance producer;

16 (6) "controlling insurance producer" means an insurance producer that, directly
17 or indirectly, controls an insurer;

18 (7) "fiduciary account" means an account in which the licensee holds money as
19 a trustee for the person entitled to the money;

20 (8) "firm" means an organization of two or more licensees acting in association
21 with each other, either in a partnership, corporation, or otherwise, or an organization in which
22 a single licensee has less than 50 percent ownership interest in the organization;

23 (9) "independent qualified actuary" means an actuary who is a member of the
24 American Academy of Actuaries and who is not affiliated with, an employee, principal, the direct
25 owner or indirect owner of, or in any way controlled by the insurer, managing general agent,
26 reinsurance intermediary broker, or reinsurance intermediary manager;

27 (10) "individual" means a natural person required to be licensed under
28 AS 21.27.010 who is not acting in association with two or more licensees, either in partnership,
29 corporation, or otherwise, or an organization in which a single licensee has 50 percent or more
30 ownership interest in the organization;

31 (11) "individual in the firm" means a natural person required to be licensed under

- 1 AS 21.27.010 who is employed by a firm;
- 2 (12) "insurance holding company system" has the meaning given in AS 21.22.200;
- 3 (13) "interim profits" means the excess of income over expenses and claim
4 reserves determined before the expiration of all claim liabilities and contract obligations of the
5 insurer to the insured;
- 6 (14) "manager" means the individual in the firm who is designated by the firm
7 to be responsible for the firm's operations and the firm's compliance with insurance laws and
8 regulations at the place of business in which the manager principally works;
- 9 (15) "physical presence or physically present" means contemporaneously available
10 in the licensee's place of business;
- 11 (16) "principal" means the sole proprietor, partner, or officer of a firm who is
12 licensed as an individual in the firm and who is designated by the firm to be responsible for the
13 firm's operations and the firm's compliance with insurance laws and regulations;
- 14 (17) "reinsurance" means an insurance transaction by which the assuming insurer
15 agrees to indemnify the ceding insurer in whole or in part against liability or losses that the
16 ceding insurer might incur under a separate contract of insurance with its insured;
- 17 (18) "resident" means
- 18 (A) for an individual or an individual in the firm, a natural person who
19 is domiciled in this state, whose principal place of business is in this state, who has a
20 present intent to remain in this state while licensed, and who manifests that intent by
21 establishing an ongoing physical presence in this state;
- 22 (B) for a firm, a person whose principal place of business is in this state;
- 23 (19) "retrocession" means a transaction in which a reinsurer cedes to another
24 reinsurer all or part of the risk that the reinsurer has previously assumed;
- 25 (20) "subagent" means an agent reporting to a managing general agent or
26 reinsurance intermediary manager and not directly to an insurer;
- 27 (21) "subsidiary" has the meaning given in AS 21.22.200;
- 28 (22) "underwrite" means the authority to accept or reject risk on behalf of the
29 insurer.

30 * Sec. 96. AS 21.27.620(a)(4)(L) is repealed and reenacted to read:

31 (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; if the insurer is not domiciled in this state or the
4 managing general agent transacts business relative to a subject resident, located, or to be
5 performed in this state from a place of business not physically located in this state, a copy
6 of the contract required in this section must be filed with and approved by the director
7 at least 30 days before the managing general agent transacts business on behalf of the
8 insurer in this state or relative to a subject resident, located, or to be performed in this
9 state if the insurer or the managing general agent are domiciled in a state not accredited
10 by the National Association of Insurance Commissioners; and

11 * **Sec. 97.** AS 21.27.760(b)(15) is repealed and reenacted to read:

12 (15) if the insurer is domiciled in this state or the reinsurance intermediary
13 manager has a place of business in this state, a copy of the contract must be filed with and
14 approved by the director at least 30 days before the reinsurance intermediary manager transacts
15 business on behalf of the reinsurer; if the reinsurer is not domiciled in this state or the
16 reinsurance intermediary manager transacts business relative to a subject resident, located, or to
17 be performed in this state from a place of business not physically located in this state, a copy of
18 the contract required in this section must be filed with and approved by the director at least 30
19 days before the reinsurance intermediary manager transacts business on behalf of the insurer in
20 this state or relative to a subject resident, located, or to be performed in this state if the insurer
21 or the reinsurance intermediary manager are domiciled in a state not accredited by the National
22 Association of Insurance Commissioners; and

23 * **Sec. 98.** AS 21.33.011 is amended to read:

24 Sec. 21.33.011. **PURPOSE.** The legislature declares that insurance transactions with
25 nonadmitted insurers are so affected with a public interest as to require regulation, taxation,
26 supervision, and control of the transactions and matters relating to nonadmitted insurance as
27 provided in this chapter in order to

28 (1) protect the insureds and claimants of this state in transactions involving the
29 purchase of insurance from nonadmitted insurers;

30 (2) avoid the obstacle of resorting to distant forums for the purpose of asserting
31 legal rights under policies issued by nonadmitted insurers;

1 (3) provide a method of substituted service of process upon nonadmitted insurers
2 for proceedings before the director and in the courts in this state;

3 (4) provide for the public the ability to self-procure insurance directly from
4 nonadmitted insurers [, TO THE EXTENT THAT INSURANCE IS NOT PROCURABLE
5 FROM ADMITTED INSURERS, OR FROM ELIGIBLE SURPLUS LINES INSURERS
6 THROUGH SURPLUS LINES BROKERS];

7 (5) protect the revenue of the state;

8 (6) protect regulated, admitted insurers from unregulated and unfair competition
9 by nonadmitted insurers;

10 (7) regulate and supervise the effectuation of nonadmitted insurance under [IN
11 ACCORDANCE WITH] the laws of this state and 15 U.S.C. 1011 [P.L. 79-15 (1945)
12 (CHAPTER 20, 1ST SESS., S.340), 59 STAT. 33]; and

13 (8) maintain reliable insurance markets.

14 * **Sec. 99.** AS 21.33.021(a) is amended to read:

15 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
16 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
17 the person or insurer, the executor, administrator, or personal representative of the person or
18 insurer, or its successor in interest if a corporation, of the director and the successors of the
19 director in office to be the lawful attorney of that person or insurer upon whom may be served
20 all legal process in any action, suit, or proceeding in any court arising out of a transaction of
21 insurance in this state or relative to a subject resident. located, or to be performed in this
22 state by that person or nonadmitted insurer, except in an action, suit, or proceeding by the
23 director or by the state. The transaction of insurance by an unauthorized person or nonadmitted
24 insurer is acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer
25 that legal process so served has [IS OF] the same legal force and validity as personal service of
26 process in this state upon the person or insurer, or upon the executor, administrator, or personal
27 representative of the person or insurer, or its successor in interest if a corporation.

28 * **Sec. 100.** AS 21.33.025(a) is amended to read:

29 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
30 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
31 the person or insurer, the executor, administrator, or personal representative of the person or

1 insurer, or its successor in interest if a corporation, of the lieutenant governor and the successors
2 in office of the lieutenant governor to be the lawful attorney of that person or insurer upon whom
3 may be served all legal process in any action, suit, or proceeding in any court by the director or
4 by the state and upon whom may be served any notice, order, pleading, or process in any
5 proceeding before the director and which arises out of the transaction of insurance in this state
6 or relative to a subject resident, located, or to be performed in this state by that person or
7 insurer. The transaction of insurance by an unauthorized person or nonadmitted insurer is
8 acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer that legal
9 process in the court action, suit, or proceeding and any notice, order, pleading, or process in an
10 administrative proceeding before the director so served has [IS OF] the same legal force and
11 validity as personal service of process in this state upon the person or insurer, or upon the
12 executor, administrator, or personal representative of that person or insurer, or its successor in
13 interest if a corporation.

14 * Sec. 101. AS 21.33.031(a) is amended to read:

15 (a) Before an unauthorized person or nonadmitted insurer files or causes to be filed a
16 pleading, a court action, suit, or proceeding or a notice, order, pleading, or process in an
17 administrative proceeding before the director instituted against the person or insurer, by service
18 made as provided in AS 21.33.021 or 21.33.025, the person or insurer shall either

19 (1) deposit with the clerk of the court in which the action, suit, or proceeding is
20 pending, or with the director in administrative proceedings before the director, cash or securities
21 or bond with an admitted insurer [GOOD AND SUFFICIENT SURETIES] to be approved by
22 the court, or the director, in an amount to be fixed by the court or the director sufficient to secure
23 the payment of a final judgment that may be rendered in the court proceeding or in the
24 administrative proceeding before the director; however the court, or the director in administrative
25 proceedings before the director, may in its or the director's discretion make an order dispensing
26 with the deposit or bond where the insurer makes a showing satisfactory to the court or the
27 director that it maintains in a state of the United States funds or securities, in trust or otherwise,
28 sufficient and available to satisfy a final judgment that may be entered in the court action, suit,
29 or proceeding or in an administrative proceeding before the director; or

30 (2) obtain admission to transact insurance in this state through a certificate of
31 authority issued under this title.

1 * **Sec. 102.** AS 21.33.031(c) is amended to read:

2 (c) Nothing in (a) of this section may be construed to prevent an unauthorized person or
3 nonadmitted insurer from filing a motion to quash a writ or to set aside service made as provided
4 in AS 21.33.021 or 21.33.025 on the ground that the unauthorized person or insurer has not
5 transacted insurance in this state or relative to a subject resident, located, or to be performed
6 in this state or that the person on whom service was made under AS 21.33.021(d) was not
7 transacting insurance in this state or relative to a subject resident, located, or to be performed
8 in this state.

9 * **Sec. 103.** AS 21.33.037(b) is amended to read:

10 (b) This section does not apply to

- 11 (1) matters authorized to be done by the director;
- 12 (2) surplus lines insurance effected and written under AS 21.34;
- 13 (3) transactions for which a certificate of authority is not required under this title;
- 14 (4) reinsurance;
- 15 (5) the property and operations of railroads or aircraft engaged in interstate or
16 foreign commerce and wet marine and transportation insurance;
- 17 (6) life insurance, disability insurance, and annuity contracts when solicited solely
18 by mail or when not solicited, negotiated, or procured in this state;
- 19 (7) transactions subsequent to issuance of a policy not covering a subject
20 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance[,]
21 and lawfully solicited, written, or delivered outside this state.

22 * **Sec. 104.** AS 21.33.037(c) is amended to read:

23 (c) In addition to other penalties under this title, a [A] person who represents or aids
24 a nonadmitted insurer in violation of this chapter [SECTION] is subject to the penalties provided
25 in AS 21.33.065. This chapter does [AN INSURANCE CONTRACT ENTERED INTO IN
26 VIOLATION OF THIS SECTION SHALL] not preclude the insured from enforcing, under
27 [THE INSURED'S RIGHTS IN ACCORDANCE WITH] the terms and provisions of the contract
28 and the laws of this state, the insured's rights under a contract entered into in violation of
29 this chapter.

30 * **Sec. 105.** AS 21.33.042 is amended to read:

31 Sec. 21.33.042. SUITS BY NONADMITTED INSURERS. A nonadmitted insurer may

1 not commence or maintain an action in law or equity in this state to enforce a right arising out
2 of a transaction of insurance in this state except with respect to

3 (1) claims under policies lawfully written in this state;

4 (2) liquidation of assets and liabilities, other than the collection of new premiums,
5 resulting from its former admitted operations in this state;

6 (3) transactions subsequent to issuance of a policy not covering a subject
7 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance
8 [,] and lawfully solicited, written, or delivered outside this state;

9 (4) surplus lines insurance coverage exported under [IN ACCORDANCE WITH]
10 AS 21.34;

11 (5) reinsurance;

12 (6) the continuation and servicing of life insurance, disability insurance policies,
13 or annuity contracts remaining in force as to residents of this state where the insurer has
14 withdrawn from the state and is not transacting new insurance;

15 (7) servicing of policies written by an admitted insurer in a state to which the
16 insured has moved but in which the insured is not licensed, until the term of the policy expires;

17 (8) claims under policies covering wet marine and transportation insurance,
18 including vessels of 50 displacement tons or less.

19 * Sec. 106. AS 21.33.045(a) is amended to read:

20 (a) When the director has reason to believe that insurance has been effectuated by or for
21 a person in this state with a nonadmitted insurer, the director shall in writing order the person
22 to produce for examination all insurance contracts and other documents evidencing insurance with
23 nonadmitted insurers and to disclose to the director the amount of insurance, name and address
24 of each insurer, gross amount of premium paid [,] or to be paid, [AND] the name and address
25 of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of the
26 insurance, and other information required by the director.

27 * Sec. 107. AS 21.33.055(a) is amended to read:

28 (a) Except as to premiums on lawfully procured surplus lines insurance exported under
29 AS 21.34 and premiums on independently procured insurance on which a tax has been paid under
30 AS 21.33.061, every nonadmitted insurer shall pay to the director on or before March 1
31 [APRIL 1] following the calendar year in which the insurance was so effectuated, continued, or

1 renewed a premium-receipts tax of three percent of gross premiums charged for the insurance
2 other than wet marine and transportation insurance and a premium-receipts tax of three-fourths
3 of one percent of gross premiums charged for the wet marine and transportation insurance on
4 subjects resident, located, or to be performed in this state. The insurance on subjects resident,
5 located, or to be performed in this state procured through negotiations or an application, in whole
6 or in part occurring or made in or from in or out of this state, or for which premiums in whole
7 or in part are remitted directly or indirectly from in or out of this state, shall be considered to
8 be insurance procured or continued or renewed in this state. The term "premium" includes all
9 premiums, membership fees, assessments, dues, and any other consideration for insurance. The
10 tax is in lieu of all taxes and fire department dues. On default of a nonadmitted insurer in the
11 payment of the tax, the insured shall pay the tax within 30 days of written notice from the
12 director of the default by the nonadmitted insurer. If the tax prescribed by this section is not
13 paid by the nonadmitted insurer within the time stated or by the insured within the time
14 stated after notice of default by the nonadmitted insurer, the tax may [SHALL] be increased
15 by

16 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is
17 greater;

18 (2) interest at the rate of one percent a month or part of a month from the
19 date the payment was originally due to the date paid; and

20 (3) a [PENALTY OF 25 PERCENT AND BY THE AMOUNT OF AN
21 ADDITIONAL] penalty not to exceed \$100 a day or 25 percent of the tax due, whichever is
22 greater, from the date the payment was due to the date paid.

23 * Sec. 108. AS 21.33.055(b) is repealed and reenacted to read:

24 (b) In determining the amount of premiums taxable in this state, all premiums written,
25 procured, or received in this state shall be considered written on property or a subject located or
26 resident in this state, except premiums that are properly allocated or apportioned and reported as
27 taxable premiums of another state. In determining the amount of gross premiums taxable in this
28 state covering a subject resident, located, or to be performed both inside and outside the state,
29 the tax due shall be computed on that portion of the policy premium that is attributable to the
30 subject resident, located, or to be performed in this state and that relates to the kind of insurance
31 being placed as determined by reference to an allocation schedule as follows:

- 1 (1) if a policy covers more than one classification,
2 (A) for any portion of the coverage identified by a classification on the
3 allocation schedule, the tax shall be computed by using the allocation schedule for the
4 corresponding portion of the premium;
5 (B) for any portion of the coverage not identified by a classification on
6 the allocation schedule, the tax shall be computed by using an alternative equitable
7 method of allocation for the property or subject;
8 (C) for any portion of the coverage where the premium is indivisible, the
9 tax shall be computed by using the method of allocation that pertains to the classification
10 describing the predominant coverage.
- 11 (2) if the information provided is insufficient to substantiate the method of
12 allocation used or if the director determines that the method is incorrect, the director shall
13 determine the equitable and appropriate amount of tax due to the state as follows:
- 14 (A) by use of the allocation schedule where the subject is appropriately
15 identified in the schedule;
16 (B) where the allocation schedule does not identify a classification
17 appropriate to the coverage, the director may give acceptance by significant weight to
18 documented evidence of the underwriting bases and other criteria used by the insurer or
19 may give consideration to other available information to the extent it is sufficient and
20 relevant, including the percentage of the insured's physical assets in this state, the
21 percentage of the insured's sales in this state, the percentage of income or resources
22 derived from this state, and the amount of premium tax paid to another jurisdiction for
23 the policy.
- 24 * Sec. 109. AS 21.33.055 is amended by adding a new subsection to read:
25 (c) This section does not apply to insurance of risks of the state, a political subdivision
26 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.
- 27 * Sec. 110. AS 21.33.061(a) is amended to read:
28 (a) Every insured who procures or causes to be procured or continues or renews
29 insurance with a nonadmitted insurer, or an insured or self-insurer who so procures or continues
30 excess loss, catastrophe or other insurance, upon a subject of insurance resident, located, or to
31 be performed in this state, other than insurance lawfully procured through a surplus lines broker

1 under AS 21.34 shall, within 30 days after the date the insurance was procured, continued, or
2 renewed, file a report with the director in writing and in a form prescribed [UPON FORMS
3 DESIGNATED] by the director [AND FURNISHED TO THE INSURED UPON REQUEST].
4 The report must show the name and address of the insured, name and address of the insurer, the
5 subject of the insurance, a general description of the coverage, the amount of premium currently
6 charged, and additional pertinent information required [THAT IS REASONABLY
7 REQUESTED] by the director.

8 * Sec. 111. AS 21.33.061(c) is amended to read:

9 (c) There is levied upon the obligation, chose in action, or right represented by the
10 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums
11 charged for the insurance other than wet marine and transportation insurance and a premium
12 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and
13 transportation insurance. The term "premium" includes all premiums, membership fees,
14 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and
15 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar
16 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to
17 the director. In event of cancellation and rewriting of the insurance contract the additional
18 premium for premium receipts tax purposes is the premium in excess of the unearned premium
19 of the cancelled insurance contract. If the tax prescribed by this section is not paid within
20 the time stated, the tax may be increased 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 due to the date paid; and

25 (3) a penalty not to exceed \$100 a day or 25 percent of the tax due, whichever
26 is greater, from the date the payment was due to the date paid.

27 * Sec. 112. AS 21.33.061(d) is repealed and reenacted to read:

28 (d) In determining the amount of premiums taxable in this state, all premiums written,
29 procured, or received in this state shall be considered written on property or a subject located or
30 resident in this state, except premiums that are properly allocated or apportioned and reported as
31 taxable premiums of another state. In determining the amount of gross premiums taxable in this

1 state, the tax due shall be computed on that portion of the policy premium that is attributable to
2 a subject resident, located, or to be performed in this state and that relates to the kind of
3 insurance being placed as determined by reference to an allocation schedule as follows:

4 (1) if a policy covers more than one classification,

5 (A) for any portion of the coverage identified by a classification on the
6 allocation schedule, the tax shall be computed by using the allocation schedule for the
7 corresponding portion of the premium;

8 (B) for any portion of the coverage not identified by a classification on
9 the allocation schedule, the tax shall be computed by using an alternative equitable
10 method of allocation for the property or subject;

11 (C) for any portion of the coverage where the premium is indivisible, the
12 tax shall be computed by using the method of allocation that pertains to the classification
13 describing the predominant coverage;

14 (2) if the information provided is insufficient to substantiate the method of
15 allocation used, or if the director determines that the method is incorrect, the director shall
16 determine the equitable and appropriate amount of tax due to this state as follows:

17 (A) by use of the allocation schedule where the subject is appropriately
18 identified in the schedule;

19 (B) where the allocation schedule does not identify a classification
20 appropriate to the coverage, the director may give significant weight to documented
21 evidence of the underwriting bases and other criteria used by the insurer or may give
22 consideration to other available information to the extent sufficient and relevant, including
23 the percentage of the insured's physical assets in this state, the percentage of the insured's
24 sales in this state, the percentage of income or resources derived from this state, and the
25 amount of premium tax paid to another jurisdiction for the policy.

26 * Sec. 113. AS 21.33.061(g) is amended to read:

27 (g) This section does not apply to insurance of risks of the state, a political
28 subdivision of the state, insurance of aircraft regularly engaged in interstate or foreign
29 commerce, to life insurance, [INDIVIDUAL LIFE OR INDIVIDUAL] disability insurance, or
30 annuity contracts.

31 * Sec. 114. AS 21.33.065(a) is amended to read:

1 (a) A person other than an insured, who in this state represents or aids a nonadmitted
2 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than \$50,000
3 [\$5,000] in addition to applicable criminal penalties and other penalties prescribed in this title
4 [CHAPTER].

5 * Sec. 115. AS 21.33.065(b) is amended to read:

6 (b) In addition to any other penalty provided, a person who violates a provision of this
7 chapter is [SHALL BE] subject to a civil penalty of not more than \$10,000 [\$1,000] for the first
8 offense and not more than \$100,000 [\$2,000] for each succeeding violation.

9 * Sec. 116. AS 21.33.900 is amended to read:

10 Sec. 21.33.900. RECORDS OF INSUREDS. In order that the director may effectively
11 administer this chapter, a [EACH] person who has placed insurance with an unauthorized insurer
12 shall, upon the director's order, produce for the examination of the director all policies and other
13 documents evidencing the insurance and shall disclose to the director the amount of premiums
14 paid or agreed to be paid for the insurance and other information required by the director.
15 For each refusal to obey the order, in addition to any other penalties prescribed in this title,
16 the person is subject to a civil penalty of not more than \$25,000 [\$2,500] following an
17 appropriate hearing as provided in AS 21.06.170 - 21.06.230.

18 * Sec. 117. AS 21.33.910 is repealed and reenacted to read:

19 Sec. 21.33.910. DEFINITIONS. In this chapter,

20 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;

21 (2) "transaction of insurance" means the solicitation, negotiation, procurement,
22 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
23 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
24 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
25 insurance and arising out of it;

26 (3) "unauthorized person" means a person not licensed as a surplus lines broker,
27 or not a salaried employee of the insured;

28 (4) "wet marine and transportation insurance" has the meaning given in
29 AS 21.34.900.

30 * Sec. 118. AS 21.34.020 is repealed and reenacted to read:

31 Sec. 21.34.020. PLACEMENT OF SURPLUS LINES INSURANCE. Insurance other

1 than reinsurance, wet marine and transportation insurance, insurance independently procured, life
2 insurance, disability insurance, and annuity contracts may be procured through a surplus lines
3 broker licensed under AS 21.27 from nonadmitted insurers if

4 (1) the insurer is an eligible surplus lines insurer;

5 (2) the full amount, kind, or class of insurance cannot be obtained from insurers
6 who are admitted to do business in this state;

7 (3) the producing broker has conducted and documented a diligent search among
8 insurers who are admitted to transact business in this state and are actually writing the particular
9 kind or class of insurance required by the client in this state;

10 (4) the director authorizes an exception to (2) of this section by regulation or by
11 written authorization for an individual placement upon written request by the broker; and

12 (5) all other requirements of this chapter are met.

13 * Sec. 119. AS 21.34 is amended by adding a new section to read:

14 Sec. 21.34.025. SUBSCRIPTION POLICIES OR JOINT UNDERWRITING IN
15 COMBINATION WITH ADMITTED INSURERS. Subscription policies or joint underwriting
16 of insurance other than reinsurance, wet marine and transportation insurance, insurance
17 independently procured, life insurance, disability insurance, and annuity contracts by a
18 combination of authorized insurers and nonadmitted insurers is a surplus lines insurance
19 placement in its entirety, is subject to this chapter, is not subject to AS 21.39 or AS 21.42.120 -
20 21.42.130, and losses or claims are not covered by AS 21.80 (Alaska Insurance Guaranty
21 Association Act).

22 * Sec. 120. AS 21.34.040(a) is amended to read:

23 (a) Coverage may be placed in a nonadmitted insurer by a surplus lines broker only [,]
24 if

25 (1) at the time of placement, the nonadmitted insurer meets all the requirements
26 of this section; and

27 (2) the surplus lines broker is licensed under AS 21.27.

28 * Sec. 121. AS 21.34.040(c) is amended to read:

29 (c) A nonadmitted insurer may be eligible to provide coverage in this state if it qualifies
30 under one of the following:

31 (1) a foreign but nonalien stock insurer may qualify under this subsection if it has

1 the minimum unimpaired basic capital and additional surplus equal to that required in its
2 domiciliary jurisdiction, or maintains [\$5,000,000 AS OF JUNE 20, 1987, ~~\$6,000,000 AS OF~~
3 DECEMBER 31, 1990,] \$10,000,000 as of December 31, 1991, \$12,500,000 as of December 31,
4 1992, and \$15,000,000 as of December 31, 1993, whichever is greater;

5 (2) a foreign but nonalien mutual insurer, a reciprocal insurer, or a mutual
6 protection and indemnity association may qualify under this subsection if it has the minimum
7 unimpaired basic surplus and additional surplus equal to that required in its domiciliary
8 jurisdiction or maintains [~~\$6,000,000 AS OF DECEMBER 31, 1990,~~] \$10,000,000 as of
9 December 31, 1991, \$12,500,000 as of December 31, 1992, and \$15,000,000 as of December 31,
10 1993, whichever is greater;

11 (3) an alien insurer other than an alien mutual protection and indemnity
12 association may qualify under this subsection if it meets the minimum requirements in (1) or
13 (2) of this subsection and maintains in the United States an irrevocable trust fund [IN EITHER
14 A NATIONAL BANK OR A MEMBER OF THE FEDERAL RESERVE SYSTEM,] in an
15 amount not less than \$2,500,000 in a solvent federally insured bank acceptable to the
16 director, as security to the full amount, for the protection of all its policyholders and creditors
17 of each member of the mutual insurer, reciprocal insurer, or mutual protection and indemnity
18 association in the United States; the trust fund must consist of instruments of substantially the
19 same character and quality as those that are eligible investments for the capital and statutory
20 reserves of admitted insurers authorized to write like kinds of insurance in this state or of
21 irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date
22 that at no time is less than five years;

23 (4) a Lloyd's or other similar unincorporated group of alien individual insurers
24 may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to
25 the full amount, for the protection of all its policy holders and creditors of each member of the
26 group in the United States; the trust fund must consist of instruments of substantially the same
27 character and quality as those that are eligible investments for the capital and statutory reserves
28 of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable,
29 clean, and unconditional letters of credit; the trust fund must have an expiration date that at no
30 time is less than five years;

31 (5) an ["] insurance exchange ["] created by the laws of individual states may

1 qualify if it maintains capital and surplus, or the substantial equivalent, of not less than
2 \$50,000,000 in the aggregate; for insurance exchanges that maintain funds for the protection of
3 all insurance exchange policyholders, each individual syndicate shall maintain minimum capital
4 and surplus, or the substantial equivalent, of not less than \$3,000,000; in the event the insurance
5 exchange does not maintain funds for the protection of all its policyholders, each individual
6 syndicate shall meet the minimum requirements of (1) or (2) of this subsection;

7 (6) an alien mutual protection and indemnity association may qualify under
8 this subsection if it has the minimum unimpaired basic capital and additional surplus equal
9 to that required in its domiciliary jurisdiction or \$10,000,000, whichever is greater, and
10 maintains in the United States an irrevocable trust fund in an amount not less than
11 \$1,000,000 in a federally insured bank acceptable to the director, as security to the full
12 amount, for the protection of all its policyholders and creditors or each member of the
13 mutual protection and indemnity association in the United States; the trust fund must
14 consist of instruments of substantially the same character and quality as those that are
15 eligible investments for the capital and statutory reserves of admitted insurers authorized
16 to write wet marine and transportation insurance in this state or of irrevocable, clean, and
17 unconditional letters of credit; the trust fund must have an expiration date that at no time
18 is less than five years.

19 * Sec. 122. AS 21.34.040 is amended by adding a new subsection to read:

20 (e) The capital and surplus requirements of this section shall be calculated based upon
21 generally accepted accounting practices used in the United States of America.

22 * Sec. 123. AS 21.34.060 is amended to read:

23 Sec. 21.34.060. OTHER NONADMITTED INSURERS. Only that portion of a risk
24 eligible for export for which the full amount of coverage is not procurable from eligible surplus
25 lines insurers may be placed with another nonadmitted insurer that does not appear on the list
26 of eligible surplus lines insurers published under AS 21.34.050 but nonetheless meets the
27 requirements of AS 21.34.040 and a regulation adopted under this chapter. The surplus lines
28 broker seeking to provide coverage through an unlisted nonadmitted insurer shall within 30 days
29 after placing the coverage notify the director in writing on a form prescribed by the
30 director [MAKE A FILING SPECIFYING] the amount and percentage of each risk to be placed
31 and naming each nonadmitted insurer with which placements are intended. Within 30 days after

1 placing the coverage, the surplus lines broker shall also send written notice to the insured and
2 [OR] the producing broker that the insurance, or a portion of it, has been placed with the unlisted
3 nonadmitted insurer.

4 * **Sec. 124.** AS 21.34.070(b) is amended to read:

5 (b) The director may issue an order declaring [DECLARE] a nonadmitted insurer
6 ineligible if at any time the director has reason to believe that the nonadmitted insurer

7 (1) is in unsound financial condition;

8 (2) is no longer eligible under AS 21.34.040;

9 (3) has wilfully violated the laws of this state or another state; or

10 (4) does not reasonably investigate and make [REASONABLY] prompt payment
11 of just losses and claims in this state or another state [ELSEWHERE].

12 * **Sec. 125.** AS 21.34.080 is repealed and reenacted to read:

13 **Sec. 21.34.080. EVIDENCE OF INSURANCE, AFFIDAVITS, DUTY TO FILE.** (a)

14 A surplus lines broker shall execute and file with the monthly report required by AS 21.34.170
15 a written report, which shall be kept confidential, regarding each surplus lines insurance
16 transaction occurring in the preceding calendar month. The report must include

17 (1) the name and address of the insured;

18 (2) the identity of each insurer including the National Association of Insurance
19 Commissioners group and company insurer number and the percentage of coverage provided by
20 each;

21 (3) a complete description of the subject and location of the risk;

22 (4) the amount of premium charged for the insurance; and

23 (5) other information required by the director.

24 (b) Instead of the report required in (a) of this section, the director may order that
25 evidence of insurance be filed with the surplus lines association and that the surplus lines
26 association provide periodic reports regarding insurance transactions to the director.

27 (c) A producing broker shall execute and file with the director, or if ordered by the
28 director, with the surplus lines association, on or before the end of each month on a form
29 prescribed by the director, and a surplus lines broker shall file with the written report required
30 by (a) of this section, for surplus lines insurance first placed or renewed in the preceding calendar
31 month, an affidavit that shall be open to public inspection, as to the diligent efforts to place the

1 coverage with admitted insurers, and the results of those efforts. The affidavit must contain a
2 statement by the broker that the insured was expressly informed in writing before placement of
3 the surplus lines insurance that the surplus lines insurer with whom the insurance was to be
4 placed is not licensed in this state, is not subject to this state's supervision, and in the event of
5 the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
6 Insurance Guaranty Association Act).

7 * Sec. 126. AS 21.34.090(a) is amended to read:

8 (a) A surplus lines association of surplus lines brokers may be formed to

9 (1) facilitate and encourage compliance by its members with the laws of this state
10 and the regulations relative to surplus lines insurance;

11 (2) attend National Association of Insurance Commissioners meetings and
12 participate in task forces and work groups [PROVIDE MEANS FOR THE EXAMINATION,
13 WHICH SHALL REMAIN CONFIDENTIAL, OF ALL SURPLUS LINES COVERAGES
14 WRITTEN BY ITS MEMBERS TO DETERMINE WHETHER THE COVERAGES COMPLY
15 WITH THE LAWS AND REGULATIONS OF THIS STATE];

16 (3) communicate with organizations of admitted insurers with respect to the
17 proper use of the surplus lines market;

18 (4) receive and disseminate to its members information relative to surplus lines
19 coverages; and

20 (5) contract with the director to receive reports and affidavits under
21 AS 21.34.080, verify that coverage has been placed with eligible surplus lines insurers, verify
22 the amount of taxes under AS 21.34.180 and fees under AS 21.34.190 for surplus lines
23 insurance for each surplus lines broker, and to prepare periodic reports as required by the
24 director [RECEIVE AND COLLECT ON BEHALF OF THE STATE AND REMIT TO THE
25 STATE PREMIUM RECEIPTS TAX FOR SURPLUS LINES INSURANCE].

26 * Sec. 127. AS 21.34.090(c) is repealed and reenacted to read:

27 (c) A surplus lines association is subject to the same penalties under this title as a surplus
28 lines broker.

29 * Sec. 128. AS 21.34.090 is amended by adding a new subsection to read:

30 (e) The surplus lines association shall maintain its place of business in this state.

31 * Sec. 129. AS 21.34.100(a) is amended to read:

1 (a) When surplus lines insurance is placed, the surplus lines broker shall within 30 days
2 after placing the coverage [PROMPTLY] deliver to the insured or the producing broker the
3 policy, or if the policy is not then available, a certificate, cover note, binder, or other evidence
4 of insurance. The certificate, cover note, binder, or other evidence of insurance shall be executed
5 by the surplus lines broker and must [SHALL] contain a complete record of all policy insuring
6 agreements, conditions, exclusions, clauses, endorsements, other material facts that would
7 regularly be included in the policy, description, and location of the subject of insurance, a general
8 description of the coverages of the insurance, the premium and rate charged and taxes to be
9 collected from the insured, the name and address of the insured, the name of each surplus lines
10 insurer and the percentage of the entire risk assumed by each, the name of the surplus lines
11 broker, and the license number of the surplus lines broker.

12 * Sec. 130. AS 21.34.110 is amended to read:

13 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A
14 contract of insurance placed by a surplus lines broker under this chapter is [SHALL] not [BE]
15 binding upon the insured and a premium charged is [SHALL] not [BE] due and payable until the
16 surplus lines broker has notified the insured in writing, a copy of which shall be maintained by
17 the licensee with the records of the contract, available for examination, that the insurer with
18 which the surplus lines broker places the insurance does not hold a certificate of authority
19 issued [IS NOT LICENSED] by this state and is not subject to its supervision, and in the event
20 of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
21 Insurance Guaranty Association Act) [PAID BY THE STATE INSURANCE GUARANTY
22 FUND]. Nothing in this section shall nullify an agreement by an insurer to provide insurance.

23 * Sec. 131. AS 21.34.130 is amended to read:

24 Sec. 21.34.130. EFFECT OF PAYMENT TO SURPLUS LINES BROKER. A payment
25 of premium to a surplus lines broker acting for a person other than itself [ONESELF] in
26 negotiating, continuing, or reviewing a policy of insurance under this chapter, is considered to
27 be payment to the insurer, notwithstanding conditions or stipulations in the policy or contract to
28 the contrary.

29 * Sec. 132. AS 21.34.150 is amended to read:

30 Sec. 21.34.150. SURPLUS LINES BROKERS MAY ACCEPT BUSINESS FROM
31 OTHER BROKERS. A surplus lines broker licensed by this state may originate surplus lines

1 insurance or accept surplus lines insurance from another [BROKER OR] surplus lines broker
2 licensed by [IN] this state or a producing broker licensed by this state as to the kind and class
3 of insurance involved. The surplus lines broker may compensate the producing [LICENSED]
4 broker or surplus lines broker for the insurance.

5 * **Sec. 133.** AS 21.34.170 is repealed and reenacted to read:

6 Sec. 21.34.170. MONTHLY REPORTS, SUMMARY OF EXPORTED BUSINESS. (a)
7 A surplus lines broker shall file with the director on or before the end of each month, on forms
8 prescribed by the director, a verified report in duplicate of all surplus lines insurance, by type of
9 insurance as required to be reported in the annual statement that must be filed with the director
10 by admitted insurers. The report must include all surplus lines insurance transactions during the
11 preceding calendar month showing the aggregate gross premiums written, the aggregate return
12 premiums, the amount of aggregate tax remitted to this state, and the amount of aggregate tax
13 remitted to each other state for which an allocation is made under AS 21.34.150.

14 (b) Instead of the report required under (a) of this section, the director may order that
15 evidence of insurance be filed with surplus lines association and that the association file periodic
16 reports regarding insurance transactions to the director.

17 * **Sec. 134.** AS 21.34.180 is repealed and reenacted to read:

18 Sec. 21.34.180. SURPLUS LINES TAX. (a) Gross premiums charged, less any return
19 premium, for surplus lines insurance are subject to a premium receipts tax of 2.7 percent, that
20 shall be collected by the surplus lines broker in addition to the full amount of the gross premium
21 charged by the insurer for the insurance. The tax on any portion of the premium unearned at
22 termination of the insurance that is credited by the state to the surplus lines broker shall be
23 returned to the policyholder directly by the surplus lines broker or through the producing broker,
24 if any. If a surplus lines policy procured through a surplus lines broker covers property or a
25 subject resident, located, or to be performed both inside and outside of this state, the tax payable
26 shall be computed on that portion of the gross premiums properly allocated to this state. The
27 surplus lines broker may not absorb the tax or any part of it and may not rebate the tax or a part
28 of the tax.

29 (b) The surplus lines tax is due and shall be paid to the director at the end of January,
30 April, July, and October. The tax shall be reported on forms prescribed by the director for all
31 insurance transacted under this chapter during the preceding calendar quarter.

1 (c) If the tax is not paid when due, an additional late payment fee of \$250 plus two
2 percent of the tax due per month, or part of a month, shall become due and payable by the
3 surplus lines broker.

4 (d) If a surplus lines policy procured through a licensed surplus lines broker covers
5 property, a subject, or exposure only partially resident, located, or to be performed in this state,
6 the tax payable shall be computed on the portions of the premium that are attributable to the
7 property or subject located or to be performed in this state. In determining the amount of a
8 premium taxable in this state, all premiums written, procured, or received in this state shall be
9 considered written on property or subject located or resident in this state, except premiums that
10 are properly allocated or apportioned and reported as taxable premiums of a reciprocal state. The
11 tax payable to this state may not be less than the tax due under this section, except that if the
12 amount of tax due under this section is less than \$50 in any jurisdiction, it shall be payable in
13 the jurisdiction in which the affidavit required in AS 21.34.080 is filed.

14 (e) The director shall, at least annually, furnish to the commissioner, director, or
15 superintendent of a reciprocal state a copy of all filings reporting an allocation of tax as required
16 by (d) of this section.

17 (f) In determining the amount of gross premiums taxable in this state for a placement of
18 surplus lines insurance covering a subject resident, located, or to be performed both inside and
19 outside this state, the tax due shall be computed on that portion of the policy premium that is
20 attributable to a subject resident, located, or to be performed in this state and that relate to the
21 kind of insurance being placed as determined by reference to an allocation schedule as follows:

22 (1) if a policy covers more than one classification,

23 (A) for any portion of the coverage identified by a classification on the
24 allocation schedule, the tax shall be computed by using the allocation schedule for the
25 corresponding portion of the premium;

26 (B) for any portion of the coverage not identified by a classification on
27 the allocation schedule, the tax shall be computed by using an alternative equitable
28 method of allocation for the property or subject;

29 (C) for any portion of the coverage where the premium is indivisible, the
30 tax shall be computed by using the method of allocation that pertains to the classification
31 describing the predominant coverage;

1 (2) if the information provided by the surplus lines broker is insufficient to
2 substantiate the method of allocation used by the surplus lines broker or if the director determines
3 that the surplus lines broker's method is incorrect, the director shall determine the equitable and
4 appropriate amount of tax due to this state as follows:

5 (A) by use of the allocation schedule where the subject is appropriately
6 identified in the schedule;

7 (B) where the allocation schedule does not identify a classification
8 appropriate to the coverage, the director may give significant weight to documented
9 evidence of the underwriting bases and other criteria used by the insurer or may give
10 consideration to other available information to the extent sufficient and relevant, including
11 the percentage of the insured's physical assets in this state, the percentage of the insured's
12 sales in this state, the percentage of income or resources derived from this state, and the
13 amount of premium tax paid to another jurisdiction for the policy.

14 (g) This section does not apply to insurance of risks of the state, or a political subdivision
15 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

16 * Sec. 135. AS 21.34.190 is amended to read:

17 Sec. 21.34.190. FILING FEE. The fee for filing the statement under AS 21.34.180(b)
18 is an amount equal to one percent on gross premium charged less any return premiums during
19 the preceding calendar quarter [YEAR]. The surplus lines broker shall pay the fee at the time
20 of filing of the statement.

21 * Sec. 136. AS 21.34.190 is amended by adding a new subsection to read:

22 (b) If the filing fee is not paid when due, an additional late payment fee of \$250 plus two
23 percent of the fee due per month, or part of a month, shall become due and payable by the
24 surplus lines broker.

25 * Sec. 137. AS 21.34.200(a) is amended to read:

26 (a) If the tax collectible under AS 21.34.180 or the fee collectible under AS 21.34.190
27 by a surplus lines broker is not paid within the time prescribed, the tax, fee, or both, and late
28 payment fees, along with appropriate penalties may be collected by distraint or by an action in
29 court, against the surplus lines licensee and the surety on the bond filed under AS 21.27.790
30 [AS 21.34.140(b)(4)].

31 * Sec. 138. AS 21.34.230 is repealed and reenacted to read:

1 **Sec. 21.34.230. PENALTIES.** (a) In addition to any other penalty provided by law, a
2 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
3 of this chapter is subject to

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

6 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
7 penalty of not more than \$25,000 for each violation if the director determines that the person
8 wilfully violated the provisions of this chapter.

9 (b) A violation of this chapter is cause for denial, nonrenewal, suspension, or revocation
10 of a license.

11 * **Sec. 139.** AS 21.34.900 is repealed and reenacted to read:

12 **Sec. 21.34.900. DEFINITIONS.** In this chapter,

13 (1) "capital" means money paid in for stock or other evidence of ownership;

14 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a
15 surplus lines broker may place surplus lines insurance under AS 21.34.040;

16 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;

17 (4) "kind of insurance" means one of the kinds of insurance defined in
18 AS 21.12.040 - 21.12.110;

19 (5) "producing broker" means the insurance producer or surplus lines broker
20 licensed under AS 21.27 dealing directly with the client seeking insurance;

21 (6) "reciprocal state" means a state that the director has determined has enacted
22 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

23 (7) "surplus," as used in the financial requirements of AS 21.34.040, means
24 money over and above liabilities and capital of the company for the protection of policyholders;

25 (8) "transaction of insurance" means the solicitation, negotiation, procurement,
26 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
27 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
28 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
29 insurance and arising out of it;

30 (9) "wet marine and transportation insurance" means

31 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,

1 except vessels of 50 displacement tons or less;

2 (B) insurance of marine builders risks, marine war risks, and contracts of
3 marine protection and indemnity insurance;

4 (C) insurance of freight and disbursements pertaining to a subject of
5 insurance coming within this paragraph; and

6 (D) insurance of personal property and interests in personal property, in
7 course of exportation from or importation into a country or in the course of coastal or
8 inland water transportation, including transportation by land, water, or air from point of
9 origin to final destination in connection with any and all risks or perils of navigation,
10 transit, or transportation, and while being repaired for and while awaiting shipment, and
11 during any delays, transshipment, or reshipment incident to them.

12 * Sec. 140. AS 21.36.020 is amended to read:

13 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person
14 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject
15 resident, located, or to be performed in this state that is defined in this chapter as, or
16 determined under this chapter to be, an unfair method of competition or an unfair or deceptive
17 act or practice in the business of insurance.

18 * Sec. 141. AS 21.36 is amended by adding a new section to read:

19 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may
20 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,
21 financial counselor, or similar specialist engaged in the business of giving financial planning or
22 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when
23 the person is in fact only engaging in the sale of insurance.

24 (b) A person may not engage in the business of financial planning and solicit the sale
25 of a product or service on the basis that the person is an insurance salesperson or that a
26 commission for the sale of an insurance product will be received in addition to a fee for financial
27 planning without full disclosure to the client before the execution of the agreement required in
28 (c) of this section.

29 (c) A person licensed under this title may not charge a fee other than a commission for
30 financial planning unless the fee is based upon a written agreement signed before the
31 performance of a service under the agreement. The insurance salesperson shall provide the client

1 a copy of the signed agreement at the time of signing. The agreement must specifically state the
2 service for which a fee is to be charged and how the fee will be determined or calculated. The
3 agreement must provide that the client is under no obligation to purchase an insurance product.
4 The licensee shall retain a copy of the agreement for not less than five years after completion of
5 services and the agreement shall be available to the director upon request.

6 * Sec. 142. AS 21.36.150(a) is amended to read:

7 (a) If the director believes that a person engaged in the insurance business is engaging
8 in this state in an unfair method of competition or in an unfair or deceptive act or practice in the
9 conduct of the business that is not defined as being unfair or deceptive under this title
10 [CHAPTER], the director shall hold a hearing on the matter, if the director believes it would be
11 in the public interest to do so after giving notice of the hearing and of the charges. Upon
12 conclusion of the hearing the director shall make a written report of the findings of fact relative
13 to the charges and serve a copy upon the person and any intervenor at the hearing.

14 * Sec. 143. AS 21.36.150(b) is amended to read:

15 (b) If the report charges a violation of this title [CHAPTER] and if the method of
16 competition, act, or practice has not been discontinued, the director may, through the attorney
17 general of this state, at any time after the service of the report, cause an action to be instituted
18 to enjoin and restrain the person from engaging in the method, act, or practice. In the action the
19 court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not
20 be required to give security before the issuance of the order or injunction. If a stenographic
21 [STENOGRAPH] record of the proceedings in the hearing before the director was made, a
22 certified transcript, including all evidence taken and the report and findings, shall be received in
23 evidence in the action.

24 * Sec. 144. AS 21.36.150 is amended by adding a new subsection to read:

25 (d) In addition to the unfair methods and unfair or deceptive acts or practices expressly
26 defined in this title, the director may define other methods of competition and other acts and
27 practices in the conduct of the business of insurance found by the director to be unfair or
28 deceptive.

29 * Sec. 145. AS 21.36.255(a) is amended to read:

30 (a) If an insurance policy is cancelled, rejected, or rescinded by the
31 (1) insurer, the insurer shall refund the unearned premium paid to the insured or

1 premium finance company; or

2 (2) insured, the insurer shall return any unearned premium paid to the insured or
3 premium finance company, less a cancellation fee not to exceed 7.5 percent of the unearned
4 premium; a cancellation fee may not be charged unless the fee is clearly stated in the policy; the
5 insurer shall return or credit the unearned premium less a lawful cancellation fee

6 (A) within 30 days on a policy not subject to audit; or

7 (B) within 30 days of completion of an audit; the insurer shall perform
8 and complete an audit within 30 days unless the audit cannot reasonably be
9 completed using due diligence and the insured is advised in writing of the reason
10 why additional time is necessary to complete the audit and when the audit will be
11 completed.

12 * Sec. 146. AS 21.36.310(1) is amended to read:

13 (1) "business or commercial insurance" means insurance other than personal
14 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title
15 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN
16 AS 21.34.900,] or an annuity contract;

17 * Sec. 147. AS 21.36.320(a) is amended to read:

18 (a) On the complaint of a person or on the motion of the director, the director may
19 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an
20 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

21 * Sec. 148. AS 21.36.320(c) is amended to read:

22 (c) If the director determines that a person violated [ON A FINDING OF A
23 VIOLATION OF] this chapter, the director shall serve upon the person charged an order
24 requiring that person to cease and desist from engaging in the act or practice [STOP THE
25 ACTS OR PRACTICES].

26 * Sec. 149. AS 21.36.320(d) is amended to read:

27 (d) In addition to an order issued under (c) of this section, the director may, after a
28 hearing, order restitution, suspend or revoke the person's license, and [ALSO] order a
29 penalty of not more than \$10,000 [\$1,000] for each act or \$100,000 [\$10,000] for engaging in
30 a general business practice in violation of this chapter.

31 * Sec. 150. AS 21.36.320(e) is amended to read:

1 (e) If the director determines after a hearing that the person charged knew or should
2 have known that the person was in violation of this chapter, a penalty in addition to that
3 prescribed in (d) of this section of not more than \$25,000 [\$1,000] for each act or \$250,000
4 [\$25,000] for engaging in the general business practice in violation of this chapter [, OR
5 SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also be
6 ordered by the director.

7 * Sec. 151. AS 21.36.320(f) is amended to read:

8 (f) If the director believes that a person has violated a cease and desist [STOP] order
9 issued under (c) of this section, the director may certify the relevant facts to the superior court
10 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and
11 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist
12 [STOP] order has been violated, may order the violator to comply with the order, pay an
13 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may
14 revoke or suspend the violator's license, and may bar the violator from transacting the
15 business of insurance in the future [OR BOTH].

16 * Sec. 152. AS 21.36.350 is amended to read:

17 Sec. 21.36.350. ENFORCEMENT. The director may [OF INSURANCE SHALL] adopt
18 regulations to implement, define, and enforce this chapter [AS 21.36.125].

19 * Sec. 153. AS 21.36.370 is amended to read:

20 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING
21 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

22 (1)} the charging and collection by surplus line brokers licensed under AS 21.27
23 [AS 21.33] of the amount of applicable state and federal taxes and filing fees under AS 21.34
24 is not considered a premium or charge for insurance [AS 21.34.180 - 21.34.190;

25 (2) THE CHARGING AND COLLECTION BY A LIFE INSURER OF
26 AMOUNTS ACTUALLY TO BE EXPENDED FOR MEDICAL EXAMINATION OF AN
27 APPLICANT FOR LIFE INSURANCE OR FOR REINSTATEMENT OF A LIFE INSURANCE
28 POLICY].

29 * Sec. 154. AS 21.42 is amended by adding a new section to read:

30 AS 21.42.025. INSTITUTIONAL BENEFICIARY INSTEAD OF INSURABLE
31 INTEREST. (a) Except as provided under (d) of this section, a life insurance contract may be

1 entered into in which a charitable organization is designated as the beneficiary or in which the
2 person or organization paying the premium for the insurance has no insurable interest in the life
3 of the individual insured. A contract of life insurance is valid and binding between the parties
4 despite the absence of an insurable interest as described in AS 21.42.020.

5 (b) To enter into a contract of life insurance described in (a) of this section

6 (1) the person or organization paying the premium shall make and sign the
7 application for life insurance as owner and irrevocably designate a charitable organization as the
8 beneficiary of the life insurance contract; and

9 (2) the application shall be signed by the individual whose life is to be insured.

10 (c) This section does not prohibit any combination of the insured, applicant, premium
11 payer, owner, and beneficiary from being the same person or the insured from modifying the
12 contract.

13 (d) A contract of life insurance may not be entered into by a charitable organization

14 (1) that

15 (A) loans to a controlling person a part of its income or corpus without
16 the receipt of adequate security and a reasonable rate of interest;

17 (B) pays to a controlling person compensation in excess of a reasonable
18 allowance for salaries or other compensation for personal services actually rendered;

19 (C) makes a part of its services available on a preferential basis to a
20 controlling person;

21 (D) makes a substantial purchase of securities or other property for more
22 than adequate consideration in money or money's worth from a controlling person;

23 (E) sells a substantial part of its securities or other property for less than
24 an adequate consideration in money or money's worth to a controlling person; or

25 (F) engages in another transaction that results in a substantial diversion
26 of its income or corpus to a controlling person;

27 (2) if a substantial part of its activities consists of providing commercial type of
28 insurance;

29 (3) that is chartered by or is an instrumentality of the federal government; or

30 (4) if the charter, bylaws, or other governing instrument or a written policy
31 statement contains a provision that provides for discrimination against a person on the basis of

1 race, color, or religion.

2 (e) Paragraph (d)(4) of this section does not apply to

3 (1) an auxiliary or feeder organization of a fraternal beneficiary society if the
4 society is described in 26 U.S.C. 501(c)(8), is exempt from tax under 26 U.S.C. 501(a), and
5 limits its membership to the members of a particular religion; or

6 (2) a club or feeder organization exempt from tax under 26 U.S.C. 501(a) that in
7 good faith limits its membership to the members of a particular religion in order to further the
8 teachings or principles of that religion and not to exclude individuals of a particular race or color.

9 (f) In this section,

10 (1) "charitable organization" means a

11 (A) charitable organization described in 26 U.S.C. 170(b)(1)(A), 26 U.S.C.
12 170(c)(2) - (5), and 42 U.S.C. 701(c);

13 (B) feeder organization; or

14 (C) organization providing child care;

15 (2) "commercial type of insurance" means all other insurance except

16 (A) insurance provided at substantially below cost to a class of charitable
17 recipients; or

18 (B) incidental health insurance provided by a health maintenance
19 organization of a kind customarily provided by the organization;

20 (3) "controlling person" means the creator of a charitable organization, if a trust;
21 a person who has made a substantial contribution to a charitable organization; a member of the
22 family, or a successor of an individual who is the creator of the trust or who has made a
23 substantial contribution to the charitable organization; or a corporation controlled by the creator
24 or person through ownership, directly or indirectly, of 50 percent or more of the total combined
25 voting power of all classes of stock entitled to vote or 50 percent or more of the total value of
26 shares of all classes of stock of the corporation;

27 (4) "feeder organization" means an organization operated on a for profit basis, 95
28 percent or more of whose profits are donated to one or more charitable organizations;

29 (5) "member of the family" has the meaning given in 26 U.S.C. 267(c)(4);

30 (6) "organization providing child care" means a charitable organization providing
31 for care of children away from their homes if

1 (A) substantially all of the care provided by the organization is for
2 purposes of enabling individuals to be gainfully employed; and

3 (B) the services provided by the organization are available to the general
4 public.

5 * Sec. 155. AS 21.66.010(a) is amended to read:

6 (a) Before a domestic or foreign title insurance company is entitled to a certificate of
7 authority to transact a title insurance business in this state it shall have basic capital, additional
8 surplus when first authorized, and additional maintained surplus as required by
9 AS 21.09.070 including a deposit as required in AS 21.09.090 [A PAID-UP UNIMPAIRED
10 CASH CAPITAL EQUAL TO NOT LESS THAN \$250,000, \$100,000 OF WHICH SHALL BE
11 DEPOSITED WITH THE DIRECTOR OF INSURANCE AS A GUARANTY FUND FOR THE
12 PROTECTION OF THE INSURED UNDER POLICIES OF TITLE INSURANCE ISSUED BY
13 THE COMPANY].

14 * Sec. 156. AS 21.66.010(b) is amended to read:

15 (b) A domestic or foreign title insurance company shall have on deposit with the director
16 or insurance commissioner of the state of its domicile, before the issuance of any policy of title
17 insurance in this state, the amount required by AS 21.09.090 for the purpose described in that
18 section [SUM OF \$100,000 AS A GUARANTEE FUND FOR THE SECURITY AND
19 PROTECTION OF ITS POLICYHOLDERS OR THEIR BENEFICIARIES WHEREVER
20 SITUATED]. The amount of this deposit shall be increased by the sum of \$50,000 for each state
21 or territorial subdivision of the United States or the District of Columbia, other than the state of
22 its domicile, in which it becomes qualified to engage in the business of title insurance, less the
23 amount required by and deposited in the other states or territorial subdivisions, provided [
24 HOWEVER,] the deposits shall be for the security and protection of its policyholders or their
25 beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states
26 or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further
27 deposit is required of the title insurance company as a condition of engaging in the business of
28 title insurance in this state.

29 * Sec. 157. AS 21.66.020 is amended to read:

30 Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of
31 each annual statement the title insurance company shall deposit with the director a sum equal to

1 10 percent of the premiums received by it during the preceding year covering property in this
2 state, as shown by the annual statement, until the accumulated deposits, added to the sums
3 originally deposited with the director, as provided in this chapter, total \$750,000 [\$100,000] but
4 [IN NO EVENT MAY] the title insurance company may not be required to deposit more than
5 \$50,000 [\$10,000] in any one year.

6 * **Sec. 158.** AS 21.66.060 is amended to read:

7 Sec. 21.66.060. DIVIDENDS. A title insurance company may not pay dividends except
8 from net profits remaining on hand after retaining unimpaired

9 (1) the subscribed capital stock;

10 (2) the amount required to be set aside as unearned premium reserve fund under

11 AS 21.18.073:

12 (3) a sum sufficient to pay current liabilities for operating expenses and taxes, and
13 losses established or in process of settlement, without impairment of the unearned premium
14 reserve fund required under AS 21.18.073.

15 * **Sec. 159.** AS 21.66.080(a) is amended to read:

16 (a) Every [TITLE INSURANCE] company, on or before March 1 of each year, shall
17 furnish the director a sworn statement of assets and liabilities, and of all title premiums received
18 by it during the preceding calendar year, setting out among other things the amounts that
19 [THREE PERCENT OF ALL GROSS PREMIUMS ON TITLE INSURANCE POLICIES
20 ISSUED BY IT DURING THE YEAR, COVERING PROPERTY IN THIS STATE,] have been
21 set aside and held by it in an account required under AS 21.18.073 [KNOWN AS THE TITLE
22 INSURANCE UNEARNED PREMIUM RESERVE FUND, AS PROVIDED IN THIS
23 CHAPTER]. The reporting format for a given year is the most recently approved National
24 Association of Insurance Commissioners [COMMISSIONERS'] Annual Financial Statement
25 blank form and instructions, supplemented for additional information as required by the director.
26 The director may require the statement to be filed on electronic media. The statement must also
27 show all unpaid losses and claims upon title insurance policies of which the title insurance
28 company has received due notice in writing from or on behalf of the insured. With the filing of
29 the statement the title insurance company shall pay a filing fee set under AS 21.06.250.

30 * **Sec. 160.** AS 21.66.090(a) is amended to read:

31 (a) Every company, before engaging in a title insurance business in this state, shall apply

1 to the director for a certificate of authority to transact business under AS 21.09. [THE
2 COMPANY SHALL SUBMIT WITH THE APPLICATION A STATEMENT SWORN TO BY
3 THE PROPER OFFICERS OF THE COMPANY SHOWING ITS ASSETS AND LIABILITIES
4 AND THAT IT HAS COMPLIED WITH THE CAPITAL REQUIREMENTS AND INITIAL
5 GUARANTEE FUND DEPOSIT PRESCRIBED BY THIS CHAPTER.]

6 * **Sec. 161.** AS 21.66.110 is amended to read:

7 Sec. 21.66.110. ANNUAL TAX ON TITLE INSURANCE PREMIUMS. Annually each
8 title insurance company shall pay on or before March 1 [APRIL 1], a tax of one percent of the
9 amount of gross title insurance premiums received by it including as premium income received
10 from guaranteed certificates of title and other guarantees of title during the preceding calendar
11 year covering property in this state, as shown by its annual statement to the director.

12 * **Sec. 162.** AS 21.66.170(a) is amended to read:

13 (a) A policy or contract of title insurance may not be written until the title insurance
14 company conducts or has conducted a reasonable search and examination of the title and has
15 made a determination of insurability of title in accordance with its established underwriting
16 practices. Evidence of the determination shall be preserved and retained in the files of the title
17 insurance company or its agent for a period of not less than 15 years after the policy or contract
18 of title insurance has been issued. In lieu of retaining the original evidence, the title insurance
19 company or the title insurance limited producer [AGENT], may, in the regular course of
20 business, establish a system by which all or part of these writings are recorded, copied, or
21 reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or
22 other process that accurately reproduces or forms a durable medium for reproducing the original.

23 * **Sec. 163.** AS 21.66.180 is amended to read:

24 Sec. 21.66.180. GENERAL POWERS. A title insurance company may

25 (1) do business as defined in AS 21.66.480;

26 (2) do any act, directly or through a title insurance limited producer [AGENT],
27 incidental to making a contract or policy of title insurance, including, but not limited to,
28 conducting or holding an escrow, settlement, or closing of a transaction; and,

29 (3) provide other services relative or incidental to the sale and transfer of real or
30 personal property.

31 * **Sec. 164.** AS 21.66.210(a) is amended to read:

1 (a) Two or more title insurance companies ~~or two or more title insurance limited~~
2 ~~producers, or a combination of title insurance companies and title insurance limited~~
3 ~~producers~~ [AND ONE OR MORE TITLE INSURANCE AGENTS] may apply to the director
4 of insurance to form an association, corporation, or other legal entity, for the purpose of engaging
5 in the business of preparing abstracts of title searches from public records or from records to be
6 owned by the entity, upon the basis of which a title insurance limited producer [AGENT] or a
7 title insurance company will issue title policies. The owners or participants are considered to be
8 in compliance with the provisions of this section if the title plant of the association, corporation,
9 or other legal entity complies with the provisions of this section. The application must contain

10 (1) a copy of the proposed articles of incorporation or association and the bylaws
11 or agreement governing the operation of the entity;

12 (2) a list of the owners or participants;

13 (3) the names and addresses of the persons who will operate the entity, with a
14 description of their experience and qualifications;

15 (4) the conditions under which ownership or participation in the entity may be
16 sold or acquired;

17 (5) a statement of whether or not title information will be compiled and sold to
18 persons other than owners of or participants in the entity;

19 (6) a pro forma balance sheet and other financial information to indicate the
20 sufficiency of financing the entity.

21 * Sec. 165. AS 21.66.270 is amended to read:

22 Sec. 21.66.270. TITLE INSURANCE LIMITED PRODUCERS [AGENTS] TO BE
23 LICENSED. A title [TITLE] insurance limited producer [AGENTS] shall be licensed in the
24 manner provided for [AGENTS OF INSURANCE COMPANIES] in AS 21.27. A title
25 insurance limited producer may not be licensed to sell insurance other than title insurance.

26 * Sec. 166. AS 21.66.280 is amended to read:

27 Sec. 21.66.280. TITLE INSURANCE LIMITED PRODUCERS [AGENTS], BOOKS,
28 AND RECORDS. (a) In addition to any other requirement of this title, a [EACH] title
29 insurance limited producer licensee [AGENT] shall maintain books of accounts and records and
30 vouchers pertaining to the business of title insurance in a manner that the director, or an
31 authorized representative, may readily ascertain whether the licensee [AGENT] has complied with

1 the provisions of this chapter.

2 (b) A title insurance limited producer licensee [AGENT] may engage in the business
3 of handling escrows, settlements, and closings in connection with the business of title insurance;
4 however,

5 (1) the licensee [AGENT] shall maintain a separate record of all receipts and
6 disbursements of escrow funds and may not commingle the funds with personal funds or with
7 funds held by the licensee [AGENT] in any other capacity;

8 (2) the licensee [AGENT] shall comply with the standards of solvency that the
9 director requires; and

10 (3) the licensee [AGENT] shall submit financial statements that the director
11 requires.

12 (c) In addition to any other penalty provided by law, if [IF] the director determines
13 that a title insurance limited producer licensee [AN AGENT] has failed to comply with a
14 provision of this section, the director may, after a hearing, revoke the limited producer license
15 [OF THE AGENT].

16 * Sec. 167. AS 21.66.290 is amended to read:

17 Sec. 21.66.290. TITLE INSURANCE LIMITED PRODUCER [AGENT] REPLIES
18 TO DIRECTOR INQUIRIES. A [EACH] title insurance limited producer [AGENT] shall reply
19 in writing promptly, with a copy of the reply mailed to each title insurance company for which
20 the licensee [AGENT] is acting, to an inquiry of the director relating to the licensee's
21 [AGENT'S] acts as a title insurance limited producer [AGENT]. In addition to any other
22 penalty provided by law, failure [FAILURE] to reply is a ground for revocation of the
23 [AGENT'S] license. A [IN ADDITION, A] copy of the inquiry shall be sent by the director to
24 each title insurance company for which the licensee [AGENT] is acting.

25 * Sec. 168. AS 21.66.300 is amended to read:

26 Sec. 21.66.300. CERTAIN [AGENCY] NAMES PROHIBITED. A title insurance
27 limited producer [AFTER AUGUST 14, 1974, AN AGENT] for a title insurance company may
28 not adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee",
29 unless the words are followed by the words "agent" or "agency" in the same size and type as the
30 words preceding them. This section does not apply to a title insurance company acting as an
31 agent for another title insurance company.

1 * **Sec. 169.** AS 21.66.310(a) is amended to read:

2 (a) A title insurer, or officer, employee, attorney, or title insurance limited producer
3 [AGENT, OR SOLICITOR] of a title insurer, may not pay, allow, or give or offer to pay, allow,
4 or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate,
5 reduction, or abatement of a rate or charge made incident to the issuance of the title insurance,
6 a special favor or advantage, money consideration, or other inducement. A charge made incident
7 to the issuance of the insurance is construed to include, without limitation, escrow, settlement,
8 and closing charges.

9 * **Sec. 170.** AS 21.66.310(c) is amended to read:

10 (c) Nothing in this section prohibits

11 (1) the payment of fees for services actually rendered as a result of a title
12 insurance transaction; or

13 (2) the payment of a commission to a legally appointed title insurance limited
14 producer [AGENT] who issues the policy of title insurance.

15 * **Sec. 171.** AS 21.66.330 is amended to read:

16 Sec. 21.66.330. EXAMINATION OF RECORDS. If the director has reason to believe
17 that a title insurance limited producer [AGENT] has violated or is in violation of AS 21.66.310,
18 the director shall immediately examine the title insurance limited producer's [AGENT'S] books
19 of account and record and vouchers pertaining to the business of title insurance. The title
20 insurance limited producer [AGENT] shall pay to the director the cost of an examination
21 conducted under this section.

22 * **Sec. 172.** AS 21.66.350 is amended to read:

23 Sec. 21.66.350. DIVISION OF RATES. Nothing in this chapter prohibits the division
24 of rates and charges between or among a title insurance company and its agent, two or more title
25 insurance companies, one or more title insurance companies and one or more title insurance
26 limited producers [AGENTS], or two or more title insurance limited producers [AGENTS,]
27 if the division of rates and charges does not constitute an unlawful rebate and is not in payment
28 of a forwarding fee or finder's fee.

29 * **Sec. 173.** AS 21.66.370(a) is amended to read:

30 (a) A title insurance company shall file with the director its schedules of rates, manuals
31 of classifications, rules and plans relating to schedules of rates or manuals of classification, and

1 every modification of the schedules or manuals that it proposes to use in this state. A filing
2 under this section must contain the effective dates of the documents filed, and indicate the
3 character and extent of the coverage contemplated. [A TITLE INSURANCE COMPANY MAY
4 SATISFY ITS OBLIGATIONS TO MAKE THESE FILINGS BY BECOMING A MEMBER OF,
5 OR A SUBSCRIBER TO, A LICENSED TITLE INSURANCE RATING ORGANIZATION
6 THAT MAKES SUCH FILINGS, AND BY AUTHORIZING THE COMMISSIONER TO
7 ACCEPT THE FILINGS ON ITS BEHALF.]

8 * Sec. 174. AS 21.66.370(c) is amended to read:

9 (c) Subject to the provisions of (e) of this section, a [EACH] filing shall be on file for
10 a period of 30 days before it becomes effective. The director may, upon written notice given
11 within the 30-day period to the person making the filing, extend the waiting period for an
12 additional period, not to exceed 30 days, in order to complete the review of the filing. Additional
13 extensions of the waiting period may also be made with the consent of the title insurance
14 company [OR RATING ORGANIZATION]. Upon written application by the title insurance
15 company [OR RATING ORGANIZATION], the director, after review of the application, may
16 authorize a filing or any part of it to become effective upon the expiration of the waiting period
17 or its extension.

18 * Sec. 175. AS 21.66.370(f) is amended to read:

19 (f) A title insurance company or title insurance limited producer [AGENT OF A
20 TITLE INSURANCE COMPANY] may not charge a rate for a policy or contract of title
21 insurance except in accordance with filings or rates that are in effect for the title insurance
22 company as provided in this chapter.

23 * Sec. 176. AS 21.66.380(a) is amended to read:

24 (a) A rate filing shall be accompanied by a statement of the title insurance company [OR
25 TITLE INSURANCE RATING ORGANIZATION] making the filing, setting out the basis on
26 which the rate was determined, with the rates computed. A filing of rates may be justified by

27 (1) the experience or judgment of the title insurance company [OR TITLE
28 INSURANCE RATING ORGANIZATION] making the filing;

29 (2) its interpretation of any statistical data relied upon;

30 (3) the experience of other title insurance companies [OR TITLE INSURANCE
31 RATING ORGANIZATIONS] making the filings; or

1 (4) any other factors that the title insurance company [OR TITLE INSURANCE
2 RATING ORGANIZATION] considers relevant.

3 * Sec. 177. AS 21.66.390 is amended to read:

4 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company [THAT MAKES
5 ITS OWN RATES AND EACH TITLE INSURANCE RATING ORGANIZATION] shall make
6 rates that are not excessive or inadequate and that do not unfairly discriminate between risks in
7 this state that involve essentially the same exposure to loss and expense elements, and that give
8 due consideration to

9 (1) the desirability for stability of rate structures;

10 (2) the necessity of assuring the financial solvency of title insurance companies
11 in periods of economic depression by encouraging growth in assets of title insurance companies
12 in periods of high business activity; and

13 (3) the necessity for assuring a reasonable margin of underwriting and operating
14 profit.

15 (b) A title insurance company [THAT MAKES ITS OWN RATES AND EACH TITLE
16 INSURANCE RATING ORGANIZATION] shall adopt basic classifications of policies or
17 contracts of title insurance that [WHICH] shall be used as the basis for rate-making.

18 * Sec. 178. AS 21.66.400(a) is amended to read:

19 (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that
20 a filing does not meet the requirements of this chapter, the director shall send to the title
21 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made the filing,
22 written notice of disapproval of the filing specifying in what respects the director finds the filing
23 fails to meet the requirements of this chapter and stating that the filing may not become effective.

24 * Sec. 179. AS 21.66.400(b) is amended to read:

25 (b) If at any time after the applicable review period provided for in AS 21.66.370(c) the
26 director finds that a filing does not meet the requirements of this chapter, the director shall,
27 before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice,
28 specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall
29 be given to each title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
30 that made the filing, and if, after the hearing, the director finds that the filing or a part of the
31 filing does not meet the requirements of this chapter, the director shall issue an order specifying

1 how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is
2 considered no longer effective. A title insurance company [OR TITLE INSURANCE RATING
3 ORGANIZATION] has the right to withdraw a filing or a part of a filing. Copies of the order
4 issued under this section shall be sent to every title insurance company [AND TITLE
5 INSURANCE RATING ORGANIZATION] affected. The order does not affect a contract or
6 policy made or issued before the expiration of the period set out in the order.

7 * Sec. 180. AS 21.66.400(c) is amended to read:

8 (c) A person or organization aggrieved with respect to a filing that is in effect may make
9 a written application to the director for a hearing on the filing. The title insurance company [OR
10 TITLE INSURANCE RATING ORGANIZATION] that made the filing may not proceed under
11 this subsection. The application shall specify in reasonable detail the grounds to be relied on by
12 the applicant. If the director finds that the application is made in good faith, that the applicant
13 would be aggrieved if the applicant's grounds are established, and that the applicant's grounds
14 otherwise justify holding a hearing, the director shall, within 60 days after receipt of the
15 application, hold a hearing upon not less than 10 days written notice to the applicant and to each
16 title insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made such
17 a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the
18 requirements of this chapter, the director shall issue an order specifying how the filing or a part
19 of it fails to meet the requirements of this chapter, stating when, within a reasonable period after
20 the order is issued, the filing or a part of it is considered no longer effective. Copies of the order
21 shall be sent to the applicant and to every affected title insurance company [OR TITLE
22 INSURANCE RATING ORGANIZATION]. The order does not affect a contract or policy made
23 or issued before the expiration of the period set out in the order.

24 * Sec. 181. AS 21.66.400(d) is amended to read:

25 (d) A title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
26 to which the director has issued an order made without a hearing may, within 30 days after notice
27 to it of the order, make a written request to the director for a hearing. The director shall hear
28 the party or parties within 60 days after receipt of the request and shall give not less than 10 days
29 written notice of the time and place of the hearing. Within 15 days after the hearing the director
30 shall affirm, reverse, or modify the previous action, specifying the reasons. Pending the hearing
31 and decision the director may suspend or postpone the effective date of the previous action.

1 * **Sec. 182.** AS 21.66.410(c) is amended to read:

2 (c) In order to more uniformly administer rate regulations, the director and each title
3 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] may exchange
4 information and experience data with insurance supervisory officials, title insurance companies,
5 and title insurance rating organizations in other states, and may consult with them and with each
6 other with respect to rate making and the application of rating systems.

7 * **Sec. 183.** AS 21.66.420 is amended to read:

8 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. A title insurance company
9 or title insurance limited producer [AGENT] may not wilfully withhold information from, or
10 knowingly give false or misleading information to the director [OR TO ANY TITLE
11 INSURANCE RATING ORGANIZATION OF WHICH THE TITLE INSURANCE COMPANY
12 IS A MEMBER OR SUBSCRIBER] that will affect the rates chargeable under this chapter.

13 * **Sec. 184.** AS 21.66.480(4) is amended to read:

14 (4) "rate" means a charge for title insurance risk, abstracting, searching,
15 examination or determination of insurability, and every other activity, exclusive of escrow,
16 settlement, or closing charges, whether denominated premium or otherwise, made by a title
17 insurance company or an agent of a title insurance company to an insured or to an applicant for
18 insurance, for a policy or contract of title insurance; however, "rate" does not include charges
19 paid to and retained by an attorney at law, abstractor, surveyor, tax service, or any other person
20 acting in a capacity other than as a title insurance limited producer [AGENT] and on behalf of
21 a client other than a title insurance company, or charges made for special services, even though
22 performed in connection with a title insurance policy or contract;

23 * **Sec. 185.** AS 21.66.480(7) is amended to read:

24 (7) "title insurance limited producer [AGENT]" means a person, firm,
25 association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized
26 in writing by a title insurance company to solicit title insurance, collect premiums, determine
27 insurability in accordance with the underwriting rules and standards prescribed by the title
28 insurance company that the licensee [AGENT] represents, and issue policies in its behalf;
29 however, the term "title insurance limited producer [AGENT]" does not include officers and
30 salaried employees of a title insurance company;

31 * **Sec. 186.** AS 21.66.480(8) is amended to read:

1 (8) "title insurance company" means a domestic company organized under the
2 provisions of this title for the purpose of carrying on the business of title insurance, or any
3 foreign title insurance company issued a certificate of authority to transact a title insurance
4 business in this state and any title insurance company having the power and authority to transact
5 a title insurance business within this state [AS OF AUGUST 14, 1974].

6 * Sec. 187. AS 21.69.390 is amended by adding a new subsection to read:

7 (d) To meet the requirements of (a) of this section, a domestic insurer shall keep at its
8 principal place of business in the state the following records of assets, transactions, and affairs:

9 (1) a general ledger;

10 (2) copies of reports prepared to comply with AS 21.09.200 - 21.09.210;

11 (3) if prepared in the normal course of business, financial statements prepared
12 under general accepted accounting principals on which a licensed certified public accountant has
13 expressed an opinion;

14 (4) filings made by a domestic insurer or affiliates of the domestic insurer with
15 a government agency with which a domestic insurer or affiliates of the domestic insurer's
16 securities may be registered;

17 (5) a state certificate of authority;

18 (6) filings made under AS 21.21;

19 (7) original policy and claim files for insurance of property or a risk resident or
20 located in the state;

21 (8) a corporate minutes book;

22 (9) articles of incorporation;

23 (10) corporate bylaws;

24 (11) contracts; and

25 (12) other records required by the director by regulation.

26 * Sec. 188. AS 21.72.120(c) is amended to read:

27 (c) A copy of the annual statement certified by the director must be filed on or before
28 the first day of March [APRIL] each year by the association in the office of the magistrate in
29 the judicial district in which the business office of the association is located.

30 * Sec. 189. AS 21.75.040(b) is amended to read:

31 (b) The attorney-in-fact [ATTORNEY] of a foreign or alien reciprocal insurer, that [,

1 WHICH INSURER] is authorized to transact insurance in this state, may not, by virtue of
2 discharge of its duties as the attorney-in-fact [ATTORNEY] with respect to the insurer's
3 transactions in this state, be considered to be doing business in this state within the meaning of
4 a law of this state applying to foreign firms or corporations.

5 * Sec. 190. AS 21.75 is amended by adding a new section to read:

6 Sec. 21.75.045. LICENSING OF ATTORNEYS-IN-FACT. A person may not act in the
7 capacity of attorney-in-fact for a subscriber regarding a subject that is resident, located, or to be
8 performed in this state or for a reciprocal insurer licensed to do business in this state unless the
9 person is licensed under this chapter. The director may adopt regulations that establish
10 qualifications for being licensed as an attorney-in-fact. The attorney-in-fact for a domestic
11 reciprocal insurer transacting all of its insurance activities on a subject resident, located, and to
12 be performed in this state is exempt from licensing under this title if the attorney-in-fact

13 (1) is a wholly-owned subsidiary of the reciprocal; and

14 (2) does not act as attorney-in-fact for another unaffiliated reciprocal insurer.

15 * Sec. 191. AS 21.75.060(b) is amended to read:

16 (b) The proposed attorney-in-fact [ATTORNEY] shall fulfill the requirements of and
17 shall execute and file with the director when applying for a certificate of authority, a declaration
18 setting out

19 (1) the name of the insurer;

20 (2) the location of the insurer's principal office, which shall be the same as that
21 of the attorney-in-fact [ATTORNEY] and shall be maintained in this state;

22 (3) the kinds of insurance proposed to be transacted;

23 (4) the names and addresses of the original subscribers;

24 (5) the designation and appointment of the proposed attorney-in-fact
25 [ATTORNEY] and a copy of the power of attorney;

26 (6) the names and addresses of the officers and directors of the attorney-in-fact
27 [ATTORNEY], if a corporation, or its members, if a firm;

28 (7) the powers of the subscribers' advisory committee, and the names and terms
29 of office of the members;

30 (8) that all money paid to the reciprocal insurer shall, after deducting any sum
31 payable to the attorney-in-fact [ATTORNEY], be held in the name of the insurer and for

- 1 the purposes specified in the subscribers' agreement;
- 2 (9) a copy of the subscribers' agreement;
- 3 (10) a statement that each of the original subscribers has in good faith applied for
4 insurance of a kind proposed to be transacted, and that the insurer has received from each
5 subscriber the full premium or premium deposit required for the policy applied for, for
6 a term of not less than six months at an adequate rate filed with and approved by the
7 director;
- 8 (11) a statement of the financial condition of the insurer, a schedule of its assets,
9 and a statement that the surplus as required by AS 21.75.050 is on hand;
- 10 (12) a copy of each policy, endorsement, and application form it then proposes
11 to issue or use.

12 * **Sec. 192.** AS 21.75.060(c) is amended to read:

13 (c) The declaration shall be acknowledged by the attorney-in-fact [ATTORNEY] in the
14 manner required for the acknowledgment of deeds.

15 * **Sec. 193.** AS 21.75.080 is repealed and reenacted to read:

16 **Sec. 21.75.080. AUTHORITY OF ATTORNEY-IN-FACT.** (a) A subscriber's agreement
17 providing for an advisory committee consistent with AS 21.75.170 shall be executed by each
18 subscriber and shall grant authority to the attorney-in-fact to manage the affairs of the reciprocal
19 insurer.

20 (b) The duties of the attorney-in-fact shall be specified in the subscriber's agreement.
21 The agreement shall be approved by the director and amendments shall be approved by the
22 director and the advisory committee. The agreement must, at a minimum, provide that

23 (1) the attorney-in-fact shall provide written notice of and make the necessary
24 arrangements for the election, in person or by proxy, of the members of the advisory committee;
25 the cost of notice, ballot, or proxy for a meeting and the cost of a meeting that may be called for
26 an election shall be paid by the reciprocal insurer;

27 (2) the attorney-in-fact shall provide written notice to the members of the advisory
28 committee of not less than 10 business days for a regular meeting or a special meeting called
29 under AS 21.75.170(e); the cost of notice shall be paid by the reciprocal insurer;

30 (3) the advisory committee may, upon majority vote of its members at a regular
31 or special meeting and upon written notice of the vote to the director and the attorney-in-fact,

1 recommend termination of the attorney-in-fact for a stated cause and the appointment of a new
2 attorney-in-fact;

3 (4) termination of the attorney-in-fact shall require the approval of a two-thirds
4 majority of the subscribers present in person or by proxy at a meeting called for that purpose;
5 the attorney-in-fact shall provide written notice to all subscribers by certified mail not less than
6 30 days before the meeting; the notice must include the recommendation of termination and
7 replacement drafted by the advisory committee and other appropriate documents drafted by the
8 attorney-in-fact; a copy of all documents mailed and certification of mailing to all subscribers
9 must be provided to all members of the advisory committee; the cost of notice and proxy for the
10 meeting shall be paid by the reciprocal insurer; at least 25 percent of all subscribers shall
11 constitute a quorum for reciprocal insurers with less than 10,000 subscribers; 2,500 subscribers
12 or five percent of all subscribers, whichever is greater, shall constitute a quorum for all other
13 reciprocals;

14 (5) the assets of the reciprocal insurer and its subscribers shall be invested under
15 AS 21.21; investment guidelines shall be approved by the advisory committee and shall be
16 properly accounted for on the financial records of the reciprocal insurer as being held for or on
17 behalf of the subscribers; the cash assets of the reciprocal insurer and its subscribers not
18 otherwise invested in short-term securities, covering policy obligations arising out of policies
19 issued, or issued for delivery in the United States shall be held in one or more appropriately
20 identified accounts in banks that are members of the Federal Reserve System; these accounts
21 shall be drawn on by the attorney-in-fact or by employees or representatives of the reciprocal
22 insurer authorized by the attorney-in-fact for payments on behalf of the reciprocal insurer;

23 (6) if the attorney-in-fact is acting for more than one reciprocal insurer, separate
24 records and accounts shall be maintained for each reciprocal;

25 (7) the attorney-in-fact may not assign responsibilities detailed in the subscriber's
26 agreement in whole or in part without prior approval of the advisory committee and the director;

27 (8) the attorney-in-fact shall

28 (A) establish and maintain underwriting procedures and manuals that state
29 the rates and conditions for the acceptance or rejection of risks;

30 (B) make a report to the advisory committee at each regular meeting of
31 the committee on the financial condition of the reciprocal insurer and all material

1 transactions entered into during the period since the last meeting;
2 (C) annually provide to each member of the advisory committee
3 (i) on or before March 2, a copy of the reciprocal insurer's annual
4 statement and the accompanying statement of actuarial opinion filed with the
5 director under AS 21.75.130; and
6 (ii) on or before June 1, a copy of a statement prepared by an
7 independent certified public accountant addressing the financial condition and
8 solvency of the attorney-in-fact;
9 (D) maintain a financially solvent condition;
10 (9) the forms, amounts, and formulas of compensation the attorney-in-fact will
11 receive for services rendered are specified;
12 (10) the books, accounts, and records of the reciprocal insurer, its subscribers, and
13 the attorney-in-fact are maintained to clearly and accurately disclose the nature and details of
14 each transaction, including all notes, workpapers, documents, and similar material in sufficient
15 detail that relevant events, dates, and persons participating can be identified and information
16 necessary to determine that the compensation received by or owing to the attorney-in-fact
17 conforms to the subscriber's agreement; the books, accounts, and records of the reciprocal insurer
18 are the sole property of the reciprocal insurer;
19 (11) if the subscriber's agreement provides that any of the attorney-in-fact's
20 compensation is contingent upon the reciprocal insurer's profits, that compensation may not be
21 determined and paid until at least five years after the premiums on casualty insurance are earned,
22 at least one year after the premiums are earned on any other kind of insurance, and not until the
23 adequacy of loss reserves on the remaining claims, known and unknown, have been verified
24 under (8) of this subsection; and
25 (12) the attorney-in-fact shall conduct the affairs of the reciprocal insurer as
26 required under this title.
27 (c) Unless subject to AS 21.22, a material transaction between the reciprocal insurer, its
28 subscribers, the attorney-in-fact, and an affiliate of the attorney-in-fact may not be entered into
29 unless it has been filed with the director of the reciprocal insurer's state of domicile, if accredited
30 by the National Association of Insurance Commissioners, or with the director of this state, if not
31 accredited, at least 30 days before its effective date and the director of the accredited state has

1 not disapproved it; however, a transaction involving five percent or more of admitted assets is
2 subject to prior approval of the director of the reciprocal insurer's state of domicile and the
3 transaction must meet the following standards:

4 (1) the terms shall be fair and equitable;

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

6 (3) expenses incurred and payments received shall be allocated to the reciprocal
7 insurer on an equitable basis in conformity with statutory insurance accounting practices being
8 consistently applied; and

9 (4) the books, accounts, and records of each party shall be maintained to disclose
10 clearly and accurately the precise nature and details of the transaction, including accounting
11 information that is necessary to support the reasonableness of the charges or fees to the respective
12 parties.

13 (d) A subscriber's agreement containing the duties of the attorney-in-fact shall be
14 provided by the attorney-in-fact to all subscribers. Renewing subscribers shall be informed that
15 their failure to return a signed rejection of the subscriber's agreement within 30 days after the
16 renewal date will be considered acceptance of the subscriber's agreement.

17 * Sec. 194. AS 21.75.090 is amended to read:

18 Sec. 21.75.090. MODIFICATIONS. Modifications of the terms of the subscribers'
19 agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by
20 the attorney-in-fact [ATTORNEY] and the subscribers' advisory committee. A modification
21 may not be effective retroactively, or apply to an insurance contract issued before the
22 modification.

23 * Sec. 195. AS 21.75.100(a) is amended to read:

24 (a) Concurrently with the filing of the declaration provided in AS 21.75.060, the
25 attorney-in-fact [ATTORNEY] of a domestic reciprocal insurer shall file with the director a
26 bond in favor of this state for the benefit of all persons damaged as a result of a breach by the
27 attorney-in-fact [ATTORNEY] of the conditions of the bond as set out in (b) of this section.
28 The bond shall be executed by the attorney-in-fact [ATTORNEY] and by an authorized
29 corporate surety, shall meet the requirements established under AS 21.27.190 and shall be
30 subject to the director's approval.

31 * Sec. 196. AS 21.75.100(b) is amended to read:

1 (b) The bond shall be in the [PENAL] sum of \$100,000 [\$25,000], aggregate in form,
2 conditioned that the attorney-in-fact [ATTORNEY] will faithfully account for all money and
3 other property of the insurer coming into the hands of the attorney-in-fact [ATTORNEY] and
4 that the attorney-in-fact [ATTORNEY] will not withdraw or appropriate to personal use from
5 the funds of the insurer, money or property to which the attorney-in-fact [ATTORNEY] is not
6 entitled under the subscriber's agreement [POWER OF ATTORNEY].

7 * Sec. 197. AS 21.75.100 is amended by adding a new subsection to read:

8 (d) The director may require the attorney-in-fact, unless wholly owned by the reciprocal
9 insurer, to maintain an errors and omissions policy issued by an admitted insurer acceptable to
10 the director providing coverage in an amount and issued by an insurer approved by the director.
11 This requirement is satisfied if the attorney-in-fact maintains an errors and omissions policy to
12 satisfy the laws of another state in an amount approved by the director.

13 * Sec. 198. AS 21.75.110 is amended to read:

14 Sec. 21.75.110. ACTION ON BOND. Action on the attorney-in-fact's [ATTORNEY'S]
15 bond or to recover against a deposit made in lieu of the bond [THEREOF] may be brought at
16 any time by one or more subscribers suffering loss through a violation of its conditions, or by
17 a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and
18 become part of the insurer's funds. The total aggregate liability of the surety shall be limited to
19 the amount of the penalty of the bond.

20 * Sec. 199. AS 21.75 is amended by adding a new section to read:

21 Sec. 21.75.115. EXAMINATION OF AN ATTORNEY-IN-FACT. An attorney-in-fact
22 of a reciprocal insurer is subject to examination by order of the director under AS 21.06.120 and
23 21.06.140 - 21.06.160 for the purpose of determining compliance with this title relating to the
24 operations of the reciprocal insurer or its attorney-in-fact that the director determines cannot be
25 obtained by examination of the reciprocal insurer. The cost of the examination shall be paid by
26 the attorney-in-fact.

27 * Sec. 200. AS 21.75.120(a) is amended to read:

28 (a) Legal process shall be served upon a domestic reciprocal insurer by serving the
29 insurer's attorney-in-fact [ATTORNEY] at the principal offices of the attorney-in-fact
30 [ATTORNEY] or by serving the director as the insurer's process agent under AS 21.09.180 and
31 21,09.190.

1 * **Sec. 201.** AS 21.75.130(a) is amended to read:

2 (a) The annual statement of a reciprocal insurer shall be made by its attorney-in-fact
3 [ATTORNEY] and filed with the director, as provided in AS 21.09.200.

4 * **Sec. 202.** AS 21.75.140 is amended to read:

5 **Sec. 21.75.140. CONTRIBUTIONS TO INSURER.** The attorney-in-fact [ATTORNEY]
6 or other parties may advance to a domestic reciprocal insurer upon reasonable terms the funds
7 it may require from time to time in its operations. Sums advanced may not be treated as a
8 liability of the insurer, and, except upon liquidation of the insurer, may not be withdrawn or
9 repaid except out of the insurer's realized earned surplus in excess of its minimum required
10 surplus. A withdrawal or repayment may not be made without the advance approval of the
11 director. This section does not apply to bank loans or to loans for which security is given.

12 * **Sec. 203.** AS 21.75.150 is amended to read:

13 **Sec. 21.75.150. DETERMINATION OF FINANCIAL CONDITION.** In determining
14 the financial condition of a reciprocal insurer the director shall apply the following rules:

15 (1) the same reserves as are required of incorporated insurers issuing
16 nonassessable policies on a reserve basis shall be charged as liabilities;

17 (2) the surplus deposits of subscribers shall be allowed as assets, except the
18 premium deposits delinquent for 90 days shall first be charged against the surplus deposit;

19 (3) the surplus deposits of subscribers may [SHALL] not be charged as a liability;

20 (4) all premium deposits delinquent less than 90 days shall be allowed as assets;

21 (5) an assessment levied upon subscribers, and not collected, may not be allowed
22 as an asset;

23 (6) the contingent liability of subscribers may not be allowed as an asset;

24 (7) the computation of reserves shall be based upon premium deposits other than
25 membership fees and without deductions for expenses and the compensation of the attorney-in-
26 fact [ATTORNEY].

27 * **Sec. 204.** AS 21.75.170 is repealed and reenacted to read:

28 **Sec. 21.75.170. SUBSCRIBER'S ADVISORY COMMITTEE.** (a) The subscriber's
29 advisory committee shall meet at least annually and shall consist of not less than nine individuals
30 elected by the subscribers, at least two-thirds of whom are subscribers or officers or directors of
31 subscriber corporations and, except for a reciprocal insurer that wholly owns its attorney-in-fact,

1 not more than one-third of whom may be

2 (1) the attorney-in-fact or an employee, officer, director, affiliate, or a person
3 having a financial interest in the attorney-in-fact; or

4 (2) a person representing the attorney-in-fact or an employee, officer, director,
5 affiliate, or other person having a financial interest in the attorney-in-fact; a person shall be
6 treated as having a financial interest in the attorney-in-fact if the person

7 (A) owns, directly or indirectly, more than one percent of the outstanding
8 stock in the attorney-in-fact;

9 (B) has an outstanding loan from the attorney-in-fact; or

10 (C) earns a commission or other compensation as a producer for the
11 reciprocal insurer.

12 (b) A member of the subscriber's advisory committee may be elected to a term of office
13 of not less than one year nor more than four years. A member may be reelected for an unlimited
14 number of terms. Terms of office may be staggered to provide for continuity.

15 (c) The chair of the committee shall be elected by the members of the committee and the
16 committee shall adopt rules consistent with the purposes of the committee.

17 (d) The attorney-in-fact shall appoint a secretary.

18 (e) Special meetings of the committee may be called by the attorney-in-fact, the chair
19 of the committee, three members of the committee, or a signed petition of at least one percent
20 of the subscribers as of the most recent annual report of the reciprocal insurer.

21 (f) The committee shall

22 (1) supervise the finances of the reciprocal insurer;

23 (2) supervise the reciprocal insurer's operations to assure conformity with the
24 subscriber's agreement;

25 (3) procure the audit of the accounts and records of the reciprocal insurer and of
26 the attorney-in-fact at the expense of the reciprocal insurer; and

27 (4) have additional powers and functions that may be conferred by the
28 subscriber's agreement.

29 * Sec. 205. AS 21.75.200(a) is amended to read:

30 (a) Assessments may from time to time be levied upon subscribers of a domestic
31 reciprocal insurer liable [THEREFOR] under the terms of their policies by the attorney-in-fact

1 [ATTORNEY] upon approval in advance by the subscribers' advisory committee and the director,
2 or by the director in liquidation of the insurer.

3 * Sec. 206. AS 21.75.210 is amended to read:

4 Sec. 21.75.210. TIME LIMIT FOR ASSESSMENTS. A [EACH] subscriber of a
5 domestic reciprocal insurer having contingent liability is liable for and shall pay the subscriber's
6 share of any assessment, as computed and limited under [IN ACCORDANCE WITH] this
7 chapter, if

8 (1) while the subscriber's policy is in force or within one year after its
9 termination, the subscriber is notified by either the attorney-in-fact [ATTORNEY] or the director
10 of an intention to levy the assessment; [,] or

11 (2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator
12 of the insurer should not be appointed is issued while the subscriber's policy is in force or within
13 one year after its termination.

14 * Sec. 207. AS 21.75.230(a) is amended to read:

15 (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the
16 minimum capital and surplus required of a domestic stock insurer authorized to transact like
17 kinds of insurance, upon application of the attorney-in-fact [ATTORNEY] and as approved by
18 the subscribers' advisory committee, the director shall issue a certificate authorizing the insurer
19 to extinguish the contingent liability of subscribers under its policies then in force in this state,
20 and to omit provisions imposing contingent liability in all policies delivered or issued for delivery
21 in this state for as long as all the surplus remains unimpaired.

22 * Sec. 208. AS 21.75.250 is amended to read:

23 Sec. 21.75.250. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a
24 domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy
25 obligations, the return of contributions of the attorney-in-fact [ATTORNEY] or other persons
26 to its surplus made as provided in AS 21.75.140, and the return of an unused premium, savings,
27 or credits then standing on subscribers' account, shall be distributed to its subscribers who were
28 subscribers within the 12 months before the last termination of its certificate of authority,
29 according to a reasonable formula that the director may approve.

30 * Sec. 209. AS 21.75.270 is amended to read:

31 Sec. 21.75.270. FINANCIAL IMPAIRMENT; DETERMINATION OF

1 **INSOLVENCY [IMPAIRED RECIPROCAL]**. (a) If the assets of a reciprocal insurer are at
2 any time insufficient to discharge its liabilities, other than a liability on account of funds
3 contributed by the attorney-in-fact [ATTORNEY] or others, and to maintain the required
4 surplus, its attorney-in-fact [ATTORNEY] shall immediately make up the deficiency or levy an
5 assessment upon the subscribers for the amount needed to make up the deficiency; but subject
6 to the limitation set out in the subscriber's agreement [POWER OF ATTORNEY OR POLICY].

7 (b) If the attorney-in-fact [ATTORNEY] fails to make up the deficiency or to make the
8 assessment within 30 days after the director orders the attorney-in-fact [ATTORNEY] to do so,
9 or if the deficiency is not fully made up within 60 days after the date the assessment was made,
10 the insurer shall be considered insolvent and shall be proceeded against as authorized by this title.

11 (c) If liquidation of an insurer is ordered, an assessment shall be levied upon the
12 subscriber for an amount, subject to limits as provided by this chapter, that the director
13 determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds
14 contributed by the attorney-in-fact [ATTORNEY] or other persons, but including the reasonable
15 cost of the liquidation.

16 * **Sec. 210.** AS 21.75.270 is amended by adding a new subsection to read:

17 (d) If liquidation of a domestic reciprocal insurer is ordered, the receiver appointed under
18 the order has a right to recover on behalf of the reciprocal insurer a payment in the form of a
19 bonus, termination settlement, or extraordinary lump-sum compensation adjustment made by the
20 reciprocal insurer or its subscribers to the attorney-in-fact if the distribution or payment is made
21 during the 12 months preceding the order of liquidation, unless it can be shown that the payment
22 was lawful and reasonable and that the reciprocal insurer did not know and, using due diligence,
23 could not have known that the distribution might adversely affect the ability of the reciprocal
24 insurer to fulfill its subscriber's contractual obligation.

25 * **Sec. 211.** AS 21.75 is amended by adding a new section to read:

26 Sec. 21.75.345. **DEFINITION.** In this chapter, a "material transaction" means a
27 transaction, other than a claim payment, involving more than one-half of one percent of the
28 reciprocal insurer's admitted assets as of December 31 of the prior year.

29 * **Sec. 212.** AS 21.78 is amended by adding a new section to read:

30 Sec. 21.78.325. **RECOVERY FROM AFFILIATES.** (a) If an order for liquidation or
31 rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has

1 a right to recover on behalf of the insurer (1) from a parent corporation or holding company or
2 person or affiliate who otherwise controlled the insurer, the amount of distributions, other than
3 a distribution of shares of the same class of stock, paid by the insurer on the insurer's capital
4 stock; or (2) a payment in the form of a bonus, termination settlement, or extraordinary lump sum
5 salary adjustment made by the insurer or the insurer's subsidiary to a director, officer, or
6 employee. If the distribution or payment is made during the 12 months preceding the petition
7 for liquidation, conservation, or rehabilitation, the distribution or payment is subject to the
8 limitations of (b) - (d) of this section.

9 (b) A distribution may not be recovered if the parent or affiliate shows that when paid
10 the distribution was lawful and reasonable and that the insurer did not know and could not
11 reasonably have known that the distribution might adversely affect the ability of the insurer to
12 fulfill its contractual obligations.

13 (c) A person who was a parent corporation or holding company or a person who
14 otherwise controlled the insurer or affiliate at the time the distribution was paid is liable up to
15 the amount of the distribution or payment that the person received. If two or more persons are
16 liable with respect to the same distribution, the persons are jointly and severally liable.

17 (d) The maximum amount recoverable under this section is the amount needed in excess
18 of all other available assets of the impaired or insolvent insurer to pay the contractual obligations
19 of the impaired or insolvent insurer and to reimburse any guaranty funds that expended funds or
20 incurred expenses or may expend funds or may incur expenses in connection with the impaired
21 or insolvent insurer.

22 (e) To the extent that a person liable under (c) of this section is insolvent or otherwise
23 fails to pay a claim due under (c) of this section, the person's parent corporation or holding
24 company or person who otherwise controlled the parent corporation or holding company at the
25 time the distribution was paid is jointly and severally liable for the resulting deficiency in the
26 amount recovered from the parent corporation or holding company or the person who otherwise
27 controlled the parent corporation or holding company.

28 * Sec. 213. AS 21.84.010 is amended to read:

29 Sec. 21.84.010. CHAPTER EXCLUSIVE. Except as otherwise provided, societies shall
30 be governed by this chapter and shall be exempt from all other provisions of the insurance laws
31 of this state, not only in governmental relations with the state, but for every other purpose. [A

1 LAW ENACTED AFTER JULY 1, 1966, MAY NOT APPLY TO SOCIETIES UNLESS THEY
2 ARE EXPRESSLY DESIGNATED IN THE LAW.]

3 * Sec. 214. AS 21.84.350(a) is amended to read:

4 (a) As a part of the annual statement required under AS 21.84.340, each society shall,
5 before the second day of March, file with the director a valuation of its certificates in force on
6 the preceding December 31, provided, the director may, for cause shown, extend the time for
7 filing the valuation for not more than two calendar months. The report of valuation must
8 include an opinion of a qualified actuary as to whether the reserves and related actuarial
9 items held in support of the certificates in force are computed appropriately, are based on
10 assumptions that satisfy contractual provisions, are consistent with prior reported amounts,
11 and comply with applicable laws of this state. The report of valuation shall show, as reserve
12 liabilities, the difference between the present mid-year value of the promised benefits provided
13 in the certificates of the society in force and the present mid-year value of the future net
14 premiums as the same are in practice actually collected, not including any value for the right to
15 make extra assessments and not including any amount by which the present mid-year value of
16 future net premiums exceeds the present mid-year value of promised benefits on individual
17 certificates. At the option of a society, in lieu of the above, the valuation may show the net
18 tabular value. The net tabular value on certificates issued before July 1, 1967, shall be
19 determined under [IN ACCORDANCE WITH] the law applicable before July 1, 1966, and on
20 certificates issued on or after July 1, 1967, may not be less than the reserves determined
21 according to the Commissioner's Reserve Valuation Method as defined in this section. If the
22 premium charged is less than the tabular net premium according to the basis of valuation used,
23 an additional reserve equal to the present value of the deficiency in the premiums shall be set up
24 and maintained as a liability. The reserve liabilities shall be properly adjusted if the mid-year
25 or tabular values are not appropriate.

26 * Sec. 215. AS 21.84.480(b) is amended to read:

27 (b) A society, by itself or any other party, and a fraternal benefit society limited
28 producer [AN AGENT OR SOLICITOR], personally or by any other party, may not offer,
29 promise, allow, give, set off, or pay, directly or indirectly, a valuable consideration or inducement
30 to or for insurance on a risk authorized to be taken by the society that [, WHICH] is not
31 specified in the certificate. A member may not receive or accept, directly or indirectly, a rebate

1 of premium or part of a premium, or ~~a fraternal benefit society limited by statute's~~ [AGENT'S
2 OR SOLICITOR'S] commission payable on a certificate, or receive or accept a favor or
3 advantage or share in the dividends or other benefits to accrue on, or any valuable consideration
4 or inducement not specified in the contract of insurance.

5 * Sec. 216. AS 21.84.590 is amended to read:

6 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions
7 contained in this chapter, the following provisions of this title apply to fraternal benefit societies
8 to the extent applicable and not in conflict with the express provisions of this chapter and the
9 reasonable implications of this chapter:

- 10 (1) AS 21.03
11 (2) AS 21.06
12 (3) AS 21.09.050 and 21.09.100
13 (4) AS 21.09.200 and 21.09.205
14 (5) AS 21.18
15 (6) AS 21.21
16 (7) AS 21.27
17 (8) AS 21.33
18 (9) [(5)] AS 21.36
19 (10) [(6)] AS 21.42.290 and 21.42.355
20 (11) [(7)] AS 21.53
21 (12) [(8)] AS 21.69.370 and 21.69.640
22 (13) [(9)] AS 21.78
23 (14) [(10)] AS 21.89.060.

24 * Sec. 217. AS 21.84 is amended by adding a new section to read:

25 Sec. 21.84.900. DEFINITIONS. In this chapter,

- 26 (1) "fraternal benefit society" means an incorporated society, order, or supreme
27 lodge, without capital stock, including one exempted under AS 21.84.020(a), whether
28 incorporated or not, conducted solely for the benefit of its members and their beneficiaries and
29 not for profit, operated on a lodge system with ritualistic form of work, having a representative
30 form of government, and that makes provision for the payment of benefits under this chapter,
31 (2) "lodge system" means a society having a supreme legislative or governing

1 body and subordinate lodges or branches by whatever name known, into which members are
2 elected, initiated, or admitted under its constitution, laws, ritual, and rules; subordinate lodges or
3 branches are required by law of the society to hold regular meetings at least once in each month;

4 (3) "premiums" means rates or other required contribution by whatever name
5 known;

6 (4) "representative form of government" means a society in which

7 (A) there is provision in its constitution or laws for a supreme legislative
8 or governing body, composed of representatives elected either by the members or by
9 delegates elected directly or indirectly by the members, together with other members of
10 the body prescribed by the society's constitution and laws;

11 (B) the representatives elected constitute a majority in number and have
12 not less than two-thirds of the votes or less than the votes required to amend its
13 constitution and laws;

14 (C) the meetings of the supreme legislative or governing body and the
15 election of officers, representatives, or delegates are held as often as once in four calendar
16 years;

17 (D) the society has a board of directors charged with the responsibility for
18 managing its affairs in the interim between meetings of its supreme legislative or
19 governing body, subject to control by the body and having powers and duties delegated
20 to it in the constitution or laws of the society;

21 (E) the board of directors is elected by the supreme legislative or
22 governing body, except in case of filling a vacancy in the interim between meetings of
23 the body;

24 (F) the officers are elected either by the supreme legislative or governing
25 body or by the board of directors; and

26 (G) the members, officers, representatives, or delegates may not vote by
27 proxy;

28 (5) "society" unless otherwise indicated, means fraternal benefit society.

29 * Sec. 218. AS 21.89.025(a) is amended to read:

30 (a) An insurer shall provide an appropriate reduction in the premium charged for a motor
31 vehicle casualty insurance policy when the principal operator of the motor vehicle covered by

1 the insurance policy

2 (1) is 55 years of age or older;

3 (2) at renewal requests the insurer to provide the reduction;

4 (3) has had no chargeable accidents as set by established underwriting
5 guidelines in use by the insurer or moving motor vehicle citations within three years
6 preceding the request for the discount;

7 (4) provides the insurer with proof satisfactory to the director that the operator
8 has within the three years before requesting the reduction taken and successfully completed a
9 motor vehicle accident prevention course approved by the Department of Public Safety under
10 AS 28.05.035; and

11 (5) [(4)] did not take and complete the accident prevention course described in
12 (4) [(3)] of this subsection as a result of an order or sentence imposed by a court.

13 * Sec. 219. AS 21.89.025(c) is amended to read:

14 (c) The reduced rate provided for an operator under (a) of this section may not extend
15 beyond three years after the last day of the operator's most recently successfully completed motor
16 vehicle accident prevention course described in (a)(4) [(a)(3)] of this section.

17 * Sec. 220. AS 21.89.025 is amended by adding a new subsection to read:

18 (d) The director may establish by regulation the manner in which insurers inform
19 applicants and insureds of the rate reduction available under this section.

20 * Sec. 221. AS 21.89 is amended by adding a new section to read:

21 Sec. 21.89.035. MANDATORY APPRAISAL. An automobile, homeowner, or dwelling
22 policy issued or delivered in the state must include an appraisal clause providing a contractual
23 means to pursue a dispute over the value of an insured's property loss. The appraisal right shall
24 be the insured's first right of appeal. The insured may invoke the right of appraisal by giving
25 written notice to the insurer of the insured's intent. The notice must include the name, address,
26 and phone number of an appraiser of the insured's choice. Within 10 working days from receipt
27 of information, the insurer shall provide the name, address, and phone number of an independent
28 appraiser of the insurer's choice to the insured. The appraiser shall provide final appraisals
29 within 30 working days from the date of the written demand by the insured to invoke the
30 appraisal provision. If a mutual value is not agreed upon by the two appraisals, the appraisers
31 shall select a third appraiser. A valuation in writing agreed upon by two of the three appraisers

1 shall determine the amount of the loss.

2 * Sec. 222. AS 21.90.900 is amended to read:

3 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires
4 otherwise,

5 (1) "admitted insurer" means an authorized insurer ["ADJUSTER" MEANS
6 A PERSON WHO, FOR COMPENSATION AS AN INDEPENDENT CONTRACTOR OR
7 AS AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, OR FOR FEE OR
8 COMMISSION, INVESTIGATES AND ADJUSTS CLAIMS ARISING UNDER INSURANCE
9 CONTRACTS ON BEHALF OF THE INSURER, BUT DOES NOT INCLUDE AN ATTORNEY
10 AT LAW WHO ADJUSTS INSURANCE LOSSES FROM TIME TO TIME INCIDENTAL TO
11 THE PRACTICE OF LAW OR A SALARIED EMPLOYEE OF AN INSURER];

12 (2) "agent" means a person appointed by an insurer to solicit applications for
13 insurance or annuities on its behalf, and if authorized to do so, to effectuate and countersign
14 insurance contracts, except life or disability insurance or annuities, and to collect premiums on
15 insurance or annuities;

16 (3) "alien insurer" means an insurer formed under the laws of a country other than
17 the United States of America, its states, districts, territories, and commonwealths;

18 (4) "attorney-in-fact" means a person designated and appointed by the
19 subscribers of a reciprocal insurer to act for and bind the subscribers in transactions
20 relating to or arising out of the operations of a reciprocal insurer, subject to the limitations
21 that may be lawfully provided;

22 (5) "authorized insurer" means an insurer authorized by a certificate of authority
23 issued by the director to transact insurance in this state;

24 (6) [(5)] "broker" means a person who is not an agent of the insurer and who, on
25 behalf of the insured, for compensation as an independent contractor by commission or fee,
26 solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance of
27 insurance or reinsurance; or in any manner aids in the solicitation, negotiation, procurement,
28 renewal, or continuance of insurance or reinsurance, for insureds or prospective insureds not
29 including the broker;

30 (7) [(6)] "commissioner" means the commissioner of commerce and economic
31 development;

1 AGENT" INCLUDES A THIRD-PARTY ADMINISTRATOR;

2 (14) "impaired" or "impairment" means that

3 (A) an insurer's policyholder surplus is greater than zero but less than that
4 required by AS 21.09.070 for the authority to transact the kinds of insurance being
5 transacted; or

6 (B) an insurer is being operated in a manner that has caused or might
7 cause irreparable loss and injury to the insurer or to the public;

8 (18) [(15)] "independent adjuster" means a person who, for compensation as an
9 independent contractor or as an employee of an independent contractor, for fee or
10 commission, investigates and adjusts losses or claims arising under insurance contracts on
11 behalf of an insurer;

12 (19) "independently procured insurance" means insurance procured directly
13 from a nonadmitted insurer directly by an insured, but does not include insurance lawfully
14 procured through a surplus lines broker under AS 21.34 [AN ADJUSTER REPRESENTING
15 THE INTERESTS OF THE INSURER];

16 (20) [(16)] "industrial life insurance" means that form of life insurance written
17 under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted
18 on the face as part of the descriptive matter, and under which premiums are payable monthly or
19 more often;

20 (21) [(17)] "insolvent" or "insolvency" means that an insurer's policyholder surplus
21 is less than or equal to zero;

22 (22) [(18)] "insurance" means a contract whereby one undertakes to indemnify
23 another or pay or provide a specified or determinable amount or benefit upon determinable
24 contingencies;

25 (23) "insurance producer" means a person who solicits, negotiates, effects,
26 procures, delivers, renews, continues, or binds policies of insurance;

27 (24) [(19)] "insurer" includes a person engaged as indemnitor, surety, or contractor
28 in the business of entering into contracts of insurance or of annuity;

29 (25) [(20)] "licensee" means a person or firm licensed as provided in AS 21.27
30 [OR AS 21.34];

31 (26) "managing general agent" means a person, firm, or corporation that

1 (A) has authority to exercise general supervision over the business, or
2 any part of the business, of one or more insurers; and

3 (B) performs administrative functions normally performed by the
4 insurer including claims administration and payment, marketing administration,
5 agent appointment, premium accounting, premium billing, coverage verification, final
6 underwriting authority, and certificate issuance; "managing general agent" includes
7 a third-party administrator;

8 (27) "nonadmitted insurer" means an unauthorized insurer;

9 (28) [(21)] "person" has the meaning given in AS 01.10.060 and includes an
10 insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in
11 AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged
12 in the business of transacting insurance, including agents, brokers, and claims adjusters;

13 (29) [(22)] "policy" means the written contract of or written agreement for or
14 effecting insurance, by whatever name called, and includes all clauses, riders, endorsements, and
15 papers attached to it and a part of it;

16 (30) [(23)] "policyholder surplus" means

17 (A) for a stock insurer, the sum of its capital, as represented by the
18 aggregate par value to its outstanding capital stock, and its surplus, if any;

19 (B) for a mutual insurer, its surplus, both basic guaranteed and additional,
20 if any;

21 (C) for an insurer other than a stock or mutual insurer, the net worth of
22 the insurer, calculated as its recorded assets less its liabilities, as determined by the
23 accounting criteria set out in this title;

24 (31) [(24)] "premium" means the consideration for insurance, by whatever name
25 called, and by whatever method paid or collected, including an assessment, or membership,
26 policy, survey, inspection, service or similar fee or charge made in consideration for an insurance
27 contract;

28 (32) "reinsurance intermediary" means a person who acts as a producer in
29 soliciting, negotiating, or procuring the making of a reinsurance contract or binder on
30 behalf of a ceding admitted insurer or acts as a producer in accepting a reinsurance
31 contract or binder on behalf of an assuming insurer;

1 (33) "reinsurance intermediary broker" means a person who solicits,
2 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding admitted
3 insurer without the authority or power to bind reinsurance on behalf of the insurer;

4 (34) "reinsurance intermediary manager" means a person including an
5 insurer who has authority to bind or manage all or part of the assumed reinsurance
6 business of an admitted reinsurer, including the management of a separate division,
7 department, or underwriting office, and who acts as an agent for the reinsurer [(25)
8 "SOLICITOR" MEANS AN INDIVIDUAL AUTHORIZED BY AN AGENT OR BROKER TO
9 SOLICIT APPLICATIONS FOR INSURANCE AS A REPRESENTATIVE OF THE AGENT
10 OR BROKER AND TO COLLECT PREMIUMS IN CONNECTION WITH THE INSURANCE];

11 (35) [(26)] "state" means a state, District of Columbia, territory, commonwealth,
12 or possession of the United States of America;

13 (36) "surplus lines broker" means a person licensed under AS 21.27 to place
14 insurance in this state or relative to a subject resident, located, or to be performed in this
15 state with eligible surplus lines insurers under AS 21.34;

16 (37) "surplus lines insurance" means any insurance in this state or relative
17 to a subject resident, located, or to be performed in this state that is permitted under
18 AS 21.34 to be placed through a surplus lines broker licensed under AS 21.27 with
19 nonadmitted insurers eligible to accept insurance other than reinsurance, wet marine and
20 transportation insurance, insurance independently procured, life insurance, and an annuity
21 contract;

22 (38) "third-party administrator" means a person who performs
23 administrative functions such as claims administration and payment, marketing
24 administrative functions, premium accounting, premium billing, coverage verification,
25 underwriting authority, or certificate issuance in regard to insurance;

26 (39) [(27)] "transact" with respect to insurance includes

27 (A) solicitation and inducement;

28 (B) preliminary negotiations;

29 (C) effectuation of a contract of insurance;

30 (D) transaction of matters subsequent to effectuation of the contract of

31 insurance and arising out of it;

1 ~~(40)~~ [(28)] "unauthorized insurer" means an insurer not authorized to transact
2 insurance in this state.

3 * Sec. 223. AS 28.05.035 is amended to read:

4 Sec. 28.05.035. APPROVAL OF ACCIDENT PREVENTION COURSES. For the
5 purposes of AS 21.89.025(a)(4) [AS 21.89.025(a)(3)], the commissioner may approve driver
6 education courses intended to prevent motor vehicle accidents and promote safe driving practices.

7 * Sec. 224. AS 21.06.130(b); AS 21.27.050, 21.27.070, 21.27.090, 21.27.095, 21.27.120, 21.27.200,
8 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,
9 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),
10 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,
11 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),
12 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,
13 21.84.560, 21.84.570, 21.84.580; and AS 21.90.910 are repealed.

14 * Sec. 225. APPLICABILITY OF AS 21.18.110(m). The actuarial opinion required under
15 AS 21.18.110(m), as enacted by sec. 25 of this Act, shall be submitted with the annual statement
16 beginning with the year ending December 31, 1993.

17 * Sec. 226. Sections 2, 21, 26, 51, 62, 63, 96, and 97 of this Act take effect January 1, 1994.

18 * Sec. 227. Except as provided in sec. 226 of this Act, this Act takes effect July 1, 1992.