

Offered: 4/30/84
Referred: Finance

Original sponsor: Martin

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 505 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance; and providing for an
7 effective date."

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

9 * Section 1. AS 21.09.200 is amended by adding a new subsection to
10 read:

11 (e) An insurer shall pay to the division \$100 for each day the
12 insurer fails to file the annual statement in the form required and
13 within the time established in (a) of this section. The authority of
14 the insurer to enter into new obligations or issue new or renewal
15 policies of insurance in this state may be suspended by the director
16 if the annual statement has not been filed by March 1.

17 * Sec. 2. AS 21.09.260 is amended to read:

18 Sec. 21.09.260. VIOLATIONS - PENALTIES. An insurer that the
19 director determines, following an appropriate hearing as provided in
20 AS 21.06.170 - 21.06.230, has violated [VIOLATING] the provisions of
21 AS 21.09.220 - 21.09.250 is subject to a civil penalty of [GUILTY OF A
22 MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE] not more than
23 \$2,500 [\$500] for each violation. The [IN THE EVENT OF CONVICTION THE
24 INSURANCE] director may suspend or revoke the license of the insurer
25 for a violation of AS 21.09.220 - 21.09.250, but violation does
26 [SHALL] not invalidate the insurance contract.

27 * Sec. 3. AS 21.22.170 is amended to read:

28 Sec. 21.22.170. VIOLATIONS [CRIMINAL PENALTY]. An insurer that
29 the director determines, following an appropriate hearing as provided

1 in AS 21.06.170 - 21.06.230, is guilty of a wilful violation of
2 AS 21.22.010 - 21.22.200 is subject to a civil penalty [, UPON
3 CONVICTION, PUNISHABLE BY A FINE] of not more than \$25,000 [\$10,000].
4 A person who is not an insurer and who the director determines,
5 following an appropriate hearing as provided in AS 21.06.170 -
6 21.06.230, to be [IS] guilty of a wilful violation of AS 21.22.010 -
7 21.22.200 is subject to a civil penalty [, UPON CONVICTION, PUNISHABLE
8 BY A FINE] of not more than \$15,000 [\$5,000 OR, IF THE WILFUL
9 VIOLATION INVOLVES THE DELIBERATE PERPETRATION OF A FRAUD UPON THE
10 DIRECTOR, BY IMPRISONMENT FOR NOT MORE THAN TWO YEARS, OR BY BOTH FINE
11 AND IMPRISONMENT].

12 * Sec. 4. AS 21.27.010(d) is amended to read:

13 (d) A person that the director determines, following an
14 appropriate hearing as provided in AS 21.06.170 - 21.06.230, has
15 violated [VIOLATING] this section is subject to a civil penalty
16 [PUNISHABLE BY A FINE] of not more than \$2,500 [\$500 AND IMPRISONMENT
17 FOR NOT MORE THAN SIX MONTHS] for each [INSTANCE OF A] violation.

18 * Sec. 5. AS 21.27.360(a) is amended to read:

19 (a) An agent or other representative of an insurer involved in
20 the procuring or issuance of an insurance contract shall report to the
21 insurer the exact amount of consideration charged as premium for the
22 contract. The amount charged shall be shown in the contract and in
23 the records of the agent. [EACH WILFUL VIOLATION OF THIS PROVISION
24 SHALL CONSTITUTE A MISDEMEANOR.]

25 * Sec. 6. AS 21.27.360(c) is amended to read:

26 (c) An agent, solicitor, or broker who, not being lawfully
27 entitled to [THE] funds, is determined by the director, following an
28 appropriate hearing as provided in AS 21.06.170 - 21.06.230, to have
29 diverted or appropriated [DIVERTS OR APPROPRIATES] them or any portion

1 of them to personal [HIS OWN] use, is subject to a civil penalty not
2 to exceed \$25,000 for each violation [SHALL BE GUILTY OF EMBEZZLEMENT,
3 AND SHALL BE PUNISHED AS PROVIDED IN THE CRIMINAL STATUTES OF ALASKA
4 FOR THE CRIME OF EMBEZZLEMENT].

5 * Sec. 7. AS 21.27.440 is amended to read:

6 Sec. 21.27.440. CIVIL PENALTIES [FINES] MAY BE IMPOSED. After
7 hearing and in addition to or in lieu of the suspension, revocation,
8 or refusal to renew a license, the director may levy a civil penalty
9 [FINE] upon the licensee not to exceed \$2,500 [OF NOT LESS THAN \$25
10 AND NOT MORE THAN \$250]. The order levying the civil penalty [FINE]
11 shall specify the period within which the civil penalty [FINE] shall
12 be fully paid, which period may not be less than 15 or more than 30
13 days from the date of the order. Upon failure to pay the civil pen-
14 alty [FINE] when due, the director shall revoke the licenses of the
15 licensee if not already revoked. The civil penalty [FINE] shall be
16 paid by the director to the commissioner of revenue for deposit in the
17 general fund.

18 * Sec. 8. AS 21.27.450 is amended to read:

19 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE
20 [SUSPENSION, REVOCATION, OR REFUSAL]. Upon the hearing of an appeal
21 from an order suspending, revoking, or refusing to renew a license
22 issued under this chapter, the court, if it finds that the licensee is
23 guilty of violation of the law and if it considers the suspension,
24 revocation, or refusal to renew the license too severe a penalty under
25 the facts as found, may instead impose a fine of not more than \$2,500
26 [\$500]. Payment of the fine within 10 days after its imposition shall
27 reinsstate, restore, or renew the license.

28 * Sec. 9. AS 21.33.320 is amended to read:

29 Sec. 21.33.320. RECORDS OF INSUREDS. In order that the director

1 may effectively administer this chapter, each person who has placed
2 insurance with an unauthorized insurer shall, upon the director's
3 order, produce for the [HIS] examination of the director all policies
4 and other documents evidencing the insurance [,] and shall disclose to
5 the director the amount of premiums paid or agreed to be paid for the
6 insurance. For each refusal to obey the order the person is subject
7 to a civil penalty [, UPON CONVICTION, IS GUILTY OF A MISDEMEANOR
8 PUNISHABLE BY A FINE] of not more than \$2,500 following an appropriate
9 hearing as provided in AS 21.06.170 - 21.06.230 [\$500].

10 * Sec. 10. AS 21.36 is amended by adding new sections to read:

11 Sec. 21.36.360. FRAUDULENT OR CRIMINAL INSURANCE ACTS. (a) A
12 person may not commit a fraudulent or criminal insurance act involving
13 an insurance transaction that is subject to the provisions of this
14 title. The penalty for a fraudulent or criminal insurance act de-
15 scribed in this section is in addition to a civil penalty levied ~~under~~
16 this title.

17 (b) A fraudulent insurance act is committed by a person who,
18 with intent to injure, defraud, or deceive

19 (1) collects a sum as premium or charge for insurance if
20 the insurance has not been provided or is not in due course to be
21 provided, subject to acceptance of the risk by the insurer, by an
22 insurance policy authorized under this title;

23 (2) presents to an insurer a written or oral statement in
24 support of a claim for payment or other benefit under an insurance
25 policy, knowing that the statement contains false, incomplete, or
26 misleading information concerning a matter material to the claim;

27 (3) assists or conspires with another to prepare or make a
28 written or oral statement that is presented to an insurer in support
29 of a claim for a benefit under an insurance policy, knowing that the

1 statement contains false, incomplete, or misleading information con-
2 cerning a matter material to the claim;

3 (4) wilfully collects as premium or charge for insurance a
4 sum in excess of the premium or charge applicable to the insurance as
5 specified in the policy by the insurer in accordance with the applic-
6 able classifications and rates approved by the director, or in cases
7 where classifications and rates are not subject to approval, the
8 premiums and charges applicable to the insurance as specified in the
9 policy and fixed by the insurer;

10 (5) fails to make disposition of funds received or held or
11 misappropriates funds received or held representing premiums or return
12 premium; or

13 (6) fails to pay its tax liability under this title when
14 due.

15 (c) A fraudulent insurance act is committed by a person forming
16 or proposing to form an insurer, an insurance holding corporation, a
17 stock corporation to finance an insurer or insurance production, a
18 corporation to manage an insurer, a corporation to be attorney in fact
19 for a reciprocal insurer, or a syndicate for any of these purposes
20 that advertises, or solicits or receives funds, agreement, stock
21 subscription, or membership on account unless the person has applied
22 for and has received from the director a solicitation permit as re-
23 quired by AS 21.69.

24 (d) A fraudulent insurance act is committed by a person who
25 makes a false sworn statement which the person does not believe to be
26 true as to matter material to an examination, investigation or hearing
27 of the division.

28 (e) A fraudulent insurance act is committed by a person if

29 (1) as to a matter material to an examination,

1 investigation, or hearing by the division, the person makes two or
2 more sworn statements that are irreconcilably inconsistent to the
3 degree that one of them is necessarily false; and

4 (2) the person does not believe one of the statements to be
5 true at the time the statement is made.

6 (f) A fraudulent insurance act is committed by a person who with
7 intent to deceive, knowingly exhibits a false account, document, or
8 advertisement, relative to the affairs of an insurer, a corporation,
9 or syndicate of the kind described in AS 21.69.060, formed or proposed
10 to be formed.

11 (g) A fraudulent insurance act is committed by a person who
12 wrongfully removes or attempts to remove records from the place where
13 they are required to be kept under AS 21.69.390(a) or who conceals or
14 attempts to conceal records from the director.

15 (h) A fraudulent insurance act is committed by a person who
16 deliberately perpetrates a fraud upon the director under AS 21.22.

17 (i) A criminal insurance act is committed by an insurer doing
18 business in this state who knowingly

19 (1) writes, places, or causes to be written or placed in
20 this state a policy, duplicate policy or contract of insurance of any
21 kind or character, or general or floating policy upon persons or
22 property resident, situated or located in this state, from or through
23 a broker, agent, surplus line broker or person who has not secured a
24 general agent license in this state; or

25 (2) pays a commission or form of remuneration to a person,
26 firm or organization for the writing or placing of insurance coverage
27 in this state unless that person, firm or organization holds a license
28 issued by the director for the kind of insurance written or placed.

29 (j) A criminal insurance act is committed by a person in this

1 state who acts as an insurance agent, broker, solicitor, or adjuster
2 without being licensed by the director. A criminal insurance act is
3 committed by an agent, broker, or solicitor who solicits or takes
4 application for, procures, or places for others any insurance for
5 which the person is not licensed or for which the license of the
6 person has been suspended or revoked. This subsection does not apply
7 to a person described in AS 21.27.520 or to a person securing and
8 forwarding information required for the purposes of group insurance
9 covering the unpaid balance or remaining payments proposed to be made
10 in connection with the purchase of merchandise or services if no
11 commission or other compensation is payable on account of the insur-
12 ance to the person.

13 (k) A criminal insurance act is committed by an agent, general
14 agent, broker, or solicitor who knowingly compensates or offers to
15 compensate in any manner a person other than an agent, general agent,
16 broker, or solicitor licensed in this or another state or province,
17 for procuring or in any manner helping to procure applications for or
18 to place insurance in this state. This subsection does not apply to
19 the payment of compensation that is not contingent upon volume of
20 business transacted in the form of salaries to the regular employees
21 of the agent, general agent, broker, or solicitor.

22 (l) A criminal insurance act is committed by a person who has
23 placed insurance with an unauthorized insurer and refuses to obey an
24 order by the director to produce for examination all policies and
25 other documents evidencing the insurance and the amount of premiums
26 paid or agreed to be paid for the insurance.

27 (m) A criminal insurance act is committed by a director of a
28 domestic stock or mutual insurer who votes for or concurs in a decla-
29 ration or payment of a dividend to stockholders or members other than

1 as authorized under AS 21.69.490 - 21.69.500.

2 (n) A criminal insurance act is committed by an agent or other
3 representative of an insurer involved in the procuring or issuance of
4 an insurance contract who intentionally fails to report to the insurer
5 the exact amount of consideration charged as premium for the contract
6 and to maintain records showing that information.

7 (o) A fraudulent insurance act is committed by a person who,
8 with intent to injure, defraud, or deceive, knowingly makes a false or
9 fraudulent statement or representation in or with reference to an
10 application for insurance.

11 (p) A fraudulent insurance act is committed by a person who
12 violates a provision of this title or a regulation issued under it.

13 (q) A fraudulent or criminal insurance act described in

14 (1) (b) of this section that is committed to obtain \$10,000
15 or more is a class B felony,

16 (2) (c) or (d) of this section is a class B felony;

17 (3) (b) of this section that is committed to obtain \$500 or
18 more but less than \$10,000 is a class C felony;

19 (4) (e), (f), (g), or (h) of this section is a class C
20 felony;

21 (5) (b) of this section that is committed to obtain less
22 than \$500 is a class A misdemeanor;

23 (6) (i), (j), (k), (l), or (m) of this section is a class A
24 misdemeanor; and

25 (7) (o) of this section is a class B misdemeanor;

26 (8) (p) of this section is a class B misdemeanor unless
27 another specific penalty is provided for the violation of the provi-
28 sion.

29 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360,

1 the following actions are not considered a premium or charge for
2 insurance:

3 (1) the charging and collection by surplus line brokers
4 licensed under AS 21.33 of the amount of applicable state and federal
5 taxes and filing fees under AS 21.33.220 - 21.33.230;

6 (2) the charging and collection by a life insurer of
7 amounts actually to be expended for medical examination of an appli-
8 cant for life insurance or for reinstatement of a life insurance
9 policy.

10 Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim form shall con-
11 tain a statement that states in substance the following: "A person
12 who knowingly and with intent to injure, defraud, or deceive an insur-
13 ance company files a claim containing false, incomplete, or misleading
14 information is guilty of a felony." A lack of the statement on a
15 claim form does not constitute a defense to prosecution under this
16 title.

17 Sec. 21.36.390. NOTICE TO DIRECTOR. (a) An insurer that has
18 reason to believe that a fraudulent claim has been made against it
19 shall send the director a report disclosing information that the
20 director may require.

21 (b) An insurer, employee or agent of an insurer or another
22 person acting without malice is not subject to civil liability for the
23 filing of the report or furnishing other information required by this
24 section or by the director.

25 (c) The director shall investigate facts reported under this
26 section and shall refer facts indicating a violation of law to the
27 appropriate prosecutor.

28 Sec. 21.36.400. CONFIDENTIALITY. (a) The papers, reports,
29 documents, and evidence received under AS 21.36.390 or an

1 investigation arising out of information received under AS 21.36.390
2 are not subject to public inspection for so long as the director
3 considers confidentiality to be in the public interest or reasonably
4 necessary to complete an investigation or protect the person investi-
5 gated from unwarranted injury. Papers, reports, documents, and evi-
6 dence relative to an investigation under this section are confidential
7 and not subject to subpoena unless, after notice to the director and a
8 hearing, a court determines the director would not be unduly hindered
9 by public inspection.

10 (b) An investigator of the director is not subject to subpoena
11 in a civil action by a court of this state to testify concerning a
12 matter that the investigator has knowledge of under a pending insur-
13 ance fraud investigation by the director.

14 Sec. 21.36.410. OUT-OF-STATE INVESTIGATIONS. (a) If material
15 the director seeks to obtain is located outside the state, the mater-
16 ial may be made available to the director to examine at the place
17 where the material is located. The director may designate representa-
18 tives, including officials of the state in which the material is
19 located, to inspect the material on behalf of the director.

20 (b) The director may respond to a request from an official of
21 another state under procedures established in (a) of this section.

22 * Sec. 11. AS 21.39.160(a) is amended to read:

23 (a) If the [THE] director [MAY, IF HE] finds, following an
24 appropriate hearing, that a person or organization has violated a
25 provision of this chapter, the director may impose a civil penalty not
26 to exceed \$200 or the actual amount of gain, whichever is greater, [OF
27 NOT MORE THAN \$50] for each violation, but if the director [HE] finds
28 the violation to be wilful the director [HE] may impose a penalty of
29 \$2,000 or three times the actual amount of gain, whichever is greater,

1 [OF NOT MORE THAN \$500] for each violation. The penalties may be in
2 addition to any other penalty provided by law. In this section,
3 "gain" means the difference between the amount actually charged and
4 the amount that should have been charged under applicable filings of
5 the person or organization.

6 * Sec. 12. AS 21.66.160 is amended to read:

7 Sec. 21.66.160. PENALTIES. An officer, director, agent or
8 employee of a company determined by the director, following an appro-
9 priate hearing as provided in AS 21.06.170 - 21.06.230, to have [WHO],
10 before obtaining a certificate of authority from the director or after
11 a revocation of a certificate of authority [THEREOF] by the director,
12 issued [AND WHILE IN DEFAULT UNDER THIS CHAPTER ISSUES] a policy of
13 title insurance or certificate of title on property in this state [,]
14 or engaged [WHO ENGAGES] in title insurance business in this state,
15 [IS GUILTY OF A MISDEMEANOR AND] is subject to a civil penalty [A FINE
16 OF] not to exceed \$2,500 [\$500 OR IMPRISONMENT NOT TO EXCEED SIX
17 MONTHS OR BOTH].

18 * Sec. 13. AS 21.66.430(a) is amended to read:

19 (a) If the director finds, following an appropriate hearing as
20 provided in AS 21.06.170 - 21.06.230, that a title insurance rating
21 organization, a title insurance company, or title insurance agent has
22 violated a provision of this chapter, the director may impose a civil
23 penalty of not more than \$200 or the actual amount of gain resulting
24 from the violation, whichever is greater, [\$100] for each violation.
25 If [HOWEVER, IF] the violation described in this section is wilful,
26 the director may [SHALL] impose a civil penalty of \$2,000 or three
27 times the actual amount of gain resulting from the violation, which-
28 ever is greater, [NOT MORE THAN \$1,000] for each violation. A penalty
29 [PENALTIES] imposed under this section is [ARE] in addition to any

1 other penalty [PENALTIES] provided by law. In this section, "gain"
2 includes the total premium acquired through actions in violation of
3 this chapter.

4 * Sec. 14. AS 21.69.060(b) is amended to read:

5 (b) A person determined by the director, following an appro-
6 priate hearing as provided in AS 21.06.170 - 21.06.230, to have
7 violated [VIOLATING] this section is subject to a civil penalty
8 [PUNISHABLE BY A FINE] of not more than \$25,000 [\$10,000, OR BY IMPRIS
9 ONMENT FOR NOT MORE THAN 10 YEARS, OR BY BOTH].

10 * Sec. 15. AS 21.69.210 is amended to read:

11 Sec. 21.69.210. PENALTY FOR EXHIBITING FALSE ACCOUNTS, ETC. A
12 [EVERY] person determined by the director, following an appropriate
13 hearing as provided in AS 21.06.170 - 21.06.230, to have knowingly
14 exhibited [WHO], with intent to deceive, [KNOWINGLY EXHIBITS] a false
15 account, [OR] document, or advertisement, relative to the affairs of
16 an insurer, or of a corporation or syndicate of the kind enumerated in
17 AS 21.69.060, formed or proposed to be formed, is subject to a civil
18 penalty [SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN FIVE
19 YEARS, OR BY A FINE] of not more than \$25,000 [\$10,000, OR BY BOTH].

20 * Sec. 16. AS 21.69.390(b) is amended to read:

21 (b) A person determined by the director, following an appropri-
22 ate hearing as provided in AS 21.06.170 - 21.06.230, to have removed
23 or attempted [WHO REMOVES OR ATTEMPTS] to remove any records from the
24 place where they are required to be kept under (a) of this section
25 with the intent to wrongfully remove them, or to have concealed or
26 attempted [WHO CONCEALS OR ATTEMPTS] to conceal them from the direc-
27 tor, is subject to a civil penalty [PUNISHABLE BY A FINE] of not more
28 than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN FIVE
29 YEARS, OR BY BOTH]. If a domestic insurer violates a provision of

1 this section the director may institute delinquency proceedings
2 against the insurer under the provisions of AS 21.78.

3 * Sec. 17. AS 21.69.510(a) is amended to read:

4 (a) A director of a domestic stock or mutual insurer determined
5 by the director, following an appropriate hearing as provided in
6 AS 21.06.170 - 21.06.230, to have voted [WHO VOTES] for or concurred
7 [CONCURS] in a declaration or payment of a dividend to stockholders or
8 members other than as authorized under AS 21.69.490 or 21.69.500 is
9 subject to a civil penalty of not more than \$2,500 [, UPON CONVICTION,
10 GUILTY OF A MISDEMEANOR] and is jointly and severally liable, together
11 with other directors likewise voting for or concurring, for any loss
12 sustained by the insurer.

13 * Sec. 18. AS 21.84.420(a) is amended to read:

14 (a) A person determined by the director, following an appropri-
15 ate hearing as provided in AS 21.06.170 - 21.06.230, to have acted
16 [WHO IN THIS STATE ACTS] as insurance agent for a society without
17 having authority so to do by virtue of a license issued and in force
18 under this chapter, except as provided in AS 21.84.410(b), is subject
19 to a civil penalty of not to exceed \$2,500 [SHALL BE PUNISHABLE BY
20 IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE
21 THAN \$500, OR BY BOTH].

22 * Sec. 19. AS 21.84.470(b) is amended to read:

23 (b) A person determined by the director, following an appropri-
24 ate hearing as provided in AS 21.06.170 - 21.06.230, to have violated
25 [WHO VIOLATES] a provision of this section or to have knowingly
26 received [RECEIVES] compensation or a commission by or in consequence
27 of the violation, is subject to a civil penalty of [, UPON CONVICTION,
28 PUNISHABLE BY A FINE] not [LESS THAN \$100 OR] more than \$2,500
29 [\$1,000, OR BY IMPRISONMENT IN JAIL NOT LESS THAN 30 DAYS OR MORE THAN

1 90 DAYS, OR BY BOTH FINE AND IMPRISONMENT], and shall in addition be
2 liable for civil penalty in the amount of three times the sum received
3 by the violator as compensation or commission, which penalty may be
4 sued for and recovered by a person or society aggrieved for the per-
5 son's or society's [HIS OR ITS] own use and benefit [IN ACCORDANCE
6 WITH THE PROVISIONS OF CIVIL PRACTICE].

7 * Sec. 20. AS 21.84.590 is amended to read:

8 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the
9 provisions contained in this chapter, other chapters and provisions of
10 this title shall apply to fraternal benefit societies, to the extent
11 applicable and not in conflict with the express provisions of this
12 chapter and the reasonable implications thereof, as follows:

13 (1) AS 21.03

14 (2) AS 21.06, with the exception of AS 21.06.250

15 (3) [THE FOLLOWING SECTIONS OF AS 21.09:

16 (A)] AS 21.09.050 and

17 [(B) AS] 21.09.100

18 (4) AS 21.33.010

19 (5) AS 21.36 [AS 21.36.010 - 21.36.350]

20 (6) AS 21.42.290 and [AS] 21.42.355

21 (7) AS 21.69.370 and

22 [(8) AS] 21.69.640

23 (8) [(9)] AS 21.78

24 (9) [(10)] AS 21.89.060.

25 * Sec. 21. AS 21.90.020 is amended to read:

26 Sec. 21.90.020. GENERAL PENALTY. A person determined by the
27 director, following an appropriate hearing as provided in AS 21.06.-
28 170 - 21.06.230, to have violated [WHO VIOLATES] a provision of this
29 title [,] or a regulation adopted [ISSUED] under it, for which

1 violation a greater penalty is not provided in this title [BY OTHER
2 APPLICABLE LAWS OF THIS STATE, UPON CONVICTION], is subject to a civil
3 [, IN ADDITION TO ANY ADMINISTRATIVE] penalty [OTHERWISE APPLICABLE,
4 PUNISHABLE BY A FINE] of not [LESS THAN \$50 OR] more than \$2,500
5 [\$1,000, OR BY IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 90
6 DAYS, OR BY BOTH].

7 * Sec. 22. AS 21.06.170(e); AS 21.36.180, 21.36.200; and AS 21.51.340
8 are repealed.

9 * Sec. 23. This Act takes effect July 1, 1984.

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BY THE LABOR AND
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23 INSURANCE] director may suspend or revoke the license of the insurer
24 for a violation of AS 21.09.220 - 21.09.250, but violation does
25 [SHALL] not invalidate the insurance contract.

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27 Sec. 21.22.170. VIOLATIONS [CRIMINAL PENALTY]. An insurer that
28 the director determines is guilty of a wilful violation of AS 21.22.-
29 010 - 21.22.200 is subject to a civil penalty [, UPON CONVICTION,

1 PUNISHABLE BY A FINE] of not more than \$25,000 [\$10,000]. A person
2 who is not an insurer and who the director determines to be [IS]
3 guilty of a wilful violation of AS 21.22.010 - 21.22.200 is subject to
4 a civil penalty [, UPON CONVICTION, PUNISHABLE BY A FINE] of not more
5 than \$15,000 [\$5,000 OR, IF THE WILFUL VIOLATION INVOLVES THE DELIBER-
6 ATE PERPETRATION OF A FRAUD UPON THE DIRECTOR, BY IMPRISONMENT FOR NOT
7 MORE THAN TWO YEARS, OR BY BOTH FINE AND IMPRISONMENT].

8 * Sec. 4. AS 21.27.010(d) is amended to read:

9 (d) A person that the director determines has violated [VIOLA-
10 TING] this section is subject to a civil penalty [PUNISHABLE BY A
11 FINE] of not more than \$2,500 [\$500 AND IMPRISONMENT FOR NOT MORE THAN
12 SIX MONTHS] for each [INSTANCE OF A] violation.

13 * Sec. 5. AS 21.27.360(a) is amended to read:

14 (a) An agent or other representative of an insurer involved in
15 the procuring or issuance of an insurance contract shall report to the
16 insurer the exact amount of consideration charged as premium for the
17 contract. The amount charged shall be shown in the contract and in
18 the records of the agent. [EACH WILFUL VIOLATION OF THIS PROVISION
19 SHALL CONSTITUTE A MISDEMEANOR.]

20 * Sec. 6. AS 21.27.360(c) is amended to read:

21 (c) An agent, solicitor, or broker who, not being lawfully
22 entitled to [THE] funds, is determined by the director to have di-
23 verted or appropriated [DIVERTS OR APPROPRIATES] them or any portion
24 of them to personal [HIS OWN] use is subject to a civil penalty not to
25 exceed \$25,000 for each violation [, SHALL BE GUILTY OF EMBEZZLEMENT,
26 AND SHALL BE PUNISHED AS PROVIDED IN THE CRIMINAL STATUTES OF ALASKA
27 FOR THE CRIME OF EMBEZZLEMENT].

28 * Sec. 7. AS 21.27.440 is amended to read:

29 Sec. 21.27.440. CIVIL PENALTIES [FINES] MAY BE IMPOSED. After

1 hearing and in addition to or in lieu of the suspension, revocation,
2 or refusal to renew a license, the director may levy a civil penalty
3 [FINE] upon the licensee not to exceed \$2,500 [OF NOT LESS THAN \$25
4 AND NOT MORE THAN \$250]. The order levying the civil penalty [FINE]
5 shall specify the period within which the civil penalty [FINE] shall
6 be fully paid, which period may not be less than 15 or more than 30
7 days from the date of the order. Upon failure to pay the civil pen-
8 alty [FINE] when due, the director shall revoke the licenses of the
9 licensee if not already revoked. The civil penalty [FINE] shall be
10 paid by the director to the commissioner of revenue for deposit in the
11 general fund.

12 * Sec. 8. AS 21.27.450 is amended to read:

13 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE
14 [SUSPENSION, REVOCATION, OR REFUSAL]. Upon the hearing of an appeal
15 from an order suspending, revoking, or refusing to renew a license
16 issued under this chapter, the court, if it finds that the licensee is
17 guilty of violation of the law and if it considers the suspension,
18 revocation, or refusal to renew the license too severe a penalty under
19 the facts as found, may instead impose a fine of not more than \$2,500
20 [\$500]. Payment of the fine within 10 days after its imposition shall
21 reinstate, restore, or renew the license.

22 * Sec. 9. AS 21.33.320 is amended to read:

23 Sec. 21.33.320. RECORDS OF INSUREDS. In order that the director
24 may effectively administer this chapter, each person who has placed
25 insurance with an unauthorized insurer shall, upon the director's
26 order, produce for the [HIS] examination of the director all policies
27 and other documents evidencing the insurance [,] and shall disclose to
28 the director the amount of premiums paid or agreed to be paid for the
29 insurance. For each refusal to obey the order the person is subject

1 to a civil penalty [, UPON CONVICTION, IS GUILTY OF A MISDEMEANOR
2 PUNISHABLE BY A FINE] of not more than \$2,500 [\$500].

3 * Sec. 10. AS 21.36 is amended by adding new sections to read:

4 Sec. 21.36.360. FRAUDULENT OR CRIMINAL INSURANCE ACTS. (a) A
5 person may not commit a fraudulent or criminal insurance act involving
6 an insurance transaction that is subject to the provisions of this
7 title. The penalty for a fraudulent or criminal insurance act de-
8 scribed in this section is in addition to a civil penalty levied under
9 this title.

10 (b) A fraudulent insurance act is committed by a person who,
11 with intent to injure, defraud, or deceive

12 (1) collects a sum as premium or charge for insurance if
13 the insurance has not been provided or is not in due course to be
14 provided, subject to acceptance of the risk by the insurer, by an
15 insurance policy authorized under this title;

16 (2) presents to an insurer a written or oral statement in
17 support of a claim for payment or other benefit under an insurance
18 policy, knowing that the statement contains false, incomplete, or
19 misleading information concerning a matter material to the claim;

20 (3) assists or conspires with another to prepare or make a
21 written or oral statement that is presented to an insurer in support
22 of a claim for a benefit under an insurance policy, knowing that the
23 statement contains false, incomplete, or misleading information con-
24 cerning a matter material to the claim;

25 (4) wilfully collects as premium or charge for insurance a
26 sum in excess of the premium or charge applicable to the insurance as
27 specified in the policy by the insurer in accordance with the applic-
28 able classifications and rates approved by the director, or in cases
29 where classifications and rates are not subject to approval, the

1 premiums and charges applicable to the insurance as specified in the
2 policy and fixed by the insurer;

3 (5) fails to make disposition of funds received or held or
4 misappropriates funds received or held representing premiums or return
5 premium; or

6 (6) fails to pay its tax liability under this title when
7 due.

8 (c) A fraudulent insurance act is committed by a person forming
9 or proposing to form an insurer, an insurance holding corporation, a
10 stock corporation to finance an insurer or insurance production, a
11 corporation to manage an insurer, a corporation to be attorney in fact
12 for a reciprocal insurer, or a syndicate for any of these purposes
13 that advertises, or solicits or receives funds, agreement, stock
14 subscription, or membership on account unless the person has applied
15 for and has received from the director a solicitation permit as re-
16 quired by AS 21.69.

17 (d) A fraudulent insurance act is committed by a person who
18 makes a false sworn statement which the person does not believe to be
19 true as to matter material to an examination, investigation or hearing
20 of the division.

21 (e) A fraudulent insurance act is committed by a person if

22 (1) as to a matter material to an examination, investiga-
23 tion, or hearing by the division, the person makes two or more sworn
24 statements that are irreconcilably inconsistent to the degree that one
25 of them is necessarily false; and

26 (2) the person does not believe one of the statements to be
27 true at the time the statement is made.

28 (f) A fraudulent insurance act is committed by a person who with
29 intent to deceive, knowingly exhibits a false account, document, or

1 advertisement, relative to the affairs of an insurer, a corporation,
2 or syndicate of the kind described in AS 21.69.060, formed or proposed
3 to be formed.

4 (g) A fraudulent insurance act is committed by a person who
5 wrongfully removes or attempts to remove records from the place where
6 they are required to be kept under AS 21.69.390(a) or who conceals or
7 attempts to conceal records from the director.

8 (h) A fraudulent insurance act is committed by a person who
9 deliberately perpetrates a fraud upon the director under AS 21.22.

10 (i) A criminal insurance act is committed by an insurer doing
11 business in this state who knowingly

12 (1) writes, places, or causes to be written or placed in
13 this state a policy, duplicate policy or contract of insurance of any
14 kind or character, or general or floating policy upon persons or
15 property resident, situated or located in this state, from or through
16 a broker, agent, surplus line broker or person who has not secured a
17 general agent license in this state; or

18 (2) pays a commission or form of remuneration to a person,
19 firm or organization for the writing or placing of insurance coverage
20 in this state unless that person, firm or organization holds a license
21 issued by the director for the kind of insurance written or placed.

22 (j) A criminal insurance act is committed by a person in this
23 state who acts as an insurance agent, broker, solicitor, or adjuster
24 without being licensed by the director. A criminal insurance act is
25 committed by an agent, broker, or solicitor who solicits or takes
26 application for, procures, or places for others any insurance for
27 which the person is not licensed or for which the license of the
28 person has been suspended or revoked. This subsection does not apply
29 to a person described in AS 21.27.520 or to a person securing and

1 forwarding information required for the purposes of group insurance
2 covering the unpaid balance or remaining payments proposed to be made
3 in connection with the purchase of merchandise or services if no
4 commission or other compensation is payable on account of the insur-
5 ance to the person.

6 (k) A criminal insurance act is committed by an agent, general
7 agent, broker, or solicitor who knowingly compensates or offers to
8 compensate in any manner a person other than an agent, general agent,
9 broker, or solicitor licensed in this or another state or province,
10 for procuring or in any manner helping to procure applications for or
11 to place insurance in this state. This subsection does not apply to
12 the payment of compensation that is not contingent upon volume of
13 business transacted in the form of salaries to the regular employees
14 of the agent, general agent, broker, or solicitor.

15 (l) A criminal insurance act is committed by a person who has
16 placed insurance with an unauthorized insurer and refuses to obey an
17 order by the director to produce for examination all policies and
18 other documents evidencing the insurance and the amount of premiums
19 paid or agreed to be paid for the insurance.

20 (m) A criminal insurance act is committed by a director of a
21 domestic stock or mutual insurer who votes for or concurs in a decla-
22 ration or payment of a dividend to stockholders or members other than
23 as authorized under AS 21.69.490 - 21.69.500.

24 (n) A criminal insurance act is committed by an agent or other
25 representative of an insurer involved in the procuring or issuance of
26 an insurance contract who intentionally fails to report to the insurer
27 the exact amount of consideration charged as premium for the contract
28 and to maintain records showing that information.

29 (o) A fraudulent insurance act is committed by a person who

1 with intent to injure, defraud, or deceive, knowingly makes a false or
2 fraudulent statement or representation in or with reference to an
3 application for insurance.

4 (p) A fraudulent insurance act is committed by a person who
5 violates a provision of this title or a regulation issued under it.

6 (q) A fraudulent or criminal insurance act described in

7 (1) (b) of this section that is committed to obtain \$10,000
8 or more is a class B felony;

9 (2) (c) or (d) of this section is a class B felony;

10 (3) (b) of this section that is committed to obtain \$500 or
11 more but less than \$10,000 is a class C felony;

12 (4) (e), (f), (g), or (h) of this section is a class C
13 felony;

14 (5) (b) of this section that is committed to obtain less
15 than \$500 is a class A misdemeanor;

16 (6) (i), (j), (k), (l), or (m) of this section is a class A
17 misdemeanor; and

18 (7) (o) of this section is a class B misdemeanor;

19 (8) (p) of this section is a class B misdemeanor unless
20 another specific penalty is provided for the violation of the provision.

21 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360,
22 the following actions are not considered a premium or charge for
23 insurance:

24 (1) the charging and collection by surplus line brokers
25 licensed under AS 21.33 of the amount of applicable state and federal
26 taxes and filing fees under AS 21.33.220 - 21.33.230;

27 (2) the charging and collection by a life insurer of
28 amounts actually to be expended for medical examination of an appli-
29 cant for life insurance or for reinstatement of a life insurance

1 policy.

2 Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim for shall con-
3 tain a statement that states in substance the following. "A person
4 who knowingly and with intent to injure, defraud, or deceive an insur-
5 ance company files a claim containing false, incomplete, or misleading
6 information is guilty of a felony." A lack of the statement on a
7 claim form does not constitute a defense to prosecution under this
8 title.

9 Sec. 21.36.390. NOTICE TO DIRECTOR. (a) An insurer that has
10 reason to believe that a fraudulent claim has been made against it
11 shall send the director a report disclosing information that the
12 director may require.

13 (b) An insurer, employee or agent of an insurer or another
14 person acting without malice is not subject to civil liability for the
15 filing of the report or furnishing other information required by this
16 section or by the director.

17 (c) The director shall investigate facts reported under this
18 section and shall refer facts indicating a violation of law to the
19 appropriate prosecutor.

20 Sec. 21.36.400. CONFIDENTIALITY. (a) The papers, reports,
21 documents, and evidence received under AS 21.36.390 or an investiga-
22 tion arising out of information received under AS 21.36.390 are not
23 subject to public inspection for so long as the director considers
24 confidentiality to be in the public interest or reasonably necessary
25 to complete an investigation or protect the person investigated from
26 unwarranted injury. Papers, reports, documents, and evidence relative
27 to an investigation under this section are confidential and not sub-
28 ject to subpoena unless, after notice to the director and a hearing, a
29 court determines the director would not be unduly hindered by public

1 inspection.

2 (b) An investigator of the director is not subject to subpoena
3 in a civil action by a court of this state to testify concerning a
4 matter that the investigator has knowledge of under a pending insur-
5 ance fraud investigation by the director.

6 Sec. 21.36.410. OUT-OF-STATE INVESTIGATIONS. (a) If material
7 the director seeks to obtain is located outside the state, the mater-
8 ial may be made available to the director to examine at the place
9 where the material is located. The director may designate representa-
10 tives, including officials of the state in which the material is
11 located, to inspect the material on behalf of the director.

12 (b) The director may respond to a request from an official of
13 another state under procedures established in (a) of this section.

14 * Sec. 11. AS 21.39.160(a) is amended to read:

15 (a) If the [THE] director [MAY, IF HE] finds that a person or
16 organization has violated a provision of this chapter, the director
17 may impose a civil penalty not to exceed \$200 or the actual amount of
18 gain, whichever is greater, [OF NOT MORE THAN \$50] for each violation,
19 but if the director [HE] finds the violation to be wilful the director
20 [HE] may impose a penalty of \$2,000 or three times the actual amount
21 of gain, whichever is greater, [OF NOT MORE THAN \$500] for each viola-
22 tion. The penalties may be in addition to any other penalty provided
23 by law. As used in this section, "gain" is the difference between the
24 amount actually charged and the amount that should have been charged
25 under applicable filings of the person or organization.

26 * Sec. 12. AS 21.66.160 is amended to read:

27 Sec. 21.66.160. PENALTIES. An officer, director, agent or
28 employee of a company determined by the director to have [WHO], before
29 obtaining a certificate of authority from the director or after a

1 revocation of a certificate of authority [THEREOF] by the director,
2 issued [AND WHILE IN DEFAULT UNDER THIS CHAPTER ISSUES] a policy of
3 title insurance or certificate of title on property in this state [,]
4 or engaged [WHO ENGAGES] in title insurance business in this state,
5 [IS GUILTY OF A MISDEMEANOR AND] is subject to a civil penalty [A FINE
6 OF] not to exceed \$2,500 [\$500 OR IMPRISONMENT NOT TO EXCEED SIX
7 MONTHS OR BOTH].

8 * Sec. 13. AS 21.66.430(a) is amended to read:

9 (a) If the director finds that a title insurance rating organi-
10 zation, a title insurance company, or title insurance agent has vio-
11 lated a provision of this chapter, the director may impose a civil
12 penalty of not more than \$200 or the actual amount of gain resulting
13 from the violation, whichever is greater, [\$100] for each violation.
14 If [HOWEVER, IF] the violation described in this section is wilful,
15 the director may [SHALL] impose a civil penalty of \$2,000 or three
16 times the actual amount of gain resulting from the violation, which-
17 ever is greater, [NOT MORE THAN \$1,000] for each violation. A penalty
18 [PENALTIES] imposed under this section is [ARE] in addition to any
19 other penalty [PENALTIES] provided by law. As used in this section,
20 "gain" includes the total premium acquired through actions in vio-
21 lation of this chapter.

22 * Sec. 14. AS 21.69.060(b) is amended to read:

23 (b) A person determined by the director to have violated [VIO-
24 LATING] this section is subject to a civil penalty [PUNISHABLE BY A
25 FINE] of not more than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT
26 MORE THAN 10 YEARS, OR BY BOTH].

27 * Sec. 15. AS 21.69.210 is amended to read:

28 Sec. 21.69.210. PENALTY FOR EXHIBITING FALSE ACCOUNTS, ETC. A
29 [EVERY] person determined by the director to have knowingly exhibited

1 [WHO], with intent to deceive, [KNOWINGLY EXHIBITS] a false account,
2 [OR] document, or advertisement, relative to the affairs of an insurer,
3 or of a corporation or syndicate of the kind enumerated in AS 21.-
4 69.060, formed or proposed to be formed, is subject to a civil penalty
5 [SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN FIVE YEARS, OR
6 BY A FINE] of not more than \$25,000 [\$10,000, OR BY BOTH].

7 * Sec. 16. AS 21.69.390(b) is amended to read:

8 (b) A person determined by the director to have removed or
9 attempted [WHO REMOVES OR ATTEMPTS] to remove any records from the
10 place where they are required to be kept under (a) of this section
11 with the intent to wrongfully remove them, or to have concealed or
12 attempted [WHO CONCEALS OR ATTEMPTS] to conceal them from the direc-
13 tor, is subject to a civil penalty [PUNISHABLE BY A FINE] of not more
14 than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN FIVE
15 YEARS, OR BY BOTH]. If a domestic insurer violates a provision of
16 this section the director may institute delinquency proceedings
17 against the insurer under the provisions of AS 21.78.

18 * Sec. 17. AS 21.69.510(a) is amended to read:

19 (a) A director of a domestic stock or mutual insurer determined
20 by the director to have voted [WHO VOTES] for or concurred [CONCURS]
21 in a declaration or payment of a dividend to stockholders or members
22 other than as authorized under AS 21.69.490 or 21.69.500 is subject to
23 a civil penalty of not more than \$2,500 [, UPON CONVICTION, GUILTY OF
24 A MISDEMEANOR] and is jointly and severally liable, together with
25 other directors likewise voting for or concurring, for any loss sus-
26 tained by the insurer.

27 * Sec. 18. AS 21.84.420(a) is amended to read:

28 (a) A person determined by the director to have acted [WHO IN
29 THIS STATE ACTS] as insurance agent for a society without living

1 authority so to do by virtue of a license issued and in force under
2 this chapter, except as provided in AS 21.84.410(b), is subject to a
3 civil penalty of not to exceed \$2,500 [SHALL BE PUNISHABLE BY IMPRI-
4 SONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN
5 \$500, OR BY BOTH].

6 * Sec. 19. AS 21.84.470(b) is amended to read:

7 (b) A person determined by the director to have violated [WHO
8 VIOLATES] a provision of this section or to have knowingly received
9 [RECEIVES] compensation or a commission by or in consequence of the
10 violation, is subject to a civil penalty of [, UPON CONVICTION, PUN-
11 ISHABLE BY A FINE] not [LESS THAN \$100 OR] more than \$2,500 [\$1,000,
12 OR BY IMPRISONMENT IN JAIL NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS,
13 OR BY BOTH FINE AND IMPRISONMENT], and shall in addition be liable for
14 civil penalty in the amount of three times the sum received by the
15 violator as compensation or commission, which penalty may be sued for
16 and recovered by a person or society aggrieved for the person's or so-
17 ciety's [HIS OR ITS] own use and benefit [IN ACCORDANCE WITH THE
18 PROVISIONS OF CIVIL PRACTICE].

19 * Sec. 20. AS 21.84.590 is amended to read:

20 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the
21 provisions contained in this chapter, other chapters and provisions of
22 this title shall apply to fraternal benefit societies, to the extent
23 applicable and not in conflict with the express provisions of this
24 chapter and the reasonable implications thereof, as follows:

25 (1) AS 21.03

26 (2) AS 21.06, with the exception of AS 21.06.250

27 (3) [THE FOLLOWING SECTIONS OF AS 21.09:

28 (A)] AS 21.09.050 and

29 [(B) AS] 21.09.100

- 1 (4) AS 21.33.010
2 (5) AS 21.36 [AS 21.36.010 - 21.36.350]
3 (6) AS 21.42.290 and AS 21.42.355
4 (7) AS 21.69.370
5 (8) AS 21.69.640
6 (9) AS 21.78
7 (10) AS 21.89.060.

8 * Sec. 21. AS 21.90.020 is amended to read:

9 Sec. 21.90.020. GENERAL PENALTY. A person determined by the
10 director to have violated [WHO VIOLATES] a provision of this title [,]
11 or a regulation adopted [ISSUED] under it, for which violation a
12 greater penalty is not provided in this title [BY OTHER APPLICABLE
13 LAWS OF THIS STATE, UPON CONVICTION], is subject to a civil [, IN
14 ADDITION TO ANY ADMINISTRATIVE] penalty [OTHERWISE APPLICABLE, PUNISH-
15 ABLE BY A FINE] of not [LESS THAN \$50 OR] more than \$2,500 [\$1,000, OR
16 BY IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS, OR BY
17 BOTH].

18 * Sec. 22. AS 21.06.170(e); AS 21.36.180, 21.36.200; and AS 21.51.340
19 are repealed.

20 * Sec. 23. This Act takes effect July 1, 1984.

Introduced: 1/10/84
Referred: Labor & Commerce,
Judiciary and Finance

1 IN THE HOUSE

BY MARTIN

2

HOUSE BILL NO. 505

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to insurance; and providing for an
7 effective date."

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

9 * Section 1. AS 21.09.200 is amended by adding new subsections to read:

10 (e) The director shall fine an insurer \$100 for each day the
11 insurer fails to file the annual statement in the form required and
12 within the time established in (a) of this section. The authority of
13 the insurer to do business in this state is suspended on March 2 if
14 the annual statement has not been filed by March 1.

15 (f) An insurer that fails to pay its tax liability when due
16 under this section commits a class C felony.

17 * Sec. 2. AS 21.09.260 is amended to read:

18 Sec. 21.09.260. VIOLATIONS - PENALTIES. An insurer that the
19 director determines has violated [VIOLATING] the provisions of AS 21.-
20 09.220 - 21.09.250 is subject to a civil penalty of [GUILTY OF A
21 MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE] not more than
22 \$2,500 [\$500] for each violation. The [IN THE EVENT OF CONVICTION THE
23 INSURANCE] director may suspend or revoke the license of the insurer
24 for a violation of AS 21.09.220 - 21.09.250, but violation does
25 [SHALL] not invalidate the insurance contract.

26 * Sec. 3. AS 21.22.170 is amended to read:

27 Sec. 21.22.170. VIOLATIONS [CRIMINAL PENALTY]. An insurer that
28 the director determines is guilty of a wilful violation of AS 21.22.-
29 010 - 21.22.200 is subject to a civil penalty [, UPON CONVICTION,

1 PUNISHABLE BY A FINE] or not more than \$25,000 [\$10,000]. A person
2 who is not an insurer and who the director determines to be [IS]
3 guilty of a wilful violation of AS 21.22.010 - 21.22.200 is subject to
4 a civil penalty [, UPON CONVICTION, PUNISHABLE BY A FINE] of not more
5 than \$15,000 [\$5,000 OR, IF THE WILFUL VIOLATION INVOLVES THE DELIBER-
6 ATE PERPETRATION OF A FRAUD UPON THE DIRECTOR, BY IMPRISONMENT FOR NOT
7 MORE THAN TWO YEARS, OR BY BOTH FINE AND IMPRISONMENT].

8 * Sec. 4. AS 21.27.010(d) is amended to read:

9 (d) A person that the director determines has violated [VIOLA-
10 TING] this section is subject to a civil penalty [PUNISHABLE BY A
11 FINE] of not more than \$2,500 [\$500 AND IMPRISONMENT FOR NOT MORE THAN
12 SIX MONTHS] for each [INSTANCE OF A] violation.

13 * Sec. 5. AS 21.27.360(a) is amended to read:

14 (a) An agent or other representative of an insurer involved in
15 the procuring or issuance of an insurance contract shall report to the
16 insurer the exact amount of consideration charged as premium for the
17 contract. The amount charged shall be shown in the contract and in
18 the records of the agent. [EACH WILFUL VIOLATION OF THIS PROVISION
19 SHALL CONSTITUTE A MISDEMEANOR.]

20 * Sec. 6. AS 21.27.360(c) is amended to read:

21 (c) An agent, solicitor, or broker who, not being lawfully
22 entitled to [THE] funds, is determined by the director to have di-
23 verted or appropriated [DIVERTS OR APPROPRIATES] them or any portion
24 of them to personal [HIS OWN] use is subject to a civil penalty not to
25 exceed \$25,000 for each violation [, SHALL BE GUILTY OF EMBEZZLEMENT,
26 AND SHALL BE PUNISHED AS PROVIDED IN THE CRIMINAL STATUTES OF ALASKA
27 FOR THE CRIME OF EMBEZZLEMENT].

28 * Sec. 7. AS 21.27.440 is amended to read:

29 Sec. 21.27.440. CIVIL PENALTIES [FINES] MAY BE IMPOSED. After

1 hearing and in addition to or in lieu of the suspension, revocation,
2 or refusal to renew a license, the director may levy a civil penalty
3 [FINE] upon the licensee not to exceed \$2,500 [OF NOT LESS THAN \$25
4 AND NOT MORE THAN \$250]. The order levying the civil penalty [FINE]
5 shall specify the period within which the civil penalty [FINE] shall
6 be fully paid, which period may not be less than 15 or more than 30
7 days from the date of the order. Upon failure to pay the civil pen-
8 alty [FINE] when due, the director shall revoke the licenses of the
9 licensee if not already revoked. The civil penalty [FINE] shall be
10 paid by the director to the commissioner of revenue for deposit in the
11 general fund.

12 * Sec. 8. AS 21.27.450 is amended to read:

13 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE
14 [SUSPENSION, REVOCATION, OR REFUSAL]. Upon the hearing of an appeal
15 from an order suspending, revoking, or refusing to renew a license
16 issued under this chapter, the court, if it finds that the licensee is
17 guilty of violation of the law and if it considers the suspension,
18 revocation, or refusal to renew the license too severe a penalty under
19 the facts as found, may instead impose a fine of not more than \$2,500
20 [\$500]. Payment of the fine within 10 days after its imposition shall
21 reinstate, restore, or renew the license.

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23 Sec. 21.33.320. RECORDS OF INSUREDS. In order that the director
24 may effectively administer this chapter, each person who has placed
25 insurance with an unauthorized insurer shall, upon the director's
26 order, produce for the [HIS] examination of the director all policies
27 and other documents evidencing the insurance [,] and shall disclose to
28 the director the amount of premiums paid or agreed to be paid for the
29 insurance. For each refusal to obey the order the person is subject

1 to a civil penalty [, UPON CONVICTION, IS GUILTY OF A MISDEMEANOR
2 PUNISHABLE BY A FINE] of not more than \$2,500 [\$500].

3 * Sec. 10. AS 21.36 is amended by adding new sections to read:

4 Sec. 21.36.360. FRAUDULENT INSURANCE ACTS. (a) A person may
5 not commit a fraudulent insurance act involving an insurance trans-
6 action that is subject to the provisions of this title. The penalty
7 for a fraudulent insurance act described in this section is in addi-
8 tion to a civil penalty levied under this title.

9 (b) A fraudulent insurance act is committed by a person who,
10 with intent to injure, defraud, or deceive

11 (1) collects a sum as premium or charge for insurance if
12 the insurance has not been provided or is not in due course to be
13 provided, subject to acceptance of the risk by the insurer, by an
14 insurance policy authorized under this title;

15 (2) presents to an insurer a written or oral statement in
16 support of a claim for payment or other benefit under an insurance
17 policy, knowing that the statement contains false, incomplete, or
18 misleading information concerning a matter material to the claim;

19 (3) assists or conspires with another to prepare or make a
20 written or oral statement that is presented to an insurer in support
21 of a claim for a benefit under an insurance policy, knowing that the
22 statement contains false, incomplete, or misleading information con-
23 cerning a matter material to the claim;

24 (4) wilfully collects as premium or charge for insurance a
25 sum in excess of the premium or charge applicable to the insurance as
26 specified in the policy by the insurer in accordance with the applic-
27 able classifications and rates approved by the director, or in cases
28 where classifications and rates are not subject to approval, the
29 premiums and charges applicable to the insurance as specified in the

1 policy and fixed by the insurer; or

2 (5) fails to make disposition of funds received or held or
3 misappropriates funds received or held representing premiums or return
4 premium.

5 (c) A fraudulent insurance act is committed by a person forming
6 or proposing to form an insurer, an insurance holding corporation, a
7 stock corporation to finance an insurer or insurance production, a
8 corporation to manage an insurer, a corporation to be attorney in fact
9 for a reciprocal insurer, or a syndicate for any of these purposes
10 that advertises, or solicits or receives funds, agreement, stock
11 subscription, or membership on account unless the person has applied
12 for and has received from the director a solicitation permit as re-
13 quired by AS 21.69.

14 (d) A fraudulent insurance act is committed by a person who
15 makes a false sworn statement which the person does not believe to be
16 true as to matter material to an examination, investigation or hearing
17 of the division.

18 (e) A fraudulent insurance act is committed by a person if

19 (1) as to a matter material to an examination, investiga-
20 tion, or hearing by the division, the person makes two or more sworn
21 statements that are irreconcilably inconsistent to the degree that one
22 of them is necessarily false; and

23 (2) the person does not believe one of the statements to be
24 true at the time the statement is made.

25 (f) A fraudulent insurance act is committed by a person who with
26 intent to deceive, knowingly exhibits a false account, document, or
27 advertisement, relative to the affairs of an insurer, a corporation,
28 or syndicate of the kind described in AS 21.69.060, formed or proposed
29 to be formed.

1 (g) A fraudulent insurance act is committed by a person who
2 wrongfully removes or attempts to remove records from the place where
3 they are required to be kept under AS 21.69.390(a) or who conceals or
4 attempts to conceal records from the director.

5 (h) A fraudulent insurance act is committed by a person who
6 deliberately perpetrates a fraud upon the director under AS 21.22.

7 (i) A fraudulent insurance act is committed by an insurer doing
8 business in this state who

9 (1) writes, places, or causes to be written or placed in
10 this state a policy, duplicate policy or contract of insurance of any
11 kind or character, or general or floating policy upon persons or
12 property resident, situated or located in this state, from or through
13 a broker, agent, surplus line broker or person who has not secured a
14 license in this state; or

15 (2) pays a commission or form of remuneration to a person,
16 firm or organization for the writing or placing of insurance coverage
17 in this state unless that person, firm or organization holds a license
18 issued by the director for the kind of insurance written or placed.

19 (j) A fraudulent insurance act is committed by a person in this
20 state who acts as an insurance agent, broker, solicitor, or adjuster
21 without being licensed by the director. A fraudulent insurance act is
22 committed by an agent, broker, or solicitor who solicits or takes
23 application for, procures, or places for others any insurance for
24 which the person is not licensed or for which the license of the
25 person has been suspended or revoked. This subsection does not apply
26 to a person securing and forwarding information required for the
27 purposes of group insurance covering the unpaid balance or remaining
28 payments proposed to be made in connection with the purchase of mer-
29 chandise or services if no commission or other compensation is payable

1 on account of the insurance to the person.

2 (k) A fraudulent insurance act is committed by an agent, general
3 agent, broker, or solicitor who compensates or offers to compensate in
4 any manner a person other than an agent, general agent, broker, or
5 solicitor licensed in this or another state or province, for procuring
6 or in any manner helping to procure applications for or to place
7 insurance in this state. This subsection does not apply to the pay-
8 ment of compensation that is not contingent upon volume of business
9 transacted in the form of salaries to the regular employees of the
10 agent, general agent, broker, or solicitor.

11 (l) A fraudulent insurance act is committed by a person who has
12 placed insurance with an unauthorized insurer and refuses to obey an
13 order by the director to produce for examination all policies and
14 other documents evidencing the insurance and the amount of premiums
15 paid or agreed to be paid for the insurance.

16 (m) A fraudulent insurance act is committed by a director of a
17 domestic stock or mutual insurer who votes for or concurs in a decla-
18 ration or payment of a dividend to stockholders or members other than
19 as authorized under AS 21.69.490 - 21.69.500.

20 (n) A fraudulent insurance act is committed by an agent or other
21 representative of an insurer involved in the procuring or issuance of
22 an insurance contract who fails to report to the insurer the exact
23 amount of consideration charged as premium for the contract and to
24 maintain records showing that information.

25 (o) A fraudulent insurance act is committed by a person who,
26 with intent to injure, defraud, or deceive, knowingly makes a false or
27 fraudulent statement or representation in or with reference to an
28 application for insurance.

29 (p) A fraudulent insurance act is committed by a person who

1 violates a provision of this title or a regulation issued under it.

2 (q) A fraudulent insurance act described in

3 (1) (b) of this section that is committed to obtain \$10,000
4 or more is a class B felony;

5 (2) (c) or (d) of this section is a class B felony;

6 (3) (b) of this section that is committed to obtain \$500 or
7 more but less than \$10,000 is a class C felony;

8 (4) (e), (f), (g), or (h) of this section is a class C
9 felony;

10 (5) (b) of this section that is committed to obtain less
11 than \$500 is a class A misdemeanor;

12 (6) (i), (j), (k), (l), or (m) of this section is a class A
13 misdemeanor; and

14 (7) (o) of this section is a class B misdemeanor;

15 (8) (p) of this section is a class B misdemeanor unless
16 another specific penalty is provided for the violation of the provision.

17 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360,
18 the following actions are not considered a premium or charge for
19 insurance:

20 (1) the charging and collection by surplus line brokers
21 licensed under AS 21.33 of the amount of applicable state and federal
22 taxes and filing fees under AS 21.33.220 - 21.33.230;

23 (2) the charging and collection by a life insurer of
24 amounts actually to be expended for medical examination of an appli-
25 cant for life insurance or for reinstatement of a life insurance
26 policy.

27 Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim form shall con-
28 tain a statement that states in substance the following: "A person
29 who knowingly and with intent to injure, defraud, or deceive an

1 insurance company files a claim containing false, incomplete, or
2 misleading information is guilty of a felony." A lack of the state-
3 ment on a claim form does not constitute a defense to prosecution
4 under this title.

5 Sec. 21.36.390. NOTICE TO DIRECTOR. (a) An insurer that has
6 reason to believe that a fraudulent claim has been made against it
7 shall send the director a report disclosing information that the
8 director may require.

9 (b) An insurer, employee or agent of an insurer or another
10 person acting without malice is not subject to civil liability for the
11 filing of the report or furnishing other information required by this
12 section or by the director.

13 (c) The director shall investigate facts reported under this
14 section and shall refer facts indicating a violation of law to the
15 appropriate prosecutor.

16 Sec. 21.36.400. CONFIDENTIALITY. (a) The papers, reports,
17 documents, and evidence received under AS 21.36.390 or an investiga-
18 tion arising out of information received under AS 21.36.390 are not
19 subject to public inspection for so long as the director considers
20 confidentiality to be in the public interest or reasonably necessary
21 to complete an investigation or protect the person investigated from
22 unwarranted injury. Papers, reports, documents, and evidence relative
23 to an investigation under this section are confidential and not sub-
24 ject to subpoena unless, after notice to the director and a hearing, a
25 court determines the director would not be unduly hindered by public
26 inspection.

27 (b) An investigator of the director is not subject to subpoena
28 in a civil action by a court of this state to testify concerning a
29 matter that the investigator has knowledge of under a pending

1 insurance fraud investigation by the director.

2 Sec. 21.36.410. OUT-OF-STATE INVESTIGATIONS. (a) If material
3 the director seeks to obtain is located outside the state, the mater-
4 ial may be made available to the director to examine at the place
5 where the material is located. The director may designate representa-
6 tives, including officials of the state in which the material is
7 located, to inspect the material on behalf of the director.

8 (b) The director may respond to a request from an official of
9 another state under procedures established in (a) of this section.

10 * Sec. 11. AS 21.39.160(a) is amended to read:

11 (a) If the [THE] director [MAY, IF HE] finds that a person or
12 organization has violated a provision of this chapter, the director
13 may impose a civil penalty not to exceed \$200 or the actual amount of
14 gain, whichever is greater, [OF NOT MORE THAN \$50] for each violation,
15 but if the director [HE] finds the violation to be wilful the director
16 shall [HE MAY] impose a penalty of \$2,000 or three times the actual
17 amount of gain, whichever is greater, [OF NOT MORE THAN \$500] for each
18 violation. The penalties may be in addition to any other penalty
19 provided by law. As used in this section, "gain" is the difference
20 between the amount actually charged and the amount that should have
21 been charged under applicable filings of the person or organization.

22 * Sec. 12. AC 21.66.160 is amended to read:

23 Sec. 21.66.160. PENALTIES. An officer, director, agent or
24 employee of a company determined by the director to have [WHO], before
25 obtaining a certificate of authority from the director or after a
26 revocation of a certificate of authority [THEREOF] by the director,
27 issued [AND WHILE IN DEFAULT UNDER THIS CHAPTER ISSUES] a policy of
28 title insurance or certificate of title on property in this state [.]
29 or engaged [WHO ENGAGES] in title insurance business in this state,

1 [IS GUILTY OF A MISDEMEANOR AND] is subject to a civil penalty [A FINE
2 OF] not to exceed \$2,500 [\$500 OR IMPRISONMENT NOT TO EXCEED SIX
3 MONTHS OR BOTH].

4 * Sec. 13. AS 21.66.430(a) is amended to read:

5 (a) If the director finds that a title insurance rating organi-
6 zation, a title insurance company, or title insurance agent has vio-
7 lated a provision of this chapter, the director may impose a civil
8 penalty of not more than \$200 or the actual amount of gain resulting
9 from the violation, whichever is greater, [\$100] for each violation.
10 If [HOWEVER, IF] the violation described in this section is wilful,
11 the director shall impose a civil penalty of \$2,000 or three times the
12 actual amount of gain resulting from the violation, whichever is
13 greater, [NOT MORE THAN \$1,000] for each violation. A penalty [PENAL-
14 TIES] imposed under this section is [ARE] in addition to any other
15 penalty [PENALTIES] provided by law. As used in this section, "gain"
16 includes the total premium acquired through actions in violation of
17 this chapter.

18 * Sec. 14. AS 21.69.060(b) is amended to read:

19 (b) A person determined by the director to have violated [VIO-
20 LATING] this section is subject to a civil penalty [PUNISHABLE BY A
21 FINE] of not more than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT
22 MORE THAN 10 YEARS, OR BY BOTH].

23 * Sec. 15. AS 21.69.210 is amended to read:

24 Sec. 21.69.210. PENALTY FOR EXHIBITING FALSE ACCOUNTS, ETC. A
25 [EVERY] person determined by the director to have knowingly exhibited
26 [WHO], with intent to deceive, [KNOWINGLY EXHIBITS] a false account,
27 [OR] document, or advertisement, relative to the affairs of an insur-
28 er, or of a corporation or syndicate of the kind enumerated in AS 21.-
29 69.060, formed or proposed to be formed, is subject to a civil penalty

1 [SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN FIVE YEARS, OR
2 BY A FINE] of not more than \$25,000 [\$10,000, OR BY BOTH].

3 * Sec. 16. AS 21.69.390(b) is amended to read:

4 (b) A person determined by the director to have removed or
5 attempted [WHO REMOVES OR ATTEMPTS] to remove any records from the
6 place where they are required to be kept under (a) of this section
7 with the intent to wrongfully remove them, or to have concealed or
8 attempted [WHO CONCEALS OR ATTEMPTS] to conceal them from the direc-
9 tor, is subject to a civil penalty [PUNISHABLE BY A FINE] of not more
10 than \$25,000 [\$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN FIVE
11 YEARS, OR BY BOTH]. If a domestic insurer violates a provision of
12 this section the director may institute delinquency proceedings
13 against the insurer under the provisions of AS 21.78.

14 * Sec. 17. AS 21.69.510(a) is amended to read:

15 (a) A director of a domestic stock mutual insurer determined
16 by the director to have voted [WHO VOTES] for or concurred [CONCURS]
17 in a declaration or payment of a dividend to stockholders or members
18 other than as authorized under AS 21.69.490 or 21.69.500 is subject to
19 a civil penalty of not more than \$2,500 [, UPON CONVICTION, GUILTY OF
20 A MISDEMEANOR] and is jointly and severally liable, together with
21 other directors likewise voting for or concurring, for any loss sus-
22 tained by the insurer.

23 * Sec. 18. AS 21.84.420(a) is amended to read:

24 (a) A person determined by the director to have acted [WHO IN
25 THIS STATE ACTS] as insurance agent for a society without having
26 authority so to do by virtue of a license issued and in force under
27 this chapter, except as provided in AS 21.84.410(b), is subject to a
28 civil penalty of not to exceed \$2,500 [SHALL BE PUNISHABLE BY IMPRI-
29 SONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN

1 \$500, OR BY BOTH].

2 * Sec. 19. AS 21.84.470(b) is amended to read:

3 (b) A person determined by the director to have violated [WHO
4 VIOLATES] a provision of this section or to have knowingly received
5 [RECEIVES] compensation or a commission by or in consequence of the
6 violation, is subject to a civil penalty of [, UPON CONVICTION, PUN-
7 ISHABLE BY A FINE] not [LESS THAN \$100 OR] more than \$2,500 [\$1,000,
8 OR BY IMPRISONMENT IN JAIL NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS,
9 OR BY BOTH FINE AND IMPRISONMENT], and shall in addition be liable for
10 civil penalty in the amount of three times the sum received by the
11 violator as compensation or commission, which penalty may be sued for
12 and recovered by a person or society aggrieved for the person's or so-
13 ciety's [HIS OR ITS] own use and benefit [IN ACCORDANCE WITH THE
14 PROVISIONS OF CIVIL PRACTICE].

15 * Sec. 20. AS 21.90.020 is amended to read:

16 Sec. 21.90.020. GENERAL PENALTY. A person determined by the
17 director to have violated [WHO VIOLATES] a provision of this title [,]
18 or a regulation adopted [ISSUED] under it, for which violation a
19 greater penalty is not provided in this title [BY OTHER APPLICABLE
20 LAWS OF THIS STATE, UPON CONVICTION], is subject to a civil [, IN
21 ADDITION TO ANY ADMINISTRATIVE] penalty [OTHERWISE APPLICABLE, PUNISH-
22 ABLE BY A FINE] of not [LESS THAN \$50 OR] more than \$2,500 [\$1,000, OR
23 BY IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS, OR BY
24 BOTH].

25 * Sec. 21. AS 21.06.170(e); AS 21.36.180, 21.36.200; and AS 21.51.340
26 are repealed.

27 * Sec. 22. This Act takes effect July 1, 1984.