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This proposal upgrades the Unauthorized (nonadmitted) Insurers Act and the Surplus Lines Insurance Act to comport with the recently adopted models of the National Association of Insurance Commissioners (NAIC). Currently, these two acts, along with a third, the Unauthorized Insurers Service of Process Act appear in AS 21.33.

This proposal continues the Unauthorized (nonadmitted) Insurers Act and the Unauthorized Insurers Service of Process Act in AS 21.33. Access to that market is more clearly stated. Most of the changes in AS 21.33 are not substantive. However the Surplus Lines Insurance Act has been removed from AS 21.33 and placed in a new chapter, AS 21.34. This chapter makes some substantial revisions with respect to how a surplus lines business can be conducted in this state. It will give the regulator a clearer ability to deal with the competence of the licensee and provide more meaningful protection for the public through:

- clarification of the duties and responsibilities of the licensee;
- higher financial requirements for the nonadmitted insurer;
- permission to form a surplus lines association with an active role in regulating the market; and,
- allowing admitted markets to compete with the nonadmitted markets.

Section 1. Page 1, lines 8-17.

Current law provides that when the state examines an insurance company, the insurance company pays for that examination. A surplus lines broker is also subject to examination but does not pay for that examination. The position of the surplus lines broker is in many respects similar to an insurer, particularly when the broker has utilized an insurer that is not able to meet its obligations. This section provides that the surplus lines broker must also meet the cost of its examination.

Section 2. Page 1, lines 18-29 & page 2, lines 1-7.

The change here is on page 1, lines 24-25. This section ties in with Section 1. It lists those entities subject to examination without charge.

Section 3. Page 2, lines 8-29 & page 3, lines 1-3.

This rewrite of the purpose section does not contain substantive changes. It is formatted in a more readable form and the application of the chapter to surplus lines brokers has been deleted.

Section 4. Page 3, lines 4-24.

The changes in this section are editorial. The phrase "doing an insurance business" has been changed to "transaction of insurance", and gender oriented references have been changed.

Section 5. Page 3, lines 25-29 & page 4, lines 1-13.

This section contains more of the same changes noted in Section 4. No substantive change.

Section 6. Page 4, lines 14-29 & page 5, lines 1-8.
The changes in this section are similar to those in Section 4. No substantive changes.

Section 7. Page 5, lines 9-29 & page 6, lines 1-4.
The difference here is found on page 6, lines 2-4. It is primarily a clarification. No substantive change.

Section 8. Page 6, lines 5-13.
Changes similar to those in Section 4.

Section 9. Page 6, lines 14-26.
The sole change in this section is the insertion of the word "nonadmitted" on line 16. This has been done in several of the earlier sections without comment. It is a clarification, and one that is defined in the definition section on page 12, lines 15-18. Previously the words "insurer", "nonadmitted insurer", and "unauthorized insurer" have been used synonymously. That is inconsistent and has led to some confusion. This change should clear up that situation.

Section 10. Page 6, lines 27-29 & page 7, lines 1-29.
This section is a consolidation of several other sections. (a) replaces AS 21.33.015 with no substantive difference. (b) replaces AS 21.33.075 with some shift in an individual's ability to enter and use the nonadmitted market place. This ability is broadened in this bill by removing the specific description of an industrial insured found in AS 21.33.075(9). (c) replaces the combination of AS 21.33.015 and AS 21.33.075(6) with no substantive difference. (d) replaces AS 21.33.041 with no substantive difference.

Section 11. Page 8, lines 1-24.
This is a new section and it limits a nonadmitted insurer's access to Alaska courts. This is as to those not placed through a surplus lines broker in AS 21.34. It clarifies the standing of those insurers.

Section 12. Page 8, lines 25-29 & page 9, lines 1-6.
This is the same kind of change noted in Section 9. One additional change is that access by the director to an insured's purchases in the admitted or authorized market has been removed. This ability to access admitted purchases is probably unreasonable when placed on the insured. Presumably access to these records through other sources is sufficient.

Section 13. Page 9, lines 7-13.
This section reinforces the ability of the director to obtain records and information under this section. This is accomplished by allowing the director to apply for a court order to compel production of records and information.

Section 14. Page 9, lines 14-29 & page 10, lines 1-10.
"Unauthorized" has been changed to "nonadmitted" as noted in section 9.
The penalty provision has been revised so that it is more readily
calculable. This penalty will generally be stiffer than that now provided.

Section 15. Page 10, lines 11-25.
More editorial changes like those in section 9. Since the surplus lines
law has been removed from AS 21.33 and placed in AS 21.34, that reference
has been noted. The time for reporting has been shortened from 60 days to
30 days.

Section 16. Page 10, lines 27-29 & page 11, lines 1-6.
Same editorial change noted in section 9.

Section 17. Page 11, lines 7-15.
The penalty provision has been upgraded in the same fashion as section 14.

Section 18. Page 11, lines 16-21.
This section is intended to avoid any potential conflict with new
sections AS 21.33.037 and AS 21.33.042.

Section 19. Page 11, lines 22-29 & page 12, lines 1-4.
This section upgrades the penalty section by increasing the per violation
penalty from \$500 for the first offense to \$1,000 and by increasing the
second offense penalty from \$500 to \$2,000. A new penalty is also
structured for allowing a violation to continue uncorrected in the amount
of \$1,000 for each month of continuation.

Section 20. Page 12, lines 5-29 & page 13, lines 1-25.
This definition section is new. There is nothing representing a
substantive difference from current law except in (9)(A) where vessels of
50 displacement tons or less are not included in the definition of marine
and are therefor included in the requirements of this proposed law.

Section 21. Page 13, lines 26-29, all of pages 14-30, & page 31, lines
1-16
This section adds a new chapter to the insurance code dealing with
surplus lines insurance. This chapter has essentially been removed from
AS 21.33. A number of changes have been made to provide for a stronger
regulation of the surplus lines market. This is accomplished by
strengthening the financial requirements of a company in that market
before it can be used in this state. The line of responsibility for the
surplus lines broker is clarified. The bill permits the creation of a
surplus lines association that can have a substantial self-regulatory
role which has experienced substantial success in California and in
Washington. This would allow the division to more effectively use its
resources to avoid problems for persons insured in that market.

Sec 21.34.010. Page 13, lines 28-29 & page 14, lines 1-14.
This is the purpose section for the new chapter

Sec 21.34.020. Page 14, lines 15-23
This section conditions what can be placed in the nonadmitted market.
There is no substantive difference from current law.

Sec 21.34.030. Page 14, lines 24-29 & page 15, lines 1-12.
This section permits workers compensation to be written in the surplus
lines market provided the director finds it to be in the public interest.
It is substantially the same as current law except that this proposal has
financial requirements that are higher than other placements in that
market.

Sec 21.34.040. Page 15, lines 13-29 & page 16, lines 1-29.
This section substantially increases the minimum capital and surplus
requirements used in the surplus lines market. It also recognizes
distinctions among insurers, Lloyds type organizations, and insurance
exchanges.

Sec 21.34.050. Page 17, lines 1-9.
This section is a new provision which substantially tracks current
practice. It provides for the listing of eligible surplus lines insurers.
It also permits the surplus lines association to perform that task when
approved by the director.

Sec 21.34.060. Page 17, lines 10-23.
This section requires that when a policy is written by more than one
insurer and one or more of those insurers are not eligible, the insured
must be notified. This prevents a practice where some brokers conceal the
fact that there are ineligible insurers on a risk. One way that this is
done is to list the insurers as "underwriters at Lloyd's and other
companies." The division does not accept this practice now, but is not
certain that even in those cases where we correct it, the insured is
adequately informed. A little information at this stage can prevent a lot
of problems later.

Sec 21.34.070. Page 17, lines 24-29 & page 18, lines 1-11.
This section establishes a procedure for removing an insurer from the
eligible list and sets forth a notice requirement to all licensees.

Sec 21.34.080. Page 18, lines 12-29.
This section is similar to an existing requirement to file affidavits of
coverage. It adds a requirement on the surplus lines broker to provide
evidence of insurance to an insured within 30 days of placement of the
coverage. It also provides that these filing requirements may be
transferred to the surplus lines association upon an order by the
director.

Sec 21.34.050. Page 19, lines 1-29 & page 20, lines 1-15.

This section permits the formation of a surplus lines association and sets forth the powers and purposes for which it may be formed. It establishes the requirements for its formation and makes it subject to examination by the director. It provides that the director may require membership in the association as a condition of licensure in this state.

Sec 21.34.100. Page 20, lines 16-29, all of page 21, & page 22, line 1. This section describes the evidence of insurance which a surplus lines broker must provide for an insured. The basic idea is to require a full disclosure of the facts relating to a placement in the nonadmitted market. This also applies to changes made in coverage. The broker is required to maintain a full copy of all documents pertinent to the insurance transaction. A warning is required to apprise the insured that a policy placed in the nonadmitted market is not covered by the Alaska Insurance Guaranty Association Act.

Sec 21.34.110. Page 22, lines 2-13.

This section provides that the insured has no liability for premium until the broker has provided a notice to the insured to the effect that the insurer is nonadmitted, and there is no insolvency protection provided under state law. This is a new approach.

Sec 21.34.120. Page 22, lines 14-16.

This is similar to present law. It provides that contracts in the surplus lines market place are valid contracts.

Sec 21.34.130. Page 22, lines 17-22.

Section provides that payment to the broker is payment to the insurer.

Sec 21.34.140. Page 22, lines 23-29, all of page 23, and page 24, lines 1-6.

This section sets forth the licensing standards and requirements for a surplus lines brokers license. The requirements are not substantially different than those in current law. The bond requirement is higher. This proposal does permit nonresident surplus lines brokers licensees. (e) does provide a penalty for late renewal of license.

Sec 21.34.150. Page 24, lines 7-12.

This section clarifies the scope of a surplus lines brokers license. It allows the surplus lines broker to accept business from other surplus lines brokers and other brokers but not from agents.

Sec 21.34.160. Page 24, lines 13-29 & page 25, lines 1-11.

This section clearly outlines the kinds of records that must be maintained by a surplus lines broker and that such records must be open for examination by the director.

Sec 21.34.170. Page 25, lines 12-18.

This section requires a monthly report of business placed in the surplus lines market.

Sec 21.34.180. Page 25, lines 19-29 & page 26, lines 1-27.

This section is substantially the same as current law. The premium tax is established here and the director may have the tax collected by the surplus lines association. The director has the ability to establish adequate safeguards to protect the monies collected in this fashion.

Sec 21.34.190. Page 26, lines 26-29 & page 27, lines 1-3.

A filing fee of 1% is established. This is presently at 1/2%.

Sec 21.34.200. Page 27, lines 4-21.

This section provides for two alternate means of tax collection. The first is by the director in the usual manner. The second is by the surplus lines association upon an order by the director after establishing those safeguards deemed appropriate.

Sec 21.34.210. Page 27, lines 22-29 & page 28, lines 1-16.

In the current law, the director has discretionary suspension or revocation authority. The restructuring found in this section is more specific and lists those actions which can result in suspension or revocation.

Sec 21.34.220. Page 28, lines 17-28.

This section ties into AS 21.33 for service of process on a nonadmitted insurer used through the surplus lines market. The presence of a nonadmitted insurer on a surplus lines contract assumes that the insurer has subjected itself to AS 21.34.

Sec 21.34.230. Page 28, line 29 & page 29, lines 1-7.

This penalty section is an upgrade from the present law. It also includes an ability to take action under AS 21.33.320-330 in the unfair trade practices act.

Sec 21.34.240. Page 29, lines 8-12.

Separability section.

Sec 21.34.250. Page 29, lines 13-14.

This section enables the director to promulgate those regulations necessary to implement, define and enforce the provisions of this new chapter.

Sec 21.34.900. Page 29, lines 15-28, all of page 30, & page 31, lines 1-14.

The definitions here take the same explanation as those in Sec 20. There are a few additional definitions but these are not substantively different than current usage in the insurance code.

Sec 22. Page 31, lines 15-19.

This added section in the unfair trade practices act makes it an unfair trade practice to fail to make the required disclosures and reports.

Sec 23. Page 31, lines 20-29 & page 32, lines 1-2.

This section gives admitted insurance companies the ability to compete with the nonadmitted market. It ties in with sections 24 & 25.

Sec 24. Page 32, lines 3-9

This section ties in with Sec 23 and Sec 25 in allowing the admitted market to compete with the nonadmitted market. This is accomplished by providing these exceptions in the rate law which has to date acted as an impediment to that kind of competition.

Sec 25. Page 32, lines 10-15.

This section ties in with the previous two sections. It specifies those conditions under which an admitted insurer can work outside of its filings made with the director. This provides the ability to directly compete with the surplus lines market. This is in the public interest since most admitted market coverages are protected by the guaranty association act.

Sec 26. Page 32, lines 16-17.

This section repeals those sections in AS 21.33 which are no longer needed or have been replaced in the new chapter in section 21.

SB470 Section by Section Analysis.

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This section permits the formation of a surplus lines association and sets forth the powers and purposes for which it may be formed. It establishes the requirements for its formation and makes it subject to examination by the director. It provides that the director may require membership in the association as a condition of licensure in this state.

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This section describes the evidence of insurance which a surplus lines broker must provide for an insured. The basic idea is to require a full disclosure of the facts relating to a placement in the nonadmitted market. This also applies to changes made in coverage. The broker is required to maintain a full copy of all documents pertinent to the insurance transaction. A warning is required to apprise the insured that a policy placed in the nonadmitted market is not covered by the Alaska Insurance Guaranty Association Act.

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This is similar to present law. It provides that contracts in the surplus lines market place are valid contracts.

Sec 21.34.130. Page 22, lines 18-23.
Section provides that payment to the broker is payment to the insurer.

Sec 21.34.140. Page 22, lines 24-29, all of page 23, and page 24, lines 1-6.
This section sets forth the licensing standards and requirements for a surplus lines brokers license. The requirements are not substantially different than those in current law. The bond requirement is higher. This proposal does permit nonresident surplus lines brokers licensees. (e) does provide a penalty for late renewal of license. The language on page 23, lines 9 & 10 starting with the word "except", should be removed as it provides too broad a grandfather right.

Sec 21.34.150. Page 24, lines 9-14.
This section clarifies the scope of a surplus lines brokers license. It allows the surplus lines broker to accept business from other surplus lines brokers and other brokers but not from agents.

Sec 21.34.160. Page 24, lines 15-29 & page 25, lines 1-13.
This section clearly outlines the kinds of records that must be maintained by a surplus lines broker and that such records must be

open for examination by the director.

Sec 21.34.170. Page 25, lines 14-20.

This section requires a monthly report of business placed in the surplus lines market.

Sec 21.34.180. Page 25, lines 21-29 & page 26, lines 1-29.

This section is substantially the same as current law. The premium tax is established here and the director may have the tax collected by the surplus lines association. The director has the ability to establish adequate safeguards to protect the monies collected in this fashion.

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A filing fee of 1% is established. This is presently at 1/2%.

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This section provides for two alternate means of tax collection. The first is by the director in the usual manner. The second is by the surplus lines association upon an order by the director after establishing those safeguards deemed appropriate.

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In the current law, the director has discretionary suspension or revocation authority. The restructuring found in this section is more specific and lists those actions which can result in suspension or revocation.

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This section ties into AS 21.33 for service of process on a nonadmitted insurer used through the surplus lines market. The presence of a nonadmitted insurer on a surplus lines contract assumes that the insurer has subjected itself to AS 21.34.

Sec 21.34.230. Page 29, lines 2-9.

This penalty section is an upgrade from the present law. It also includes an ability to take action under AS 21.33.320-330 in the unfair trade practices act.

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Separability section.

Sec 21.34.250. Page 29, lines 15-17.

This section enables the director to promulgate those regulations necessary to implement, define and enforce the provisions of this new chapter.

Sec 21.24.900. Page 29, lines 18-29, all of page 30, & page 31, lines 1-16.

The definitions here take the same explanation as those in Sec 20. There are a few additional definitions but these are not substantively different than current usage in the insurance code.

Sec 22. Page 31, lines 17-21.

This added section in the unfair trade practices act makes it an unfair trade practice to fail to make the required disclosures and reports.

Sec 23. Page 31, lines 22-29 & page 32, lines 1-2.

This section is intended to give admitted insurance companies the ability to compete with the nonadmitted market, however, some language was inadvertently omitted. On page 31, line 23 remove "Under regulations which the director [HE] shall adopt". On page 31, line 27 following the word "used" add the phrase "or the filing and approval of which are in the director's opinion, not desirable or necessary for the protection of the public." On page 31, line 27, remove the words "and regulations."

Sec 24. Page 32, lines 3-9

This section ties in with Sec 23 and Sec 25 in allowing the admitted market to compete with the nonadmitted market. This is accomplished by providing these exceptions in the rate law which has to date acted as an impediment to that kind of competition.

Sec 25. Page 32, lines 10-15.

This section ties in with the previous two sections. It specifies those conditions under which an admitted insurer can work outside of its filings made with the director. This provides the ability to directly compete with the surplus lines market. This is in the public interest since most admitted market coverages are protected by the guaranty association act.

Finally, a section has been inadvertently omitted. It is the repealer section. That section should read, "AS 21.33.015, AS 21.33.041, AS 21.33.045(f), AS 21.33.051, and AS 21.33.068-21.33.300 are repealed."

MAY 22, 1984

TO: JOHN
FROM: KEN
RE: SB 470 RELATING TO INSURANCE

SPECIFICALLY, THIS BILL DEALS WITH SURPLUS LINES INSURANCE. THE LEGISLATION IS AN ALASKA VARIATION OF THE MODEL ACT DRAFTED FOR THIS PART OF THE INDUSTRY BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. THE BILL WOULD AD A NEW SECTION TO TITLE 21 OF THE STATUTES WHICH WOULD GOVERN SURPLUS LINE TRANSACTIONS IN THE STATE.....WITH THAT, I WOULD ASK KEN MOORE, DIRECTOR OF THE DIVISION OF INSURANCE TO COME FORWARD AND OUTLINE THE LEGISLATION FOR THE COMMITTEE.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 470(L&C)
Title: Relating to Insurance

Sponsor: Mulcahy
Requestor: Senate L&C
Date of Request: 2/15/84

FISCAL DETAIL

Agency Affected: Dept. of Comm. & Econ. Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
Division: Insurance Date: 2/15/84

Approved by Commissioner: Richard A. Lyon Date: 2/15/84
Agency: Department of Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
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- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

This proposal upgrades the Unauthorized (nonadmitted) Insurers Act and the Surplus Lines Insurance Act to comport with the recently adopted models of the National Association of Insurance Commissioners (NAIC). Currently, these two acts, along with a third, the Unauthorized Insurers Service of Process Act appear in AS 21.33.

This proposal continues the Unauthorized (nonadmitted) Insurers Act and the Unauthorized Insurers Service of Process Act in AS 21.33. Access to that market is more clearly stated. Most of the changes in AS 21.33 are not substantive. However the Surplus Lines Insurance Act has been removed from AS 21.33 and placed in a new chapter, AS 21.34. This chapter makes some substantial revisions with respect to how a surplus lines business can be conducted in this state. It will give the regulator a clearer ability to deal with the competence of the licensee and provide more meaningful protection for the public through:

- clarification of the duties and responsibilities of the licensee;
- higher financial requirements for the nonadmitted insurer;
- permission to form a surplus lines association with an active role in regulating the market; and,
- allowing admitted markets to compete with the nonadmitted markets.

Section 1. Page 1, lines 8-17.

Current law provides that when the state examines an insurance company, the insurance company pays for that examination. A surplus lines broker is also subject to examination but does not pay for that examination. The position of the surplus lines broker is in many respects similar to an insurer, particularly when the broker has utilized an insurer that is not able to meet its obligations. This section provides that the surplus lines broker must also meet the cost of its examination.

Section 2. Page 1, lines 18-29 & page 2, lines 1-7.

The change here is on page 1, lines 24-25. This section ties in with Section 1. It lists those entities subject to examination without charge.

Section 3. Page 2, lines 8-29 & page 3, lines 1-3.

This rewrite of the purpose section does not contain substantive changes. It is formatted in a more readable form and the application of the chapter to surplus lines brokers has been deleted.

Section 4. Page 3, lines 4-24.

The changes in this section are editorial. The phrase "doing an insurance business" has been changed to "transaction of insurance", and gender oriented references have been changed.

Section 5. Page 3, lines 25-29 & page 4, lines 1-13.

This section contains more of the same changes noted in Section 4. No substantive change.

Section 6. Page 4, lines 14-29 & page 5, lines 1-8.
The changes in this section are similar to those in Section 4. No substantive changes.

Section 7. Page 5, lines 9-29 & page 6, lines 1-4.
The difference here is found on page 6, lines 2-4. It is primarily a clarification. No substantive change.

Section 8. Page 6, lines 5-13.
Changes similar to those in Section 4.

Section 9. Page 6, lines 14-26.
The sole change in this section is the insertion of the word "nonadmitted" on line 16. This has been done in several of the earlier sections without comment. It is a clarification, and one that is defined in the definition section on page 12, lines 15-18. Previously the words "insurer", "nonadmitted insurer", and "unauthorized insurer" have been used synonymously. That is inconsistent and has led to some confusion. This change should clear up that situation.

Section 10. Page 6, lines 27-29 & page 7, lines 1-29.
This section is a consolidation of several other sections. (a) replaces AS 21.33.015 with no substantive difference. (b) replaces AS 21.33.075 with some shift in an individual's ability to enter and use the nonadmitted market place. This ability is broadened in this bill by removing the specific description of an industrial insured found in AS 21.33.075(9). (c) replaces the combination of AS 21.33.015 and AS 21.33.075(6) with no substantive difference. (d) replaces AS 21.33.041 with no substantive difference.

Section 11. Page 8, lines 1-24.
This is a new section and it limits a nonadmitted insurer's access to Alaska courts. This is as to those not placed through a surplus lines broker in AS 21.34. It clarifies the standing of those insurers.

Section 12. Page 8, lines 25-29 & page 9, lines 1-6.
This is the same kind of change noted in Section 9. One additional change is that access by the director to an insured's purchases in the admitted or authorized market has been removed. This ability to access admitted purchases is probably unreasonable when placed on the insured. Presumably access to these records through other sources is sufficient.

Section 13. Page 9, lines 7-13.
This section reinforces the ability of the director to obtain records and information under this section. This is accomplished by allowing the director to apply for a court order to compel production of records and information.

Section 14. Page 9, lines 14-29 & page 10, lines 1-10.

"Unauthorized" has been changed to "nonadmitted" as noted in section 9. The penalty provision has been revised so that it is more readily calculable. This penalty will generally be stiffer than that now provided.

Section 15. Page 10, lines 11-26.

More editorial changes like those in section 9. Since the surplus lines law has been removed from AS 21.33 and placed in AS 21.34, that reference has been noted. The time for reporting has been shortened from 60 days to 30 days.

Section 16. Page 10, lines 27-29 & page 11, lines 1-6.

Same editorial change noted in section 9.

Section 17. Page 11, lines 7-15.

The penalty provision has been upgraded in the same fashion as section 14.

Section 18. Page 11, lines 16-21.

This section is intended to avoid any potential conflict with new sections AS 21.33.037 and AS 21.33.042.

Section 19. Page 11, lines 22-29 & page 12, lines 1-4.

This section upgrades the penalty section by increasing the per violation penalty from \$500 for the first offense to \$1,000 and by increasing the second offense penalty from \$500 to \$2,000. A new penalty is also structured for allowing a violation to continue uncorrected in the amount of \$1,000 for each month of continuation.

Section 20. Page 12, lines 5-29 & page 13, lines 1-25.

This definition section is new. There is nothing representing a substantive difference from current law except in (9)(A) where vessels of 50 displacement tons or less are not included in the definition of marine and are therefore included in the requirements of this proposed law.

Section 21. Page 13, lines 26-29, all of pages 14-30, & page 31, lines 1-16.

This section adds a new chapter to the insurance code dealing with surplus lines insurance. This chapter has essentially been removed from AS 21.33. A number of changes have been made to provide for a stronger regulation of the surplus lines market. This is accomplished by strengthening the financial requirements of a company in that market before it can be used in this state. The line of responsibility for the surplus lines broker is clarified. The bill permits the creation of a surplus lines association that can have a substantial self-regulatory role which has experienced substantial success in California and in Washington. This would allow the division to more effectively use its resources to avoid problems for persons insured in that market.

Sec 21.34.010. Page 13, lines 28-29 & page 14, lines 1-14.
This is the purpose section for the new chapter

Sec 21.34.020. Page 14, lines 15-23
This section conditions what can be placed in the nonadmitted market.
There is no substantive difference from current law.

Sec 21.34.030. Page 14, lines 24-29 & page 15, lines 1-12.
This section permits workers compensation to be written in the surplus
lines market provided the director finds it to be in the public interest.
It is substantially the same as current law except that this proposal has
stricter financial requirements that are higher than other placements in that
market.

Sec 21.34.040. Page 15, lines 13-29 & page 16, lines 1-29.
This section substantially increases the minimum capital and surplus
requirements used in the surplus lines market. It also recognizes
distinctions among insurers, Lloyds type organizations, and insurance
exchanges.

Sec 21.34.050. Page 17, lines 1-9.
This section is a new provision which substantially tracks current
practice. It provides for the listing of eligible surplus lines insurers.
It also permits the surplus lines association to perform that task when
approved by the director.

Sec 21.34.060. Page 17, lines 10-23.
This section requires that when a policy is written by more than one
insurer and one or more of those insurers are not eligible, the insured
must be notified. This prevents a practice where some brokers conceal the
fact that there are ineligible insurers on a risk. One way that this is
done is to list the insurers as "underwriters at Lloyd's and other
companies." The division does not accept this practice now, but is not
certain that even in those cases where we correct it, the insured is
adequately informed. A little information at this stage can prevent a lot
of problems later.

Sec 21.34.070. Page 17, lines 24-29 & page 18, lines 1-11.
This section establishes a procedure for removing an insurer from the
eligible list and sets forth a notice requirement to all licensees.

Sec 21.34.080. Page 18, lines 12-29.
This section is similar to an existing requirement to file affidavits of
coverage. It adds a requirement on the surplus lines broker to provide
evidence of insurance to an insured within 30 days of placement of the
coverage. It also provides that these filing requirements may be
transferred to the surplus lines association upon an order by the
director.

Sec 21.34.090. Page 19, lines 1-29 & page 20, lines 1-15.

This section permits the formation of a surplus lines association and sets forth the powers and purposes for which it may be formed. It establishes the requirements for its formation and makes it subject to examination by the director. It provides that the director may require membership in the association as a condition of licensure in this state.

Sec 21.34.100. Page 20, lines 16-29, all of page 21, & page 22, line 1. This section describes the evidence of insurance which a surplus lines broker must provide for an insured. The basic idea is to require a full disclosure of the facts relating to a placement in the nonadmitted market. This also applies to changes made in coverage. The broker is required to maintain a full copy of all documents pertinent to the insurance transaction. A warning is required to apprise the insured that a policy placed in the nonadmitted market is not covered by the Alaska Insurance Guaranty Association Act.

Sec 21.34.110. Page 22, lines 2-13.

This section provides that the insured has no liability for premium until the broker has provided a notice to the insured to the effect that the insurer is nonadmitted, and there is no insolvency protection provided under state law. This is a new approach.

Sec 21.34.120. Page 22, lines 14-16.

This is similar to present law. It provides that contracts in the surplus lines market place are valid contracts.

Sec 21.34.130. Page 22, lines 17-22.

Section provides that payment to the broker is payment to the insurer.

Sec 21.34.140. Page 22, lines 23-29, all of page 23, and page 24, lines 1-6.

This section sets forth the licensing standards and requirements for a surplus lines brokers license. The requirements are not substantially different than those in current law. The bond requirement is higher. This proposal does permit nonresident surplus lines brokers licensees. (e) does provide a penalty for late renewal of license.

Sec 21.34.150. Page 24, lines 7-12.

This section clarifies the scope of a surplus lines brokers license. It allows the surplus lines broker to accept business from other surplus lines brokers and other brokers but not from agents.

Sec 21.34.160. Page 24, lines 13-29 & page 25, lines 1-11.

This section clearly outlines the kinds of records that must be maintained by a surplus lines broker and that such records must be open for examination by the director.

Sec 21.34.170. Page 25, lines 12-18.

This section requires a monthly report of business placed in the surplus lines market.

Sec 21.34.180. Page 25, lines 19-29 & page 26, lines 1-27.

This section is substantially the same as current law. The premium tax is established here and the director may have the tax collected by the surplus lines association. The director has the ability to establish adequate safeguards to protect the monies collected in this fashion.

Sec 21.34.190. Page 26, lines 28-29 & page 27, lines 1-3.

A filing fee of 1% is established. This is presently at 1/2%.

Sec 21.34.200. Page 27, lines 4-21.

This section provides for two alternate means of tax collection. The first is by the director in the usual manner. The second is by the surplus lines association upon an order by the director after establishing those safeguards deemed appropriate.

Sec 21.34.210. Page 27, lines 22-29 & page 28, lines 1-16.

In the current law, the director has discretionary suspension or revocation authority. The restructuring found in this section is more specific and lists those actions which can result in suspension or revocation.

Sec 21.23.220. Page 28, lines 17-28.

This section ties into AS 21.33 for service of process on a nonadmitted insurer used through the surplus lines market. The presence of a nonadmitted insurer on a surplus lines contract assumes that the insurer has subjected itself to AS 21.34.

Sec 21.34.230. Page 28, line 29 & page 29, lines 1-7.

This penalty section is an upgrade from the present law. It also includes an ability to take action under AS 21.33.320-330 in the unfair trade practices act.

Sec 21.34.240. Page 29, lines 8-12.

Separability section.

Sec 21.34.250. Page 29, lines 13-14.

This section enables the director to promulgate those regulations necessary to implement, define and enforce the provisions of this new chapter.

Sec 21.34.900. Page 29, lines 15-28, all of page 30, & page 31, lines 1-14.

The definitions here take the same explanation as those in Sec 20. There are a few additional definitions but these are not substantively different than current usage in the insurance code.

Sec 22. Page 31, lines 15-19.

This added section in the unfair trade practices act makes it an unfair trade practice to fail to make the required disclosures and reports.

Sec 23. Page 31, lines 20-29 & page 32, lines 1-2.

This section gives admitted insurance companies the ability to compete with the nonadmitted market. It ties in with sections 24 & 25.

Sec 24. Page 32, lines 3-9

This section ties in with Sec 23 and Sec 25 in allowing the admitted market to compete with the nonadmitted market. This is accomplished by providing these exceptions in the rate law which has to date acted as an impediment to that kind of competition.

Sec 25. Page 32, lines 10-15.

This section ties in with the previous two sections. It specifies those conditions under which an admitted insurer can work outside of its filings made with the director. This provides the ability to directly compete with the surplus lines market. This is in the public interest since most admitted market coverages are protected by the guaranty association act.

Sec 26. Page 32, lines 16-17.

This section repeals those sections in AS 21.33 which are no longer needed or have been replaced in the new chapter in section 21.

This proposal upgrades the Unauthorized (nonadmitted) Insurers Act and the Surplus Lines Insurance Act to comport with the recently adopted models of the National Association of Insurance Commissioners (NAIC). Currently, these two acts, along with a third, the Unauthorized Insurers Service of Process Act appear in AS 21.33.

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This section gives admitted insurance companies the ability to compete with the nonadmitted market. It ties in with sections 24 & 25.

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This section ties in with Sec 23 and Sec 25 in allowing the admitted market to compete with the nonadmitted market. This is accomplished by providing these exceptions in the rate law which has to date acted as an impediment to that kind of competition.

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This section ties in with the previous two sections. It specifies those conditions under which an admitted insurer can work outside of its filings made with the director. This provides the ability to directly compete with the surplus lines market. This is in the public interest since most admitted market coverages are protected by the guaranty association act.

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ALASKA SURPLUS LINES BROKERS ASSN.

3605 Arctic Blvd. #1795

Anchorage, Ak. 99503

Representative John Cowdery
House Committee on Labor & Commerce
Juneau, Ak.

Dear Rep. Cowdery

RE: Senate Bill 470, Hearing May 22, 1984

As president of the Alaska Surplus Lines Brokers Association I wish to draw your attention to particular item of concern to our membership. Firstly, our association does basically support SB 470. We testified to that fact before Senator Mulcahay's Committee in March of this year.

However, Section 21.34.120 (b)(4), lines 9 through 18 are of concern and might seriously affect the public's ability to procure surplus lines insurance coverages (e.g. specialty and Lloyds London policies) unless adequately addressed by the Dept. of Insurance. This section increases a broker's bond liability to \$200,000. We have no particular objection to this, however line 16 makes a provision that the surety bond be available (in addition to other items) "to pay proper losses promptly". We have canvassed several corporate sureties, all of which are not interested in writing the bond until a proper definition of "promptly" is made by the Division of Insurance.

We feel this terminology is vague and that it would severely impact our particular line of insurance business. Many of the smaller agencies would not be able to procure the bond with the present text unqualified. Please delay your decision to pass out the legislation until proper definitions are made.

Sincerely,

Henry F. George
President
Alaska Surplus Lines Brokers Assn.
TEL: (907) 562-2266