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46

AMERICAN COLLEGE OF NURSE-MIDWIVES.

ALASKA CHAPTER

February 22, 1987

FEB 25 1987

Representative John Sund  
Alaska State Legislature  
House of Representatives  
PO Box 11  
Juneau, Alaska 99811

Dear Representative Sund:

I have been in contact with your aide, Sheri Kochman, and at her request I am writing to formalize my organization's request for legislative action this session.

It is my understanding that House Bill 71 and 48 are being considered this week in the House Labor and Commerce Committee. I would like to offer an update on our needs and how the bill would help.

As you may recall, the American College of Nurse-Midwives (ACNM), a national organization, lost its professional liability insurance in June, 1985. (See Fact Sheet: Nurse-Midwives and the Professional Insurance Crisis).

The American College of Nurse-Midwives (ACNM) has been successful in the past in obtaining liability coverage and has been able to pay for the professional liability insurance. It's own insurance company if it becomes necessary in the future. However, we would do so only as an extreme last resort.

During the course of our national efforts, the insurance industry was pressed enough to come through at the 'eleventh hour' with a consortium of companies that were willing to offer us a new liability insurance policy. The company is the American Casualty Company, a CNM insurance company based in Chicago. We have received reasonable rates but desire higher limit coverage in the future. (See ACNM Memo regarding Insurance Update dated September 9, 1986).

As you can see, we are in a very different position this year. We have

a reasonably priced policy available to us and we have passed legislation that will allow us to set up a company in the future if necessary. However, I have received requests from state members who desire access to MICA as an alternative to the CNA policy.

There are at least four Alaskan CNM's who are being backed by physicians who get their insurance through MICA. The CNM's have contacted MICA to inform the company that they have their own liability insurance policies through CNA. ~~However, in effect, MICA has penalized the physicians for working with CNM's as the company is charging the collaborating physicians higher rates if they work with a CNM.~~ They are apparently totally disregarding the nurse-midwife's own coverage. A MICA statute amendment would make it possible for a certified nurse-midwife to acquire an individual policy through MICA. Perhaps if the CNM had her own coverage through MICA, the physician penalty factor (and, therefore, a CNM practice hindrance) would be eliminated. In addition, more CNM's needing coverage might be able to get it through MICA.

In pursuing a MICA amendment there are two issues to consider. To my knowledge, there are few nurse-midwives who would choose MICA coverage unless MICA's rate structure was similar to that offered by the national policy with CNA. I have been told in the past by Mr. Stanford at MICA that we would be placed in the Family Practice physician category for rate purposes. Those rates are substantially higher. It is our hope that the data from the study done by the State Division of Insurance will be used to determine if a special category is warranted for nurse-midwives and Mr. Stanford was given that information last month. It is our hope that this data would be used in formulating a rate structure for certified nurse-midwives.

~~Current wording in AS 71 provides for a certified nurse-midwife as a member of the Board of Directors. I do not feel that this is necessary at~~

~~this point in time.~~ I propose that language be changed to read nurses and advanced nurse practitioners. Certified nurse-midwives are defined by nursing statute as advanced nurse practitioners and this wording would give a broader category of nurses access to MICA if future liability policies were unavailable to nurse practitioners and nurses. (See enclosed brochure regarding roles of nurse practitioners in Alaska).

In summary, certified nurse-midwives in Alaska continue to seek access to MICA liability insurance as an alternative to the CNA policy and it is our hope that this can be accomplished this legislative session. Thanks for your time and efforts.

Feel free to contact me as questions arise.

Sincerely,



Marilyn Pierce-Bulger, CNM  
Chairman, Alaska Chapter, RCNM  
Box 9416 Hilland Road  
Eagle River, AK 99577  
mk 265-0245 hm 694-6076

Enclosures



# AMERICAN COLLEGE OF NURSE-MIDWIVES

1522 K Street, N.W., Suite 1120, Washington, D.C. 20005

202/347-5445

## FACT SHEET: NURSE-MIDWIVES AND THE MALPRACTICE INSURANCE CRISIS

### THE PROBLEM

Over half of the American College of Nurse-Midwives' members have lost their malpractice insurance, and so far no company in the insurance industry appears willing to write a replacement policy. The threat of an eventual loss of coverage hangs over many other members as well. This situation is caused by general conditions in the insurance industry and not by ACNM professional performance. In an attempt to keep practicing, nurse-midwives have been forced to pursue a variety of temporary coverages (see options, page 3). But the outlook for a more satisfactory remedy is bleak. Virtually an entire profession is in jeopardy of extinction.

### BACKGROUND

The American College of Nurse-Midwives (ACNM) is the professional organization for nationally certified nurse-midwives (CNMs) in the United States. Its 2,500 members represent close to 85 percent of the profession.

Members of the College are experts in care for the healthy woman during her pregnancy, labor and delivery, as well as care for both mother and child after the baby is born.

No member is an "ordinary midwife" in the usual concept of that term. Each is a nurse educated at schools of midwifery associated with 28 institutions of higher learning, among them Yale, Columbia, Stanford, George-

town and many state universities. CNMs work in clinical collaboration with physicians.

DETAILS OF  
THE CURRENT  
CRISIS

Between July 1, 1984, and July 1, 1985, about 1,400 CNMs had malpractice insurance under a blanket ACNM policy written by the Mutual Fire, Marine & Inland Insurance Company of Philadelphia.

The company notified ACNM in May 1985 that the policy would not be renewed -- not because of its members' professional performance, but because of general conditions in the insurance industry (the unavailability of reinsurance).

Mutual Fire Marine and Inland is the third insurance carrier the ACNM has worked with in the past three years. In the 1970s the premium per member was \$38 per year. It had risen to an average of \$1,000 a year in 1985.

PROFESSIONAL  
RECORD

Suits have been filed against only six percent of all nurse-midwives -- a number considered low among medical professionals.

STEPS TAKEN  
TO OBTAIN NEW  
INSURANCE

After Mutual Fire's non-renewal, ACNM, through its insurance broker, contacted 17 insurance companies in the U. S. ACNM believes this represents most carriers who write professional liability insurance. To date the College has been turned down by all of them.

Personal appeals to insurance company executives yielded no results, and additional appeals to them emphasizing the low risk of nurse midwife practice have been made.

Nurse-midwives have been talking with insurance commissioners, legislators and other officials of individual states. To date only one state out of fifty -- New Jersey -- has been able to offer insurance from a private carrier.

CNMs feel both a moral and a practical obligation to carry malpractice insurance to protect their patients and themselves from any unintentional human error on their part. In addition, many CNMs must carry malpractice insurance to retain their employment and/or hospital privileges.

INSURANCE OPTIONS  
FOR CNMs IN 1985

- In some states, individual CNMs have found coverage through an insurer such as a physician-owned company, but these policies usually carry practice restrictions.

- Some CNMs may be covered through their employers. This may not shield them from personal liability therefore ACNM encourages CNMs to carry their own professional liability insurance as well.

- Providing that certain conditions are met, CNMs may, for the time being, obtain coverage through the American Nurses Association's (ANA's) or the American College of Obstetricians and Gynecologists' (NAACOG's) insurance policies.

- Some states -- e.g., New York and Texas -- have extended joint underwriting authority to include nurse-midwives. However, anticipated premium levels will be prohibitive given that the average income of nurse midwives is \$25,000.

- Nurse midwives are appealing to Congress to enact emergency legislation to provide relief.



# AMERICAN COLLEGE OF NURSE-MIDWIVES

1522 K Street, N.W., Suite 1120, Washington, D.C. 20005

202/347-5445

Mary Rita Prah  
Executive Director

## MEMO

TO: Chapter Chairs  
FROM: Mary Rita Prah *MCP*  
RE: Insurance Update: Please share this information with CNMs in your chapter.  
DATE: September 9, 1986

### Filings and Applications

ACNM has been informed by CNA that rate filings for each state were sent to state insurance commissioners on Friday, August 29, 1986. The applications will be sent to CNMs as the filings are approved. Although some states have "file and use" regulations, this applies only to the insurance "rates," not to the "forms," which still need to be approved by the state before the insurance may become effective. CNA is expecting most approvals to come through this week and has applications ready to mail as the approvals come in.

It is therefore in the hands of the individual states at this time. To hasten the process you can find out who in your state insurance office approves new insurance filings and ask them to expedite the approval. The policy will be filed under the name American Casualty Company, a CNA insurance company. The effective date of the policy in your state will be the date on which your state gives approval. There is absolutely no provision for retroactive coverage of any kind.

### Hospital Privileges and the Amount of Coverage: 1 million/1million

ACNM has received many calls from CNMs requesting 1 million/3 million coverage under this CNA policy. The CNMs are concerned about losing hospital privileges since they are unable to purchase the 1 million/3 million coverage required by many hospitals.

ACNM did try to obtain 1 million/3 million coverage from the insurance consortium. However, because of conditions in the market place, this coverage is not available at the present time. ACNM will continue to try to obtain this coverage in the future and CNA has indicated that they may reevaluate the coverage in not less than 1 year.

In the meantime, CNMs and other health care providers (including physicians) are faced with the difficult task of convincing hospital administrators and hospital risk managers to accept the lower level of coverage during this interim time

period. In some areas of the country CNMs and physicians have been successful in achieving this outcome. The following is some information which may be useful in this regard.

Generally, it is the individual hospital which determines the regulations for medical staff privileges regarding the requirements for adequate insurance coverage. Many times the hospital by-laws specify a specific amount of coverage. In other circumstances they read "adequate" coverage. You need to first become familiar with the specific situation in the hospital you are dealing with. Next you need to learn how these regulations are voted upon or decided in order to change this situation. (For example, if the word "adequate" is used, you need to influence the person whose job it is to determine what "adequate" means. In other cases, you may need to amend the by-laws.) It would also help to be familiar with the laws in your particular state that influence malpractice claims. There are a number of states which have placed a "cap" on awards and other tort reform efforts are being discussed. Do take the time to become informed with these issues prior to scheduling an appointment with your appropriate decision-maker.

In discussing this problem with the chief underwriter at CNA, the following advice was given: Impress on your hospital that CNA is an A+ rated carrier and that the \$1 million per loss is the most important limit. It is extremely rare for a provider to reach or need a \$3 million aggregate limit. (In fact, this CNA underwriter indicated that she had not seen a case where a physician or other provider needed the \$3 million annual aggregate out of the thousands of cases which she had handled). Perhaps ask your hospital to investigate/document when any of their staff had needed the \$3 million aggregate. Without being antagonistic, it would be very useful to force them in this way to confront the reality of this perceived need.

It would also be helpful to look at the ACNM claims data for your state. Most chapter chairs have used this information in discussions with state insurance commissioners. Present the data accurately but select the most favorable data to highlight. Remember that CNM cases are very infrequent, and that the \$1 million per loss limit provides the hospital with protection against severity.

Try to get support from the other health providers in the hospitals. This insurance crisis has hit everyone and physician premiums are also skyrocketing. They may be considering similar by-laws changes or administrative appeals.

Chapter Chairs  
September 9, 1986  
Page 3

Remember that hospital personnel are influenced by a number of people. Could your insurance commissioner help? What about your state health commissioner? The governor? The mayor? Would an article in the paper informing consumers...help? ... Also, Helen V. Burst heads up the College's Task Force on JCAH. Only CNMs in a particular situation can determine the best strategy. Good luck.

MRP:wh

cc: Board of Directors  
Staff

**NURSE PRACTITIONERS** are Registered Nurses who have obtained advanced education.

They are licensed by the State of Alaska and identified by the initials A.N.P. (Advanced Nurse Practitioner).

**NURSE PRACTITIONERS** are skilled in helping you achieve your maximum potential of wellness.

Teaching and education are important to help you understand your body and live a healthier life.

**NURSE PRACTITIONERS** emphasize the **PREVENTION** of illness and the **PROMOTION** of health.

In addition to health teaching and counseling, **NURSE PRACTITIONERS** perform complete physical examinations, diagnose and treat common illnesses, manage stable chronic conditions and prescribe and monitor medications. When necessary **NURSE PRACTITIONERS** consult with and/or refer you to other health professionals in the community.

As with other professions, **NURSE PRACTITIONERS** have special areas of expertise:

**PEDIATRIC NURSE PRACTITIONERS** work with infants, children, adolescents and their parents. Their expertise is in child growth and development and the special needs of the handicapped or gifted child and family.

They diagnose, treat, and manage acute and chronic illnesses and provide parent education.

**GERIATRIC NURSE PRACTITIONERS** work with elderly individuals and families to manage chronic illnesses and assist the client to maintain the highest degree of independence possible.

**WOMEN'S HEALTH CARE NURSE PRACTITIONERS** provide complete obstetrical and gynecological care to women of all ages.

**ADULT NURSE PRACTITIONERS** work with adults to achieve and maintain a healthy lifestyle. Their expertise is in adult growth and development through the lifespan.

**CERTIFIED NURSE MIDWIVES** work with the pregnant family. Their expertise is prenatal care, labor and delivery, and post partum care.

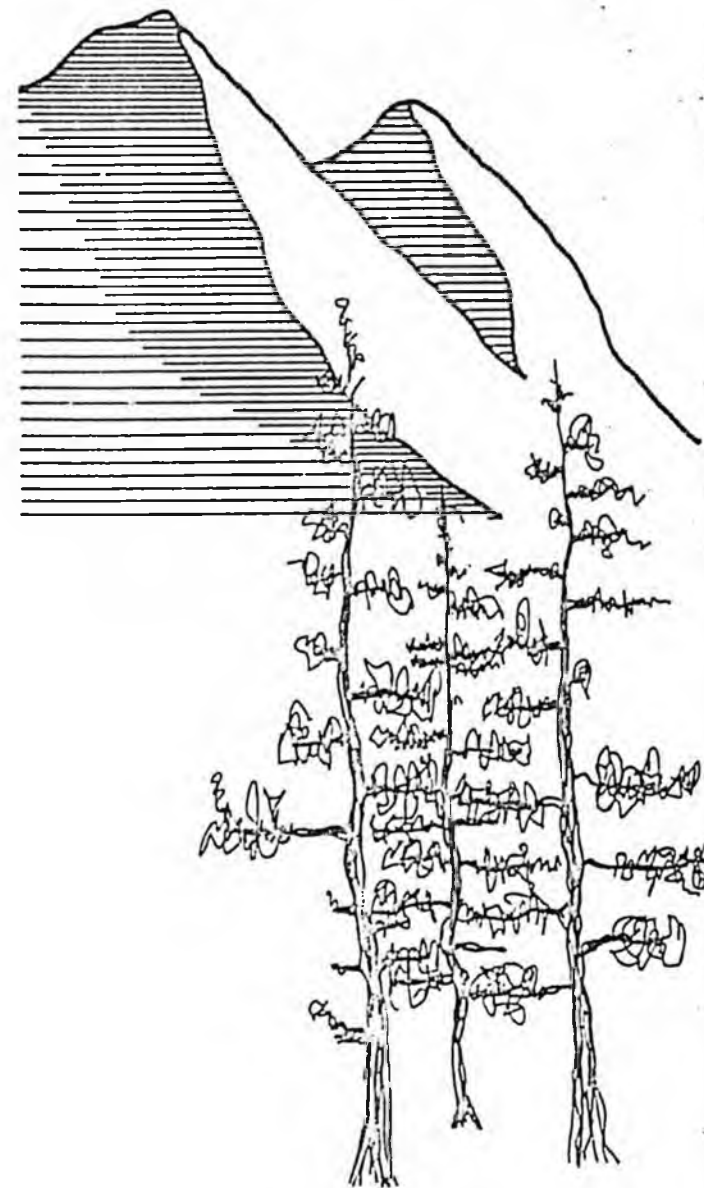
**FAMILY NURSE PRACTITIONERS** work with individuals and families of all ages. They are considered the generalist of nurse practitioners. Their expertise is in viewing the overall health and well-being of the family unit. They diagnose and treat acute and chronic illnesses of individuals of all ages.

ALASKA  
NURSE  
PRACTITIONERS

NURSE PRACTITIONERS work in emergency rooms, hospitals, clinics, ambulatory care centers, physician offices, health departments, student health centers and visiting nurse agencies.

Also, NURSE PRACTITIONERS may have their own private practices.

NURSE PRACTITIONERS work with you to reduce your health care cost. In general, they cost no more and often less than a physician in your area.



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STEWART/THON  
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STEWART/THON  
12220 Rainbow  
Anchorage, Alaska 99516

March 23, 1987

TO: House Labor and Commerce Committee

Re: Concerns of the American Insurance Association  
on CSHB 46

INTRODUCTION

Historically, the AIA has taken the position that onerous restrictions should not be imposed on insurance in the area of cancellation and renewal of commercial insurance. While regulation in this area is intended to promote insurance availability, undue intervention in the process by which underwriting capacity is allocated, can actually have the opposite effect. The AIA does recognize that the public has a legitimate interest in being assured that it will not be denied access to coverage on an arbitrary basis.

The AIA is in particular concerned about the cancellation and non-renewal legislation contained in HB46.

NOTICE OF CANCELLATION (SECTIONS 35 & 36, p.19)

These sections propose a 60 day mandatory cancellation notice on personal insurance policies, and business and commercial policies. The AIA would prefer that any cancellation requirements be through regulation rather than legislation. The AIA agrees with the comments of Frank B. Hall and Company, and Ajustco, Inc., that a jump to 30 days would be far less threatening to the industry than 60 days.

LIMITS ON THE CANCELLATION OF BUSINESS AND COMMERCIAL INSURANCE  
POLICIES (SECTION 34, pp. 18, 19)

This section prescribes that business and commercial policies can only be cancelled for 10 specified reasons, or by special permission by the Director of Insurance. This section ties in with the 60 day cancellation notice. Among the reasons specified, which would allow for 60 day cancellation are discovery of fraud or material misrepresentation---in obtaining the insurance policy; physical changes in the insured property that result in the property becoming uninsurable and physical changes in the operation of the insured that result in the property becoming uninsurable.

It is unreasonable to require 60 or even a 30 day notice of cancellation, especially when there is fraud or misrepresentation. It is suggested that the reasons in subparagraphs 1 through 6 require only a 10 day cancellation notice and that the additional sections require a 30 day cancellation.

FAILURE TO RENEW (Subsection 37, p. 20)

This section requires 45 days notice for non-renewal of a business or commercial insurance policy. For the same reasons involving cancellation, the AIA requests that this be changed to 30 days.

REMARKS

It would be beneficial to have clarification on the potential penalties should the cancellation, and non-renewal sections go into effect. The AIA suggests that a sound cancellation/non-renewal regulation should not exact a penalty from an insurer, but place the insured in the position it would have been had compliance taken place. Accordingly, if the company fails to provide the notice, coverage remains in effect until proper notice of the change is given. Once the proper notice is provided, the insured has 30 days to accept a non-renewal. Coverage for any period of time that extends beyond the expiration date shall be determined prorata based upon the prior year's rate.

Prepared by Tom Slagle  
Robertson, Monagle & Eastaugh, P.C.  
(907) 586-3340

TJS:mb:dd:46

COMMENTS TO COMMITTEE SUBSTITUTE FOR HOUSE BILL 46

MARCH 7, 1987

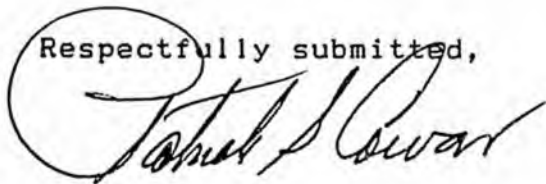
This proposed Legislation started out with some well defined issues, designed to assist the Regulatory Authorities and to improve some Insurance practices to the benefit of the Alaskan Insurance buying Public. Since then, with no forewarning, these once separate, Issues have evolved in to many subsections that are complex, confusing, hastily written and badly composed. this document represents broad sweeping changes to the Insurance industry, which could have disastrous effects on many private business people residing in Alaska.

It is unfortunate that these sections had to be combined with good solid issues that separately were good for the Regulatory Authorities, the Alaskan People and the Insurance Industry.

There is no way that this document should be allowed to stay in tact. There is no Emergency or no compelling reason to rush to pass Legislation that is not understandable, even to the Professionals in the Industry. The 12 areas contained in the Work Draft are not similar in substance and they deal with far too wide a variety of Insurance Issues. If this Legislation, in it's present form, were to pass, it would reduce State revenues and adversely effect the availability and affordability of Insurance in Alaska.

We therefore, urge the Committee to hold this Work Draft in Committee, Then the good solid issues (those which have already been studied and agreed upon) could be reintroduced. Those issues, which have been introduced with no forewarning, could be taken back to the drawing board, studied, and discussed with those effected, to arrive at mutual concessions, then to be reintroduced at a later date.

Respectfully submitted,



Patrick S. Cowan  
Executive Director

A.I.I.A.B..INC. COMMENTS ON HCR 2

MARCH 9, 1987

The four points in the Resolution all sound good, but, let's look at each of them individually, as they presently work, in the real world.

1) Eliminate the current antitrust exemption for the insurance industry. Look at It - 3500 Insurance Companies of all sizes, ease of entry into the business, the freedom to fail, no one Company controlling more than 9% of the Market, cost based pricing of the Insurance product, a competitive Market cycle. This is allowed because the antitrust exemption allows all Insurance Companies to have access to Loss information, common policy form information, rating information, & actuarial information. If the antitrust exemption had been repealed a few years ago, we would not have an Alaska National Insurance Company now, or any other small Insurance Company, as they would have had to operate in a vacuum, without the above mentioned information. **THE REPEAL OF THE CURRENT ANTITRUST EXEMPTION WOULD NOT REDUCE INSURANCE COST OR IMPROVE AVAILABILITY IN ALASKA.**

2) Investigate proposals designed to regulate the insurance industry on a nationwide basis. Alaska is unique, We don't have large populations or urban centers. We have peculiar problems which are not similar to states that are represented by every Insurance Carrier in America, ie; New York and California. We are better off influencing the destiny of our own policyholders by controlling the Regulations in State, rather than by our percentage of market in the Nation. In addition, Policy fees and taxes now are the 5th largest revenue source (outside of all Oil income) in the State of Alaska. There would be no need for these fees and taxes if we were regulated by National Authorities. That would be taxation without representation.

3) Establish multistate insurance pools for high-risk markets.

4) Develop with other states a multistate reinsurance compact. If we were to establish either a multistate pool or reinsurance compact, rules, regulations & guidelines would probably be created based on percentage of business placed in the pool or compact. As Alaska presently accounts for 3/10th of one percent of the Insurance written in America, the other states in the pool or compact would be in control of our policyholders.

In summary, this issue is presently being heard before the Congress of the United States of America. A delegation of Alaska Agents & Brokers, are going to Washington D. C. to attend a White House Briefing and Legislative Conferences at the end of March, 1987 to address this specific issue. We really would hate to be embarrassed by .3% of the market trying to tell the other 99.7% of the Industry how to run their business.

Therefore, we urge the Committee to vote against HCR 2 and allow our U. S. Representatives and Senators to argue out this issue in the Congress of the United States of America.

# STATE OF ALASKA THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. JUD.	4-23-87	1:30p.m.
H. JUD.	4-9-87	12:00p.m.
H. JUD.	4-1-87	1:30p.m.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/30/87

FURTHER REFERRALS:

DATE: 4-23-87

The Judiciary Committee has considered HB 46

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

**RECOMMENDS:**

- replace with CS HB 46 (Jud)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 3/30/87
- zero with analysis

**SIGNING DO PASS:**

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Chairman's signature

5-0306X  
Ford  
4/17/87

Original sponsors: Navarre, Swackhammer  
and Sund

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 46 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST 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 21.09.210(c) is amended to read:

10 (c) A domestic company organized before July 1, 1987, is exempt  
11 from taxation under this section for a period of five years from the  
12 date of its organization.

13 \* Sec. 2. AS 21.09.250 is amended to read:

14 Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in  
15 this state may not make, write, place or cause to be made, written or  
16 placed in this state a policy, duplicate policy or contract of insur-  
17 ance of any kind or character, or general or floating policy upon  
18 persons or property resident, situated or located in this state, from  
19 or through a broker, agent, general agent, surplus line broker, or  
20 person who has not secured a license in this state. An insurer may  
21 not pay a commission or any form of remuneration to a person, firm, or  
22 organization for the writing or placing of insurance coverage in this  
23 state unless that person, firm, or organization holds a license issued  
24 by the director.

25 \* Sec. 3. AS 21.09.280 is amended to read:

26 Sec. 21.09.280. GENERAL AGENTS [AND MANAGERS]. (a) An insurer  
27 appointing a person as its general agent [OR MANAGER] to represent it  
28 in this state shall file notice of the appointment with the director  
29 on forms prescribed and furnished by the director.

1 (b) A general agent [OR MANAGER] has the authority, consistent  
2 with this title, that may be conferred by the insurer. A general  
3 agent, resident or nonresident, qualified in AS 21.27.090, licensed as  
4 provided in this section in the same manner as is provided for agents  
5 in AS 21.27, may exercise the powers conferred by this title upon  
6 agents licensed for the kinds of insurance that the general agent is  
7 authorized to transact for the insurer appointing the agent.

8 (c) The [EXCEPT AS PROVIDED UNDER AS 21.27.500, THE] appointment  
9 of a resident or nonresident general agent is not effective unless the  
10 person appointed is licensed as the general agent of the insurer by  
11 the director upon application and payment of a fee set under AS 21.-  
12 06.250.

13 (d) Every license is subject to the payment of an annual fee set  
14 under AS 21.06.250 and payable on or before [EXPIRES AT] the close of  
15 business on the 30th day of June of each year [FOLLOWING THE DATE OF  
16 ISSUE, AND MAY BE RENEWED FOR AN ADDITIONAL YEAR UPON APPLICATION AND  
17 PAYMENT OF THE FEE].

18 (e) The director may deny, suspend, or revoke a license for any  
19 cause specified in AS 21.27.410 in the manner provided in AS 21.27.-  
20 420.

21 \* Sec. 4. AS 21.09.280 is amended by adding new subsections to read:

22 (f) Persons employed on salary by an insurer, including officers  
23 and salaried employees performing the same services as general agents,  
24 are considered to be service representatives and are not required to  
25 be licensed.

26 (g) For purposes of this section, a person, firm, or corporation  
27 that performs management services for an insurer is not considered a  
28 general agent if

29 (1) the person, firm, or corporation is a wholly-owned

1 subsidiary of the insurer;

2 (2) the person, firm, or corporation wholly owns the insurer;  
3 er; or

4 (3) the person, firm, or corporation is a wholly-owned  
5 subsidiary of the insurance holding company that owns or controls the  
6 insurer.

7 \* Sec. 5. AS 21.27.020 is amended to read:

8 Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the  
9 protection of the people of this state, the director may not issue [OR  
10 RENEW] a license except in compliance with this chapter [, OR] to a  
11 person, or to be exercised by [,] a person, found by the director to  
12 be untrustworthy, incompetent, or who has not established to the  
13 satisfaction of the director that the person is qualified under [IN  
14 ACCORDANCE WITH] this chapter.

15 \* Sec. 6. AS 21.27.030(a) is amended to read:

16 (a) The director may not grant an agent, solicitor, or broker  
17 license to a person if the director has reasonable cause to believe  
18 that

19 [(1) DURING EITHER OF THE TWO CALENDAR YEARS IMMEDIATELY  
20 PRECEDING THE REQUEST FOR RENEWAL OF THE LICENSE THE AGGREGATE AMOUNT  
21 OF COMMISSIONS REPRESENTED BY THE CONTROLLED BUSINESS PROCURED BY OR  
22 THROUGH THE LICENSEE EXCEEDED THE AGGREGATE AMOUNT OF COMMISSIONS  
23 REPRESENTED BY ALL OTHER INSURANCE BUSINESS PROCURED BY OR THROUGH THE  
24 LICENSEE; OR

25 (2)] the circumstances of the applicant for the license [OR  
26 OF A LICENSEE] are such [AS TO CAUSE THE DIRECTOR REASONABLY TO  
27 BELIEVE] that during the 12-month period immediately following issuance  
28 [OR RENEWAL] of the license, if issued [OR RENEWED], the aggregate  
29 amount of commissions to be represented by the controlled

1 business would exceed the aggregate amount of commissions to be repre-  
2 sented by all other insurance business to be procured by or through  
3 the applicant [OR LICENSEE].

4 \* Sec. 7. AS 21.27.030 is amended by adding a new subsection to read:

5 (d) The director may revoke an agent, solicitor, or broker  
6 license if the director has reasonable cause to believe that during  
7 either of the two preceding calendar years the aggregate amount of  
8 commissions represented by the controlled business procured by or  
9 through the licensee exceeded the aggregate amount of commissions  
10 represented by all other insurance business procured by or through the  
11 licensee.

12 \* Sec. 8. AS 21.27.060 is amended to read:

13 Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) Each applicant  
14 for an individual license as agent, broker, solicitor, or adjuster  
15 shall, before the issuance of the license, personally take and pass,  
16 to the satisfaction of the director, an examination given by the  
17 director as a test of the qualifications and competence of the appli-  
18 cant. This requirement does not apply to

19 (1) applicants for limited licenses, as travel insurance  
20 agents only, under AS 21.27.150, or, at the discretion of the direc-  
21 tor, to applicants for licenses as disability insurance agents for the  
22 purpose of handling limited coverages pertaining to sports and recre-  
23 ation;

24 (2) applicants who at any time within the five-year period  
25 immediately preceding the date of application have been licensed in  
26 this state under a license requiring qualifications required by the  
27 license applied for and who are considered by the director to be fully  
28 qualified and competent;

29 (3) applicants for license as nonresident agent or as

1 nonresident broker who have fulfilled qualification requirements in  
2 their state or province of residence and who are considered by the  
3 director to be fully qualified and competent;

4 (4) applicants for an agent or solicitor license covering  
5 the same kinds of insurance as an agent's or solicitor's license then  
6 held by them.

7 (b)' The director may at any time require an individual [A]  
8 licensed as an agent, broker, solicitor, or adjuster to take and  
9 successfully pass an examination testing competence and qualifications  
10 as a condition to the continuance [OR RENEWAL] of the license if the  
11 licensee has been guilty of violation of this title, or has so con-  
12 ducted affairs under the license as to cause the director reasonably  
13 to desire further evidence of the qualifications of the licensee.

14 \* Sec. 9. AS 21.27.090(a) is amended to read:

15 (a) To qualify for an individual agent or broker license an  
16 applicant shall comply with this title and

17 (1) be 19 years of age or over [, IF AN INDIVIDUAL];

18 (2) if for a resident agent's or broker's license, be a  
19 bona fide resident before issuance of license [,] and actually reside  
20 in the state [RESIDING IN ALASKA, OR IF A CORPORATION, BE OTHER THAN  
21 AN INSURER AND MAINTAIN A LAWFULLY ESTABLISHED PLACE OF BUSINESS IN  
22 THIS STATE, EXCEPT AS PROVIDED IN AS 21.27.270];

23 (3) [BE EMPOWERED TO BE AN AGENT OR BROKER, AS THE CASE MAY  
24 BE, UNDER ITS MEMBERS' AGREEMENT, IF A FIRM, OR BY ITS ARTICLES OF  
25 INCORPORATION, IF A CORPORATION;

26 (4)] successfully pass any examination required under  
27 AS 21.27.060;

28 (4) [(5)] be a trustworthy person;

29 (5) [(6)] not use or intend to use [OR USE] the license for

1 the purpose principally of writing controlled business, as defined in  
2 AS 21.27.030;

3 (6) [(7)] if for an agent license, be appointed as its  
4 agent by one or more authorized insurers, subject to issuance of the  
5 license, except that an individual acting on behalf of a firm is not  
6 required to have an appointment as an agent for that activity;

7 (7) [(8)] if for broker license, have had experience either  
8 as an agent, solicitor, adjuster, general agent, broker, or as an  
9 employee of insurers or representatives of insurers, or special educa-  
10 tion or training of sufficient duration and extent reasonably to  
11 satisfy the director that the applicant possesses the competence  
12 necessary to fulfill the responsibilities of broker.

13 \* Sec. 10. AS 21.27.090 is amended by adding a new subsection to read:

14 (c) To qualify for a firm agent or broker license an applicant  
15 shall comply with this title and

16 (1) comply with (a)(5) and (6) of this section;

17 (2) if a corporation, maintain a lawfully established place  
18 of business in this state, except as provided in AS 21.27.270.

19 \* Sec. 11. AS 21.27.130 is amended to read:

20 Sec. 21.27.130. CONTENT OF AGENT, BROKER, SOLICITOR LICENSES.  
21 Agent, solicitor, and broker licenses must [SHALL] be in the form the  
22 director prescribes, and must [SHALL] set out

23 (1) the name and address of the licensee, or if the lic-  
24 enssee is required to have a place of business, the address of the  
25 place of business;

26 (2) if the agent or broker is a firm [OR CORPORATION], the  
27 name of the principal or manager of the firm holding an individual  
28 license as required by AS 21.27.140 [EACH INDIVIDUAL AUTHORIZED TO  
29 EXERCISE THE POWERS CONFERRED BY THE LICENSE];

1 (3) the kind or kinds of insurance the licensee is [THERE-  
2 BY] licensed to handle;

3 (4) if a solicitor's license, the name and address of the  
4 agent or broker represented by the solicitor;

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

6 (6) the date of issuance [AND DATE OF EXPIRATION] of the  
7 license.

8 \* Sec. 12. AS 21.27.140 is amended to read:

9 Sec. 21.27.140. LICENSES TO FIRMS [AND CORPORATIONS]. A firm  
10 shall have a firm license of the same degree as each individual li-  
11 cencee acting on behalf of the firm. A firm [OR CORPORATION] may not  
12 be licensed as an adjuster, agent, or broker unless each individual  
13 acting as or representing to be an adjuster, agent, or broker on  
14 behalf of the firm is licensed as an individual, and the principal or  
15 manager of the firm is licensed as an individual to exercise all the  
16 powers conferred by the firm's license. If the licensee knows of and  
17 consents to an act or representation on behalf of the firm by an  
18 individual who is not licensed as required by this chapter, that act  
19 or representation [TO BE EMPOWERED AND DESIGNATED IN THE LICENSE TO  
20 EXERCISE THE POWERS CONFERRED BY THE LICENSE IS QUALIFIED AS THOUGH  
21 THE INDIVIDUAL WERE THE SOLE INDIVIDUAL TO BE SO EMPOWERED, EXCEPT  
22 THAT A FIRM OR CORPORATION LICENSED FOR ALL LINES MAY EMPOWER AND  
23 DESIGNATE ANY INDIVIDUAL, OTHER THAN THE PRINCIPAL OR MANAGER, LI-  
24 CENSED FOR ONLY PROPERTY-CASUALTY OR LIFE-DISABILITY TO EXERCISE THE  
25 POWERS CONFERRED BY THE LICENSE TO THE EXTENT THAT INDIVIDUAL IS  
26 QUALIFIED TO ACT. EXERCISE OR ATTEMPTED EXERCISE OF THE POWERS BY AN  
27 INDIVIDUAL NOT SO DESIGNATED, WITH THE KNOWLEDGE OR CONSENT OF THE  
28 LICENSEE,] is cause for the revocation or suspension of the firm  
29 license.

1 \* Sec. 13. AS 21.27.170(b) is amended to read:

2 (b) The director shall issue to the agent a special vending  
3 machine license for each machine to be used. The license must [SHALL]  
4 specify the name and address of the insurer and agent, the name of the  
5 policy to be sold, the serial number of the machine, and the place  
6 where the machine is to be in operation. The license is [SHALL BE]  
7 subject to [ANNUAL CONTINUATION, TO EXPIRATION,] suspension or revoca-  
8 tion coincidentally with that of the agent. The director shall also  
9 revoke the license on a machine if the director finds that the condi-  
10 tions upon which the machine was licensed, under [AS REFERRED TO IN]  
11 (a) of this section, no longer exist. Proof of the existence of a  
12 [SUBSISTING] license shall be displayed on or about each vending  
13 machine in use in the manner the director may reasonably require.

14 \* Sec. 14. AS 21.27.190(a) is amended to read:

15 (a) Each applicant for a broker license [OR FOR THE RENEWAL OF A  
16 BROKER LICENSE EXISTING ON JULY 1, 1966,] shall file with the applica-  
17 tion [OR REQUEST FOR RENEWAL] and shall after that [THEREAFTER] main-  
18 tain in force while [SO] licensed a bond in favor of the people of the  
19 state, executed by an authorized corporate surety approved by the  
20 director, in the amount of \$10,000 [\$5,000]. The bond may be continu-  
21 ous in form, and total aggregate liability on the bond may be limited  
22 to the payment of \$10,000 [\$5,000]. The bond must [SHALL] be contin-  
23 gent on the accounting by the broker, to a [ANY] person requesting the  
24 broker to obtain insurance or to a person from whom the broker obtains  
25 insurance, for money or premiums collected in connection with the  
26 insurance [THEREWITH].

27 \* Sec. 15. AS 21.27.190 is amended by adding a new subsection to read:

28 (c) An individual who acts on behalf of a firm that files and  
29 maintains in force the bond described in (a) of this section is exempt

1 from the requirements of (a) of this section.

2 \* Sec. 16. AS 21.27.200(a) is repealed and reenacted to read:

3 (a) A broker is not an agent or other representative of an  
4 insurer and does not have power as a broker to bind the insurer re-  
5 garding a risk or an insurance contract.

6 \* Sec. 17. AS 21.27.200 is amended by adding new subsections to read:

7 (c) In determining an insured's entitlement to coverage or  
8 return premium, a premium payment made to a broker shall be considered  
9 received by the insurer if

10 (1) the payment was, at the time it was made, designated  
11 for specific coverage; and

12 (2) the insurer accepted or acknowledged coverage by issu-  
13 ing a policy, binder, or other contract for temporary insurance.

14 (d) A broker may not knowingly accept payment for coverage until  
15 coverage is authorized by an insurer.

16 (e) Except as provided under (c) of this section, this section  
17 is not intended to alter the common law of agency as applied to trans-  
18 actions under this title.

19 \* Sec. 18. AS 21.27.240(a) is amended to read:

20 (a) An agent or broker who employs a solicitor shall pay the  
21 [THE] fee for issuance or annual fee for continuation [RENEWAL] of a  
22 solicitor license [SHALL BE PAID BY THE AGENT OR BROKER BY WHOM THE  
23 SOLICITOR IS EMPLOYED].

24 \* Sec. 19. AS 21.27.300 is amended to read:

25 Sec. 21.27.300. CONTENTS OF LICENSE. The director shall pre-  
26 scribe the form of adjuster license, which must contain

27 (1) the name and business address of the adjuster;

28 (2) date of issuance [AND DATE OF EXPIRATION] of the li-

29 cense;

1 (3) other statements proper to the purposes of the license.

2 \* Sec. 20. AS 21.27.350 is amended by adding a new subsection to read:

3 (c) In addition to the record required under (a) of this sec-  
4 tion, each agent or broker shall have and maintain at the agent's or  
5 broker's principal place of business current accounting and financial  
6 records maintained in accordance with generally accepted accounting  
7 principles. The director may request summary or detailed copies for  
8 examination by the division. Records examined under this subsection  
9 are confidential when in the possession of the division, but may be  
10 used by the director in a proceeding against the licensee. For pur-  
11 poses of this subsection, the records of a firm shall be considered  
12 the records of an individual agent or broker acting on behalf of the  
13 firm.

14 \* Sec. 21. AS 21.27.360(b) is amended to read:

15 (b) All funds, except those made payable to the insurer, repre-  
16 senting premiums or return premiums received by an agent or broker,  
17 shall be received in the fiduciary account of the agent or broker, and  
18 shall be deposited in a bank account or depository separate from any  
19 other account or depository, and shall be promptly accounted for and  
20 paid to the insured, insurer, or agent entitled to the funds. For  
21 purposes of this subsection, the fiduciary account of the firm shall  
22 be considered the fiduciary account of an individual agent or broker  
23 acting on behalf of the firm. Funds deposited into a fiduciary  
24 account may not be commingled or otherwise combined with other funds,  
25 except as allowed under (d) of this section.

26 \* Sec. 22. AS 21.27.360 is amended by adding new subsections to read:

27 (d) An agent or broker may commingle with premium funds, addi-  
28 tional funds for the purpose of advancing premiums, establishing  
29 reserves for the payment of return premiums, or reserves for receiving

1 and transmitting premium or return premium funds. Funds collected for  
2 the payment of premium taxes, policy or filing fees, late payment  
3 charges, and interest from fiduciary funds on deposit, may be com-  
4 mingled in a fiduciary account, but shall be separately accounted for  
5 and periodically removed from the fiduciary account.

6 (e) An agent or broker may not treat funds required to be in a  
7 fiduciary account as a personal asset, as collateral for a personal or  
8 business loan, or as a personal asset or income on a financial state-  
9 ment, except that funds in a fiduciary account may be included in a  
10 financial statement of the agent or broker if clearly identified as  
11 fiduciary account assets.

12 (f) In this section, "fiduciary account" means an account in  
13 which the agent or broker holds funds as a trustee for the insured,  
14 insurer, or agent entitled to the funds.

15 \* Sec. 23. AS 21.27.380 is repealed and reenacted to read:

16 Sec. 21.27.380. ANNUAL FEE FOR LICENSES. (a) An annual fee set  
17 under AS 21.06.250 for resident and nonresident agent, solicitor, and  
18 adjuster licenses is due on or before the close of business on the  
19 30th day of June.

20 (b) An annual fee set under AS 21.06.250 for resident and non-  
21 resident broker licenses is due on or before the close of business on  
22 the 31st day of December.

23 (c) An agent or broker shall file the annual fee set under  
24 AS 21.06.250 on behalf of a solicitor employed by the agent or broker.

25 (d) If payment of the annual license fee is not received by the  
26 director before the due date as required under this section, the  
27 licensee shall pay to the director and the director shall collect, in  
28 addition to the regular fee, a surcharge as established by regulation  
29 under AS 21.06.250. This subsection may not be considered to exempt a

1 person from a penalty provided by law for transacting business without  
2 a valid license.

3 \* Sec. 24. AS 21.27.390(a) is amended to read:

4 (a) The director may adopt regulations regarding the issuance of  
5 an agent or broker temporary license to

6 (1) the surviving spouse or next of kin or to the adminis-  
7 trator or executor of a deceased licensed agent or broker;

8 (2) the spouse, next of kin, employee, or legal guardian of  
9 a licensed agent or broker who is disabled because of sickness, insan-  
10 ity, or injury;

11 (3) a surviving member, [OF A FIRM OR SURVIVING] officer,  
12 or employee of a firm [CORPORATION] licensed as agent or broker, upon  
13 the death of the principal or manager of the firm holding the same  
14 licenses as the firm [AN INDIVIDUAL DESIGNATED IN THE FIRM OR CORPO-  
15 RATION'S LICENSE TO EXERCISE POWERS THEREUNDER];

16 (4) the designee of a licensed agent who enters active  
17 service in the armed forces of the United States;

18 (5) a person preparing for examination for permanent li-  
19 cense under the supervision of an authorized insurer.

20 \* Sec. 25. AS 21.27.410(a) is amended to read:

21 (a) The director may refuse to issue a license or may suspend or  
22 [,] revoke [, OR REFUSE TO RENEW] a license issued under this chapter  
23 or a surplus line broker license, or may refuse to renew a surplus  
24 line broker license, for a cause specified in another [ANY OTHER]  
25 provision of this title, or for any of the following causes:

26 (1) for a [ANY] cause for which issuance of the license  
27 could have been refused had it then existed and been known to the  
28 director;

29 (2) if the licensee or applicant wilfully violates or

1 knowingly participates in the violation of a provision of this title;

2 (3) if the licensee or applicant has obtained or attempted  
3 to obtain the license through wilful misrepresentation or fraud, or  
4 has failed to pass an [ANY] examination required under this chapter;

5 (4) if the licensee or applicant has misappropriated or  
6 converted to personal use or has illegally withheld money required to  
7 be held in a fiduciary capacity;

8 (5) if the licensee or applicant has, with intent to de-  
9 ceive, materially misrepresented the terms or effect of an insurance  
10 contract; or has engaged or is about to engage in a fraudulent trans-  
11 action;

12 (6) if the licensee or applicant has been guilty of "twist-  
13 ing," under AS 21.36.050, or of rebating, under AS 21.36.100;

14 (7) if the licensee or applicant has been convicted, by  
15 final judgment, of a felony;

16 (8) if in the conduct of affairs under the license, the  
17 licensee exhibits conduct considered by the director to reflect incom-  
18 petence, untrustworthiness, or a source of injury and loss to the  
19 public;

20 (9) if the licensee or applicant has dealt with, or at-  
21 tempted to deal with, insurances or to exercise powers relative to  
22 insurance outside the scope of the licenses of the licensee or appli-  
23 cant.

24 \* Sec. 26. AS 21.27.410(b) is amended to read:

25 (b) The license of a firm [OR CORPORATION] may be suspended,  
26 revoked, or refused for any of the causes that [WHICH] relate to a  
27 [ANY] person acting on behalf of the firm [DESIGNATED IN THE LICENSE  
28 TO EXERCISE ITS POWERS].

29 \* Sec. 27. AS 21.27.420 is amended to read:

1           Sec. 21.27.420. PROCEDURE FOR SUSPENDING OR [,] REVOKING [OR  
2 REFUSING TO RENEW] A LICENSE. The director may suspend or [,] revoke  
3 [, OR REFUSE TO RENEW] a license

4           [(1) BY ORDER GIVEN TO THE LICENSEE NOT LESS THAN 15 DAYS  
5 BEFORE THE EFFECTIVE DATE OF THE LICENSE, SUBJECT TO THE RIGHT OF THE  
6 LICENSEE TO HAVE A HEARING AS PROVIDED IN AS 21.06.180(b); PENDING A  
7 HEARING THE LICENSE SHALL BE SUSPENDED; OR

8           (2)] by an order on hearing made as provided in AS 21.06.-  
9 220 effective 10 days after the date of the giving of the order,  
10 subject to the right of the licensee to appeal to the superior court  
11 as provided in AS 21.06.230.

12 \* Sec. 28. AS 21.27.440 is amended to read:

13           Sec. 21.27.440. CIVIL PENALTIES MAY BE IMPOSED. After hearing  
14 and in addition to or in lieu of the suspension or [,] revocation of  
15 [, OR REFUSAL TO RENEW] a license, the director may levy a civil  
16 penalty upon the licensee not to exceed \$2,500. The order levying the  
17 civil penalty must [SHALL] specify the period within which the civil  
18 penalty shall be fully paid. The [, WHICH] period may not be less  
19 than 15 or more than 30 days after [FROM] the date of the order. Upon  
20 failure to pay the civil penalty when due, the director shall revoke  
21 the licenses of the licensee if not already revoked. A [THE] civil  
22 penalty collected [SHALL BE PAID] by the director shall be paid to the  
23 commissioner of revenue for deposit in the general fund.

24 \* Sec. 29. AS 21.27.450 is amended to read:

25           Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE.  
26 Upon the hearing of an appeal from an order suspending or [,] revoking  
27 [, OR REFUSING TO RENEW] a license issued under this chapter, the  
28 court, if it finds that the licensee is guilty of violation of the law  
29 and if it considers the suspension or [,] revocation [, OR REFUSAL TO

1 RENEW THE LICENSE] too severe a penalty under the facts as found, may  
2 instead impose a fine of not more than \$2,500. Payment of the fine  
3 within 10 days after its imposition reinstates or restores [SHALL  
4 REINSTATE, RESTORE, OR RENEW] the license.

5 \* Sec. 30. AS 21.27.460(a) is amended to read:

6 (a) Each license issued under this chapter, although issued and  
7 delivered to the licensee agent, broker, solicitor, or adjuster, is  
8 the property of the state. Upon the [EXPIRATION,] termination, sus-  
9 pension, or revocation of the license, the licensee or other person  
10 having possession or custody of the license shall immediately deliver  
11 it to the director either by personal delivery or by mail.

12 \* Sec. 31. AS 21.34.040(c) is amended to read:

13 (c) A nonadmitted insurer may be eligible to provide coverage in  
14 this state if it qualifies under one of the following:

15 (1) a foreign but nonalien insurer may qualify under this  
16 subsection if it has a minimum capital and surplus equal to that  
17 required in its domiciliary jurisdiction, or [,] \$1,500,000 on Septem-  
18 ber 18, 1984, [AND] \$2,500,000 on June 20, 1985, [AND] \$3,500,000 [,]  
19 on June 20, 1986, and \$5,000,000 on June 20, 1987, whichever is great-  
20 er;

21 (2) an alien insurer may qualify under this subsection if  
22 it meets the minimum capital and surplus requirements in (1) of this  
23 subsection and maintains in the United States an irrevocable trust  
24 fund in either a national bank or a member of the Federal Reserve  
25 system, in an amount not less than \$1,500,000 [THAT REQUIRED AS MINI-  
26 MUM CAPITAL AND SURPLUS IN (1) OF THIS SUBSECTION], for the protection  
27 of all its policyholders in the United States; the trust fund must  
28 [SHALL] consist of instruments of substantially the same character and  
29 quality as those that are eligible investments for the capital and

1 statutory reserves of admitted insurers authorized to write like kinds  
2 of insurance in this state or of irrevocable letters of credit; the  
3 trust fund must [FUNDS SHALL] have an expiry date that at no time is  
4 less than five years;

5 (3) a Lloyd's or other similar unincorporated group of  
6 alien individual insurers may qualify if it maintains a trust fund of  
7 not less than \$50,000,000 as security to the full amount, for all  
8 policyholders and creditors in the United States, of each member of  
9 the group;

10 (4) an "insurance exchange" created by the laws of indi-  
11 vidual states may qualify if it maintains capital and surplus, or the  
12 substantial equivalent, of not less than \$15,000,000 in the aggregate;  
13 in the event the insurance exchange does not maintain funds for the  
14 protection of all its policyholders, each individual syndicate shall  
15 meet the minimum capital and surplus requirements of (1) of this  
16 subsection.

17 \* Sec. 32. AS 21.36.210(a) is amended to read:

18 (a) An insurer may not exercise its right to cancel a policy of  
19 personal [AN] automobile insurance [POLICY] except for the following  
20 reasons:

21 (1) nonpayment of premium; or

22 (2) the driver's license or motor vehicle registration of  
23 either the named insured or of an operator who resides in the same  
24 household as the named insured or who customarily operates a motor  
25 vehicle insured under the policy has been under suspension or revoca-  
26 tion during the policy period or, if the policy is a renewal, during  
27 its policy period or the 180 days immediately preceding its effective  
28 date.

29 \* Sec. 33. AS 21.36.210(d) is amended to read:

1 (d) This section does not apply to

2 (1) the failure to renew a policy, except as to coverage in  
3 force for less than 12 months;

4 (2) a policy that has been in effect less than 60 days at  
5 the time notice of cancellation is mailed or delivered by the insurer,  
6 unless it is a renewal policy.

7 \* Sec. 34. AS 21.36.210(f) is amended to read:

8 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not  
9 exercise its right to cancel a policy of personal insurance other than  
10 personal automobile insurance, except for the following reasons [THE  
11 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING CON-  
12 DITIONS OR CIRCUMSTANCES ARISES]:

13 (1) nonpayment of premiums, including nonpayment of addi-  
14 tional premiums, calculated in accordance with the current rating  
15 manual of the insurer, justified by a physical change in the insured  
16 property or a change in its occupancy or use;

17 (2) conviction of the insured of a crime having as one of  
18 its necessary elements an act increasing a hazard insured against;

19 (3) discovery of fraud or material misrepresentation made  
20 by the insured or a representative of the insured in obtaining the  
21 insurance or by the insured in pursuing a claim under the policy;

22 ~~key~~ discovery of a grossly negligent act or omission by the  
23 insured that substantially increases the hazards insured against; or

24 ~~key~~ physical changes in the insured property that result in  
25 the property becoming uninsurable.

26 \* Sec. 35. AS 21.36 is amended by adding a new section to read:

27 Sec. 21.36.215. LIMITS ON THE CANCELLATION OF BUSINESS OR COM-  
28 MERCIAL INSURANCE POLICIES. (a) ~~Except as allowed by the director~~  
29 ~~under (b) of this section,~~ an insurer may exercise its right to cancel

1 a policy of business or commercial insurance <sup>pursuant to 220(b)</sup> only for the following  
2 reasons:

3 (1) nonpayment of premiums, including nonpayment of addi-  
4 tional premiums, calculated in accordance with the current rating  
5 manual of the insurer, justified by a physical change in the insured  
6 property, a change in its occupancy or use, or a change in payroll,  
7 receipts, values, or other exposure units;

8 (2) conviction of the insured of a crime having as one of  
9 its necessary elements an act increasing a hazard insured against;

10 (3) discovery of fraud or material misrepresentation made  
11 by the insured or a representative of the insured in obtaining the  
12 insurance or by the insured in pursuing a claim under the policy;

13 (4) discovery of a grossly negligent act or omission by the  
14 insured that substantially increases the hazards insured against;

15 (5) physical changes in the insured property that result in  
16 the property becoming uninsurable;

17 (6) physical changes in the operations of the insured that  
18 result in the property becoming uninsurable; or

19 (7) failure or refusal of the insured to provide the infor-  
20 mation necessary to confirm exposure or necessary to determine the  
21 policy premium.

22 (b) Before issuing a notice of cancellation, an insurer may  
23 request the director to determine in a particular case or cases whe-  
24 ther a reason for cancellation not specified in (a) of this section is  
25 a valid reason for cancellation. The director may allow the insurer  
26 to exercise its right to cancel if the director finds that the cancel-  
27 lation is justified. The insurer may not implement the requested can-  
28 cellation before receiving the approval of the director.

29 \* Sec. 36. AS 21.36.220 is amended to read:

1           Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not  
2 exercise its right to cancel a personal insurance policy unless a  
3 written notice of cancellation is mailed [OR DELIVERED] to the named  
4 insured as required by AS 21.36.260 [, AT THE ADDRESS SHOWN IN THE  
5 POLICY,] at least 60 [20] days before the effective date of cancella-  
6 tion. However, if [, EXCEPT THAT WHEN] cancellation is for nonpayment  
7 of premium, the notice shall be mailed [OR DELIVERED] to the named  
8 insured as required by AS 21.36.260 [AT THE ADDRESS SHOWN IN THE  
9 POLICY] at least 20 [10] days before the effective date of cancella-  
10 tion. If cancellation is for a reason described in AS 21.36.210(a)(2)  
11 ~~or (f)(2)~~ or (3), the notice shall be mailed to the named insured as  
12 required by AS 21.36.260 at least 10 days before the effective date of  
13 cancellation [AND SHALL INCLUDE OR BE ACCOMPANIED BY A STATEMENT OF  
14 THE REASON FOR THE CANCELLATION. THIS SECTION DOES NOT APPLY TO THE  
15 FAILURE TO RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS  
16 THAN 12 MONTHS].

17 \* Sec. 37. AS 21.36.220 is amended by adding new subsections to read:

18           (b) An insurer may not exercise its right to cancel a policy of  
19 business or commercial insurance unless a written notice of cancella-  
20 tion is mailed to the named insured as required by AS 21.36.260 and to  
21 the agent or broker of record at least 60 days before the effective  
22 date of cancellation. However, if cancellation is for nonpayment of  
23 premium, or for a reason described in AS 21.36.215(a)(7), the notice  
24 shall be mailed to the named insured as required by AS 21.36.260 and  
25 to the agent or broker of record at least 20 days before the effective  
26 date of cancellation. If cancellation is for a reason described in  
27 AS 21.36.215(a)(2) or (3), the notice shall be mailed to the named  
28 insured as required by AS 21.36.260 and to the agent or broker of  
29 record at least 10 days before the effective date of cancellation.

1 (c) If an insurer cancels a policy under this section, it shall  
 2 return or credit any unearned premium to the agent or broker of record  
 3 or directly to the insured or premium finance company, if applicable,  
 4 before the effective date of cancellation, except that

5 (1) if cancellation is for ~~nonpayment of premium, or for a~~  
 6 reason described in AS 21.36.210(a), 21.36.210(f)(1)(2)(3)  
 7 returned or credited within <sup>(1) (2) (3)</sup> 45 days after the notice of cancellation  
 8 is given; <sub>30</sub>

9 (2) if the policy is cancelled for other than ~~nonpayment of~~  
 10 ~~premium~~ and is subject to audit, the insurer shall perform or waive  
 11 the audit before the effective date of the cancellation and return or  
 12 credit any estimated unearned premium before the effective date of  
 13 cancellation.

14 (d) The division may require an insurer to perform an audit that  
 15 the insurer has elected to waive under (c) of this section.

16 (e) A notice of cancellation of insurance required to be given  
 17 under this section must include or be accompanied by a statement of  
 18 the reason for the cancellation.

19 \* Sec. 38. AS 21.36 is amended by adding a new section to read:

20 Sec. 21.36.235. NOTICE OF PREMIUM OR COVERAGE CHANGES UPON  
 21 RENEWAL. (a) Except as provided in AS 21.36.420, if the renewal  
 22 premium is increased more than 10 percent for a reason other than an  
 23 increase in coverage or exposure base, or if after renewal there will  
 24 be a material restriction or reduction in coverage not specifically  
 25 requested by the insured, written notice shall be mailed to the  
 26 insured and to the agent or broker of record as required by  
 27 AS 21.36.260

28 (1) at least 20 days before expiration of a personal insur-  
 29 ance policy;

1 (2) at least 45 days before expiration of a business or  
2 commercial policy; or

3 (3) by the anniversary date of the year before expiration  
4 of a policy written for a term longer than one year or without a fixed  
5 expiration date.

6 (b) If notice before expiration of the policy is not given as  
7 required by (a) of this section, the existing policy shall continue  
8 until the insurer provides notice for the time period required by (a)  
9 of this section for that policy.

10 (c) This section does not apply to workers' compensation insur-  
11 ance.

12 \* Sec. 39. AS 21.36.240 is amended to read:

13 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to  
14 renew a personal insurance policy in force for less than 12 months.  
15 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR  
16 MORE] unless a written notice of nonrenewal is mailed [OR DELIVERED]  
17 to the named insured as required by AS 21.36.260 [, AT THE ADDRESS  
18 SHOWN IN THE POLICY,] at least 20 days for a personal insurance  
19 policy, and at least 45 days for a business or commercial insurance  
20 policy, before the expiration date of the policy [,] or of the anni-  
21 versary date of a policy written for a term longer than one year or  
22 with no fixed expiration date. If notice of nonrenewal is not given  
23 as required by this section, the existing policy shall continue until  
24 the insurer provides notice for the time period required by this  
25 section for that policy. This section does not apply

26 (1) if the insurer has in good faith manifested [IN ANY  
27 WAY] its willingness to renew;

28 (2) in case of nonpayment of premium for the expiring  
29 policy; or

1 (3) if the insured fails to pay the premium as required by  
2 the insurer for renewal.

3 \* Sec. 40. AS 21.36.250 is amended to read:

4 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-  
5 bile liability insurance is cancelled, other than for nonpayment of  
6 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A  
7 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-  
8 PLIES], the insurer shall notify the named insured of possible eligi-  
9 bility for automobile insurance through the automobile assigned risk  
10 plan, or automobile insurance plan. The notification must [SHALL]  
11 accompany or be included in the notice of cancellation or nonrenewal  
12 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

13 \* Sec 41. AS 21.36 is amended by adding a new section to read:

14 Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is  
15 cancelled, rejected, or rescinded by the

16 (1) insurer, the insurer shall refund the unearned premium  
17 paid to the insured or premium finance company; or <sup>as specified in</sup> 21.36.220

18 (2) insured, the insurer shall return any unearned premium  
19 paid to the insured or premium finance company, less a cancellation  
20 fee not to exceed five percent of the unearned premium or \$1,000,  
21 whichever is less; a cancellation fee may not be charged unless the  
22 fee is clearly stated in the policy.

23 (b) Notwithstanding (a) of this section, if the insurer clearly  
24 indicates one or more of the following features in the policy, an  
25 insurer may issue a policy

26 (1) whose premium is earned at a varying rate due to sea-  
27 sonality of exposure;

28 (2) that contains a minimum earned premium; or

29 (3) with a fluctuating premium base.

1 \* Sec. 42. AS 21.36.260 is repealed and reenacted to read:

2       Sec. 21.36.260. PROOF AND METHOD OF MAILING NOTICE. If a notice  
3 is required from an insurer under this chapter, the insurer shall

4               (1) mail the notice by first class mail to the last known  
5 address of the insured; and

6               (2) obtain a certificate of mailing from the U.S. Postal  
7 Service.

8 \* Sec. 43. AS 21.36.310 is amended to read:

9       Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

10           (1) "business or commercial insurance" means insurance  
11 other than personal insurance, life insurance, disability insurance,  
12 fidelity and surety insurance, title insurance, wet marine and trans-  
13 portation insurance as defined in AS 21.34.900, or an annuity con-  
14 tract;

15           (2) "nonpayment of premium" means failure of the named  
16 insured to discharge when due any obligations of the named insured in  
17 connection with the payment of premium on a policy, or any installment  
18 of the premium, whether the premium is payable directly to the insurer  
19 or its agent or indirectly under any premium finance plan or extension  
20 of credit;

21           (3) "personal automobile insurance" means insurance not  
22 related to business or commercial activities, covering [(2) "POLICY"  
23 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN  
24 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile  
25 liability, uninsured or underinsured motorists [COVERAGE, UNINSURED  
26 MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automo-  
27 bile physical damage [COVERAGE], that is delivered or issued for  
28 delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL  
29 OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which

1 the insured vehicles are of the following types only:

2 (A) a motor vehicle of the private passenger or sta-  
3 tion wagon type that is not used as a public or livery convey-  
4 ance, nor rented to others; or

5 (B) any other four-wheel motor vehicle with a load  
6 capacity of 1,500 pounds or less that is not used in the occupa-  
7 tion, profession, or business of the insured, nor used as a  
8 public or livery conveyance, nor rented to others;

9 (4) "personal insurance"

10 (A) means personal automobile insurance, or insurance  
11 covering

12 (i) loss of or damage to real property that is  
13 used predominantly for residential purposes and that does  
14 not consist of more than four dwelling units;

15 (ii) loss of or damage to personal property,  
16 including personal effects, household furniture, fixtures  
17 and equipment located in not more than four dwelling units;  
18 or

19 (iii) legal liability of natural persons for loss  
20 of, damage to, or injury to persons or property if the in-  
21 surance does not cover liability arising from or in con-  
22 nection with business or commercial activities;

23 (B) does not include an annuity contract or a policy  
24 of life insurance, disability insurance, or title insurance;

25 (5) [(3)] "renewal" or "renew" means

26 (A) the issuance and delivery [BY AN INSURER] of an  
27 insurance [A] policy [REPLACING] at the end of the policy period,  
28 that replaces a policy previously issued and delivered by the  
29 same insurer; [,]

1 (B) the issuance and delivery of a certificate or  
2 notice extending the term of a policy beyond its policy period or  
3 term; [ ] or

4 (C) the extension of the term of a policy beyond its  
5 policy period or term under a provision for extending the policy  
6 by payment of a continuation premium.

7 \* Sec. 44. AS 21.84.430(c) is amended to read:

8 (c) The director may refuse to issue or may suspend or revoke  
9 [RENEW] an insurance agent's license if, in the judgment of the direc-  
10 tor, the proposed licensee is not trustworthy and competent to act as  
11 agent, or has given cause for revocation or suspension of the license,  
12 or has failed to comply with a prerequisite for the issuance [OR  
13 RENEWAL, AS THE CASE MAY BE,] of the license.

14 \* Sec. 45. AS 21.88.050 is amended to read:

15 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The  
16 corporation shall

17 (1) in the form approved by the director, issue to all  
18 physicians, nurses, and hospitals who are found to be acceptable risks  
19 under standards developed under (5) of this subsection, and who pay  
20 the premiums for it, a contract or contracts indemnifying physicians,  
21 nurses, and hospitals and their employees who are health care provid-  
22 ers against loss by reason of liability for covered claims for an act  
23 or omission in the delivery of professional health care in this state,  
24 and agreeing to tender on behalf of the physicians, nurses, and hos-  
25 pitals and their employees who are health care providers a defense to  
26 a covered claim in a proceeding brought under AS 09.55.530 - 09.55.-  
27 560; the limits of liability for policies issued by the corporation  
28 shall be approved by the director; the contract shall cover the de-  
29 fense against but need not indemnify liability for punitive damages

1 arising from a covered claim; at the option of the corporation, if  
 2 approved by the director, and for an additional premium the contract  
 3 may cover claims against the physician, nurse, or hospital that arise  
 4 out of professional services performed by the physician, nurse, or  
 5 hospital for any period before the contract is issued, except that  
 6 coverage will not be provided for a claim already filed or that [OF  
 7 WHICH] the physician, nurse, or hospital had or reasonably should have  
 8 had notice at the time the retroactive insurance was purchased;

9 (2) charge a premium for the protection provided by the  
 10 contracts issued by the corporation which shall be determined by the  
 11 board of governors in accordance with AS 21.88.080 and subject to the  
 12 approval of the director;

13 (3) comply with or be subject to AS 21.06.090, 21.06.120,  
 14 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,  
 15 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and  
 16 AS 21.36; and shall be exempt from participation as a member insurer  
 17 in the Alaska Insurance Guaranty Corporation;

18 (4) carry out the obligations of the contracts issued by  
 19 the corporation by defending all covered claims made against insured  
 20 health care providers and by paying all liabilities that [WHICH] are  
 21 finally adjudicated against the insured health care provider or that  
 22 [WHICH] may in the opinion of the corporation reasonably be expected  
 23 to be finally adjudicated against the health care provider to the  
 24 extent of the contract obligation;

25 (5) establish standards for the acceptability of risks; in  
 26 establishing these standards the corporation may exclude an applicant  
 27 for insurance based on individual risk selection factors, but may not  
 28 exclude an applicant based only on the classification of the appli-  
 29 cant.

1 (b) The corporation may

2 (1) employ or retain persons, individual or corporate, to  
3 discharge its obligations and pay reasonable compensation for these  
4 services; employees of the corporation are not considered state em-  
5 ployees;

6 (2) negotiate for and procure reinsurance from private  
7 casualty insurers or reinsurers for any and all liability incurred by  
8 contracts issued by it;

9 (3) provide coverage to insureds for other hazards custom-  
10 arily included in medical malpractice insurance policies when there is  
11 a finding by the director that this coverage is not available to  
12 insureds of the Medical Indemnity Corporation of Alaska in the private  
13 insurance market at a competitive price;

14 (4) borrow or advance funds necessary to carry out the  
15 purposes of the corporation;

16 (5) negotiate and become a party to those contracts as are  
17 necessary to carry out the purposes of the corporation;

18 (6) sue or be sued in the name of the corporation;

19 (7) provide risk management advice and services to hospi-  
20 tals;

21 (8) negotiate and become a party to contracts for manage-  
22 ment services for the corporation;

23 (9) perform all other acts necessary and proper to carry  
24 out the duties of the corporation;

25 (10) in a form approved by the director and for an addition-  
26 al premium determined under AS 21.88.080, issue endorsements which  
27 provide indemnity for claims not yet reported which arise out of  
28 professional services rendered during a period of continuous coverage  
29 under the originally issued contract, to physicians, nurses, and

1 hospitals who pay the premium for it and who are terminating their  
2 original covered claims contract with the corporation for a period of  
3 not less than one year;

4 (11) subject to approval by the director, extend coverage  
5 to a person, entity, or facility that renders health care services in  
6 the state under the supervision of a physician

7 \* Sec. 46. AS 21.90.900 is amended to read:

8 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless  
9 the context requires otherwise,

10 (1) "adjuster" means a person who, for compensation as an  
11 independent contractor or as an employee of an independent contractor,  
12 or for fee or commission, investigates and adjusts claims arising  
13 under insurance contracts on behalf of the insurer, but does not  
14 include an attorney at law who adjusts insurance losses from time to  
15 time incidental to the practice of law or a salaried employee of an  
16 insurer;

17 (2) "agent" means a person appointed by an insurer to  
18 solicit applications for insurance or annuities on its behalf, and if  
19 authorized to do so, to effectuate and countersign insurance con-  
20 tracts, except life or disability insurance or annuities, and to  
21 collect premiums on insurance or annuities;

22 (3) "alien insurer" means an insurer formed under the laws  
23 of a country other than the United States of America, its states,  
24 districts, territories, and commonwealths;

25 (4) [(2)] "authorized insurer" means an insurer authorized  
26 by a [SUBSISTING] certificate of authority issued by the director to  
27 transact insurance in this state;

28 (5) "broker" means a person who is not an agent of the  
29 insurer and who, on behalf of the insured, for compensation as an

1 independent contractor by commission or fee, solicits, negotiates, or  
2 procures insurance or reinsurance or the renewal or continuance of  
3 insurance or reinsurance; or in any manner aids in the solicitation,  
4 negotiation, procurement, renewal, or continuance of insurance or  
5 reinsurance, for insureds or prospective insureds not including the  
6 broker;

7 (6) [(3)] "commissioner" means the commissioner of the  
8 Department of Commerce and Economic Development;

9 (7) [(4)] "court" means superior court;

10 (8) [(5)] "director" means the director of the division of  
11 insurance;

12 (9) [(6)] "division" means the division of insurance,  
13 Department of Commerce and Economic Development;

14 (10) [(7)] "domestic insurer" means an insurer formed under  
15 the laws of this state;

16 (11) "firm" means an organization of two or more licensees  
17 acting in association with each other, either in a partnership, corpo-  
18 ration, or otherwise, or an organization in which a single licensee  
19 has less than 50 percent ownership interest in the organization;

20 (12) [(8)] "foreign insurer" means an insurer formed under  
21 the laws of a jurisdiction other than this state and includes an alien  
22 insurer;

23 (13) "independent adjuster" means an adjuster representing  
24 the interests of the insurer;

25 (14) [(9)] "industrial life insurance" means that form of  
26 life insurance written under policies with a face amount of \$1,000 or  
27 less, with the words "industrial policy" imprinted on the face as part  
28 of the descriptive matter, and under which premiums are payable month-  
29 ly or more often;

1           (15) [(10)] "insurance" means a contract whereby one under-  
2 takes to indemnify another or pay or provide a specified or determin-  
3 able amount or benefit upon determinable contingencies;

4           (16) [(11)] "insurer" includes a person engaged as indemni-  
5 tor, surety, or contractor in the business of entering into contracts  
6 of insurance or of annuity;

7           (17) [(12)] "person" has the meaning given in AS 01.10.060  
8 and includes an insurer, Lloyd's, fraternal benefit society, medical  
9 service or hospital service plan as defined in AS 21.87, reciprocal or  
10 interinsurance exchange, syndicate, and any other legal entity engaged  
11 in the business of transacting insurance, including agents, brokers,  
12 and claims adjusters;

13           (18) [(13)] "policy" means the written contract of or writ-  
14 ten agreement for or effecting insurance, by whatever name called, and  
15 includes all clauses, riders, endorsements and papers attached to it  
16 and a part of it;

17           (19) [(14)] "premium" means the consideration for insurance,  
18 by whatever name called, and by whatever method paid or collected,  
19 including an assessment, or membership policy, survey, inspection,  
20 service or similar fee or charge made in consideration for an insur-  
21 ance contract;

22           (20) "solicitor" means an individual authorized by an agent  
23 or broker to solicit applications for insurance as a representative of  
24 the agent or broker and to collect premiums in connection with the  
25 insurance;

26           (21) [(15)] "state" means a state, District of Columbia,  
27 territory, commonwealth, or possession of the United States of  
28 America;

29           (22) [(16)] "transact" with respect to insurance includes

- 1 (A) solicitation and inducement;  
2 (B) preliminary negotiations;  
3 (C) effectuation of a contract of insurance;  
4 (D) transaction of matters subsequent to effectuation  
5 of the contract of insurance and arising out of it;

6 (23) [(17)] "unauthorized insurer" means an insurer not  
7 authorized to transact insurance in this state.

8 \* Sec. 47. AS 21.90 is amended by adding a new section to read:

9 Sec. 21.90.910. EXCEPTIONS FROM DEFINITIONS. The definitions of  
10 "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900  
11 do not include

12 (1) individuals employed and used by agents for the perfor-  
13 mance of clerical, stenographic, and similar office duties; incidental  
14 taking of an application for insurance from time to time in the office  
15 of the employing agent if the employee's compensation is not contin-  
16 gent upon or related to the volume of applications, insurance, or  
17 premiums;

18 (2) the attorney-in-fact of a reciprocal insurer, or the  
19 salaried traveling representative of a reciprocal or mutual insurer  
20 not compensated on a commission basis.

21 \* Sec. 48. AS 21.03.030, 21.03.040, 21.03.050; AS 21.06.040; AS 21.27.-  
22 040(b), 21.27.470, 21.27.480, 21.27.490, 21.27.500, 21.27.510, 21.27.520;  
23 AS 21.36.210(c), 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

24 \* Sec. 49. Sections 1 - 30 and 32 - 48 of this Act apply to insurance  
25 policies entered into or renewed on or after the effective date of secs.  
26 1 - 30 and 32 - 48 of this Act.

27 \* Sec. 50. Section 31 of this Act takes effect immediately under  
28 AS 01.10.070(c).

Original sponsors: Navarre, Swackhammer  
and Sund.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 46 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST 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 21.09.250 is amended to read:

10 Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in  
11 this state may not make, write, place or cause to be made, written or  
12 placed in this state a policy, duplicate policy or contract of insur-  
13 ance of any kind or character, or general or floating policy upon  
14 persons or property resident, situated or located in this state, from  
15 or through a broker, agent, general agent, surplus line broker, or  
16 person who has not secured a license in this state. An insurer may  
17 not pay a commission or any form of remuneration to a person, firm, or  
18 organization for the writing or placing of insurance coverage in this  
19 state unless that person, firm, or organization holds a license issued  
20 by the director.

21 \* Sec. 2. AS 21.09.280 is amended to read:

22 Sec. 21.09.280. GENERAL AGENTS [AND MANAGERS]. (a) An insurer  
23 appointing a person as its general agent [OR MANAGER] to represent it  
24 in this state shall file notice of the appointment with the director  
25 on forms prescribed and furnished by the director.

26 (b) A general agent [OR MANAGER] has the authority, consistent  
27 with this title, that may be conferred by the insurer. A general  
28 agent, resident or nonresident, qualified in AS 21.27.090, licensed as  
29 provided in this section in the same manner as is provided for agents

1 in AS 21.27, may exercise the powers conferred by this title upon  
2 agents licensed for the kinds of insurance that the general agent is  
3 authorized to transact for the insurer appointing the agent.

4 (c) The [EXCEPT AS PROVIDED UNDER AS 21.27.500, THE] appointment  
5 of a resident or nonresident general agent is not effective unless the  
6 person appointed is licensed as the general agent of the insurer by  
7 the director upon application and payment of a fee set under AS 21.-  
8 06.250.

9 (d) Every license is subject to the payment of an annual fee set  
10 under AS 21.06.250 and payable on or before [EXPIRES AT] the close of  
11 business on the 30th day of June of each year [FOLLOWING THE DATE OF  
12 ISSUE, AND MAY BE RENEWED FOR AN ADDITIONAL YEAR UPON APPLICATION AND  
13 PAYMENT OF THE FEE].

14 (e) The director may deny, suspend, or revoke a license for any  
15 cause specified in AS 21.27.410 in the manner provided in AS 21.27.-  
16 420.

17 \* Sec. 3. AS 21.09.280 is amended by adding new subsections to read:

18 (f) Persons employed on salary by an insurer, including officers  
19 and salaried employees performing the same services as general agents,  
20 are considered to be service representatives and are not required to  
21 be licensed.

22 (g) For purposes of this section, a person, firm, or corporation  
23 that performs management services for an insurer is not considered a  
24 general agent if

25 (1) the person, firm, or corporation is a wholly-owned  
26 subsidiary of the insurer;

27 (2) the person, firm, or corporation wholly owns the insurer;  
28 or

29 (3) the person, firm, or corporation is a wholly-owned

1 subsidiary of the insurance holding company that owns or controls the  
2 insurer.

3 \* Sec. 4. AS 21.27.020 is amended to read:

4 Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the  
5 protection of the people of this state, the director may not issue [OR  
6 RENEW] a license except in compliance with this chapter [ . OR] to a  
7 person, or to be exercised by [ .] a person, found by the director to  
8 be untrustworthy, incompetent, or who has not established to the  
9 satisfaction of the director that the person is qualified under [IN  
10 ACCORDANCE WITH] this chapter.

11 \* Sec. 5. AS 21.27.030(a) is amended to read:

12 (a) The director may not grant an agent, solicitor, or broker  
13 license to a person if the director has reasonable cause to believe  
14 that

15 [(1) DURING EITHER OF THE TWO CALENDAR YEARS IMMEDIATELY  
16 PRECEDING THE REQUEST FOR RENEWAL OF THE LICENSE THE AGGREGATE AMOUNT  
17 OF COMMISSIONS REPRESENTED BY THE CONTROLLED BUSINESS PROCURED BY OR  
18 THROUGH THE LICENSEE EXCEEDED THE AGGREGATE AMOUNT OF COMMISSIONS  
19 REPRESENTED BY ALL OTHER INSURANCE BUSINESS PROCURED BY OR THROUGH THE  
20 LICENSEE; OR

21 [(2) the circumstances of the applicant for the license [OR  
22 OF A LICENSEE] are such [AS TO CAUSE THE DIRECTOR REASONABLY TO BE-  
23 LIEVE] that during the 12-month period immediately following issuance  
24 [OR RENEWAL] of the license, if issued [OR RENEWED], the aggregate  
25 amount of commissions to be represented by the controlled business  
26 would exceed the aggregate amount of commissions to be represented by  
27 all other insurance business to be procured by or through the appli-  
28 cant [OR LICENSEE].

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

1 (d) The director may revoke an agent, solicitor, or broker  
2 license if the director has reasonable cause to believe that during  
3 either of the two preceding calendar years the aggregate amount of  
4 commissions represented by the controlled business procured by or  
5 through the licensee exceeded the aggregate amount of commissions  
6 represented by all other insurance business procured by or through the  
7 licensee.

8 \* Sec. 7. AS 21.27.060 is amended to read:

9 Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) Each applicant  
10 for an individual license as agent, broker, solicitor, or adjuster  
11 shall, before the issuance of the license, personally take and pass,  
12 to the satisfaction of the director, an examination given by the  
13 director as a test of the qualifications and competence of the appli-  
14 cant. This requirement does not apply to

15 (1) applicants for limited licenses, as travel insurance  
16 agents only, under AS 21.27.150, or, at the discretion of the direc-  
17 tor, to applicants for licenses as disability insurance agents for the  
18 purpose of handling limited coverages pertaining to sports and recre-  
19 ation;

20 (2) applicants who at any time within the five-year period  
21 immediately preceding the date of application have been licensed in  
22 this state under a license requiring qualifications required by the  
23 license applied for and who are considered by the director to be fully  
24 qualified and competent;

25 (3) applicants for license as nonresident agent or as  
26 nonresident broker who have fulfilled qualification requirements in  
27 their state or province of residence and who are considered by the  
28 director to be fully qualified and competent;

29 (4) applicants for an agent or solicitor license covering

1 the same kinds of insurance as an agent's or solicitor's license then  
2 held by them.

3 (b) The director may at any time require an individual [A]  
4 licensed as an agent, broker, solicitor, or adjuster to take and  
5 successfully pass an examination testing competence and qualifications  
6 as a condition to the continuance [OR RENEWAL] of the license if the  
7 licensee has been guilty of violation of this title, or has so con-  
8 ducted affairs under the license as to cause the director reasonably  
9 to desire further evidence of the qualifications of the licensee.

10 \* Sec. 3. AS 21.27.090(a) is amended to read:

11 (a) To qualify for an individual agent or broker license an  
12 applicant shall comply with this title and

13 (1) be 19 years of age or over [, IF AN INDIVIDUAL];

14 (2) if for a resident agent's or broker's license, be a  
15 bona fide resident before issuance of license [,] and actually reside  
16 in the state [RESIDING IN ALASKA, OR IF A CORPORATION, BE OTHER THAN  
17 AN INSURER AND MAINTAIN A LAWFULLY ESTABLISHED PLACE OF BUSINESS IN  
18 THIS STATE, EXCEPT AS PROVIDED IN AS 21.27.270];

19 (3) [BE EMPOWERED TO BE AN AGENT OR BROKER, AS THE CASE MAY  
20 BE, UNDER ITS MEMBERS' AGREEMENT, IF A FIRM, OR BY ITS ARTICLES OF  
21 INCORPORATION, IF A CORPORATION;

22 (4) successfully pass any examination required under  
23 AS 21.27.060;

24 (4) [(5)] be a trustworthy person;

25 (5) [(6)] not use or intend to use [OR USE] the license for  
26 the purpose principally of writing controlled business, as defined in  
27 AS 21.27.030;

28 (5) [(7)] if for an agent license, be appointed as its  
29 agent by one or more authorized insurers, subject to issuance of the

1 license, except that an individual acting on behalf of a firm is not  
2 required to have an appointment as an agent for that activity;

3 (7) [(3)] if for broker license, have had experience either  
4 as an agent, solicitor, adjuster, general agent, broker, or as an  
5 employee of insurers or representatives of insurers, or special educa-  
6 tion or training of sufficient duration and extent reasonably to  
7 satisfy the director that the applicant possesses the competence  
8 necessary to fulfill the responsibilities of broker.

9 \* Sec. 9. AS 21.27.090 is amended by adding a new subsection to read:

10 (c) To qualify for a firm agent or broker license an applicant  
11 shall comply with this title and

12 (1) comply with (a)(4) and (5) of this section;

13 (2) if a corporation, maintain a lawfully established place  
14 of business in this state, except as provided in AS 21.27.270.

15 \* Sec. 10. AS 21.27.130 is amended to read:

16 Sec. 21.27.130. CONTENT OF AGENT, BROKER, SOLICITOR LICENSES.  
17 Agent, solicitor, and broker licenses must [SHALL] be in the form the  
18 director prescribes, and must [SHALL] set out

19 (1) the name and address of the licensee, or if the lic-  
20 ensee is required to have a place of business, the address of the  
21 place of business;

22 (2) if the agent or broker is a firm [OR CORPORATION], the  
23 name of the principal or manager of the firm holding an individual  
24 license as required by AS 21.27.140 [EACH INDIVIDUAL AUTHORIZED TO  
25 EXERCISE THE POWERS CONFERRED BY THE LICENSE];

26 (3) the kind or kinds of insurance the licensee is [THERE-  
27 BY] licensed to handle;

28 (4) if a solicitor's license, the name and address of the  
29 agent or broker represented by the solicitor;

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

2 (6) the date of issuance [AND DATE OF EXPIRATION] of the  
3 license.

4 \* Sec. 11. AS 21.27.140 is amended to read:

5 Sec. 21.27.140. LICENSES TO FIRMS [AND CORPORATIONS]. A firm  
6 shall have a firm license of the same degree as each individual li-  
7 icensee acting on behalf of the firm. A firm [OR CORPORATION] may not  
8 be licensed as an adjuster, agent, or broker unless each individual  
9 acting as or representing to be an adjuster, agent, or broker on  
10 behalf of the firm is licensed as an individual, and the principal or  
11 manager of the firm is licensed as an individual to exercise all the  
12 powers conferred by the firm's license. If the licensee knows of and  
13 consents to an act or representation on behalf of the firm by an  
14 individual who is not licensed as required by this chapter, that act  
15 or representation [TO BE EMPOWERED AND DESIGNATED IN THE LICENSE TO  
16 EXERCISE THE POWERS CONFERRED BY THE LICENSE IS QUALIFIED AS THOUGH  
17 THE INDIVIDUAL WERE THE SOLE INDIVIDUAL, TO BE SO EMPOWERED, EXCEPT  
18 THAT A FIRM OR CORPORATION LICENSED FOR ALL LINES MAY EMPOWER AND  
19 DESIGNATE ANY INDIVIDUAL, OTHER THAN THE PRINCIPAL OR MANAGER, LI-  
20 CENSED FOR ONLY PROPERTY-CASUALTY OR LIFE-DISABILITY TO EXERCISE THE  
21 POWERS CONFERRED BY THE LICENSE TO THE EXTENT THAT INDIVIDUAL IS  
22 QUALIFIED TO ACT. EXERCISE OR ATTEMPTED EXERCISE OF THE POWERS BY AN  
23 INDIVIDUAL NOT SO DESIGNATED, WITH THE KNOWLEDGE OR CONSENT OF THE  
24 LICENSEE,] is cause for the revocation or suspension of the firm  
25 license.

26 \* Sec. 12. AS 21.27.170(b) is amended to read:

27 (b) The director shall issue to the agent a special vending  
28 machine license for each machine to be used. The license must [SHALL]  
29 specify the name and address of the insurer and agent, the name of the

1 policy to be sold, the serial number of the machine, and the place  
2 where the machine is to be in operation. The license is [SHALL BE]  
3 subject to [ANNUAL CONTINUATION, TO EXPIRATION,] suspension or revoca-  
4 tion coincidentally with that of the agent. The director shall also  
5 revoke the license on a machine if the director finds that the condi-  
6 tions upon which the machine was licensed, under [AS REFERRED TO IN]  
7 (a) of this section, no longer exist. Proof of the existence of a  
8 [SUBSISTING] license shall be displayed on or about each vending  
9 machine in use in the manner the director may reasonably require.

10 \* Sec. 13. AS 21.27.190(a) is amended to read:

11 (a) Each applicant for a broker license [OR FOR THE RENEWAL OF A  
12 BROKER LICENSE EXISTING ON JULY 1, 1966,] shall file with the applica-  
13 tion [OR REQUEST FOR RENEWAL] and shall after that [THEREAFTER] main-  
14 tain in force while [SO] licensed a bond in favor of the people of the  
15 state, executed by an authorized corporate surety approved by the  
16 director, in the amount of \$10,000 [\$5,000]. The bond may be continu-  
17 ous in form, and total aggregate liability on the bond may be limited  
18 to the payment of \$10,000 [\$5,000]. The bond must [SHALL] be contin-  
19 gent on the accounting by the broker, to a 'ANY' person requesting the  
20 broker to obtain insurance or to a person from whom the broker obtains  
21 insurance, for money or premiums collected in connection with the  
22 insurance [THEREWITH].

23 \* Sec. 14. AS 21.27.190 is amended by adding a new subsection to read:

24 (c) An individual who acts on behalf of a firm that files and  
25 maintains in force the bond described in (a) of this section is exempt  
26 from the requirements of (a) of this section.

27 \* Sec. 15. AS 21.27.200(a) is repealed and reenacted to read:

28 (a) A broker is not an agent or other representative of an  
29 insurer and does not have power as a broker to bind the insurer

1 regarding a risk or an insurance contract.

2 \* Sec. 16. AS 21.27.200 is amended by adding new subsections to read:

3 (c) In determining an insured's entitlement to coverage or  
4 return premium, a premium payment made to a broker shall be considered  
5 received by the insurer if

6 (1) the payment was, at the time it was made, designated  
7 for specific coverage; and

8 (2) the insurer accepted or acknowledged coverage by issu-  
9 ing a policy, binder, or other contract for temporary insurance.

10 (d) A broker may not knowingly accept payment for coverage until  
11 coverage is authorized by an insurer.

12 (e) Except as provided under (c) of this section, this section  
13 is not intended to alter the common law of agency as applied to trans-  
14 actions under this title.

15 \* Sec. 17. AS 21.27.240(a) is amended to read:

16 (a) An agent or broker who employs a solicitor shall pay the  
17 [THE] fee for issuance or annual fee for continuation [RENEWAL] of a  
18 solicitor license [SHALL BE PAID BY THE AGENT OR BROKER BY WHOM THE  
19 SOLICITOR IS EMPLOYED].

20 \* Sec. 18. AS 21.27.300 is amended to read:

21 Sec. 21.27.300. CONTENTS OF LICENSE. The director shall pre-  
22 scribe the form of adjuster license, which must contain

23 (1) the name and business address of the adjuster;

24 (2) date of issuance [AND DATE OF EXPIRATION] of the li-  
25 cense;

26 (3) other statements proper to the purposes of the license.

27 \* Sec. 19. AS 21.27.350 is amended by adding a new subsection to read:

28 (c) In addition to the record required under (a) of this sec-  
29 tion, each agent or broker shall have and maintain at the agent's or

broker's principal place of business current accounting and financial records maintained in accordance with generally accepted accounting principles. The director may request summary or detailed copies for examination by the division. Records examined under this subsection are confidential when in the possession of the division, but may be used by the director in a proceeding against the licensee. For purposes of this subsection, the records of a firm shall be considered the records of an individual agent or broker acting on behalf of the firm.

S c. 20. AS 21.27.360(b) is amended to read:

(b) All funds, except those made payable to the insurer, representing premiums or return premiums received by an agent or broker, shall be received in the fiduciary account of the agent or broker, and shall be deposited in a bank account or depository separate from any other account or depository, and shall be promptly accounted for and paid to the insured, insurer, or agent entitled to the funds. For purposes of this subsection, the fiduciary account of the firm shall be considered the fiduciary account of an individual agent or broker acting on behalf of the firm. Funds deposited into a fiduciary account may not be commingled or otherwise combined with other funds, except as allowed under (d) of this section.

S c. 21. AS 21.27.360 is amended by adding new subsections to read:

(d) An agent or broker may commingle with premium funds, additional funds for the purpose of advancing premiums, establishing reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium funds. Funds collected for the payment of premium taxes, policy or filing fees, late payment charges, and interest from fiduciary funds on deposit, may be commingled in a fiduciary account, but shall be separately accounted for

1 and periodically removed from the fiduciary account.

2 (e) An agent or broker may not treat funds required to be in a  
3 fiduciary account as a personal asset, as collateral for a personal or  
4 business loan, or as a personal asset or income on a financial state-  
5 ment, except that funds in a fiduciary account may be included in a  
6 financial statement of the agent or broker if clearly identified as  
7 fiduciary account assets.

8 (f) In this section, "fiduciary account" means an account in  
9 which the agent or broker holds funds as a trustee for the insured,  
10 insurer, or agent entitled to the funds.

11 \* Sec. 22. AS 21.27.380 is repealed and reenacted to read:

12 Sec. 21.27.380. ANNUAL FEE FOR LICENSES. (a) An annual fee set  
13 under AS 21.06.250 for resident and nonresident agent, solicitor, and  
14 adjuster licenses is due on or before the close of business on the  
15 30th day of June.

16 (b) An annual fee set under AS 21.06.250 for resident and non-  
17 resident broker licenses is due on or before the close of business on  
18 the 31st day of December.

19 (c) An agent or broker shall file the annual fee set under  
20 AS 21.06.250 on behalf of a solicitor employed by the agent or broker.

21 (d) If payment of the annual license fee is not received by the  
22 director before the due date as required under this section, the  
23 licensee shall pay to the director and the director shall collect, in  
24 addition to the regular fee, a surcharge as established by regulation  
25 under AS 21.06.250. This subsection may not be considered to exempt a  
26 person from a penalty provided by law for transacting business without  
27 a valid license.

28 \* Sec. 23. AS 21.27.390(a) is amended to read:

29 (a) The director may adopt regulations regarding the issuance of

agent or broker temporary license to

(1) the surviving spouse or next of kin or to the administrator or executor of a deceased licensed agent or broker;

(2) the spouse, next of kin, employee, or legal guardian of licensed agent or broker who is disabled because of sickness, insanity, or injury;

(3) a surviving member, [OF A FIRM OR SURVIVING] officer, employee of a firm [CORPORATION] licensed as agent or broker, upon death of the principal or manager of the firm holding the same offices as the firm [AN INDIVIDUAL DESIGNATED IN THE FIRM OR CORPORATION'S LICENSE TO EXERCISE POWERS THEREUNDER];

(4) the designee of a licensed agent who enters active service in the armed forces of the United States;

(5) a person preparing for examination for permanent license under the supervision of an authorized insurer.

4. AS 21.27.410(a) is amended to read:

(a) The director may refuse to issue a license or may suspend or revoke [, OR REFUSE TO RENEW] a license issued under this chapter a surplus line broker license, or may refuse to renew a surplus broker license, for a cause specified in another [ANY OTHER] provision of this title, or for any of the following causes:

(1) for a [ANY] cause for which issuance of the license would have been refused had it then existed and been known to the director;

(2) if the licensee or applicant wilfully violates or wilfully participates in the violation of a provision of this title;

(3) if the licensee or applicant has obtained or attempted to obtain the license through wilful misrepresentation or fraud, or failed to pass an [ANY] examination required under this chapter;

(b)

1 (4) if the licensee or applicant has misappropriated or  
2 converted to personal use or has illegally withheld money required to  
3 be held in a fiduciary capacity;

4 (5) if the licensee or applicant has, with intent to de-  
5 ceive, materially misrepresented the terms or effect of an insurance  
6 contract; or has engaged or is about to engage in a fraudulent trans-  
7 action;

8 (6) if the licensee or applicant has been guilty of "twist-  
9 ing," under AS 21.36.050, or of rebating, under AS 21.36.100;

10 (7) if the licensee or applicant has been convicted, by  
11 final judgment, of a felony;

12 (8) if in the conduct of affairs under the license, the  
13 licensee exhibits conduct considered by the director to reflect incom-  
14 petence, untrustworthiness, or a source of injury and loss to the  
15 public;

16 (9) if the licensee or applicant has dealt with, or at-  
17 tempted to deal with, insurances or to exercise powers relative to  
18 insurance outside the scope of the licenses of the licensee or appli-  
19 cant.

20 \* Sec. 25. AS 21.27.410(b) is amended to read:

21 (b) The license of a firm [OR CORPORATION] may be suspended,  
22 revoked, or refused for any of the causes that [WHICH] relate to a  
23 [ANY] person acting on behalf of the firm [DESIGNATED IN THE LICENSE  
24 TO EXERCISE ITS POWERS].

25 \* Sec. 26. AS 21.27.420 is amended to read:

26 Sec. 21.27.420. PROCEDURE FOR SUSPENDING OR [,] REVOKING [OR  
27 REFUSING TO RENEW] A LICENSE. The director may suspend or [,] revoke  
28 [, OR REFUSE TO RENEW] a license

29 [(1) BY ORDER GIVEN TO THE LICENSEE NOT LESS THAN 15 DAYS

1 BEFORE THE EFFECTIVE DATE OF THE LICENSE, SUBJECT TO THE RIGHT OF THE  
2 LICENSEE TO HAVE A HEARING AS PROVIDED IN AS 21.06.180(b); PENDING A  
3 HEARING THE LICENSE SHALL BE SUSPENDED; OR

4 (2)] by an order on hearing made as provided in AS 21.06.-  
5 220 effective 10 days after the date of the giving of the order,  
6 subject to the right of the licensee to appeal to the superior court  
7 as provided in AS 21.06.230.

8 \* Sec. 27. AS 21.27.440 is amended to read:

9 Sec. 21.27.440. CIVIL PENALTIES MAY BE IMPOSED. After hearing  
10 and in addition to or in lieu of the suspension or [,] revocation of  
11 [, OR REFUSAL TO RENEW] a license, the director may levy a civil  
12 penalty upon the licensee not to exceed \$2,500. The order levying the  
13 civil penalty must [SHALL] specify the period within which the civil  
14 penalty shall be fully paid. The [, WHICH] period may not be less  
15 than 15 or more than 30 days after [FROM] the date of the order. Upon  
16 failure to pay the civil penalty when due, the director shall revoke  
17 the licenses of the licensee if not already revoked. A [THE] civil  
18 penalty collected [SHALL BE PAID] by the director shall be paid to the  
19 commissioner of revenue for deposit in the general fund.

20 \* Sec. 28. AS 21.27.450 is amended to read:

21 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE.  
22 Upon the hearing of an appeal from an order suspending or [,] revoking  
23 [, OR REFUSING TO RENEW] a license issued under this chapter, the  
24 court, if it finds that the licensee is guilty of violation of the law  
25 and if it considers the suspension or [,] revocation [, OR REFUSAL TO  
26 RENEW THE LICENSE] too severe a penalty under the facts as found, may  
27 instead impose a fine of not more than \$2,500. Payment of the fine  
28 within 10 days after its imposition reinstates or restores [SHALL  
29 REINSTATE, RESTORE, OR RENEW] the license.

1 \* Sec. 29. AS 21.27.460(a) is amended to read:

2 (a) Each license issued under this chapter, although issued and  
3 delivered to the licensee agent, broker, solicitor, or adjuster, is  
4 the property of the state. Upon the [EXPIRATION,] termination, sus-  
5 pension, or revocation of the license, the licensee or other person  
6 having possession or custody of the license shall immediately deliver  
7 it to the director either by personal delivery or by mail.

8 \* Sec. 30. AS 21.34.040(c) is amended to read:

9 (c) A nonadmitted insurer may be eligible to provide coverage in  
10 this state if it qualifies under one of the following:

11 (1) a foreign but nonalien insurer may qualify under this  
12 subsection if it has a minimum capital and surplus equal to that  
13 required in its domiciliary jurisdiction, or [,] \$1,500,000 on Septem-  
14 ber 18, 1984, [AND] \$2,500,000 on June 20, 1985, [AND] \$3,500,000 [,]  
15 on June 20, 1986, and \$5,000,000 on June 20, 1987, whichever is great-  
16 er;

17 (2) an alien insurer may qualify under this subsection if  
18 it meets the minimum capital and surplus requirements in (1) of this  
19 subsection and maintains in the United States an irrevocable trust  
20 fund in either a national bank or a member of the Federal Reserve  
21 system. in an amount not less than \$1,500,000 [THAT REQUIRED AS MINI-  
22 MUM CAPITAL AND SURPLUS IN (1) OF THIS SUBSECTION], for the protection  
23 of all its policyholders in the United States; the trust fund must  
24 [SHALL] consist of instruments of substantially the same character and  
25 quality as those that are eligible investments for the capital and  
26 statutory reserves of admitted insurers authorized to write like kinds  
27 of insurance in this state or of irrevocable letters of credit; the  
28 trust fund must [FUNDS SHALL] have an expiry date that at no time is  
29 less than five years;

1 (3) a Lloyd's or other similar unincorporated group of  
2 alien individual insurers may qualify if it maintains a trust fund of  
3 not less than \$50,000,000 as security to the full amount, for all  
4 policyholders and creditors in the United States, of each member of  
5 the group;

6 (4) an "insurance exchange" created by the laws of indi-  
7 vidual states may qualify if it maintains capital and surplus, or the  
8 substantial equivalent, of not less than \$15,000,000 in the aggregate;  
9 in the event the insurance exchange does not maintain funds for the  
10 protection of all its policyholders, each individual syndicate shall  
11 meet the minimum capital and surplus requirements of (1) of this  
12 subsection.

13 \* Sec. 37. AS 21.36.100 is amended to read:

14 Sec. 21.36.100. REBATES. Except as provided in (b) of this  
15 section and as otherwise expressly provided by law, a person may not  
16 knowingly permit or offer to make or make a contract of life insur-  
17 ance, life annuity or disability insurance, or agreement under the  
18 contract other than as plainly expressed in the contract issued there-  
19 on, or pay, allow, give or offer to pay, allow, or give, directly or  
20 indirectly, as inducement to the insurance, or annuity, a rebate of  
21 premiums payable on the contract, or a special favor or advantage in  
22 the dividends or other benefits, or paid employment or contract for  
23 services of any kind, or any valuable consideration or inducement  
24 whatever not specified in the contract; or directly or indirectly  
25 give, sell, purchase or offer to agree to give, sell, purchase, or  
26 allow as inducement to the insurance or annuity or in connection  
27 therewith, whether or not to be specified in the policy or contract,  
28 an agreement of any form or nature promising returns, profits, stocks,  
29 bonds, or other securities, or interest present or contingent therein

1 or as measured thereby, of an insurance company or other corporation,  
2 association, or partnership, or dividends or profits accrued or to  
3 accrue thereon; or offer, promise or give anything of value which is  
4 not specified in the contract.

5 \* Sec. 32. AS 21.36.100 is amended by adding a new subsection to read:

6 (b) An agent or broker may rebate part or all of the commission  
7 due the agent or broker, provided the rebate does not alter the amount  
8 or type of insurance coverage.

9 \* Sec. 33. AS 21.36.110 is amended to read:

10 Sec. 21.36.110. EXCEPTIONS TO DISCRIMINATION AND REBATES.  
11 Nothing in AS 21.36.090 and 21.36.100 may be construed as including  
12 within the definition of discrimination or rebates any of the follow-  
13 ing practices:

14 (1) in the case of a contract of life insurance or life  
15 annuity, paying bonuses to policyholders or otherwise abating their  
16 premiums in whole or in part out of surplus accumulated from nonpar-  
17 ticipating insurance, if the bonuses, or abatement of premiums are  
18 fair and equitable to policyholders and for the best interests of the  
19 insurer;

20 (2) in the case of life insurance policies issued on the  
21 industrial debit, preauthorized check, bank draft, or similar plans,  
22 making allowance to policyholders who have continuously for a speci-  
23 fied period made premium payments directly to an office of the insurer  
24 or by preauthorized check, bank draft, or similar plan, in an amount  
25 that [WHICH] fairly represents the saving in collection expense;

26 (3) readjustment of the rate of premium for a group insur-  
27 ance policy based on the loss or expense experience thereunder, at the  
28 end of the first or a subsequent policy year of insurance thereunder,  
29 that [WHICH] may be made retroactive only for that policy year;

1 (4) issuance of life or disability insurance policies or  
2 annuity contracts at rates less than the usual rates of premiums for  
3 the policies or contracts, or modification of premium or rate based on  
4 amount of insurance; but the issuance or modification shall not result  
5 in reduction in premium or rate in excess of savings in administration  
6 and issuance expenses reasonably attributable to the policies or  
7 contracts; or

8 (5) a rebate of the commission due an agent or broker,  
9 provided that the rebate does not alter the amount or type of insur-  
10 ance coverage.

11 \* Sec. 34. AS 21.36.120(a) is repealed and reenacted to read:

12 (a) An agent or broker may give a rebate on property, casualty,  
13 or surety insurance, provided the rebate results only in a reduction  
14 of the commission due the agent or broker and does not reduce the  
15 amount or type of insurance coverage.

16 \* Sec. 35. AS 21.36.210(a) is amended to read:

17 (a) An insurer may not exercise its right to cancel a policy of  
18 personal [AN] automobile insurance [POLICY] except for the following  
19 reasons:

20 (1) nonpayment of premium; or

21 (2) the driver's license or motor vehicle registration of  
22 either the named insured or of an operator who resides in the same  
23 household as the named insured or who customarily operates a motor  
24 vehicle insured under the policy has been under suspension or revoca-  
25 tion during the policy period or, if the policy is a renewal, during  
26 its policy period or the 180 days immediately preceding its effective  
27 date.

28 \* Sec. 36. AS 21.36.210(d) is amended to read:

29 (d) This section does not apply to

1           (1) the failure to renew a policy, except as to coverage in  
2 force for less than 12 months;

3           (2) a policy that has been in effect less than 60 days at  
4 the time notice of cancellation is mailed or delivered by the insurer,  
5 unless it is a renewal policy.

6 \* Sec. 37. AS 21.36.210(f) is amended to read:

7           (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not  
8 exercise its right to cancel a policy of personal insurance other than  
9 personal automobile insurance, except for the following reasons [THE  
10 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING CON-  
11 DITIONS OR CIRCUMSTANCES ARISES]:

12           (1) nonpayment of premiums, including nonpayment of addi-  
13 tional premiums, calculated in accordance with the current rating  
14 manual of the insurer, justified by a physical change in the insured  
15 property or a change in its occupancy or use;

16           (2) conviction of the insured of a crime having as one of  
17 its necessary elements an act increasing a hazard insured against;

18           (3) discovery of fraud or material misrepresentation made  
19 by the insured or a representative of the insured in obtaining the  
20 insurance or by the insured in pursuing a claim under the policy;

21           (4) discovery of a grossly negligent act or omission by the  
22 insured that substantially increases the hazards insured against; or

23           (5) physical changes in the insured property that result in  
24 the property becoming uninsurable.

25 \* Sec. 33. AS 21.36.220 is amended to read:

26           Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not  
27 exercise its right to cancel a personal insurance policy unless a  
28 written notice of cancellation is mailed [OR DELIVERED] to the named  
29 insured as required by AS 21.36.260 [, AT THE ADDRESS SHOWN IN THE

1 POLICY,] at least 60 [20] days before the effective date of cancella-  
2 tion. However, if [, EXCEPT THAT WHEN] cancellation is for nonpayment  
3 of premium, the notice shall be mailed [OR DELIVERED] to the named  
4 insured as required by AS 21.36.260 [AT THE ADDRESS SHOWN IN THE  
5 POLICY] at least 20 [10] days before the effective date of cancella-  
6 tion. If cancellation is for a reason described in AS 21.36.210(a)(2)  
7 or (f)(2) or (3), the notice shall be mailed to the named insured as  
8 required by AS 21.36.260 at least 10 days before the effective date of  
9 cancellation [AND SHALL INCLUDE OR BE ACCOMPANIED BY A STATEMENT OF  
10 THE REASON FOR THE CANCELLATION. THIS SECTION DOES NOT APPLY TO THE  
11 FAILURE TO RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS  
12 THAN 12 MONTHS].

13 \* Sec. 39. AS 21.36.220 is amended by adding new subsections to read:

14 (b) An insurer may not exercise its right to cancel a policy of  
15 business or commercial insurance unless a written notice of cancella-  
16 tion is mailed to the named insured as required by AS 21.36.260 and to  
17 the agent or broker of record at least 60 days before the effective  
18 date of cancellation. However, if cancellation is for nonpayment of  
19 premium, or for failure or refusal of the insured to provide the  
20 information necessary to confirm exposure or necessary to determine  
21 the policy premium, the notice shall be mailed to the named insured as  
22 required by AS 21.36.260 and to the agent or broker of record at least  
23 20 days before the effective date of cancellation. If cancellation is  
24 (1) for conviction of the insured of a crime having as one of its  
25 necessary elements an act increasing a hazard insured against, or (2)  
26 for discovery of fraud or material misrepresentation made by the  
27 insured or a representative of the insured in obtaining the insurance  
28 or by the insured in pursuing a claim under the policy, the notice  
29 shall be mailed to the named insured as required by AS 21.36.260 and

1 to the agent or broker of record at least 10 days before the effective  
2 date of cancellation.

3 (c) If an insurer cancels a policy under this section, it shall  
4 return or credit any unearned premium to the agent or broker of record  
5 or directly to the insured or premium finance company, if applicable,  
6 before the effective date of cancellation, except that

7 (1) an unearned premium shall be returned or credited within  
8 30 days after notice of cancellation is given, if cancellation is for

9 (A) nonpayment of premium, including nonpayment of  
10 additional premiums, calculated in accordance with the current  
11 rating manual of the insurer, justified by a physical change in  
12 the insured property, a change in its occupancy or use, or a  
13 change in payroll, receipts, values, or other exposure units;

14 (B) conviction of the insured of a crime having as one  
15 of its necessary elements an act increasing a hazard insured  
16 against;

17 (C) discovery of fraud or material misrepresentation  
18 made by the insured or a representative of the insured in obtain-  
19 ing the insurance or by the insured in pursuing a claim under the  
20 policy;

21 (D) failure or refusal of the insured to provide the  
22 information necessary to confirm exposure or necessary to deter-  
23 mine the policy premium;

24 (E) a reason described in AS 21.36.210(a)(2);

25 (2) the insurer shall perform or waive the audit before the  
26 effective date of the cancellation and return or credit any estimated  
27 unearned premium before the effective date of cancellation if the  
28 policy is subject to audit and is canceled for a reason other than  
29 those described in (1)(A) - (D) of this subsection.

1 (d) The division may require an insurer to perform an audit that  
2 the insurer has elected to waive under (c) of this section.

3 (e) A notice of cancellation of insurance required to be given  
4 under this section must include or be accompanied by a statement of  
5 the reason for the cancellation.

6 \* Sec. 40. AS 21.36 is amended by adding a new section to read:

7 Sec. 21.36.235. NOTICE OF PREMIUM OR COVERAGE CHANGES UPON  
8 RENEWAL. (a) Except as provided in AS 21.36.420, if the renewal  
9 premium is increased more than 10 percent for a reason other than an  
10 increase in coverage or exposure base, or if after renewal there will  
11 be a material restriction or reduction in coverage not specifically  
12 requested by the insured, written notice shall be mailed to the  
13 insured and to the agent or broker of record as required by AS 21.36.-  
14 260

15 (1) at least 20 days before expiration of a personal insur-  
16 ance policy;

17 (2) at least 45 days before expiration of a business or  
18 commercial policy; or

19 (3) by the anniversary date of the year before expiration  
20 of a policy written for a term longer than one year or without a fixed  
21 expiration date.

22 (b) If notice before expiration of the policy is not given as  
23 required by (a) of this section, the existing policy shall continue  
24 until the insurer provides notice for the time period required by (a)  
25 of this section for that policy.

26 (c) This section does not apply to workers' compensation insur-  
27 ance.

28 \* Sec. 41. AS 21.36.240 is amended to read:

29 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to

1 renew a personal insurance policy in force for less than 12 months.  
2 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR  
3 MORE] unless a written notice of nonrenewal is mailed [OR DELIVERED]  
4 to the named insured as required by AS 21.36.250 [1, AT THE ADDRESS  
5 SHOWN IN THE POLICY,] at least 20 days for a personal insurance  
6 policy, and at least 45 days for a business or commercial insurance  
7 policy, before the expiration date of the policy [.] or of the anni-  
8 versary date of a policy written for a term longer than one year or  
9 with no fixed expiration date. If notice of nonrenewal is not given  
10 as required by this section, the existing policy shall continue until  
11 the insurer provides notice for the time period required by this  
12 section for that policy. This section does not apply

13 (1) if the insurer has in good faith manifested [IN ANY  
14 WAY] its willingness to renew;

15 (2) in case of nonpayment of premium for the expiring  
16 policy; or

17 (3) if the insured fails to pay the premium as required by  
18 the insurer for renewal.

19 \* Sec. 42. AS 21.36.250 is amended to read:

20 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-  
21 bile liability insurance is cancelled, other than for nonpayment of  
22 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A  
23 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-  
24 PLIES], the insurer shall notify the named insured of possible eligi-  
25 bility for automobile insurance through the automobile assigned risk  
26 plan, or automobile insurance plan. The notification must [SHALL]  
27 accompany or be included in the notice of cancellation or nonrenewal  
28 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

29 \* Sec. 43. AS 21.36 is amended by adding a new section to read:

1           Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is  
2 cancelled, rejected, or rescinded by the

3           (1) insurer, the insurer shall refund the unearned premium  
4 paid to the insured or premium finance company; or

5           (2) insured, the insurer shall return any unearned premium  
6 paid to the insured or premium finance company, less a cancellation  
7 fee not to exceed five percent of the unearned premium or \$1,000,  
8 whichever is less; a cancellation fee may not be charged unless the  
9 fee is clearly stated in the policy.

10           (b) Notwithstanding (a) of this section, if the insurer clearly  
11 indicates one or more of the following features in the policy, an  
12 insurer may issue a policy

13           (1) whose premium is earned at a varying rate due to sea-  
14 sonality of exposure;

15           (2) that contains a minimum earned premium; or

16           (3) with a fluctuating premium base.

17 \* Sec. 44. AS 21.36.260 is repealed and reenacted to read:

18           Sec. 21.36.260. PROOF AND METHOD OF MAILING NOTICE. If a notice  
19 is required from an insurer under this chapter, the insurer shall

20           (1) mail the notice by first class mail to the last known  
21 address of the insured; and

22           (2) obtain a certificate of mailing from the U.S. Postal  
23 Service.

24 \* Sec. 45. AS 21.36.310 is amended to read:

25           Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

26           (1) "business or commercial insurance" means insurance  
27 other than personal insurance, reinsurance, life insurance, disability  
28 insurance, fidelity and surety insurance, title insurance, wet marine  
29 and transportation insurance as defined in AS 21.34.900, or an annuity

1 contract;

2 (2) "nonpayment of premium" means failure of the named  
3 insured to discharge when due any obligations of the named insured in  
4 connection with the payment of premium on a policy, or any installment  
5 of the premium, whether the premium is payable directly to the insurer  
6 or its agent or indirectly under any premium finance plan or extension  
7 of credit;

8 (3) "personal automobile insurance" means insurance not  
9 related to business or commercial activities, covering [(2) "POLICY"  
10 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN  
11 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile  
12 liability, uninsured or underinsured motorists [COVERAGE, UNINSURED  
13 MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automo-  
14 bile physical damage [COVERAGE], that is delivered or issued for  
15 delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL  
16 OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which  
17 the insured vehicles are of the following types only:

18 (A) a motor vehicle of the private passenger or sta-  
19 tion wagon type that is not used as a public or livery convey-  
20 ance, nor rented to others; or

21 (B) any other four-wheel motor vehicle with a load  
22 capacity of 1,500 pounds or less that is not used in the occupa-  
23 tion, profession, or business of the insured, nor used as a  
24 public or livery conveyance, nor rented to others;

25 (4) "personal insurance"

26 (A) means personal automobile insurance, or insurance  
27 covering

28 (i) loss of or damage to real property that is  
29 used predominantly for residential purposes and that does

1 not consist of more than four dwelling units;

2 (ii) loss of or damage to personal property,  
3 including personal effects, household furniture, fixtures  
4 and equipment located in not more than four dwelling units;

5 or

6 (iii) legal liability of natural persons for loss  
7 of, damage to, or injury to persons or property if the in-  
8 surance does not cover liability arising from or in con-  
9 nection with business or commercial activities;

10 (B) does not include an annuity contract or a policy  
11 of life insurance, disability insurance, or title insurance;

12 (5) [(3)] "renewal" or "renew" means

13 (A) the issuance and delivery [BY AN INSURER] of an  
14 insurance [A] policy [REPLACING] at the end of the policy period,  
15 that replaces a policy previously issued and delivered by the  
16 same insurer; [,]

17 (B) the issuance and delivery of a certificate or  
18 notice extending the term of a policy beyond its policy period or  
19 term; [,] or

20 (C) the extension of the term of a policy beyond its  
21 policy period or term under a provision for extending the policy  
22 by payment of a continuation premium.

23 \* Sec. 46. AS 21.66.310 is repealed and reenacted to read:

24 Sec. 21.66.310. REBATES. A title insurer, or agent or solicitor  
25 of a title insurer may rebate to the insured a portion of the cost of  
26 the insurance, provided the rebate consists of a reduction in the  
27 commission received by the title insurer, agent, or solicitor, and  
28 does not result in a reduction in the amount or type of insurance  
29 coverage.

1 \* Sec. 47. AS 21.34.430(c) is amended to read:

2 (c) The director may refuse to issue or may suspend or revoke  
3 [RENEW] an insurance agent's license if, in the judgment of the direc-  
4 tor, the proposed licensee is not trustworthy and competent to act as  
5 agent, or has given cause for revocation or suspension of the license,  
6 or has failed to comply with a prerequisite for the issuance [OR  
7 RENEWAL, AS THE CASE MAY BE,] of the license.

8 \* Sec. 48. AS 21.84.430(b) is repealed and reenacted to read:

9 (b) A society, or an agent or solicitor representing a society  
10 may rebate the premium or part of the premium, provided the rebate  
11 consists of a reduction in the commission charged by the society,  
12 agent, or solicitor and does not result in a reduction in the amount  
13 or type of insurance coverage.

14 \* Sec. 49. AS 21.88.050 is amended to read:

15 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The  
16 corporation shall

17 (1) in the form approved by the director, issue to all  
18 physicians, nurses, and hospitals who are found to be acceptable risks  
19 under standards developed under (5) of this subsection, and who pay  
20 the premiums for it, a contract or contracts indemnifying physicians,  
21 nurses, and hospitals and their employees who are health care provid-  
22 ers against loss by reason of liability for covered claims for an act  
23 or omission in the delivery of professional health care in this state,  
24 and agreeing to tender on behalf of the physicians, nurses, and hos-  
25 pitals and their employees who are health care providers a defense to  
26 a covered claim in a proceeding brought under AS 09.55.530 - 09.55.-  
27 560; the limits of liability for policies issued by the corporation  
28 shall be approved by the director; the contract shall cover the de-  
29 fense against but need not indemnify liability for punitive damages

1 arising from a covered claim; at the option of the corporation, if  
2 approved by the director, and for an additional premium the contract  
3 may cover claims against the physician, nurse, or hospital that arise  
4 out of professional services performed by the physician, nurse, or  
5 hospital for any period before the contract is issued, except that  
6 coverage will not be provided for a claim already filed or that [OF  
7 WHICH] the physician, nurse, or hospital had or reasonably should have  
8 had notice at the time the retroactive insurance was purchased;

9 (2) charge a premium for the protection provided by the  
10 contracts issued by the corporation which shall be determined by the  
11 board of governors in accordance with AS 21.88.080 and subject to the  
12 approval of the director;

13 (3) comply with or be subject to AS 21.06.090, 21.06.120,  
14 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,  
15 21.09.280, AS 21.12.020(b)-(e), AS 21.13, AS 21.21, AS 21.24 and  
16 AS 21.36; and shall be exempt from participation as a member insurer  
17 in the Alaska Insurance Guaranty Corporation;

18 (4) carry out the obligations of the contracts issued by  
19 the corporation by defending all covered claims made against insured  
20 health care providers and by paying all liabilities that [WHICH] are  
21 finally adjudicated against the insured health care provider or that  
22 [WHICH] may in the opinion of the corporation reasonably be expected  
23 to be finally adjudicated against the health care provider to the  
24 extent of the contract obligation;

25 (5) establish standards for the acceptability of risks; in  
26 establishing these standards the corporation may exclude an applicant  
27 from insurance based on individual risk selection factors, but may not  
28 include an applicant based only on the classification of the appli-  
29 cant.

1 (b) The corporation may

2 (1) employ or retain persons, individual or corporate, to  
3 discharge its obligations and pay reasonable compensation for these  
4 services; employees of the corporation are not considered state em-  
5 ployees;

6 (2) negotiate for and procure reinsurance from private  
7 casualty insurers or reinsurers for any and all liability incurred by  
8 contracts issued by it;

9 (3) provide coverage to insureds for other hazards custom-  
10 arily included in medical malpractice insurance policies when there is  
11 a finding by the director that this coverage is not available to  
12 insureds of the Medical Indemnity Corporation of Alaska in the private  
13 insurance market at a competitive price;

14 (4) borrow or advance funds necessary to carry out the  
15 purposes of the corporation;

16 (5) negotiate and become a party to those contracts as are  
17 necessary to carry out the purposes of the corporation;

18 (6) sue or be sued in the name of the corporation;

19 (7) provide risk management advice and services to hospi-  
20 tals;

21 (8) negotiate and become a party to contracts for manage-  
22 ment services for the corporation;

23 (9) perform all other acts necessary and proper to carry  
24 out the duties of the corporation;

25 (10) in a form approved by the director and for an addition-  
26 al premium determined under AS 21.88.080, issue endorsements which  
27 provide indemnity for claims not yet reported which arise out of  
28 professional services rendered during a period of continuous coverage  
29 under the originally issued contract, to physicians, nurses, and

1 hospitals who pay the premium for it and who are terminating their  
2 original covered claims contract with the corporation for a period of  
3 not less than one year;

4 (11) subject to approval by the director, extend coverage  
5 to a person, entity, or facility that renders health care services in  
6 the state under the supervision of a physician.

7 \* Sec. 50. AS 21.90.900 is amended to read:

8 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless  
9 the context requires otherwise,

10 (1) "adjuster" means a person who, for compensation as an  
11 independent contractor or as an employee of an independent contractor,  
12 or for fee or commission, investigates and adjusts claims arising  
13 under insurance contracts on behalf of the insurer, but does not  
14 include an attorney at law who adjusts insurance losses from time to  
15 time incidental to the practice of law or a salaried employee of an  
16 insurer;

17 (2) "agent" means a person appointed by an insurer to  
18 solicit applications for insurance or annuities on its behalf, and if  
19 authorized to do so, to effectuate and countersign insurance con-  
20 tracts, except life or disability insurance or annuities, and to  
21 collect premiums on insurance or annuities;

22 (3) "alien insurer" means an insurer formed under the laws  
23 of a country other than the United States of America, its states,  
24 districts, territories, and commonwealths;

25 (4) [(2)] "authorized insurer" means an insurer authorized  
26 by a [SUBSISTING] certificate of authority issued by the director to  
27 transact insurance in this state;

28 (5) "broker" means a person who is not an agent of the  
29 insurer and who, on behalf of the insured, for compensation as an

1 independent contractor by commission or fee, solicits, negotiates, or  
2 procures insurance or reinsurance or the renewal or continuance of  
3 insurance or reinsurance; or in any manner aids in the solicitation,  
4 negotiation, procurement, renewal, or continuance of insurance or  
5 reinsurance, for insureds or prospective insureds not including the  
6 broker;

7 (5) [(3)] "commissioner" means the commissioner of the  
8 Department of Commerce and Economic Development;

9 (7) [(4)] "court" means superior court;

10 (8) [(5)] "director" means the director of the division of  
11 insurance;

12 (9) [(6)] "division" means the division of insurance,  
13 Department of Commerce and Economic Development;

14 (10) [(7)] "domestic insurer" means an insurer formed under  
15 the laws of this state;

16 (11) "firm" means an organization of two or more licensees  
17 acting in association with each other, either in a partnership, corpo-  
18 ration, or otherwise, or an organization in which a single licensee  
19 has less than 50 percent ownership interest in the organization;

20 (12) [(8)] "foreign insurer" means an insurer formed under  
21 the laws of a jurisdiction other than this state and includes an alien  
22 insurer;

23 (13) "independent adjuster" means an adjuster representing  
24 the interests of the insurer;

25 (14) [(9)] "industrial life insurance" means that form of  
26 life insurance written under policies with a face amount of \$1,000 or  
27 less, with the words "industrial policy" imprinted on the face as part  
28 of the descriptive matter, and under which premiums are payable month-  
29 ly or more often;

1           (15) [(10)] "insurance" means a contract whereby one under-  
2 takes to indemnify another or pay or provide a specified or determin-  
3 able amount or benefit upon determinable contingencies;

4           (16) [(11)] "insurer" includes a person engaged as indemni-  
5 tor, surety, or contractor in the business of entering into contracts  
6 of insurance or of annuity;

7           (17) [(12)] "person" has the meaning given in AS 01.10.060  
8 and includes an insurer, Lloyd's, fraternal benefit society, medical  
9 service or hospital service plan as defined in AS 21.97, reciprocal or  
10 interinsurance exchange, syndicate, and any other legal entity engaged  
11 in the business of transacting insurance, including agents, brokers,  
12 and claims adjusters;

13           (18) [(13)] "policy" means the written contract of or writ-  
14 ten agreement for or effecting insurance, by whatever name called, and  
15 includes all clauses, riders, endorsements and papers attached to it  
16 and a part of it;

17           (19) [(14)] "premium" means the consideration for insurance,  
18 by whatever name called, and by whatever method paid or collected,  
19 including an assessment, or membership, policy, survey, inspection,  
20 service or similar fee or charge made in consideration for an insur-  
21 ance contract;

22           (20) "solicitor" means an individual authorized by an agent  
23 or broker to solicit applications for insurance as a representative of  
24 the agent or broker and to collect premiums in connection with the  
25 insurance;

26           (21) [(15)] "state" means a state, District of Columbia,  
27 territory, commonwealth, or possession of the United States of  
28 America;

29           (22) [(16)] "transact" with respect to insurance includes

- 1 (A) solicitation and inducement;  
2 (B) preliminary negotiations;  
3 (C) effectuation of a contract of insurance;  
4 (D) transaction of matters subsequent to effectuation  
5 of the contract of insurance and arising out of it;

6 (23) [(17)] "unauthorized insurer" means an insurer not  
7 authorized to transact insurance in this state.

8 \* Sec. 51. AS 21.90 is amended by adding a new section to read:

9 Sec. 21.90.910. EXCEPTIONS FROM DEFINITIONS. The definitions of  
10 "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900  
11 do not include

12 (1) individuals employed and used by agents for the perfor-  
13 mance of clerical, stenographic, and similar office duties; incidental  
14 taking of an application for insurance from time to time in the office  
15 of the employing agent if the employee's compensation is not contin-  
16 gent upon or related to the volume of applications, insurance, or  
17 premiums;

18 (2) the attorney-in-fact of a reciprocal insurer, or the  
19 salaried traveling representative of a reciprocal or mutual insurer  
20 not compensated on a commission basis.

21 \* Sec. 52. AS 21.03.030, 21.03.040, 21.03.050; AS 21.06.040; AS 21.09.-  
22 210(c); AS 21.27.040(b), 21.27.470, 21.27.480, 21.27.490, 21.27.500, 21.-  
23 27.510, 21.27.520; AS 21.36.120(b), 21.36.210(c), 21.36.210(e), 21.36.230,  
24 and 21.36.300 are repealed.

25 \* Sec. 53. Sections 1 - 29 and 31 - 52 of this Act apply to insurance  
26 policies entered into or renewed on or after the effective date of secs.  
27 1 - 29 and 31 - 52 of this Act.

28 \* Sec. 54. Section 30 of this Act takes effect immediately under  
29 AS 01.10.070(c).

M E M O R A N D U M

TO: Members of the House Rules Subcommittee on HB 46

FROM: Shari Kochman

DATE: April 28, 1987

RE: Issues to address in the subcommittee

-----

You requested that I capsulize those areas of HB 46 that need further consideration in the Rules Committee.

The House Judiciary Committee left two topics to be addressed in Rules: the title of the bill and the treatment of broker rebates.

TITLE: We have at least two options on the title, other than leaving it as it now reads, "An Act relating to insurance," which is obviously quite open to making this tome even more of a tome.

We could simply add the word "regulation" at the end of the present title, which would tighten it somewhat and still leave us a simple title.

The alternative is to list all the topics addressed in the bill (some 14) in the title. The attached proposed title from Legal attempts to do that.

BROKER REBATES: HB 46 was amended in House Judiciary permitting brokers to offer rebates to their clients. This in effect opens up competition through negotiable commissions. The problem not addressed in Judiciary is that the rebate could be abused by brokers in certain lines of insurance -- specifically life, annuity, disability and title insurance. The intent was to exempt those lines from the rebate provision.

The Division of Insurance has proposed language to accomplish this beginning after page 26 of the section by section commentary on the bill.

Note that the Division has also offered two alternative amendments.

Alternative #2 would delete the rebate provision, thereby maintaining present law. The Division supports this option.

Alternative #3 would maintain the rebate provision but limit it to policies with a premium in excess of \$50,000.

CSHB 46 (Rules) is amended as follows:

- (1) p 31, lines 1 and 2  
delete AS 21.09.210(c)
- (2) p 1, lines 9 through 12 insert the following:

Section I. AS 21.09.210(c) is amended to read:

Section 21.09.210(c). A domestic company which has filed with the division by July 1, 1987 for approval to organize is exempt from taxation under this section, until ~~July 1~~, June 30 1989. AS 21.09.210(c) is repealed effective July 1, 1989.

- (3) Renumber subsequent sections accordingly.

for a period  
of no more  
than five  
years from the  
date of its  
organization or

**JOHN SUND, REPRESENTATIVE**

2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

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While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

TO: House Judiciary Committee members  
FROM: Rep. John Sund  
DATE: April 22, 1987  
RE: HB 46 subcommittee report and proposed amendments

-----

On April 16, the subcommittee adopted three more amendments to HB 46 which are included in the 4/17 work draft. These amendments are explained below.

Note the amendments passed earlier as indicated in your memo dated April 15. However, that memo was working off of the 4/15 work draft, so the page and line references are incorrect. Following are the line references working off of the 4/17 draft:

Amendment #1: Page 1, Lines 9-12;  
Amendment #2A: Page 22, Lines 18-22;  
Amendment #4: Page 20, Lines 19-29; Page 21, Lines 1-11;  
Note: This was re-amended at the 4/16 meeting and is cited below  
Amendment #5: Page 19, Lines 3-12 and 20-28; Page 20, Line 27; Page 21, Line 17; Page 23, Lines 2-7.

The following are the most recent amendments made on 4/16:

- 1) Section 38 - Page 20 was amended by offering more strict parameters in which a notice of policy changes is required prior to renewal. The bill now requires that a 20 or 45 day notice (depending on the type of insurance) is necessary only if the premium will increase more than 10 percent upon renewal or if coverage will reduce and was not specifically requested by the insured.
- 2) Section 39 - Page 21, Lines 22-25 provides that an insured must have 20 or 45 days notice (depending on the type of insurance) of nonrenewal, regardless of whether the nonrenewal notice was sent less than 20 or 45 days from the cancellation date.

- 3) Section 37 - Page 20, Line 1 was rewritten so that the return of unearned premium requirements pertain to personal lines as well as commercial lines.

OTHER AMENDMENTS/ISSUES TO ADDRESS:

The committee has before it today six amendments, one offered by the sponsor of the bill, another offered by the chair, one offered by Rep. Taylor and three offered by insurers. Note that the amendment offered by the chair is a rewriting of an amendment offered earlier by Alaska National Insurance Co. All of these amendments are attached.

The other issue before the committee is whether we want to amend the title of the bill. Now it is very broad and could be subject to more items as it moves through the Senate.

Finally, also attached to this memo is a chart showing the various time references in the bill.

A M E N D M E N T #1

4/22

Offered in the HOUSE

By Navarre

TO: CSHB 46(Jud)

*Adopted*

Page 17, line 26, through page 18, line 28:

Delete all material

Renumber the following bill sections accordingly.

Page 19, line 23:

Delete "a reason described in AS 21.36.215(a)(7)"

Insert "failure or refusal of the insured to provide the information necessary to confirm exposure or necessary to determine the policy premium"

Page 19, lines 26 - 27:

Delete "a reason described in AS 21.36.215(a)(2) or (3)"

Insert "(1) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against, or (2) for discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy"

Page 20, lines 5 - 8:

Delete all material and insert:

"(1) an unearned premium shall be returned or credited

within 30 days after notice of cancellation is given, if cancellation is for

(A) nonpayment of premium, including nonpayment of additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property, a change in its occupancy or use, or a change in payroll, receipts, values, or other exposure units;

(B) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against;

(C) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy;

(D) failure or refusal of the insured to provide the information necessary to confirm exposure or necessary to determine the policy premium;

(E) a reason described in AS 21.36.210(a)(2);"

Page 20, lines 9 - 10:

Delete "if the policy is canceled for other than nonpayment of premium and is subject to audit,"

Page 20, line 13, after "cancellation":

Insert "if the policy is subject to audit and is canceled for a reason described in (1)(A) - (D) of this subsection"

Page 31, line 24:

Delete "48"

Insert "47"

Page 31, line 26:

Delete "48"

Insert "47"

AMENDMENT TO AMENDMENT ~~#1~~ <sup>adopted</sup> (4/22)

By Navarre

Offered in the HOUSE

TO: CSHB 46 (Jud)

Page 2 of amendment, rewrite amendment to Page 20, line 13 to read:

after "cancellation":

Insert "if the policy is subject to audit and is canceled  
for a reason other than those described in (1)(A) - (D) of this subsection"

AMENDMENT #2

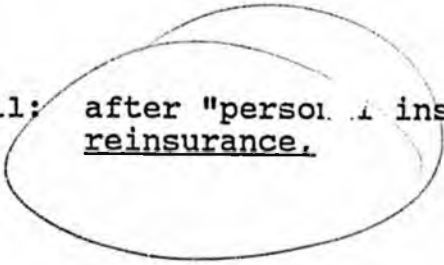
By Sund

CS HB 46 (Judiciary)

Offered: April 22, 1987

A handwritten signature in cursive script, appearing to read "Sund", is written in the upper right quadrant of the page.

Page 23, Line 11: after "personal insurance," insert  
reinsurance.

A hand-drawn oval encircles the text "after 'personal insurance,' insert reinsurance." in the amendment description.

A M E N D M E N T #3

Offered in the HOUSE

TO: CSHB 46(Jud)

By Taylor

Page 16, after line 16:

Insert new bill sections to read:

"\* Sec. 32. AS 21.36.100 is amended to read:

Sec. 21.35.100. REBATES. Except as provided in (b) of this section and as otherwise expressly provided by law, a person may not knowingly permit or offer to make or make a contract of life insurance, life annuity or disability insurance, or agreement under the contract other than as plainly expressed in the contract issued thereon, or pay, allow, give or offer to pay, allow, or give, directly or indirectly, as inducement to the insurance, or annuity, a rebate of premiums payable on the contract, or a special favor or advantage in the dividends or other benefits, or paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, sell, purchase or offer to agree to give, sell, purchase, or allow as inducement to the insurance or annuity or in connection therewith, whether or not to be specified in the policy or contract, an agreement of any form or nature promising returns, profits, stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of an insurance company or other corporation, association, or partnership, or dividends or profits accrued or to

accrue thereon; or offer, promise or give anything of value which is not specified in the contract.

\* Sec. 33. AS 21.36.100 is amended by adding a new subsection to read:

(b) An agent or broker may rebate part or all of the commission due the agent or broker, provided the rebate does not alter the amount or type of insurance coverage.

\* Sec. 34. AS 21.36.110 is amended to read:

Sec. 21.36.110. EXCEPTIONS TO DISCRIMINATION AND REBATES. Nothing in AS 21.36.090 and 21.36.100 may be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of a contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, if the bonuses, or abatement of premiums are fair and equitable to policyholders and for the best interests of the insurer;

(2) in the case of life insurance policies issued on the industrial debit, preauthorized check, bank draft, or similar plans, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer or by preauthorized check, bank draft, or similar plan, in an amount that [WHICH] fairly represents the saving in collection expense;

(3) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or a subsequent policy year of insurance thereunder,

that [WHICH] may be made retroactive only for that policy year;

(4) issuance of life or disability insurance policies or annuity contracts at rates less than the usual rates of premiums for the policies or contracts, or modification of premium or rate based on amount of insurance; but the issuance or modification shall not result in reduction in premium or rate in excess of savings in administration and issuance expenses reasonably attributable to the policies or contracts; or

(5) a rebate of the commission due an agent or broker, provided that the rebate does not alter the amount or type of insurance coverage.

\* Sec. 35. AS 21.36.120(a) is repealed and reenacted to read:

(a) An agent or broker may give a rebate on property, casualty, or surety insurance, provided the rebate results only in a reduction of the commission due the agent or broker and does not reduce the amount or type of insurance coverage."

Renumber remaining bill sections accordingly.

Page 25, after line 6:

Insert a new bill section to read:

\*\* Sec. 48. AS 21.66.310 is repealed and reenacted to read:

Sec. 21.66.310. REBATES. A title insurer, or agent or solicitor of a title insurer may rebate to the insured a portion of the cost of the insurance, provided the rebate consists of a reduction in the commission received by the title insurer, agent, or solicitor, and

does not result in a reduction in the amount or type of insurance coverage."

Renumber following bill section accordingly.

Page 25, after line 13:

Insert a new bill section to read:

"\* Sec. 50. AS 21.84.480(b) is repealed and reenacted to read:

(b) A society, or an agent or solicitor representing a society may rebate the premium or part of the premium, provided the rebate consists of a reduction in the commission charged by the society, agent, or solicitor and does not result in a reduction in the amount or type of insurance coverage."

Renumber remaining bill sections accordingly.

Page 31, line 23, after "AS":

Insert "21.36.120(b),"

Page 31, line 24:

Delete "48"

Insert "54"

Page 31, line 26:

Delete "48"

Insert "54"

Time Periods in Bill

10 days	Notice of cancellation by insurer due to insured's license suspension or revocation, conviction of a crime or fraud or misrepresentation. Page 19, Lines 12 and 29.		
20 days	Notice of cancellation by insurer due to nonpayment of premium or withholding of information needed to determine premium. Page 19, Line 25.	Notice of policy or coverage change upon renewal of a personal line of insurance. Page 19, Line 25.	Notice of nonrenewal of personal line of insurance Page 21, Line 18.
30 days	Return of unearned premium after cancellation if cancellation is due to nonpayment of premium, license suspension or revocation, conviction of a crime, fraud or misrepresentation or withholding of information. Page 20, Line 7.	→ Note: This is dependent upon passage of Amendment #1 offered 4/22.	
45 days	Notice of policy or coverage change upon renewal of a commercial or business insurance policy. Page 21, Line 1.	Notice of nonrenewal of a commercial or business insurance policy. Page 21, Line 19.	
60 days	Permissible period for cancellation of personal auto policy -- if less than 60 days old. Page 17, Line 4.	Notice of cancellation by insurer. Note exceptions under 10 days and 20 days. Page 19, Lines 5 and 21.	

AMENDMENT

# 4

*Navarro*  
By ~~James Shine~~

OFFERED IN THE HOUSE

TO: CS FOR HOUSE BILL NO. 46 (Judiciary)

Page 1, Section 1 is amended to read as follows:

"\*Section 1. AS 21.09.210(c) is amended to read:

(c) A domestic company organized before January 1, 1987, is exempt from taxation under this section for a period of five years from the date of its organization."

*Adopted*

MEMORANDUM

TO: Representatives John Sund and Mike Navarre  
FROM: Thomas J. Slagle, American Insurance Association  
RE: HB46  
DATE: April 21, 1987

I have been asked to express some continuing concerns to the House Judiciary Committee from the American Insurance Association regarding recent changes in HB46.

Under § 39 "Failure to Renew", the addition of the "rolling" provision will benefit both the consumer and insurer. The AIA would still like to have the provision: "earned premium for any period of coverage that extends beyond the expiration date shall be considered prorata based upon the previous year's rate." (Insert page 21, line 26 after policy.) As a matter of principle, the AIA does not want to provide coverage without any premium return. From a practical viewpoint, the collection of the prorata premium will be rare, either because the non-renewal notice has been sent timely, or the difficulty in collecting a relatively small premium, but the AIA would prefer to see the proration language in the Bill.

*Amalmar  
#5*

We also have a concern regarding § 37, § (C)(2) regarding return of premium on an auditable policy. As written, the Bill requires that the audit be performed or waived before the effective date of cancellation. The AIA suggests that the insurer be given up to 30 days post cancellation to perform the audit, and 30 days post cancellation to return the unearned premium. (Refer to page 20, lines 9 through 13.)\*

*Amalmar  
#6*

Thank you for your consideration of the above concerns.

\* All references refer to the 4/17/87 work draft.

cc: Don Koch, Division of Insurance

TJS#2:mb:25

TESTIMONY OF CARL L. ANDERSON, EXECUTIVE VICE PRESIDENT  
ALASKA NATIONAL INSURANCE COMPANY

I represent Alaska National Insurance Company which is the largest writer of commercial insurance in Alaska. We did not attain that status in our 6 1/2 years in business by abusing the public or engaging in practices that Section 35 of House Bill 46 is attempting to change. We have done our best to serve the insurance needs of the Alaska business community. We have acted responsibly in the past and will continue to act responsibly in the future because we want to remain in Alaska and have no desire to operate our business elsewhere.

In fairness to our policyholders and our stockholders, we cannot turn over our underwriting responsibility to the Division of Insurance. If it is our firm belief that continuation of a particular insurance policy would adversely affect the well-being of our company, and therefore affect the remainder of our policyholders, we must have the right to cancel that policy. If the insured disagrees with our action or our reasoning, he or she can appeal to the Division of Insurance. We can negotiate at that time if there is a circumstance we overlooked.

We have no disagreement with a 60 day notification period for cancellation with a 10 day notice for reasons appearing in Section 21.36.215(C) Subparagraphs (2) through (4) and 20 days for nonpayment of premium or nonreporting as required by the policy.

Alaska law presently requires 20 days notice of cancellation for nonpayment of workers compensation so this provision only extends the requirement to other lines.

We are not in the business of cancelling insurance policies. We can only prosper by earning the premium for the full term of the policy. We do not take a cancellation lightly but when we feel it is necessary, it must be our business decision. The law as presently written and the business climate adequately provide a remedy if we act irresponsibly.

We are offering an amendment to Sections 35 and 37 with a minor modification of Sections 36 and 40. This amendment adequately protects the commercial insurance consumer. It provides for sufficient advance notice of cancellation or nonrenewal and reasonable requirements on return of unearned premium. It strengthens the Division of Insurance's control of cancellations and nonrenewals but it leaves business decisions where business decisions should be made.

I have addressed these changes only as they affect my company. They also affect the Division of Insurance:

1. Division personnel are not trained underwriters and are not in a position to make underwriting decisions. This amendment releases them of the responsibility to make underwriting decisions.

2. All correspondence with the Division of Insurance becomes public record information. There are times when I and my insured (who may be your constituent) and the Division of Insurance would not want my underwriting decision to be public record.
3. The amendment reduces the paper flow at the Division of Insurance. This helps all of us.

This amendment also affects other insurance companies:

1. The nonadmitted market would either ignore the present reasons for cancellation (which would subject the admitted market to unfair competition) or they would curtail their writings which would adversely affect the Alaska policyholders and place substantial financial pressures on the admitted market for which the admitted market is not prepared.
2. Markets that are admitted in Alaska but not writing business at this time will continue to be non-participants in the Alaska insurance market.
3. Admitted markets presently writing in Alaska could substantially curtail their writings and go elsewhere. Alaska National has nowhere else to go.
4. Some admitted markets may choose to ignore the statutory requirements for commercial cancellation. Enforcement would be cumbersome and would probably further eliminate admitted carriers that specialize in tough classes.

I would also like to address Section 21.36.255 Premium Refund. Yesterday Alaska National introduced a substitute wording for subparagraph (a) of this section. The subcommittee voted to use their own substitute wording. We ask that our wording be reconsidered.

1. It would correct the problem with short rate penalties on workers compensation insurance.
2. It would leave untouched the standard program that has been in effect for many years for other lines. A program that:
  - a) is used in 49 other states;
  - b) has not been a subject of insurance consumer complaints;
  - c) has not been a source of enrichment to insurance companies;
  - d) and has provided stability in the insurance marketplace.

It is not broken so it should not be fixed.

Page 17, starting at line ~~20~~ <sup>27</sup>

Rewrite Section ~~20~~ <sup>35</sup> to read

Sec. 21.36.215. CANCELLATION OF BUSINESS OR COMMERCIAL INSURANCE POLICIES. (a) An insurer may exercise its right to cancel a policy of business or commercial insurance for:

(1) nonpayment of premium, or failure or refusal of the insured to provide the information necessary to confirm exposure or necessary to determine the policy premium, provided at least 20 days notice is given in accordance with AS 21.36.260;

(2) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against, provided at least 10 days notice is given in accordance with AS 21.36.260;

(3) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy, provided at least 10 days notice is given in accordance with AS 21.36.260;

(4) discovery of a grossly negligent act or omission by the insured that substantially increases the hazards insured against, provided at least 10 days notice is given in accordance with AS 21.36.260; or,

(5) for a reason not stated in (1)-(4) of this subsection, provided at least 60 days notice is given in accordance with AS 21.36.260.

(b) An insurer that exercises its right to cancel a policy of business or commercial insurance must mail or deliver a written notice of cancellation to the named insured and to the agent or broker of record in accordance with AS 21.36.260.

(c) If an insurer cancels a policy under (a) of this section, it shall return any unearned premium to the agent or broker of record or directly to the insured or premium finance company, if applicable, before the effective date of cancellation, except that if cancellation is for reasons stated in (a)(1)-(a)(4) of this section, any unearned premium shall be returned or credited within 30 days after the effective date of cancellation.

(d) The division may require an insurer to perform an audit that the insurer has elected to waive.

(e) A notice of cancellation of insurance required to be given under this section must include or be accompanied by a statement of the reason for the cancellation.

*Amendment #3*

Page ~~27~~, Line ~~27~~

Retitle Sec. 21.36.220 to read:

[ NOTICE OF ] CANCELLATION OF PERSONAL INSURANCE POLICIES.

Page 19, starting at line ~~18~~ <sup>18</sup>

Rewrite Section ~~36~~ <sup>37</sup> to read

(b) An insurer that exercises its right to cancel a policy of personal insurance must mail or deliver a written notice of cancellation to the named insured and to the agent or broker of record in accordance with AS 21.36.260.

(c) If an insurer cancels a policy under (a) of this section, it shall return any unearned premium to the agent or broker of record or directly to the insured or premium finance company, if applicable, before the effective date of cancellation, except that if cancellation is for reasons stated in AS 21.36.210(a)(2) or (f)(2) or (3), any unearned premium shall be returned or credited within 30 days after the effective date of cancellation.

(d) A notice of cancellation of insurance required to be given under this section must include or be accompanied by a statement of the reason for the cancellation.

Amendment #4  
Page 21, Line ~~23~~ <sup>23</sup>

Following the word "by" insert, "AS 21.36.215"

No suggested changes for Secs. ~~32~~ <sup>32</sup>, ~~33~~ <sup>33</sup>, ~~34~~ <sup>34</sup>, ~~38~~ <sup>38</sup>, ~~39~~ <sup>39</sup> ~~42~~ <sup>42</sup> or ~~43~~ <sup>43</sup>.

CS for HB 46 (Judiciary)  
4/15 draft

EXPLANATION OF AMENDMENT #2 (proposed by Alaska National  
Insurance Co.)

Prepared by Rep. John Sund's office April 16, 1987.

This amendment refers to cancellation of business or commercial insurance and changes section 35 of the bill to include areas that are presently in other sections of the bill. Specifically, the amendment:

- 1) Specifies the following reasons for cancellation:
  - a) nonpayment of premium;
  - b) failure of insured to provide information needed to determine policy premium;
  - c) conviction of the insured in a crime that increases the hazard;
  - d) fraud or misrepresentation by insured;
  - e) grossly negligent act by insured;
- 2) Opens up cancellation for any other reason to the discretion of the insurer provided 60 days notice is given. This deletes (b) on page 18, line 22, which requires the division's approval of cancellation for other reasons.

Note also that the above reasons for cancellation were already in the bill, but reasons 5 and 6 on page 18 of the bill -- physical changes in the insured property and physical changes in the operations.

- 3) Changes the time requirements for cancellation notice. Discovery of a grossly negligent act that increases the hazard of the insured requires a 60 day notice of cancellation in the present bill. This amendment changes that to 10 days.

Note that the amendment puts all cancellation periods in section 35, but in the present bill the periods are in section 37.

- 4) Changes the requirement now in the bill for insurers cancelling a policy for any reason other than nonpayment of premium to return unearned premium before the effective date of cancellation. The amendment states that for the reasons cited above, the insurer must return unearned premium within 30 days after the cancellation date. For other reasons, it must be returned before the cancellation date. Note that this actually shortens the requirement for nonpayment of premium. The bill now states 45 days after the cancellation date and the amendment changes that to 30 days.

CS for HB 46 (Judiciary)  
4/15 draft

EXPLANATION OF AMENDMENT #3

(proposed by Alaska National  
Insurance Co.)

Prepared by Rep. John Sund's office April 16, 1987.

This amendment refers to cancellation of personal insurance policies and changes section 37 of the bill. Specifically, the amendment:

1) Changes the requirement now in the bill for insurers cancelling a policy for any reason other than nonpayment of premium to return the unearned premium before the cancellation date. The amendment states that if the reason for cancellation is for driver's license suspension or revocation, conviction of a crime or fraud or misrepresentation, the insurer has until 30 days after cancellation to return premium. Note: The way this amendment is written it deletes the 45 day after cancellation for return of unearned premium if cancellation is due to nonpayment of premium.

Amdment # ~~1~~ 1 4/16/87

AS 21.36.235 Notice of Renewal

Except as provided in AS 21.36.420, written notice must be provided to the insured at the last known address and to the agent or broker of record at least 20 days for a personal insurance policy and at least 45 days for a business or commercial insurance policy before the expiration date of the policy or of the anniversary date of a policy written for a term longer than one year or with no fixed expiration date if

- (1) the renewal premium is to be increased more than 10% for reasons other than an increase in coverage or an increase in exposure base
- (2) there is to be any material restriction or reduction in coverage at renewal not specifically requested by the insured.

If the insurer fails to provide notice as required in this section, coverage will continue until 20 days for a personal insurance policy and 45 days for a business or commercial insurance policy after the notice is mailed.

This section does not apply to workers compensation insurance policies.

*advised*

Page 20, Line 28:

Insert before "This section does not apply:"

Coverage shall remain in effect 20 days for a personal insurance policy and 45 days for a business or commercial insurance policy from the date the notice of nonrenewal is mailed. ~~No premium shall be earned or charged for any period of coverage that extends beyond the expiration date of the policy or of the anniversary date of a policy written for a term longer than one year or with no fixed expiration date.~~

*adopted*

AMENDMENT #5  
Offered 4/16

By Sund

Page 20, Line 1:

Delete: [(b) of]

Explanation: This amendment fixes an oversight in drafting. The way it is now written, the provision to return unearned premium before the cancellation date pertains only to business or commercial insurance and not to personal insurance. This amendment would make it apply to all.

adopted

PROPOSED AMENDMENT TO HB 46

By Sund

Page 17, line 3:

Delete lines 3-12.

(Note on amendment: These items are already covered through proposed statutes on personal lines other than auto insurance and commercial and business lines. It is redundant to list them here.)

**JOHN SUND, REPRESENTATIVE**

*2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552*

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*While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919*

TO: House Judiciary Committee members  
FROM: Rep. John Sund  
DATE: April 15, 1987  
RE: HB 46 subcommittee report

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The House Judiciary Subcommittee for HB 46 adopted four amendments. They are attached and explained below. Following the explanation of the adopted amendments is a recap of the amendments and issues we have yet to address.

AMENDMENT #1: Deletes from statute the five-year premium tax exemption for domestic insurers. However, it grandparents into the exemption any insurer presently qualifying for it. There is only one company that now falls under this exemption. It is questionable whether this statute ever provided the incentive for insurers to domicile in the state, which is what it was intended to do.

Location in bill: (4/15 draft) Page 1, Lines 9-12. This will create a new section 1 in the bill and all subsequent sections will be renumbered.

AMENDMENT #2A: Allows insurers to charge a cancellation fee for insureds who cancel mid-term. The fee may not exceed 5 percent of unearned premium or \$1,000, whichever is less. This does not affect cases in which the insurer cancels a policy mid-term. In those cases, the insurer must return all unearned premium. The Division of Insurance was concerned that without a cancellation penalty, unscrupulous brokers could raid insurers' books by offering lower premiums. Further explanation is offered on the amendment sheet.

Location in bill: (4/15 draft): Page 21, Lines 25-29 and Page 22, Lines 1-4.

AMENDMENT #4: Requires an advance notice of premium increase or coverage decrease before the renewal date of a policy. The notice for personal lines would be 20 days; commercial and business lines would be 45 days. Those are the same periods specified in the bill for notice of nonrenewal. The exception is for personal automobile insurance which would require only a 15-day notice of premium and policy changes. That is already in statute.

Location in bill: (4/15 draft): Page 20, Lines 19-25. This creates a new section AS 21.36.235 titled NOTICE OF RENEWAL.

AMENDMENT #5: Attempts to finally settle the debate over how to require mailing of notices by uniforming all mailing procedures. All references to mailing (there are 8 in the bill) are rewritten to read "in accordance with AS 21.36.260. That statute is in present law and is titled PROOF OF MAILING. We have rewritten that statute to define proof of mailing as the receipt of a post office certificate of mailing and required that that certificate be obtained for all notifications specified in the statutes. We have also specified that notices will be mailed to the last known address by first class mail.

Location in bill: (4/15 draft) Page 19, Lines 3-12 and 20-28; Page 20, Line 23; Page 21, Lines 1-2; Page 22, Lines 12-18.

OTHER ISSUES TO ADDRESS:

Amendment #3: There was discussion of deleting the second sentence from this amendment. Another suggestion was to permit the insurer to charge for the "rolled over" days on a pro rata basis using the prior year's premium.

Amendment #6: Has not been introduced.

Commission rebates: Rep. Taylor has proposed permitting brokers to offer rebates to clients. This has the effect of competing through commission rates.

AMENDMENT #1

(Adopted)

By Navarre

Page 1, Line 9:

Add a new section 1 to read:

AS 21.09.210(c) is amended to read:

(c) A domestic company organized before July 1, 1987,  
is exempt from taxation under this section for a period of  
five years from the date of its organization.

Renumber sections accordingly.

AMENDMENT #2

By Sund (as alternative to Alaska  
National Insurance Co.)

(Adopted)

Page 21, Lines 16-23

Rewrite AS 21.36.255(a) as follows:

(a) If an insurance policy is canceled, rejected, or rescinded by the

- (1) insurer, the insurer shall return any unearned premium paid to the insured or premium finance company; or,
- (2) insured, the insurer shall return any unearned premium paid to the insured or premium finance company, less a cancellation charge clearly shown in the policy, not to exceed 5 percent of the unearned premium or \$1,000, whichever is less.

Explanation (By Division of Insurance):

During the past week, an insurer noted a concern which we feel may be legitimate. An insurer is not generally going to get rich off the inequities that may exist in the methodology used in cancellations by an insured. However, the existence of the penalty does limit any abuse of the cancellation that might occur. The concern expressed by the company is that a less than scrupulous broker could "raid" a book of business of another broker or an insurer and cause a considerable financial distress. This could be likened to a run on the bank.

This eventuality was not considered when this Section was introduced and in fact the Division has been considering rule making in this area. We believe that we must back up a bit on this issue, but we do still want to eliminate the abuses.

AMENDMENT #3

By Sund

Page 20, Line 28:

Insert before "This section does not apply:"

Coverage shall remain in effect 20 days for a personal insurance policy and 45 days for a business or commercial insurance policy from the date the notice of nonrenewal is mailed. No premium shall be earned or charged for any period of coverage that extends beyond the expiration date of the policy or of the anniversary date of a policy written for a term longer than one year or with no fixed expiration date.

AMENDMENT #4

By Sund

(Adopted)

Page 20, Line 18:

Add a new section to read:

AS 21.36.235. NOTICE OF RENEWAL. Except as provided in AS 21.36.420, no increase in premium or decrease in coverage may occur upon renewal unless notice of those changes are mailed or delivered to the named insured, at the last known address, at least 45 days prior to expiration.

Explanation:

AS 21.36.420 pertains to personal auto insurance and requires a 15 day notice of changes in the policy or premium. That would remain in effect with this amendment.

AMENDMENT #5

By Sund

(Adopted)

Rewrite all mention of mailing and delivering of notices to read:

" . . . in accordance with AS 21.36.260."

Amend AS 21.36.260 to read:

[PROOF OF] MAILING OF NOTICES. The insurer shall mail or deliver any notice required under this chapter to the insured at the last known address by first class mail. Proof of mailing in the form of a U.S. Postal Service Certificate of Mailing is required [OF NOTICE OF CANCELLATION, OR OF NONRENEWAL OR OF REASONS FOR CANCELLATION, TO THE NAMED INSURED AT THE ADDRESS SHOWN IN THE POLICY, IS SUFFICIENT PROOF OF NOTICE].

AMENDMENT #6

By Sund

Add a new statute, AS 21.36.430, reading:

Any person or entity adversely affected by conduct in violation of the provisions of this chapter shall have a private right of action against the offending insurer for such compensatory and exemplary damages as may be proven.

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

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While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

M E M O R A N D U M

TO: Rep. John Sund  
FROM: Shari Kochman  
DATE: April 9, 1987  
RE: Amendments to CS HB 46 (L&C) in CS HB 46 (Judiciary)

-----

The following changes have been made in House Bill 46 in the Judiciary committee substitute as proposed by the subcommittee.

1. Page 5, Line 25: The phrase "not intend to use or use" has been inverted to read "not use or intend to use." The purpose is for clarity.
2. Page 17, Lines 3-12 of (L&C) CS have been deleted. This shows up in the (Judiciary) CS on Page 17, Line 3. These items will be covered under the new provision in the bill for commercial lines.
3. Page 18, Lines 24-29 and Page 19, Lines 1-2 of (L&C) CS have been deleted. This shows up in the Judiciary CS on Page 18, Line 14. These items can be covered under subsection (b) of Section 34, Page 18, Line 14 of the (Judiciary) CS.
4. Page 19, Line 4 of (L&C) CS has been amended to read: "in a particular case or cases." This shows up in the (Judiciary) CS on Page 18, Line 15. The purpose of this amendment is to avoid a separate application for each request for cancellation when the policies considered for cancellation all fall under the same reason.
5. Page 21, Line 16 of (L&C) CS: The words "in any way" have been deleted. This shows up in the (Judiciary) CS on Page 20, Line 27. The deleted language was considered unnecessary.

JOHN SUND, REPRESENTATIVE  
2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

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While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

M E M O R A N D U M

TO: Rep. John Sund  
FROM: Shari Kochman  
DATE: April 9, 1987  
RE: Topics of discussion for HB 46

-----  
The following topics came up in the HB 46 subcommittee meeting and were left for discussion in full committee:

1. Page 18, Line 14 of the (Judiciary) CS. The subcommittee considered adding a seventh reason for cancellation in the case of an insured denying information to the insurer that is needed in determining rates. The Division of Insurance has proposed language for this which is provided to you as an amendment. (Amendment #1)
2. Page 20, Lines 7-10 of the (Judiciary) CS requires a second "good faith effort" on the part of the insurer to get a notice of cancellation to the insured if the first notice was returned undelivered. The question is what a good faith effort means.

Note: The Division of Insurance has proposed two possible amendments. (Amendment #2)

Also take note of the amendments proposed by the AIA in regard to sending notices of cancellation via certified mail. Some good arguments are presented against certified mail.

The following items were not specifically cited in subcommittee, but may be worth discussing:

1. Page 18, Line 2 of (Judiciary) CS amend to include

policies whose premiums are based on payroll, such as Workers' Compensation Insurance. (Amendment #3)

2. Page 20, Line 22 of (Judiciary) CS. Increase notice of nonrenewal for commercial lines from 45 days to 60 days. It really does not make sense to have this period any shorter than the notification period for mid-term cancellation. In either event, the insured has to seek alternative coverage. The argument could then be presented to increase personal lines nonrenewal notice from 20 days to 60 days. That is a judgment call because personal lines are easier to replace than commercial lines.
3. Tied into the above is an amendment suggested by the AIA that asks for advance notice of premium rate and policy changes for renewed policies. That appears to be a good idea for the following scenario: An insured expects to renew a policy because he or she has not received a notice of nonrenewal. When the bill or new policy comes, the insured finds out that the premium has increased significantly and/or the coverage has decreased. But now the insured has less time to seek alternative coverage because the renewal date is approaching.

The question is, at what point before the renewal date can the insurer be expected to rate the new policy -- 30 days, 45 days, 60 days? See the AIA suggestions; page 2, item 4 under Section 37.

Note: This type of provision already exists in statute for automobile insurance. A 15-day notice of premium change is required.

Another note: Even if the committee doesn't adopt the above, should we still require that the insurer explain any change in premium or coverage at renewal?

4. The AIA has one other worthwhile suggestion regarding renewals. They suggest that if the company decides not to renew after the specified deadline for notice, they might still serve notice of nonrenewal as long as they extend the policy past the renewal date to provide the full notification period (be it 45 days or 60 days -- as the committee decides.)

See the AIA suggestions; page 1, item 3 under Section 35. Note: The AIA asks for the same provision with cancellation, but that does not make sense. Renewals are on specified dates -- the anniversary of the policy. But mid-term cancellations are at any time that the insurance company can find cause to cancel. So the company must simply make the mid-term cancellation effective 60 days from the time of notification.

CS HB 46 (Judiciary)

AMENDMENT #1

By Division of Insurance

Page 18, Line 14

Add: (7) failure or refusal to provide data or  
information necessary to confirm exposure or on  
which to base policy premium."

CS HB 46 (Judiciary)

AMENDMENT #2

By Division of Insurance

Option 1

Page 20, line 7:

Delete "If a notice of cancellation is returned undelivered to the insurer, the insurer shall make an additional good faith effort to contact the insured."

Option 2

Page 20, line 9:

Following the word, "effort," insert ", as defined in regulations adopted by the director."

CS HB 46 (Judiciary)

AMENDMENT #3

By Division of Insurance

Page 18, Line 2:

Rewrite to read: "justified by a physical change in the insured property, a change in its occupancy or use, or a change in payroll, receipts, values or other exposure units."

MEMORANDUM

TO: Rep. John Sund  
FROM: Shari Kochman  
DATE: April 1, 1987  
RE: CS HB 46 (L&C) overview

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HB 46 is 30 pages long and covers 10 different insurance-related topics. A thorough overview of this bill and a sectional analysis is offered from the Division of Insurance. The following attempts to capsulize each of the 10 areas to give you an idea of what the bill does.

1. GENERAL AGENTS/MANAGERS

Present statute uses the terms general agents and managers which is confusing because general agents are required to be licensed and managers are not. The bill eliminates managers, requires all general agents to be licensed and more narrowly defines general agents.

2. CONTINUOUS LICENSE

The bill proposes continuous licensing for those licensed under the insurance statutes, instead of annual renewal. Annual fees will still apply. This diminishes paperwork for the division.

3. FIRM/INDIVIDUAL LICENSE

The bill requires certain individuals within a firm to be licensed instead of operating on the firm license, as is now allowed. This will increase accountability for the division. Licensing requirements are also extended to adjusting firms under the bill.

4. CANCELLATION

The bill lengthens required cancellation notification periods for personal lines and establishes notification requirements for commercial lines.

5. BROKER BOND

The bill increases the broker bond requirement from \$5,000 to \$10,000. (Note: The original proposal was \$50,000 and was reduced in the Labor and Commerce Committee.)

6. BROKER AS AGENT

The bill requires that premiums paid to a broker for insurance coverage will be considered payment to the insurer. Premium collection is the only instance in which a broker would act as agent for the insurer.

7. PRODUCER FINANCIAL/FIDUCIARY ACCOUNTS

The bill gives the division the authority to review insurance ~~company~~ <sup>agents & brokers</sup> accounting records to ensure that present statutes prohibiting commingling of funds are upheld. The records would be kept confidential within the division. The bill also clarifies the statutes on accounting requirements for ~~insurers~~ <sup>agents & brokers</sup>.

8. PRO RATA ON CANCELLATIONS

The bill requires that in the event an insurer cancels a policy mid-term, unearned premiums will be returned to the insured on a pro rata basis. Present use of the short rate tables creates an added penalty in unearned premium loss to the insured.

9. ALIEN TRUST DEPOSITS

Present statute requires that as of June 20 of this year, alien insurers (those formed in a foreign country) in the surplus lines maintain a trust fund minimum of \$5 million. That is an increase from the present \$3.5 million which was increased in 1985 from \$1.5 million. This is out of line with other states. The bill would reduce the requirement to \$1.5 million. Note that this does not refer to the insurer's minimum capital and surplus requirements, which are separate from the trust fund. (Note: This is the priority measure in this bill for the division.)

10. NURSE COVERAGE

The bill would allow the Medical Indemnity Corporation of Alaska (MICA) to write policies for nurses in the state.

PROPOSED AMENDMENT TO HB 46

By Division of Insurance

Option 1

Page 20, line 25:

Delete "If a notice of cancellation is returned undelivered to the insurer, the insurer shall make an additional good faith effort to contact the insured."

Option 2

Page 20, line 27:

Following the word, "effort," insert ", as defined in regulations adopted by the director."

ADOPTED

5-0306Lf  
Ford

AMENDMENT # 1 + 2

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 19, line 18:

Delete "10"

Insert "20 [10]"

Page 19, line 20, after "cancellation.":

Insert "If cancellation is for a reason described in AS 21.36.210-(f)(2) or (3), the notice shall be mailed or delivered to the named insured at the address shown in the policy at least 10 days before the effective date of cancellation and must include or be accompanied by a statement of the reason for cancellation."

(A)2 OR  
↑

Page 20, line 2:

Delete "10"

Insert "20"

Page 20, line 4, after "cancellation.":

Insert "If cancellation is for a reason described in AS 21.36.215-(a)(2) or (3), the notice shall be mailed or delivered to the named insured at the address shown in the policy and to the agent or broker of record at least 10 days before the effective date of cancellation, and must include or be accompanied by a statement of the reason for

5-0306Lf  
Ford

the cancellation."

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 19, lines 18 - 20:

Delete "and must [SHALL] include or be accompanied by a statement of the reason for the cancellation. ["

Insert "[AND SHALL INCLUDE OR BE ACCOMPANIED BY A STATEMENT OF THE REASON FOR THE CANCELLATION."

Page 19, line 22:

Delete ".]"

Insert "]."

Page 20, lines 3 - 4:

Delete ", and must include or be accompanied by a statement of the reason for the cancellation"

Page 20, after line 21:

Insert a new subsection to read:

"(f) A notice of cancellation of insurance required to be given under this section must include or be accompanied by a statement of the reason for the cancellation."

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 27, lines 5 - 6:

Delete bill section 43

Renumber remaining bill sections accordingly.

Page 30, line 24:

Delete "46"

Insert "45"

Page 30, line 26:

Delete "46"

Insert "45"

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 8, line 16:

Delete "\$5,000"

Insert "\$10,000 [\$5,000]"

Page 8, line 18:

Delete "\$5,000"

Insert "\$10,000 [\$5,000]"

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 20, line 17 - 19:

Delete all material and insert:

"(d) An insurer who mails a notice of cancellation required under this section shall obtain a postal receipt that indicates the notice has been mailed to the named insured."

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 20, after line 21:

Insert a new subsection to read:

"(f) If a notice of cancellation required to be mailed under this section is returned undelivered to the insurer, the insurer shall make an additional good-faith effort to provide notice of cancellation to the insured."

A

5-0306La  
Ford

A M E N D M E N T

Offered in the HOUSE

By Furnace

TO: CSHB 46(L&C)

Page 19, line 14:

Delete "60"

Insert "30"

B

5-0306Lb  
Ford

A M E N D M E N T

Offered in the HOUSE

By Furnace

TO: CSHB 46(L&C)

Page 19, line 27:

Delete "60"

Insert "30"

C

5-0306Lc  
Ford

A M E N D M E N T

Offered in the HOUSE

By Furnace

TO: CSHB 46(L&C)

Page 19, line 29:

Delete "nonpayment of premium"

Insert "a reason described in AS 21.36.215(a)(1), (2), or (3)"

D

5-030Ld  
Ford

A M E N D M E N T

Offered in the House

TO: CSHB 46 (L&C)

Page 19, line 16:

Delete "nonpayment of premium,"

Insert "a reason described in AS 21.36.210(a)(1), or AS 21.36.210(f)(1), (2), or (3), [NONPAYMENT OF PREMIUM]"

E.

5-0306Le  
Ford

A M E N D M E N T

Offered in the HOUSE

By Furnace

TO: CSHB 46(L&C)

Page 20, line 25, after "a":

Insert "personal, business, or commercial insurance"

Page 20, line 27:

Delete "20"

Insert "30 [20]"

Page 20, line 28:

Delete "for a personal insurance policy, and at least 45 days for a business or commercial insurance policy,"

Notes and Proposed Amendments From Frank B. Hall and Company, and Adjustco, Incorporated for the House Finance Sub-Committee on Committee Substitute for House Bill 46 (Labor and Commerce)

1) Page 5, Line 15

After "in the State" add "; if for a non-resident license, be a bona fide resident of a state which also allows for the non-resident licensure of agents and brokers."

The intent of this language is to create a "law of reciprocity" as applied to the licensing of agents and brokers. Alaska recognizes the licenses of all other states, and allows their resident agents and brokers to operate in Alaska under a non-resident license. Many other states, however, (including Washington State) do not return the favor. Their agents and brokers come to Alaska, sell insurance, then take both their premiums and commissions back to their home State, while at the same time prohibiting Alaska agents and brokers from operating in their state. This proposed amendment is the insurance industry's version of "local hire".

2) Page 7, Line 5

Amend the first line to read: "A firm shall have a firm license of at least the same scope as that of those licenses held by individuals acting on behalf of the firm."

This amendment would more clearly represent the intent that if employee #1 has License A, and employee #2 has License B, then the firm they work for must have, at minimum, a license permitting the firm to sell both A and B. We showed the language currently appearing in the draft to eleven different people, all involved in the insurance industry. Four of the eleven, including one attorney, interpreted the language to require the firm to have a license of the same degree as each individual, and vice versa. We felt the differing interpretations of the phrase "same degree as each individual" warranted a second effort.

3) Page 19, Line 13

Delete "20", Insert "30"

Because the Alaska market represents such a nominal amount of most insurance company's total premium, it is difficult to determine at what point a company may say "It's not worth the hassle" and pull out. We have no basis upon which to portend that adoption of a 60 day notification will cause an insurer to make such a decision. We can, however, assure you that a jump to 30 days would seem 75 per cent less threatening than a jump to 60 days.

4) Page 19, Line 28

After the word "mailed" insert ", and a receipt collected,"  
After "or" insert "otherwise"

The aim of this amendment is to acknowledge a reasonable attempt to notify the insured, and to offer added security that such an attempt, proven by a postal receipt, will not be a violation of this chapter. Under the language that currently appears in the draft, the insurer is not only liable for the proper notification or attempt to notify, but also responsible for actions of the postal service, beyond their control, which may delay or prevent delivery of the notice. Requiring proof that the notice was mailed, and to the best known address, will limit the insurers responsibility to items within his control.

CSHB 46 (L&C) INDEX

Offered: 3/30/87

Prepared by: Alaska Division of Insurance

Date: 3/31/87

GENERAL AGENTS / MANAGERS

- Section 1. (Page 1, Lines 9-20)
- Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)
- Section 3. (Page 2, Lines 17-29; Page 3, Line 1-2)
- Section 45. (Page 31, Lines 2-4)

CONTINUOUS LICENSE

- Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)
- Section 4. (Page 3, Lines 3-10)
- Section 5. (Page 3, Lines 11-28)
- Section 6. (Page 3, Line 29; Page 4, Lines 1-7)
- Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)
- Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)
- Section 12. (Page 7, Lines 26-29; Page 8, Lines 1-9)
- Section 13. (Page 8, Lines 10-22)
- Section 17. (Page 9, Lines 15-19)
- Section 18. (Page 9, Lines 20-26)
- Section 22. (Page 11, Lines 11-27)
- Section 24. (Page 12, Lines 16-29; Page 13, Lines 1-19)
- Section 26. (Page 13, Lines 25-29; Page 14, Lines 1-7)
- Section 27. (Page 14, Lines 8-19)
- Section 28. (Page 14, Lines 20-29)
- Section 29. (Page 15, Lines 1-7)
- Section 41. (Page 24, Lines 17-23)

FIRM / INDIVIDUAL LICENSE

- Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

CSHB 46 (L&C)

Offered: 3/30/87

- Section 8. (Page 5, Lines 10-29; Page 6, Lines 1-8)  
Section 9. (Page 6, Lines 9-14)  
Section 10. (Page 6, Lines 15-29; Page 7, Line 1-3)  
Section 11. (Page 7, Lines 4-25)  
Section 14. (Page 8, Lines 23-26)  
Section 23. (Page 11, Lines 28-29; Page 12, Lines 1-15)  
Section 25. (Page 13, Lines 20-24)  
Section 43. (Page 27, Lines 17-29; Page 28, Lines 1-29;  
Page 29, Lines 1-29; Page 30, Lines 1-17)  
Section 46. (Page 31, Lines 2-4)

COMMERCIAL CANCELLATION

- Section 31. (Page 16, Lines 13-24)  
Section 32. (Page 16, Lines 25-29; Page 17, Lines 1-12)  
Section 33. (Page 17, Lines 13-29; Page 18, Lines 1-2)  
Section 34. (Page 18, Lines 3-29; Page 19, Lines 1-9)  
Section 35. (Page 19, Lines 10-25)  
Section 36. (Page 19, Lines 26-29; Page 20, Lines 1-29)  
Section 37. (Page 21, Lines 5-21)  
Section 38. (Page 21, Lines 22-29; Page 22, Lines 1-2)  
Section 40. (Page 22, Lines 18-29; Page 23, Lines 1-29;  
Page 24, Lines 1-16)  
Section 45. (Page 31, Lines 2-4)

BROKER BOND

- Section 13. (Page 8, Lines 10-22)

BROKER AS AGENT

- Section 13. (Page 8, Lines 10-22)  
Section 15. (Page 8, Lines 27-29; Page 9, Line 1)  
Section 16. (Page 9, Lines 2-14)

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Offered: 3/30/87

PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

- Section 19. (Page 9, Lines 27-29; Page 10, Lines 1-9)  
Section 20. (Page 10, Lines 10-21)  
Section 21. (Page 10, Lines 22-29; Page 11, Lines 1-10)

PRO RATA ON CANCELLATIONS

- Section 39. (Page 22, Lines 3-17)  
Section 47. (Page 31, Lines 5-7)

ALIEN TRUST DEPOSITS

- Section 30. (Page 15, Lines 8-29; Page 16, Lines 1-12)  
Section 48. (Page 31, Lines 8-9)

NURSE COVERAGE

- Section 42. (Page 24, Lines 24-29; Page 25, Lines 1-29;  
Page 26, Lines 1-29; Page 27, Lines 1-16)

RELOCATION OF DEFINITIONS

- Section 43. (Page 27, Lines 17-29; Page 28, Lines 1-29;  
Page 29, Lines 1-29; Page 30, Lines 1-17)  
Section 44. (Page 30, Lines 18-29; Page 31, Line 1)  
Section 45. (Page 31, Lines 2-4)

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

- Section 45. (Page 31, Lines 2-4)

CSHB 46 (L&C)

Offered: 3/30/87

Prepared by: Alaska Division of Insurance

Date: 3/31/87

### OVERVIEW

This committee substitute encompasses about 12 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division of Insurance. The Division of Insurance supports this legislation.

For a detailed analysis of this proposal, please refer to the section by section commentary dated 3/31/87. The issues in the bill are:

- General Agents / Managers
- Continuous License
- Firm / Individual License
- Commercial Cancellation
- Broker Bond
- Broker as Agent
- Producer Financial / Fiduciary Accounts
- Pro Rata on Cancellations
- Alien Trusts Deposits
- Nurse Coverage
- Relocation of Definitions
- Removal of Obsolete or Duplicative Provisions

### GENERAL AGENTS / MANAGERS

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. It is a distinction that has been difficult to apply. The basic role of both entities is often the same, and the Alaska Insurance Code does not adequately make a

distinction between the two. The bill eliminates references to managers and requires all general agents to be licensed. It then lists those specific entities that will not be considered general agents. These are persons or entities who perform general agent type services for an insurance company when that person or entity is:

- (1) a salaried employee of the insurance company;
- (2) a subsidiary of the insurance company;
- (3) the owner of the insurance company; or
- (4) owned by the holding company that owns the insurance company.

### CONTINUOUS LICENSE

This bill introduces a continuous insurance license for agents, brokers, solicitors, adjusters, and general agents, rather than the current system requiring annual renewal. All licensees, however, will still pay an annual fee, and failure to pay will result in revocation or suspension of the license. This change should reduce the paperwork currently handled by the Division.

Some consolidation of fee dates is incorporated in the bill. The one license untouched by this proposal is the surplus lines broker license. This type of licensee is the one that provides entry to the nonadmitted market place and is required to post a \$200,000 bond. Further, producers of business for risk retention groups or risk purchasing groups under the recently passed Federal law must have this type of license. We would prefer to see how things are going to shape up with the new Federal Act before we recommend a change.

### FIRM / INDIVIDUAL LICENSE

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. Under current law, persons operating under a firm's license do not typically hold an individual license, but are named to act on the firm license. This renders individual accountability difficult. In some cases there is a constant

activity on a firm's license file as individuals are added or deleted.

Also under current law, adjusting firms are not licensed, only individuals. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm. This extends the accountability principle to adjusting firms. It will give the Division of Insurance a better regulatory oversight of the industry by requiring that every person selling or adjusting insurance contracts, whether individual or firm, have the appropriate license. A new definition of "firm" has been introduced on Page 28, Lines 26-29.

#### COMMERCIAL CANCELLATION

AS 21.36.210 - 310 currently places a limitation on an insurance company's right to cancel in mid-term, personal lines of insurance, such as automobile insurance or homeowners insurance. This whole section of law deals with insurer initiated cancellations. The insurance crisis of the past few years, accented the need that this kind of protection should also be provided for commercial policies.

To accomplish this, it is necessary to substantially rework AS 21.36.210 - 310. A number of sections have been relocated and a distinction made between personal insurance and business or commercial insurance. The personal insurance limitation is unchanged except that notice period has been revised.

The business or commercial insurance notice has a similar period of notice. This statute is similar to those in other states with one major exception. The proposed bill requires that any unearned premium be returned to the insured before the effective date of cancellation.

The normal period for notice of cancellation will be 60 days. Notice for nonpayment will be 20 days. Notice for special reasons such as suspension or revocation of license, conviction of a crime related to the type of coverage provided, and material misrepresentation will have a 10 day notice. Notice of nonrenewal will remain at 20 days for personal insurance and will be 45 days for commercial nonrenewals.

CSHB 46 (L&C)

Offered: 3/31/87

This bill requires the return of unearned premium prior to the effective date of cancellation. If the cancellation is for nonpayment, return of unearned premium must occur within 45 days after cancellation. Audits on auditable policies cancelled for other than nonpayment must also be made before the effective date of cancellation and unearned premium returned before the expiration of the policy. While this may cause some difficulty for the insurer, it should be remembered that this speaks to an insurer initiated cancellation. Insurers can use tentative or projected numbers for the period following the notice of cancellation. Insurers usually know they are going to cancel, so they can also control the audit process.

The insured with an auditable policy is entitled to the same protection as an insured with a nonauditable policy. The insurer may elect to waive an audit on cancellation, which is their right currently. If the Division finds that the waiver is not in the insureds interest, it can require that an audit be made.

The bill requires that cancellation be made by certified mail with a return receipt requested, and a reason be given in all cases. It also requires that in the event notice is returned undeliverable, that an additional good faith effort to contact the insured be made.

#### Suggested Amendment

The Division of Insurance is uncomfortable with the provision that an additional "good faith" effort be made to deliver notice. We would prefer to see a more definable action required if an additional effort is required. If an additional effort is required, we believe it should be specifically defined or that specific authority be given the Director of Insurance to define it by regulation. Accordingly we suggest one of the following amendments:

Option 1. Delete sentence starting on Page 20, Line 25 with the word "If" and ending on Page 20, Line 28.

Option 2. Following the word "effort" on Page 20, Line 27, insert ", as defined in regulations adopted by the director,"

BROKER BOND

This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive. This is not a Division of Insurance proposal, but we have no objection to it.

BROKER AS AGENT

Alaska currently licenses two kinds of insurance producer under AS 21.27, agent and broker. The agent represents an insurance company through appointment and contract. On the other hand, the broker represents the purchaser of insurance. It is typical for an insurance producer to hold both types of license. A purchaser of insurance usually does not know, under which license a producer is acting. Most insurance producers do try to balance the interests of the purchaser of coverage and the provider of coverage, and some do this quite well. Normally this is not an issue of concern, but when a producer becomes insolvent or has misused trust account monies, the issue can be very important.

If an agent collects premium funds for an insurer, the insurer is deemed to have received those funds whether they are sent to the insurer or not. When the insurer sends notice of cancellation for nonpayment of premium, the insured need only show his cancelled check and the coverage will be reinstated.

If a broker misappropriates premium funds, and does not pay them to the insurer or intermediary, and a notice is sent by the company which has not received payment, the coverages are generally not reinstated. The Division has had two major cases of this description and a number of smaller ones, where the public has been hurt. The resolution is to provide that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

An additional issue, is the need to have the producer collecting funds at the initiation of the transaction, clearly state that he is acting as a broker and coverages are not bound until confirmed by an insurer, or to return the funds to the purchaser of coverage.

One group of persons who could be adversely impacted with "agent as broker", is the wholesale broker or general agent who is in between the producing broker and the insurance company. It is possible that they might bear the financial brunt of this solution. Relief is offered by allowing them to access to the brokers' bond.

#### PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. To this end, we have aided in developing some clarifications to those sections of the insurance code.

Agents and brokers are required to receive insurance premium monies in a fiduciary capacity. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill.

The Division has need of tools that can be used to resolve fiduciary and financial difficulties at an earlier point in time. One tool is the ability to review financial summaries or detail, such as trial balance, income statement, journal detail, etc. in a Division of Insurance office for examination when requested. These documents would be confidential.

The clarifications addressed in this issue coupled with the Broker as Agent resolution should maximize protection to insurance purchasers.

PRO RATA ON CANCELLATIONS

There are two basic methods of computing return premium on a cancelled policy. In industry parlance, these are referred to as short rate and pro rata. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. The short rate method of computation is often a cause for complaint and in our view is no longer necessary. It was originally intended to reflect an expense of the insurer that was, for the most part, beyond the insurers' control. The Division has considered the elimination of short rate by regulation, but authority is vague.

ALIEN TRUST DEPOSITS

This issue is considered the #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers wishing to do business in Alaska. An alien insurer is one formed under the laws of a country other than the United States.

At the present time, AS 21.34.040(c) provides that an alien surplus lines insurer must maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required before June 20, 1985.

This proposal would avoid the necessity to declare as ineligible, approximately 95% of the alien surplus line companies doing business in the Alaska market. There is a great deal of concern about the reduction of available insurance markets for exposures in this state. If the current language in statute were to be enforced, many insurers who now provide valuable markets would be ineligible for use here. Alaska is out of step with the rest of the country on this issue where the norm is a deposit of \$1.5 million. This proposal does not impact the minimum capital and surplus required of alien insurers.

NURSE COVERAGE

This proposal will add nurses to the list of health care professionals who can obtain professional liability insurance from the Medical Indemnity Corporation of Alaska which was formed under AS 21.86 in 1976. This is primarily a backup action since nurses have recently been able to put together a national program that appears to resolve their availability difficulties. The Division of Insurance has no objection to this proposal.

RELOCATION OF DEFINITIONS

Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive, but merely represent relocation with one exception, the definition of "firm," which has been previously noted.

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

The present Insurance Code was adopted in 1966. At the time of adoption, there were a number of provisions intended to prevent disruption of, then, current activities. These provisions are no longer since some 20+ years have passed and the sections are obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

**SECTION BY SECTION COMMENTARY**

**CSHB 46 (L&C)**

**Offered: 3/30/87**

**Prepared by: Alaska Division of Insurance**

**Date: 3/31/87**

**OVERVIEW**

This committee substitute encompasses about 12 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division of Insurance. The Division of Insurance supports this legislation.

The material that follows will attempt to identify each issue addressed by the bill, explain the purpose and to comment section by section. Numerous amendments suggested previously have been incorporated in this bill.

For ease in tracking the various issues, we have provided page breaks following the commentary on each issue. The issues are:

- General Agents / Managers (Pages 2-3)**
- Continuous License (Pages 4-6)**
- Firm / Individual License (Pages 7-9)**
- Commercial Cancellation (Pages 10-13)**
- Broker Bond (Page 14)**
- Broker as Agent (Pages 15-16)**
- Producer Financial / Fiduciary Accounts (Pages 17-18)**
- Pro Rata on Cancellations (Page 19)**
- Alien Trusts Deposits (Page 20)**
- Nurse Coverage (Page 21)**
- Relocation of Definitions (Page 22)**
- Removal of Obsolete or Duplicative Provisions (Page 23)**

GENERAL AGENTS / MANAGERS

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. It is a distinction that has been difficult to apply. The basic role of both entities is often the same, and the Alaska Insurance Code does not adequately make a distinction between the two. The bill eliminates references to managers and requires all general agents to be licensed. It then lists those specific entities that will not be considered general agents.

Section 1. (Page 1, Lines 9-20)

AS 21.09 deals with insurance companies that apply for and are issued a Certificate of Authority. These companies have elected to make themselves subject to regulation by the Alaska Director of Insurance and are referred to as admitted companies. The change in this Section makes it clear that an admitted company may only do business through persons or entities licensed by Alaska including general agents.

Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)

This Section removes the references to managers. In §(b), the point that the general agent is licensed in the same manner as an agent licensed under AS 21.27, is clarified. This is a view that the Division has applied in practice, but is more than a little vague in statute.

In §(c), the reference to AS 21.27.500 is removed since its content is incorporated in the next Section.

Section 3. (Page 2, Lines 17-29; Page 3, Line 1-2)

§ (f) in this Section, moves a provision from AS 21.27.500. It provides that salaried employees of an insurance company are not subject to license for their activities on behalf of the insurer, even though that

CSHB 46 (L&C)

Offered: 3/30/87

activity may have the same appearance as a general agent.

§(g) exempts persons or entities who perform general agent type services for an insurance company when that person or entity is:

- (1) a subsidiary of the insurance company;
- (2) the owner of the insurance company; or
- (3) owned by the holding company that owns the insurance company.

Section 45. (Page 31, Lines 2-4)

This Section includes a repeal of AS 21.27.500, on line 3.

CONTINUOUS LICENSE

This bill introduces a continuous insurance license for agents, brokers, solicitors, adjusters, and general agents, rather than the current system requiring annual renewal. All licensees, however, will still pay an annual fee, and failure to pay will result in revocation or suspension of the license. This change should reduce the paperwork currently handled by the Division.

Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)

Continuous license language appears on Page 2, Lines 9-13.

Section 4. (Page 3, Lines 3-10)

Reference to renew is removed on Lines 5 & 6. The change on Line 9 is not substantive.

Section 5. (Page 3, Lines 11-28)

AS 21.27.030(a)(1) is a controlled business prohibition. The substance of this paragraph has been moved to the next Section. §(a) is revised in a way to deal with the new applicant. Continuing licenses are addressed in the Section 6. Reference to renewal has been removed.

Section 6. (Page 3, Line 29; Page 4, Lines 1-7)

This addition to AS 21.27.030 addresses the controlled business prohibition on an issued license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

Reference to renewal removed on Page 5, Line 6.

Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)

Reference to date of expiration is removed on Page 7, Line 2.

Section 12. (Page 7, Lines 26-29; Page 8, Lines 1-9)

This Section addresses licenses for vending machines that dispense policies of personal travel accident insurance. The only change of substance is that on Page 8, Line 3 where reference to annual continuation and expiration is removed.

Section 13. (Page 8, Lines 10-22)

The references to renewal are addressed on Lines 11-13.

Section 17 (Page 9, Lines 15-19)

The reference to renewal appears on Line 17.

Section 18. (Page 9, Lines 20-26)

The reference to date of expiration is removed on Line 24.

Section 22. (Page 11, Lines 11-27)

This Section has been completely reworked to reflect continuous licenses. In §(a) and §(b), annual fee dates differ in some cases from current renewal dates. Under present law, resident licenses expire on June 30, except for brokers, which expire on December 31. Nonresident agent and brokers expire a year from issue and nonresident adjusters on June 30. The continuation fee proposed would be due on all agents, solicitors, or adjusters on June 30, and all brokers on December 31.

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The only other substantive change appears in §(d) where the surcharge for late renewal is established by regulation. This concept is already the case for all other fees of the Division of Insurance.

Section 24. (Page 12, Lines 16-29; Page 13, Lines 1-19)

The reference to refuse to renew is removed on Page 12, Line 18. Surplus lines broker licenses are not being changed to continuous license. This accounts for the inserted language on Lines 19 and 20. This type of licensee is the one that provides entry to the nonadmitted market place and is required to post a \$200,000 bond. Further, producers of business for risk retention groups or risk purchasing groups under the recently passed Federal law must have this type of license. We would prefer to see how things are going to shape up with the new Federal Act before we recommend a change

Section 26. (Page 13, Lines 25-29; Page 14, Lines 1-7)

References relating to renewal removed.

Section 27. (Page 14, Lines 8-19)

References relating to renewal removed.

Section 28. (Page 14, Lines 20-29)

References relating to renewal removed.

Section 29. (Page 15, Lines 1-7)

Reference relating to expiration removed.

Section 41. (Page 24, Lines 17-23)

Reference relating to renewal removed.

FIRM / INDIVIDUAL LICENSE

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. Under current law, persons operating under a firm's license do not typically hold an individual license, but are named to act on the firm license. This renders individual accountability difficult. In some cases there is a constant activity on a firm's license file as individuals are added or deleted.

Also under current law, adjusting firms are not licensed, only individuals. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm. This extends the accountability principle to adjusting firms. It will give the Division of Insurance a better regulatory oversight of the industry by requiring that every person selling or adjusting insurance contracts, whether individual or firm, have the appropriate license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

This Section concerning examination of applicants for insurance license has been changed to apply to individual licensees. Since each individual is licensed it is not necessary to require that a firm be examined. This is accomplished with insertions at Page 4, Line 10 and Page 5, Line 3.

Section 8. (Page 5, Lines 10-29; Page 6, Lines 1-8)

This Section addresses the qualifications for license. It has been modified to make it applicable to individual licensees. The language on Page 6, Lines 1 and 2, avoid additional paperwork by providing that a person acting on behalf of a firm is covered by the firm's appointment.

Section 9. (Page 6, Lines 9-14)

This Section also addresses the qualifications for license. It applies to firm licenses.

Section 10. (Page 6, Lines 15-29; Page 7, Line 1-3)

The only changes of substance in this Section are found on Page 6, Lines 22-25. The distinction between firm and corporation is removed. A definition for firm is introduced in Section 43 on Page 28, Lines 16-19. Also, the only person to be named on a firm license will be the principal or manager of the firm.

Section 11. (Page 7, Lines 4-25)

This Section requires that the firm be licensed to the same extent as persons employed by the firm. Use by a firm of unlicensed persons who are required to be licensed is cause for revocation or suspension.

Section 14. (Page 8, Lines 23-26)

This Section provides that the firm broker bond covers individual broker members of the firm.

Section 23. (Page 11, Lines 28-29; Page 12, Lines 1-15)

This Section addresses temporary licenses. It provides for a temporary license if the principal or manager should die. This is not a substantive change.

Section 25. (Page 13, Lines 20-24)

Since persons are no longer designated in the license to exercise its powers, the language has been revised to acting on behalf of the firm.

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Section 43. (Page 27, Lines 17-29; Page 28, Lines 1-29; Page 29,  
Lines 1-29; Page 30, Lines 1-17)

Definition of "firm" introduced on Page 28, Lines 26-29.

Section 46. (Page 31, Lines 2-4)

AS 21.27.040(b) is repealed. This is the subsection that requires firms  
to designate all individuals on the firm license. a.

COMMERCIAL CANCELLATION

AS 21.36.210 - 310 currently places a limitation on an insurance company's right to cancel in mid-term, personal lines of insurance, such as automobile insurance or homeowners insurance. This whole section of law deals with insurer initiated cancellations. The insurance crisis of the past few years, accented the need that this kind of protection should also be provided for commercial policies.

To accomplish this, it is necessary to substantially rework AS 21.36.210 - 310. A number of sections have been relocated and a distinction made between personal insurance and business or commercial insurance. The personal insurance limitation is unchanged except that notice period has been revised.

The business or commercial insurance notice has a similar period. This statute is similar to those in other states with one major exception. The proposed bill requires that any unearned premium be returned to the insured before the effective date of cancellation.

The normal period of notice for cancellation will be 60 days. Notice for nonpayment will be 20 days. Notice for special reasons such as suspension or revocation of license, conviction of a crime related to the type of coverage provided, and material misrepresentation will have a 10 day notice. Notice of nonrenewal will remain at 20 days for personal insurance and will be 45 days for commercial nonrenewals.

Section 31. (Page 16, Lines 13-24)

No substantive change.

Section 32. (Page 16, Lines 25-29; Page 17, Lines 1-12)

No substantive change. This is merely a relocation of AS 21.36.300.

Section 33. (Page 17, Lines 13-29; Page 18, Lines 1-2)

No substantive change.

Section 34. (Page 18, Lines 3-29; Page 19, Lines 1-9)

This Section establishes the permissible reasons for cancellation of a business or commercial insurance policy. In addition, the Director of Insurance is granted discretion in the event another valid reason to cancel has not been anticipated with this legislation.

Section 35. (Page 19, Lines 10-25)

This Section lists the notice periods for personal insurance.

Section 36. (Page 19, Lines 26-29; Page 20, Lines 1-29  
Page 21, Lines 1-4)

§(b) of this Section establishes the notice periods for business or commercial insurance.

§(c) requires the return of unearned premium prior to the effective date of cancellation. If the cancellation is for nonpayment, return of unearned premium must occur within 45 days after cancellation. Audits on auditable policies must also be made before the effective date of cancellation and unearned premium returned before the expiration of the policy, where the reason for cancellation is other than nonpayment. While this may cause some difficulty for the insurer, it should be remembered that this speaks to an insurer initiated cancellation. Insurers can use tentative or projected numbers for the period following the notice of cancellation. They know they are going to cancel, so they can also control the audit process. The insured with an auditable policy is entitled to the same protection as an insured with a nonauditable policy. The insurer may elect to waive an audit on cancellation, which is their right currently. If the Division finds that the waiver is not in the insureds interest, it can require that an audit be made under §(e).

§(d) requires that cancellation be made by certified mail with a return receipt requested. §(d) also requires that in the event notice is returned undeliverable, that an additional good faith effort to contact the insured be made.

Suggested Amendment

The Division of Insurance is uncomfortable with the provision that an additional "good faith" effort be made to deliver notice. We would prefer to see a more definable action described if an additional effort is to be required. If an additional effort is required, we believe it should be specifically defined or that specific authority be given the Director of Insurance to define it by regulation.

Option 1. Delete sentence starting on Page 20, Line 25 with the word "If" and ending on Page 20, Line 28.

Option 2. Following the word "effort" on Page 20, Line 27, insert ", as defined in regulations adopted by the director,"

§(e) provides that the Director has the authority to order an audit waived by an insurer under §(c). This would be done when the director believes an insurer is acting unfairly to an insured.

§(f) clarifies that a reason for cancellation will be given in all cases.

Section 37. (Page 21, Lines 5-21)

The notice of nonrenewal is unchanged for personal insurance at 20 days. The notice of nonrenewal for business or commercial insurance is 45 days.

Section 38. (Page 21, Lines 22-29; Page 22, Lines 1-2)

No substantive change.

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Section 40. (Page 22, Lines 18-29; Page 23, Lines 1-29;  
Page 24, Lines 1-16)

The definition of "business or commercial insurance" is new. The remainder of the changes in this Section are not substantive. The limit on cancellation will extend to vessels under 50 displacement tons which will cover most of Alaska's fishing fleet.

Section 45. (Page 31, Lines 2-4)

AS 21.36.210(c) is repealed as it is not needed.

AS 21.36.210(e) is repealed because it has been relocated in the definition of "personal insurance" on Page 23, Lines 19-29 and Page 24, Lines 1-5.

AS 21.36.230 is repealed as it is not needed.

AS 21.36.300 is repealed because it has been moved to Section 32.

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BROKER BOND

This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive. This is not a Division of Insurance proposal, but we have no objection to it.

Section 13. (Page 8, Lines 10-22)

The increased bond amount appears on Lines 16 and 18.

BROKER AS AGENT

Alaska currently licenses two kinds of insurance producer under AS 21.27, agent and broker. The agent represents an insurance company through appointment and contract. On the other hand, the broker represents the purchaser of insurance. It is typical for an insurance producer to hold both types of license. A purchaser of insurance usually does not know, under which license a producer is acting. Most insurance producers do try to balance the interests of the purchaser of coverage and the provider of coverage, and some do this quite well. Normally this is not an issue of concern, but when a producer becomes insolvent or has misused trust account monies, the issue can be very important.

If an agent collects premium funds for an insurer, the insurer is deemed to have received those funds whether they are sent to the insurer or not. When the insurer sends notice of cancellation for nonpayment of premium, the insured need only show his cancelled check and the coverage will be reinstated.

If a broker misappropriates premium funds, and does not pay them to the insurer or intermediary, and a notice is sent by the company which has not received payment, the coverages are generally not reinstated. The Division has had two major cases of this description and a number of smaller ones, where the public has been hurt. The resolution is to provide that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

An additional issue, is the need to have the producer collecting funds at the initiation of the transaction, clearly state that he is acting as a broker and coverages are not bound until confirmed by an insurer, or to return the funds to the purchaser of coverage.

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Section 13. (Page 8, Lines 10-22)

This Section deals with the brokers' bond. One group of persons who could be adversely impacted with "agent as broker", is the wholesale broker or general agent who is in between the producing broker and the insurance company. It is possible that they might bear the financial brunt of this solution. Relief is offered by allowing them to access to the brokers' bond.

Section 15. (Page 8, Lines 27-29; Page 9, Line 1)

This Section makes clear the fact that the broker cannot bind an insurer.

Section 16. (Page 9, Lines 2-14)

This Section establishes the concept of "broker as agent for purposes of premium collection." (d) newly provides that a broker may not knowingly accept payment for coverage until that coverage is authorized by an insurer.

PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. To this end, we have aided in developing some clarifications to those sections of the insurance code.

Agents and brokers are required to receive insurance premium monies in a fiduciary capacity. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill.

The Division has need of tools that can be used to resolve fiduciary and financial difficulties at an earlier point in time. One tool is the ability to review financial summaries or detail, such as trial balance, income statement, journal detail, etc. in a Division of Insurance office for examination when requested. These documents would be confidential.

The clarifications addressed in this issue coupled with the Broker as Agent resolution should maximize protection to insurance purchasers.

Section 19. (Page 9, Lines 27-29; Page 10, Lines 1-9)

This is a new requirement specifically requiring an agent or broker to have accounting and financial records and to maintain them in accordance with generally accepted accounting principles. These records are available for review and are confidential when in the possession of the director.

Section 20. (Page 10, Lines 10-21)

§(b) contains the requirement for a premium fiduciary account. The change clarifies the fact that other funds can not be commingled with

it except as specifically permitted in Section 21.

Section 21. (Page 10, Lines 22-29; Page 11, Lines 1-10)

§(d) permits a limited commingling of nonpremium funds in the fiduciary account for specific premium related purposes. Accounting for nonpremium funds is required.

§(e) makes clear that the premium funds required to be in the fiduciary account can not be used or represented to be asset funds. Funds optionally permitted to be in the fiduciary account, such as reserve funds are an asset of the agent or broker.

§(f) introduces a definition for "fiduciary account."

PRO RATA ON CANCELLATIONS

There are two basic methods of computing return premium on a cancelled policy. In industry parlance, these are referred to as short rate and pro rata. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. The short rate method of computation is often a cause for complaint and in our view is no longer necessary. It was originally intended to reflect an expense of the insurer that was, for the most part, beyond the insurers' control. The Division has considered the elimination of short rate by regulation, but authority is vague.

Section 39. (Page 22, Lines 3-17)

This Section requires pro rata cancellation and effectively prohibits short rate cancellation.

Section 47. (Page 31, Lines 5-7)

This Section makes clear that this new requirement does not affect in-force contracts, thus sidestepping potential constitutional conflicts.

ALIEN TRUST DEPOSITS

This issue is considered the #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers wishing to business in Alaska. An alien insurer is one formed under the laws of a country other than the United States.

At the present time, AS 21.34.040(c) provides that an alien surplus lines insurer must maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required before June 20, 1985.

This proposal would avoid the necessity to declare as ineligible, approximately 95% of the alien surplus line companies doing business in the Alaska market. There is a great deal of concern about the reduction of available insurance markets for exposures in this state. If the current language in statute were to be enforced, many insurers who now provide valuable markets would be ineligible for use here. Alaska is out of step with the rest of the country on this issue where the norm is a deposit of \$1.5 million. This proposal does not impact the minimum capital and surplus required of alien insurers.

Section 30. (Page 15, Lines 8-29; Page 16, Lines 1-12)

The language to accomplish the change noted above appears on Page 15, Lines 21-22. Other changes are not substantive.

Section 48. (Page 31, Lines 8-9)

This Section is an immediate effective date for Section 30 only.

CSHB 46 (L&C)

Offered: 3/30/87

NURSE COVERAGE

This proposal will add nurses to the list of health care professionals who can obtain professional liability insurance from the Medical Indemnity Corporation of Alaska which was formed under AS 21.08 in 1976. This is primarily a backup action since nurses have recently been able to put together a national program that appears to resolve their availability difficulties. The Division of Insurance has no objection to this proposal.

Section 42. (Page 24, Lines 24-29; Page 25, Lines 1-29;  
Page 26, Lines 1-29; Page 27, Lines 1-16)

"Nurse" is added on Page 24, Line 28; Page 25, Lines 2, 5, 13, 14, and 17; and, Page 27, Line 10.

RELOCATION OF DEFINITIONS

Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive, but merely represent relocation with one exception, the definition of "firm," which has been already discussed on Page 8-9, under Sections 10 and 43.

Section 43. (Page 27, Lines 17-29; Page 28, Lines 1-29;  
Page 29, Lines 1-29; Page 30, Lines 1-17)

§(1), "adjuster" on Page 27, Lines 20-26, was formerly AS 21.27.510(a).

§(2), "agent" on Page 27, Lines 27-29 and Page 28, Lines 1-2, was formerly AS 21.27.470.

§(5), "broker" on Page 28, Lines 9-16, was formerly AS 21.27.480.

§(11), "firm" on Page 28, Lines 26-29, is new. See discussion on Page 8.

§(13), "independent adjuster" on Page 29, Lines 4-5, was formerly AS 21.27.510(b).

§(20), "solicitor" on Page 30, Lines 3-6, was formerly AS 21.27.490.

Section 44. (Page 30, Lines 18-29; Page 31, Line 1)

This Section was formerly AS 21.27.520. No substantive change.

Section 45. (Page 31, Lines 2-4)

AS 21.27.470, AS 21.27.480, AS 21.27.490, AS 21.27.510, & AS 21.27.520 are repealed as discussed in Sections 43 and 44 above.

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REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

The present Insurance Code was adopted in 1966. At the time of adoption, there were a number of provisions intended to prevent disruption of, then, current activities. These provisions are no longer since some 20+ years have passed and the sections are obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

Section 45. (Page 31, Lines 2-4)

AS 21.03.030, AS 21.03.040, AS 21.03.050 and AS 21.06.040 are repealed.

**CSHB 46 (Jud)**

**Offered: 4/7/87**

**Prepared by: Alaska Division of Insurance**

**Date: 4/8/87**

### **OVERVIEW**

This committee substitute encompasses about 12 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division of Insurance. The Division of Insurance supports this legislation.

For a detailed analysis of this proposal, please refer to the section by section commentary dated 4/8/87. The issues in the bill are:

- General Agents / Managers**
- Continuous License**
- Firm / Individual License**
- Commercial Cancellation**
- Broker Bond**
- Broker as Agent**
- Producer Financial / Fiduciary Accounts**
- Pro Rata on Cancellations**
- Alien Trusts Deposits**
- Nurse Coverage**
- Relocation of Definitions**
- Removal of Obsolete or Duplicative Provisions**

### **GENERAL AGENTS / MANAGERS**

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. It is a distinction that has been difficult to apply. The basic role of both entities is often the same, and the Alaska Insurance Code does not adequately make a

distinction between the two. The bill eliminates references to managers and requires all general agents to be licensed. It then lists those specific entities that will not be considered general agents. These are persons or entities who perform general agent type services for an insurance company when that person or entity is:

- (1) a salaried employee of the insurance company;
- (2) a subsidiary of the insurance company;
- (3) the owner of the insurance company; or
- (4) owned by the holding company that owns the insurance company.

### CONTINUOUS LICENSE

This bill introduces a continuous insurance license for agents, brokers, solicitors, adjusters, and general agents, rather than the current system requiring annual renewal. All licensees, however, will still pay an annual fee, and failure to pay will result in revocation or suspension of the license. This change should reduce the paperwork currently handled by the Division.

Some consolidation of fee dates is incorporated in the bill. The one license untouched by this proposal is the surplus lines broker license. This type of licensee is the one that provides entry to the nonadmitted market place and is required to post a \$200,000 bond. Further, producers of business for risk retention groups or risk purchasing groups under the recently passed Federal law must have this type of license. We would prefer to see how things are going to shape up with the new Federal Act before we recommend a change

### FIRM / INDIVIDUAL LICENSE

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. Under current law, persons operating under a firm's license do not typically hold an individual license, but are named to act on the firm license. This renders individual accountability difficult. In some cases there is a constant

activity on a firm's license file as individuals are added or deleted.

Also under current law, adjusting firms are not licensed, only individuals. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm. This extends the accountability principle to adjusting firms. It will give the Division of Insurance a better regulatory oversight of the industry by requiring that every person selling or adjusting insurance contracts, whether individual or firm, have the appropriate license. A new definition of "firm" has been introduced on Page 28, Lines 26-29.

#### COMMERCIAL CANCELLATION

AS 21.36.210 - 310 currently places a limitation on an insurance company's right to cancel in mid-term, personal lines of insurance, such as automobile insurance or homeowners insurance. This whole section of law deals with insurer initiated cancellations. The insurance crisis of the past few years, accented the need that this kind of protection should also be provided for commercial policies.

To accomplish this, it is necessary to substantially rework AS 21.36.210 - 310. A number of sections have been relocated and a distinction made between personal insurance and business or commercial insurance. The personal insurance limitation is unchanged except that notice period has been revised.

The business or commercial insurance notice has a similar period of notice. This statute is similar to those in other states with one major exception. The proposed bill requires that any unearned premium be returned to the insured before the effective date of cancellation.

The bill proposes permissible reasons for cancellation of a business or commercial insurance policy. The Director of Insurance is granted discretion in the event another valid reason to cancel has not been anticipated with this legislation. Reference to cancellations for changes in reinsurance, financial condition, change in law, and excessive claims, will require prior approval.

Suggested Amendment

Many commercial or business policies are written with conditions that require some form of cooperation on the part of the person insured. For example, a policy whose premium is based on payroll will generally contain an audit feature or a requirement for the insured to provide periodic reports concerning the amount of payroll. If an insured refuses to provide this kind of data, the insurer can not determine whether the estimates on which the policy is based are accurate. Such a refusal to provide is a reasonable cause for cancellation of the insurance policy. We would suggest that an additional reason for cancellation be inserted on Page 18 between Lines 13 and 14 which would read:

"(7) failure or refusal to provide data or information necessary to confirm exposure or on which to base policy premium."

The normal period for notice of cancellation will be 60 days. Notice for nonpayment will be 20 days. Notice for special reasons such as suspension or revocation of license, conviction of a crime related to the type of coverage provided, and material misrepresentation will have a 10 day notice. Notice of nonrenewal will remain at 20 days for personal insurance and will be 45 days for commercial nonrenewals.

This bill requires the return of unearned premium prior to the effective date of cancellation. If the cancellation is for nonpayment, return of unearned premium must occur within 45 days after cancellation. Audits on auditable policies cancelled for other than nonpayment must also be made before the effective date of cancellation and unearned premium returned before the expiration of the policy. While this may cause some difficulty for the insurer, it should be remembered that this speaks to an insurer initiated cancellation. Insurers can use tentative or projected numbers for the period following the notice of cancellation. Insurers usually know they are going to cancel, so they can also control the audit process.

The insured with an auditable policy is entitled to the same protection as an insured with a nonauditable policy. The insurer may elect to waive an audit on cancellation, which is their right currently. If the

Division finds that the waiver is not in the insureds interest, it can require that an audit be made.

The bill requires that cancellation be made by certified mail with a return receipt requested, and a reason be given in all cases. It also requires that in the event notice is returned undeliverable, that an additional good faith effort to contact the insured be made.

Suggested Amendment

The Division of Insurance is uncomfortable with the provision that an additional "good faith" effort be made to contact the insured. We would prefer to see a more definable action described if an additional effort is required. If an additional effort is required, we believe it should be specifically defined or that specific authority be given the Director of Insurance to define it by regulation. Accordingly we suggest one of the following amendments:

Option 1. Delete sentence starting on Page 20, Line 7 with the word "If" and ending on Page 20, Line 10.

Option 2. Following the word "effort" on Page 20, Line 9, delete the words "to contact the insured" and insert ", as defined in regulations adopted by the director, to deliver notice"

BROKER BOND

This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive. This is not a Division of Insurance proposal, but we have no objection to it.

BROKER AS AGENT

Alaska currently licenses two kinds of insurance producer under AS 21.27, agent and broker. The agent represents an insurance company

through appointment and contract. On the other hand, the broker represents the purchaser of insurance. It is typical for an insurance producer to hold both types of license. A purchaser of insurance usually does not know, under which license a producer is acting. Most insurance producers do try to balance the interests of the purchaser of coverage and the provider of coverage, and some do this quite well. Normally this is not an issue of concern, but when a producer becomes insolvent or has misused trust account monies, the issue can be very important.

If an agent collects premium funds for an insurer, the insurer is deemed to have received those funds whether they are sent to the insurer or not. When the insurer sends notice of cancellation for nonpayment of premium, the insured need only show his cancelled check and the coverage will be reinstated.

If a broker misappropriates premium funds, and does not pay them to the insurer or intermediary, and a notice is sent by the company which has not received payment, the coverages are generally not reinstated. The Division has had two major cases of this description and a number of smaller ones, where the public has been hurt. The resolution is to provide that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

An additional issue, is the need to have the producer collecting funds at the initiation of the transaction, clearly state that he is acting as a broker and coverages are not bound until confirmed by an insurer, or to return the funds to the purchaser of coverage.

One group of persons who could be adversely impacted with "agent as broker", is the wholesale broker or general agent who is in between the producing broker and the insurance company. It is possible that they might bear the financial brunt of this solution. Relief is offered by allowing them to access to the brokers' bond.

PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. To this end, we have aided in developing some clarifications to those sections of the insurance code.

Agents and brokers are required to receive insurance premium monies in a fiduciary capacity. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill.

The Division has need of tools that can be used to resolve fiduciary and financial difficulties at an earlier point in time. One tool is the ability to review financial summaries or detail, such as trial balance, income statement, journal detail, etc. in a Division of Insurance office for examination when requested. These documents would be confidential.

The clarifications addressed in this issue coupled with the Broker as Agent resolution should maximize protection to insurance purchasers.

PRO RATA ON CANCELLATIONS

There are two basic methods of computing return premium on a cancelled policy. In industry parlance, these are referred to as short rate and pro rata. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. The short rate method of computation is often a cause for complaint and in our view is no longer necessary. It was originally intended to reflect an expense of the insurer that was, for the most part, beyond the insurers' control. The Division has considered the elimination of short rate by regulation,

but authority is vague.

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This issue is considered the #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers wishing to do business in Alaska. An alien insurer is one formed under the laws of a country other than the United States.

At the present time, AS 21.34.040(c) provides that an alien surplus lines insurer must maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required before June 20, 1985.

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Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive, but merely represent relocation with one exception, the definition of "firm," which has been previously noted.

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

The present Insurance Code was adopted in 1966. At the time of adoption, there were a number of provisions intended to prevent disruption of, then, current activities. These provisions are no longer since some 20+ years have passed and the sections are obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

**SECTION BY SECTION COMMENTARY**

**CSHB 46 (Jud)**

**Offered: 4/7/87**

**Prepared by: Alaska Division of Insurance**

**Date: 4/8/87**

**OVERVIEW**

This committee substitute encompasses about 12 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division of Insurance. The Division of Insurance supports this legislation.

The material that follows will attempt to identify each issue addressed by the bill, explain the purpose and to comment section by section. Numerous amendments suggested previously have been incorporated in this bill.

For ease in tracking the various issues, we have provided page breaks following the commentary on each issue. The issues are:

- General Agents / Managers (Pages 2-3)
- Continuous License (Pages 4-6)
- Firm / Individual License (Pages 7-9)
- Commercial Cancellation (Pages 10-13)
- Broker Bond (Page 14)
- Broker as Agent (Pages 15-16)
- Producer Financial / Fiduciary Accounts (Pages 17-18)
- Pro Rata on Cancellations (Page 19)
- Alien Trusts Deposits (Page 20)
- Nurse Coverage (Page 21)
- Relocation of Definitions (Page 22)
- Removal of Obsolete or Duplicative Provisions (Page 23)

GENERAL AGENTS / MANAGERS

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. It is a distinction that has been difficult to apply. The basic role of both entities is often the same, and the Alaska Insurance Code does not adequately make a distinction between the two. The bill eliminates references to managers and requires all general agents to be licensed. It then lists those specific entities that will not be considered general agents.

Section 1. (Page 1, Lines 9-20)

AS 21.09 deals with insurance companies that apply for and are issued a Certificate of Authority. These companies have elected to make themselves subject to regulation by the Alaska Director of Insurance and are referred to as admitted companies. The change in this Section makes it clear that an admitted company may only do business through persons or entities licensed by Alaska including general agents.

Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)

This Section removes the references to managers. In §(b), the point that the general agent is licensed in the same manner as an agent licensed under AS 21.27, is clarified. This is a view that the Division has applied in practice, but is more than a little vague in statute.

In §(c), the reference to AS 21.27.500 is removed since its content is incorporated in the next Section.

Section 3. (Page 2, Lines 17-29; Page 3, Line 1-2)

§ (f) in this Section, moves a provision from AS 21.27.500. It provides that salaried employees of an insurance company are not subject to license for their activities on behalf of the insurer, even though that

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activity may have the same appearance as a general agent.

§(g) exempts persons or entities who perform general agent type services for an insurance company when that person or entity is:

- (1) a subsidiary of the insurance company;
- (2) the owner of the insurance company; or
- (3) owned by the holding company that owns the insurance company.

Section 45. (Page 30, Lines 13-15)

This Section includes a repeal of AS 21.27.500, on line 14.

CONTINUOUS LICENSE

This bill introduces a continuous insurance license for agents, brokers, solicitors, adjusters, and general agents, rather than the current system requiring annual renewal. All licensees, however, will still pay an annual fee, and failure to pay will result in revocation or suspension of the license. This change should reduce the paperwork currently handled by the Division.

Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)

Continuous license language appears on Page 2, Lines 9-13.

Section 4. (Page 3, Lines 3-10)

Reference to renew is removed on Lines 5 & 6. The change on Line 9 is not substantive.

Section 5. (Page 3, Lines 11-28)

AS 21.27.030(a)(1) is a controlled business prohibition. The substance of this paragraph has been moved to the next Section. §(a) is revised in a way to deal with the new applicant. Continuing licenses are addressed in the Section 6. Reference to renewal has been removed.

Section 6. (Page 3, Line 29; Page 4, Lines 1-7)

This addition to AS 21.27.030 addresses the controlled business prohibition on an issued license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

Reference to renewal removed on Page 5, Line 6.

Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)

Reference to date of expiration is removed on Page 7, Line 2.

Section 12. (Page 7, Lines 26-29; Page 8, Lines 1-9)

This Section addresses licenses for vending machines that dispense policies of personal travel accident insurance. The only change of substance is that on Page 8, Line 3 where reference to annual continuation and expiration is removed.

Section 13. (Page 8, Lines 10-22)

The references to renewal are addressed on Lines 11-13.

Section 17 (Page 9, Lines 15-19)

The reference to renewal appears on Line 17.

Section 18. (Page 9, Lines 20-26)

The reference to date of expiration is removed on Line 24.

Section 22. (Page 11, Lines 11-27)

This Section has been completely reworked to reflect continuous licenses. In §(a) and §(b), annual fee dates differ in some cases from current renewal dates. Under present law, resident licenses expire on June 30, except for brokers, which expire on December 31. Nonresident agent and brokers expire a year from issue and nonresident adjusters on June 30. The continuation fee proposed would be due on all agents, solicitors, or adjusters on June 30, and all brokers on December 31.

The only other substantive change appears in §(d) where the surcharge for late renewal is established by regulation. This concept is already the case for all other fees of the Division of Insurance.

Section 24. (Page 12, Lines 16-29; Page 13, Lines 1-19)

The reference to refuse to renew is removed on Page 12, Line 18. Surplus lines broker licenses are not being changed to continuous license. This accounts for the inserted language on Lines 19 and 20. This type of licensee is the one that provides entry to the nonadmitted market place and is required to post a \$200,000 bond. Further, producers of business for risk retention groups or risk purchasing groups under the recently passed Federal law must have this type of license. We would prefer to see how things are going to shape up with the new Federal Act before we recommend a change

Section 26. (Page 13, Lines 25-29; Page 14, Lines 1-7)

References relating to renewal removed.

Section 27. (Page 14, Lines 8-19)

References relating to renewal removed.

Section 28. (Page 14, Lines 20-29)

References relating to renewal removed.

Section 29. (Page 15, Lines 1-7)

Reference relating to expiration removed.

Section 41. (Page 23, Lines 28-29; Page 24, Lines 1-5))

Reference relating to renewal removed.

FIRM / INDIVIDUAL LICENSE

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. Under current law, persons operating under a firm's license do not typically hold an individual license, but are named to act on the firm license. This renders individual accountability difficult. In some cases there is a constant activity on a firm's license file as individuals are added or deleted.

Also under current law, adjusting firms are not licensed, only individuals. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm. This extends the accountability principle to adjusting firms. It will give the Division of Insurance a better regulatory oversight of the industry by requiring that every person selling or adjusting insurance contracts, whether individual or firm, have the appropriate license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

This Section concerning examination of applicants for insurance license has been changed to apply to individual licensees. Since each individual is licensed it is not necessary to require that a firm be examined. This is accomplished with insertions at Page 4, Line 10 and Page 5, Line 3.

Section 8. (Page 5, Lines 10-29; Page 6, Lines 1-8)

This Section addresses the qualifications for license. It has been modified to make it applicable to individual licensees. The language on Page 6, Lines 1 and 2, avoid additional paperwork by providing that a person acting on behalf of a firm is covered by the firm's appointment.

Section 9. (Page 6, Lines 9-14)

This Section also addresses the qualifications for license. It applies to firm licenses.

Section 10. (Page 6, Lines 15-29; Page 7, Line 1-3)

The only changes of substance in this Section are found on Page 6, Lines 22-25. The distinction between firm and corporation is removed. A definition for firm is introduced in Section 43 on Page 28, Lines 8-11. Also, the only person to be named on a firm license will be the principal or manager of the firm.

Section 11. (Page 7, Lines 4-25)

This Section requires that the firm be licensed to the same extent as persons employed by the firm. Use by a firm of unlicensed persons who are required to be licensed is cause for revocation or suspension.

Section 14. (Page 8, Lines 23-26)

This Section provides that the firm broker bond covers individual broker members of the firm.

Section 23. (Page 11, Lines 28-29; Page 12, Lines 1-15)

This Section addresses temporary licenses. It provides for a temporary license if the principal or manager should die. This is not a substantive change.

Section 25. (Page 13, Lines 20-24)

Since persons are no longer designated in the license to exercise its powers, the language has been revised to acting on behalf of the firm.

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Section 43. (Page 26, Lines 28-29; Page 27, Lines 1-29;  
Page 28, Lines 1-29; Page 29, Lines 1-28)

Definition of "firm" introduced on Page 28, Lines 8-11.

Section 45. (Page 30, Lines 13-15)

AS 21.27.040(b) is repealed. This is the subsection that requires firms to designate all individuals on the firm license.

COMMERCIAL CANCELLATION

AS 21.36.210 - 310 currently places a limitation on an insurance company's right to cancel in mid-term, personal lines of insurance, such as automobile insurance or homeowners insurance. This whole section of law deals with insurer initiated cancellations. The insurance crisis of the past few years, accented the need that this kind of protection should also be provided for commercial policies.

To accomplish this, it is necessary to substantially rework AS 21.36.210 - 310. A number of sections have been relocated and a distinction made between personal insurance and business or commercial insurance. The personal insurance limitation is unchanged except that notice period has been revised.

The business or commercial insurance notice has a similar period. This statute is similar to those in other states with one major exception. The proposed bill requires that any unearned premium be returned to the insured before the effective date of cancellation.

The normal period of notice for cancellation will be 60 days. Notice for nonpayment will be 20 days. Notice for special reasons such as suspension or revocation of license, conviction of a crime related to the type of coverage provided, and material misrepresentation will have a 10 day notice. Notice of nonrenewal will remain at 20 days for personal insurance and will be 45 days for commercial nonrenewals.

Section 31. (Page 16, Lines 13-24)

No substantive change.

Section 32. (Page 16, Lines 25-29; Page 17, Lines 1-2)

No substantive change. This is merely a relocation of AS 21.36.300. Reference to some exceptions has been deleted since those will be picked up under the commercial or business definition.

Section 33. (Page 17, Lines 3-21)

No substantive change.

Section 34. (Page 17, Lines 23-29; Page 18, Lines 1-20)

This Section establishes the permissible reasons for cancellation of a business or commercial insurance policy. In addition, the Director of Insurance is granted discretion in the event another valid reason to cancel has not been anticipated with this legislation. Reference to cancellations for changes in reinsurance, financial condition, change in law, and excessive claims, have been removed since those are appropriately considered with a prior approval mechanism.

Suggested Amendment

Many commercial or business policies are written with conditions that require some form of cooperation on the part of the person insured. For example, a policy whose premium is based on payroll will generally contain an audit feature or a requirement for the insured to provide periodic reports concerning the amount of payroll. If an insured refuses to provide this kind of data, the insurer can not determine whether the estimates on which the policy is based are accurate. Such a refusal to provide is a reasonable cause for cancellation of the insurance policy. We would suggest that an additional reason for cancellation be inserted on Page 18 between Lines 13 and 14 which would read:

"(?) failure or refusal to provide data or information necessary to confirm exposure or on which to base policy premium."

Section 35. (Page 18, Lines 21-29; Page 19, Lines 1-7)

This Section lists the notice periods for personal insurance.

Section 36. (Page 19, Lines 8-29; Page 20, Lines 1-15)

§(b) of this Section establishes the notice periods for business or commercial insurance.

§(c) requires the return of unearned premium prior to the effective date of cancellation. If the cancellation is for nonpayment, return of unearned premium must occur within 45 days after cancellation. Audits on auditable policies must also be made before the effective date of cancellation and unearned premium returned before the expiration of the policy, where the reason for cancellation is other than nonpayment. While this may cause some difficulty for the insurer, it should be remembered that this speaks to an insurer initiated cancellation. Insurers can use tentative or projected numbers for the period following the notice of cancellation. They know they are going to cancel, so they can also control the audit process. The insured with an auditable policy is entitled to the same protection as an insured with a nonauditable policy. The insurer may elect to waive an audit on cancellation, which is their right currently. If the Division finds that the waiver is not in the insureds interest, it can require that an audit be made under §(e).

§(d) requires that cancellation be made by certified mail with a return receipt requested. §(d) also requires that in the event notice is returned undeliverable, that an additional good faith effort to contact the insured be made.

#### Suggested Amendment

The Division of Insurance is uncomfortable with the provision that an "additional good faith effort to contact the insured" be made. We would prefer to see a more definable action described if an additional effort is to be required. If an additional effort is required, we believe it should be specifically defined or that specific authority be given the Director of Insurance to define it by regulation.

Option 1. Delete sentence starting on Page 20, Line 7 with the word "If" and ending on Page 20, Line 10.

Option 2. Following the word "effort" on Page 20, Line 9, delete the words "to contact the insured" and insert "", as defined in

regulations adopted by the director, to deliver notice"

§(e) provides that the Director has the authority to order an audit waived by an insurer under §(c). This would be done when the director believes an insurer is acting unfairly to an insured.

§(f) clarifies that a reason for cancellation will be given in all cases.

Section 37. (Page 20, Lines 16-29; Page 21, Lines 1-3)

The notice of nonrenewal is unchanged for personal insurance at 20 days. The notice of nonrenewal for business or commercial insurance is 45 days.

Section 38. (Page 21, Lines 4-13)

No substantive change.

Section 40. (Page 21, Line 1; Page 22, Lines 1-29;  
Page 23, Lines 1-27)

The definition of "business or commercial insurance" is new. The remainder of the changes in this Section are not substantive. The limit on cancellation will extend to vessels under 50 displacement tons which will cover most of Alaska's fishing fleet.

Section 45. (Page 30, Lines 13-15)

AS 21.36.210(c) is repealed as it is not needed.

AS 21.36.210(e) is repealed because it has been relocated in the definition of "personal insurance" on Page 23, Lines 1-16.

AS 21.36.230 is repealed as it is not needed.

AS 21.36.300 is repealed because it has been moved to Section 32.

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BROKER BOND

This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive. This is not a Division of Insurance proposal, but we have no objection to it.

Section 13. (Page 8, Lines 10-22)

The increased bond amount appears on Lines 16 and 18.

BROKER AS AGENT

Alaska currently licenses two kinds of insurance producer under AS 21.27, agent and broker. The agent represents an insurance company through appointment and contract. On the other hand, the broker represents the purchaser of insurance. It is typical for an insurance producer to hold both types of license. A purchaser of insurance usually does not know, under which license a producer is acting. Most insurance producers do try to balance the interests of the purchaser of coverage and the provider of coverage, and some do this quite well. Normally this is not an issue of concern, but when a producer becomes insolvent or has misused trust account monies, the issue can be very important.

If an agent collects premium funds for an insurer, the insurer is deemed to have received those funds whether they are sent to the insurer or not. When the insurer sends notice of cancellation for nonpayment of premium, the insured need only show his cancelled check and the coverage will be reinstated.

If a broker misappropriates premium funds, and does not pay them to the insurer or intermediary, and a notice is sent by the company which has not received payment, the coverages are generally not reinstated. The Division has had two major cases of this description and a number of smaller ones, where the public has been hurt. The resolution is to provide that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

An additional issue, is the need to have the producer collecting funds at the initiation of the transaction, clearly state that he is acting as a broker and coverages are not bound until confirmed by an insurer, or to return the funds to the purchaser of coverage.

Section 13. (Page 8, Lines 10-22)

This Section deals with the brokers' bond. One group of persons who could be adversely impacted with "agent as broker", is the wholesale broker or general agent who is in between the producing broker and the insurance company. It is possible that they might bear the financial brunt of this solution. Relief is offered by allowing them to access to the brokers' bond.

Section 15. (Page 8, Lines 27-29; Page 9, Line 1)

This Section makes clear the fact that the broker cannot bind an insurer.

Section 16. (Page 9, Lines 2-14)

This Section establishes the concept of "broker as agent for purposes of premium collection." (d) newly provides that a broker may not knowingly accept payment for coverage until that coverage is authorized by an insurer.

PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. To this end, we have aided in developing some clarifications to those sections of the insurance code.

Agents and brokers are required to receive insurance premium monies in a fiduciary capacity. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill.

The Division has need of tools that can be used to resolve fiduciary and financial difficulties at an earlier point in time. One tool is the ability to review financial summaries or detail, such as trial balance, income statement, journal detail, etc. in a Division of Insurance office for examination when requested. These documents would be confidential.

The clarifications addressed in this issue coupled with the Broker as Agent resolution should maximize protection to insurance purchasers.

Section 19. (Page 9, Lines 27-29; Page 10, Lines 1-9)

This is a new requirement specifically requiring an agent or broker to have accounting and financial records and to maintain them in accordance with generally accepted accounting principles. These records are available for review and are confidential when in the possession of the director.

Section 20. (Page 10, Lines 10-21)

§(b) contains the requirement for a premium fiduciary account. The change clarifies the fact that other funds can not be commingled with

it except as specifically permitted in Section 21.

Section 21. (Page 10, Lines 22-29; Page 11, Lines 1-10)

§(d) permits a limited commingling of nonpremium funds in the fiduciary account for specific premium related purposes. Accounting for nonpremium funds is required.

§(e) makes clear that the premium funds required to be in the fiduciary account can not be used or represented to be asset funds. Funds optionally permitted to be in the fiduciary account, such as reserve funds are an asset of the agent or broker.

§(f) introduces a definition for "fiduciary account."

PRO RATA ON CANCELLATIONS

There are two basic methods of computing return premium on a cancelled policy. In industry parlance, these are referred to as short rate and pro rata. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. The short rate method of computation is often a cause for complaint and in our view is no longer necessary. It was originally intended to reflect an expense of the insurer that was, for the most part, beyond the insurers' control. The Division has considered the elimination of short rate by regulation, but authority is vague.

Section 39. (Page 21, Lines 14-28)

This Section requires pro rata cancellation and effectively prohibits short rate cancellation.

Section 46. (Page 30, Lines 16-18)

This Section makes clear that this new requirement does not affect in-force contracts, thus sidestepping potential constitutional conflicts.

ALIEN TRUST DEPOSITS

This issue is considered the #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers wishing to business in Alaska. An alien insurer is one formed under the laws of a country other than the United States.

At the present time, AS 21.34.040(c) provides that an alien surplus lines insurer must maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required before June 20, 1985.

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Section 30. (Page 15, Lines 8-29; Page 16, Lines 1-12)

The language to accomplish the change noted above appears on Page 15, Lines 21-22. Other changes are not substantive.

Section 47. (Page 30, Lines 19-20)

This Section is an immediate effective date for Section 30 only.

NURSE COVERAGE

This proposal will add nurses to the list of health care professionals who can obtain professional liability insurance from the Medical Indemnity Corporation of Alaska which was formed under AS 21.88 in 1976. This is primarily a backup action since nurses have recently been able to put together a national program that appears to resolve their availability difficulties. The Division of Insurance has no objection to this proposal.

Section 42. (Page 24, Lines 6-29; Page 25, Lines 1-29;  
Page 26, Lines 1-27)

"Nurse" or "nurses", is added on Page 24, Lines 10, 13, 16, 24, 25, and 28; and on Page 26, Line 21.

RELOCATION OF DEFINITIONS

Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive, but merely represent relocation with one exception, the definition of "firm," which has been already discussed on Page 0-9, under Sections 10 and 43.

Section 43. (Page 26, Lines 28-29; Page 27, Lines 1-29;  
Page 28, Lines 1-29; Page 29, Lines 1-28)

§(1), "adjuster" on Page 27, Lines 1-8, was formerly AS 21.27.510(a).

§(2), "agent" on Page 27, Lines 9-13, was formerly AS 21.27.470.

§(5), "broker" on Page 27, Lines 20-27, was formerly AS 21.27.480.

§(11), "firm" on Page 28, Lines 8-11, is new. See discussion on Page 8.

§(13), "independent adjuster" on Page 28, Lines 15-16, was formerly AS 21.27.510(b).

§(20), "solicitor" on Page 29, Lines 14-17, was formerly AS 21.27.490.

Section 44. (Page 29, Line 29; Page 30, Lines 1-12)

This Section was formerly AS 21.27.520. No substantive change.

Section 45. (Page 30, Lines 13-15)

AS 21.27.470, AS 21.27.480, AS 21.27.490, AS 21.27.510, & AS 21.27.520 are repealed as discussed in Sections 43 and 44 above.

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

The present Insurance Code was adopted in 1966. At the time of adoption, there were a number of provisions intended to prevent disruption of, then, current activities. These provisions are no longer since some 20+ years have passed and the sections are obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

Section 45. (Page 30, Lines 13-15)

AS 21.03.030, AS 21.03.040, AS 21.03.050 and AS 21.06.040 are repealed.

5-0306X  
Ford  
4/7/87

Original sponsors: Navarre, Swackhammer  
and Sund

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 46 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST 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 21.09.250 is amended to read:

10 Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in  
11 this state may not make, write, place or cause to be made, written or  
12 placed in this state a policy, duplicate policy or contract of insur-  
13 ance of any kind or character, or general or floating policy upon  
14 persons or property resident, situated or located in this state, from  
15 or through a broker, agent, general agent, surplus line broker, or  
16 person who has not secured a license in this state. An insurer may  
17 not pay a commission or any form of remuneration to a person, firm, or  
18 organization for the writing or placing of insurance coverage in this  
19 state unless that person, firm, or organization holds a license issued  
20 by the director.

21 \* Sec. 2. AS 21.09.280 is amended to read:

22 Sec. 21.09.280. GENERAL AGENTS [AND MANAGERS]. (a) An insurer  
23 appointing a person as its general agent [OR MANAGER] to represent it  
24 in this state shall file notice of the appointment with the director  
25 on forms prescribed and furnished by the director.

26 (b) A general agent [OR MANAGER] has the authority, consistent  
27 with this title, that may be conferred by the insurer. A general  
28 agent, resident or nonresident, qualified in AS 21.27.090, licensed as  
29 provided in this section in the same manner as is provided for agents

1 in AS 21.27, may exercise the powers conferred by this title upon  
 2 agents licensed for the kinds of insurance that the general agent is  
 3 authorized to transact for the insurer appointing the agent.

4 (c) The [EXCEPT AS PROVIDED UNDER AS 21.27.500, THE] appointment  
 5 of a resident or nonresident general agent is not effective unless the  
 6 person appointed is licensed as the general agent of the insurer by  
 7 the director upon application and payment of a fee set under AS 21.-  
 8 06.250.

9 (d) Every license is subject to the payment of an annual fee set  
 10 under AS 21.06.250 and payable on or before [EXPIRES AT] the close of  
 11 business on the 30th day of June of each year [FOLLOWING THE DATE OF  
 12 ISSUE, AND MAY BE RENEWED FOR AN ADDITIONAL YEAR UPON APPLICATION AND  
 13 PAYMENT OF THE FEE].

14 (e) The director may deny, suspend, or revoke a license for any  
 15 cause specified in AS 21.27.410 in the manner provided in AS 21.27.-  
 16 420.

17 \* Sec. 3. AS 21.09.280 is amended by adding new subsections to read:

18 (f) Persons employed on salary by an insurer, including officers  
 19 and salaried employees performing the same services as general agents,  
 20 are considered to be service representatives and are not required to  
 21 be licensed.

22 (g) For purposes of this section, a person, firm, or corporation  
 23 that performs management services for an insurer is not considered a  
 24 general agent if

25 (1) the person, firm, or corporation is a wholly-owned  
 26 subsidiary of the insurer;

27 (2) the person, firm, or corporation wholly owns the insurer;  
 28 or

29 (3) the person, firm, or corporation is a wholly-owned

1 subsidiary of the insurance holding company that owns or controls the  
2 insurer.

3 \* Sec. 4. AS 21.27.020 is amended to read:

4 Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the  
5 protection of the people of this state, the director may not issue [OR  
6 RENEW] a license except in compliance with this chapter [, OR] to a  
7 person, or to be exercised by [,] a person, found by the director to  
8 be untrustworthy, incompetent, or who has not established to the  
9 satisfaction of the director that the person is qualified under [IN  
10 ACCORDANCE WITH] this chapter.

11 \* Sec. 5. AS 21.27.030(a) is amended to read:

12 (a) The director may not grant an agent, solicitor, or broker  
13 license to a person if the director has reasonable cause to believe  
14 that

15 [(1) DURING EITHER OF THE TWO CALENDAR YEARS IMMEDIATELY  
16 PRECEDING THE REQUEST FOR RENEWAL OF THE LICENSE THE AGGREGATE AMOUNT  
17 OF COMMISSIONS REPRESENTED BY THE CONTROLLED BUSINESS PROCURED BY OR  
18 THROUGH THE LICENSEE EXCEEDED THE AGGREGATE AMOUNT OF COMMISSIONS  
19 REPRESENTED BY ALL OTHER INSURANCE BUSINESS PROCURED BY OR THROUGH THE  
20 LICENSEE; OR

21 (2)] the circumstances of the applicant for the license [OR  
22 OF A LICENSEE] are such [AS TO CAUSE THE DIRECTOR REASONABLY TO  
23 BELIEVE] that during the 12-month period immediately following issu-  
24 ance [OR RENEWAL] of the license, if issued [OR RENEWED], the aggre-  
25 gate amount of commissions to be represented by the controlled busi-  
26 ness would exceed the aggregate amount of commissions to be repre-  
27 sented by all other insurance business to be procured by or through  
28 the applicant [OR LICENSEE].

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

1 (d) The director may revoke an agent, solicitor, or broker  
2 license if the director has reasonable cause to believe that during  
3 either of the two preceding calendar years the aggregate amount of  
4 commissions represented by the controlled business procured by or  
5 through the licensee exceeded the aggregate amount of commissions  
6 represented by all other insurance business procured by or through the  
7 licensee.

8 \* Sec. 7. AS 21.27.060 is amended to read:

9 Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) Each applicant  
10 for an individual license as agent, broker, solicitor, or adjuster  
11 shall, before the issuance of the license, personally take and pass,  
12 to the satisfaction of the director, an examination given by the  
13 director as a test of the qualifications and competence of the appli-  
14 cant. This requirement does not apply to

15 (1) applicants for limited licenses, as travel insurance  
16 agents only, under AS 21.27.150, or, at the discretion of the direc-  
17 tor, to applicants for licenses as disability insurance agents for the  
18 purpose of handling limited coverages pertaining to sports and recre-  
19 ation;

20 (2) applicants who at any time within the five-year period  
21 immediately preceding the date of application have been licensed in  
22 this state under a license requiring qualifications required by the  
23 license applied for and who are considered by the director to be fully  
24 qualified and competent;

25 (3) applicants for license as nonresident agent or as  
26 nonresident broker who have fulfilled qualification requirements in  
27 their state or province of residence and who are considered by the  
28 director to be fully qualified and competent;

29 (4) applicants for an agent or solicitor license covering

1 the same kinds of insurance as an agent's or solicitor's license then  
2 held by them.

3 (b) The director may at any time require an individual [A]  
4 licensed as an agent, broker, solicitor, or adjuster to take and  
5 successfully pass an examination testing competence and qualifications  
6 as a condition to the continuance [OR RENEWAL] of the license if the  
7 licensee has been guilty of violation of this title, or has so con-  
8 ducted affairs under the license as to cause the director reasonably  
9 to desire further evidence of the qualifications of the licensee.

10 \* Sec. 8. AS 21.27.090(a) is amended to read:

11 (a) To qualify for an individual agent or broker license an  
12 applicant shall comply with this title and

13 (1) be 19 years of age or over [, IF AN INDIVIDUAL];

14 (2) if for a resident agent's or broker's license, be a  
15 bona fide resident before issuance of license [,] and actually reside  
16 in the state [RESIDING IN ALASKA, OR IF A CORPORATION, BE OTHER THAN  
17 AN INSURER AND MAINTAIN A LAWFULLY ESTABLISHED PLACE OF BUSINESS IN  
18 THIS STATE, EXCEPT AS PROVIDED IN AS 21.27.270];

19 (3) [BE EMPOWERED TO BE AN AGENT OR BROKER, AS THE CASE MAY  
20 BE, UNDER ITS MEMBERS' AGREEMENT, IF A FIRM, OR BY ITS ARTICLES OF  
21 INCORPORATION, IF A CORPORATION;

22 (4)] successfully pass any examination required under  
23 AS 21.27.060;

24 (4) [(5)] be a trustworthy person;

25 (5) [(6)] not use or intend to use [OR USE] the license for  
26 the purpose principally of writing controlled business, as defined in  
27 AS 21.27.030;

28 (6) [(7)] if for an agent license, be appointed as its  
29 agent by one or more authorized insurers, subject to issuance of the

1 license, except that an individual acting on behalf of a firm is not  
2 required to have an appointment as an agent for that activity;

3       (7) [(8)] if for broker license, have had experience either  
4 as an agent, solicitor, adjuster, general agent, broker, or as an  
5 employee of insurers or representatives of insurers, or special educa-  
6 tion or training of sufficient duration and extent reasonably to  
7 satisfy the director that the applicant possesses the competence  
8 necessary to fulfill the responsibilities of broker.

9 \* Sec. 9. AS 21.27.090 is amended by adding a new subsection to read:

10       (c) To qualify for a firm agent or broker license an applicant  
11 shall comply with this title and

12               (1) comply with (a)(5) and (6) of this section;

13               (2) if a corporation, maintain a lawfully established place  
14 of business in this state, except as provided in AS 21.27.270.

15 \* Sec. 10. AS 21.27.130 is amended to read:

16       Sec. 21.27.130. CONTENT OF AGENT, BROKER, SOLICITOR LICENSES.  
17 Agent, solicitor, and broker licenses must [SHALL] be in the form the  
18 director prescribes, and must [SHALL] set out

19               (1) the name and address of the licensee, or if the lic-  
20 ensee is required to have a place of business, the address of the  
21 place of business;

22               (2) if the agent or broker is a firm [OR CORPORATION], the  
23 name of the principal or manager of the firm holding an individual  
24 license as required by AS 21.27.140 [EACH INDIVIDUAL AUTHORIZED TO  
25 EXERCISE THE POWERS CONFERRED BY THE LICENSE];

26               (3) the kind or kinds of insurance the licensee is [THERE-  
27 BY] licensed to handle;

28               (4) if a solicitor's license, the name and address of the  
29 agent or broker represented by the solicitor;

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

2 (6) the date of issuance [AND DATE OF EXPIRATION] of the  
3 license.

4 \* Sec. 11. AS 21.27.140 is amended to read:

5 Sec. 21.27.140. LICENSES TO FIRMS [AND CORPORATIONS]. A firm  
6 shall have a firm license of the same degree as each individual li-  
7 icensee acting on behalf of the firm. A firm [OR CORPORATION] may not  
8 be licensed as an adjuster, agent, or broker unless each individual  
9 acting as or representing to be an adjuster, agent, or broker on  
10 behalf of the firm is licensed as an individual, and the principal or  
11 manager of the firm is licensed as an individual to exercise all the  
12 powers conferred by the firm's license. If the licensee knows of and  
13 consents to an act or representation on behalf of the firm by an  
14 individual who is not licensed as required by this chapter, that act  
15 or representation [TO BE EMPOWERED AND DESIGNATED IN THE LICENSE TO  
16 EXERCISE THE POWERS CONFERRED BY THE LICENSE IS QUALIFIED AS THOUGH  
17 THE INDIVIDUAL WERE THE SOLE INDIVIDUAL TO BE SO EMPOWERED, EXCEPT  
18 THAT A FIRM OR CORPORATION LICENSED FOR ALL LINES MAY EMPOWER AND  
19 DESIGNATE ANY INDIVIDUAL, OTHER THAN THE PRINCIPAL OR MANAGER, LI-  
20 CENSED FOR ONLY PROPERTY-CASUALTY OR LIFE-DISABILITY TO EXERCISE THE  
21 POWERS CONFERRED BY THE LICENSE TO THE EXTENT THAT INDIVIDUAL IS  
22 QUALIFIED TO ACT. EXERCISE OR ATTEMPTED EXERCISE OF THE POWERS BY AN  
23 INDIVIDUAL NOT SO DESIGNATED, WITH THE KNOWLEDGE OR CONSENT OF THE  
24 LICENSEE,] is cause for the revocation or suspension of the firm  
25 license.

26 \* Sec. 12. AS 21.27.170(b) is amended to read:

27 (b) The director shall issue to the agent a special vending  
28 machine license for each machine to be used. The license must [SHALL]  
29 specify the name and address of the insurer and agent, the name of the

1 policy to be sold, the serial number of the machine, and the place  
2 where the machine is to be in operation. The license is [SHALL BE]  
3 subject to [ANNUAL CONTINUATION, TO EXPIRATION,] suspension or revoca-  
4 tion coincidentally with that of the agent. The director shall also  
5 revoke the license on a machine if the director finds that the condi-  
6 tions upon which the machine was licensed, under [AS REFERRED TO IN]  
7 (a) of this section, no longer exist. Proof of the existence of a  
8 [SUBSISTING] license shall be displayed on or about each vending  
9 machine in use in the manner the director may reasonably require.

10 \* Sec. 13. AS 21.27.190(a) is amended to read:

11 (a) Each applicant for a broker license [OR FOR THE RENEWAL OF A  
12 BROKER LICENSE EXISTING ON JULY 1, 1966,] shall file with the applica-  
13 tion [OR REQUEST FOR RENEWAL] and shall after that [THEREAFTER] main-  
14 tain in force while [SO] licensed a bond in favor of the people of the  
15 state, executed by an authorized corporate surety approved by the  
16 director, in the amount of \$10,000 [\$5,000]. The bond may be continu-  
17 ous in form, and total aggregate liability on the bond may be limited  
18 to the payment of \$10,000 [\$5,000]. The bond must [SHALL] be contin-  
19 gent on the accounting by the broker, to a [ANY] person requesting the  
20 broker to obtain insurance or to a person from whom the broker obtains  
21 insurance, for money or premiums collected in connection with the  
22 insurance [THEREWITH].

23 \* Sec. 14. AS 21.27.190 is amended by adding a new subsection to read:

24 (c) An individual who acts on behalf of a firm that files and  
25 maintains in force the bond described in (a) of this section is exempt  
26 from the requirements of (a) of this section.

27 \* Sec. 15. AS 21.27.200(f) is repealed and reenacted to read:

28 (a) A broker is not an agent or other representative of an  
29 insurer and does not have power as a broker to bind the insurer

1 regarding a risk or an insurance contract.

2 \* Sec. 16. AS 21.27.200 is amended by adding new subsections to read:

3 (c) In determining an insured's entitlement to coverage or  
4 return premium, a premium payment made to a broker shall be considered  
5 received by the insurer if

6 (1) the payment was, at the time it was made, designated  
7 for specific coverage; and

8 (2) the insurer accepted or acknowledged coverage by issu-  
9 ing a policy, binder, or other contract for temporary insurance.

10 (d) A broker may not knowingly accept payment for coverage until  
11 coverage is authorized by an insurer.

12 (e) Except as provided under (c) of this section, this section  
13 is not intended to alter the common law of agency as applied to trans-  
14 actions under this title.

15 \* Sec. 17. AS 21.27.240(a) is amended to read:

16 (a) An agent or broker who employs a solicitor shall pay the  
17 [THE] fee for issuance or annual fee for continuation [RENEWAL] of a  
18 solicitor license [SHALL BE PAID BY THE AGENT OR BROKER BY WHOM THE  
19 SOLICITOR IS EMPLOYED].

20 \* Sec. 18. AS 21.27.300 is amended to read:

21 Sec. 21.27.300. CONTENTS OF LICENSE. The director shall pre-  
22 scribe the form of adjuster license, which must contain

23 (1) the name and business address of the adjuster;

24 (2) date of issuance [AND DATE OF EXPIRATION] of the li-  
25 cense;

26 (3) other statements proper to the purposes of the license.

27 \* Sec. 19. AS 21.27.350 is amended by adding a new subsection to read:

28 (c) In addition to the record required under (a) of this sec-  
29 tion, each agent or broker shall have and maintain at the agent's or

1 broker's principal place of business current accounting and financial  
2 records maintained in accordance with generally accepted accounting  
3 principles. The director may request summary or detailed copies for  
4 examination by the division. Records examined under this subsection  
5 are confidential when in the possession of the division, but may be  
6 used by the director in a proceeding against the licensee. For pur-  
7 poses of this subsection, the records of a firm shall be considered  
8 the records of an individual agent or broker acting on behalf of the  
9 firm.

10 \* Sec. 20. AS 21.27.360(b) is amended to read:

11 (b) All funds, except those made payable to the insurer, repre-  
12 senting premiums or return premiums received by an agent or broker,  
13 shall be received in the fiduciary account of the agent or broker, and  
14 shall be deposited in a bank account or depository separate from any  
15 other account or depository, and shall be promptly accounted for and  
16 paid to the insured, insurer, or agent entitled to the funds. For  
17 purposes of this subsection, the fiduciary account of the firm shall  
18 be considered the fiduciary account of an individual agent or broker  
19 acting on behalf of the firm. Funds deposited into a fiduciary  
20 account may not be commingled or otherwise combined with other funds,  
21 except as allowed under (d) of this section.

22 \* Sec. 21. AS 21.27.360 is amended by adding new subsections to read:

23 (d) An agent or broker may commingle with premium funds, addi-  
24 tional funds for the purpose of advancing premiums, establishing  
25 reserves for the payment of return premiums, or reserves for receiving  
26 and transmitting premium or return premium funds. Funds collected for  
27 the payment of premium taxes, policy or filing fees, late payment  
28 charges, and interest from fiduciary funds on deposit, may be com-  
29 mingled in a fiduciary account, but shall be separately accounted for

1 and periodically removed from the fiduciary account.

2 (e) An agent or broker may not treat funds required to be in a  
3 fiduciary account as a personal asset, as collateral for a personal or  
4 business loan, or as a personal asset or income on a financial state-  
5 ment, except that funds in a fiduciary account may be included in a  
6 financial statement of the agent or broker if clearly identified as  
7 fiduciary account assets.

8 (f) In this section, "fiduciary account" means an account in  
9 which the agent or broker holds funds as a trustee for the insured,  
10 insurer, or agent entitled to the funds.

11 \* Sec. 22. AS 21.27.380 is repealed and reenacted to read:

12 Sec. 21.27.380. ANNUAL FEE FOR LICENSES. (a) An annual fee set  
13 under AS 21.06.250 for resident and nonresident agent, solicitor, and  
14 adjuster licenses is due on or before the close of business on the  
15 30th day of June.

16 (b) An annual fee set under AS 21.06.250 for resident and non-  
17 resident broker licenses is due on or before the close of business on  
18 the 31st day of December.

19 (c) An agent or broker shall file the annual fee set under  
20 AS 21.06.250 on behalf of a solicitor employed by the agent or broker.

21 (d) If payment of the annual license fee is not received by the  
22 director before the due date as required under this section, the  
23 licensee shall pay to the director and the director shall collect, in  
24 addition to the regular fee, a surcharge as established by regulation  
25 under AS 21.06.250. This subsection may not be considered to exempt a  
26 person from a penalty provided by law for transacting business without  
27 a valid license.

28 \* Sec. 23. AS 21.27.390(a) is amended to read:

29 (a) The director may adopt regulations regarding the issuance of

1 an agent or broker temporary license to

2 (1) the surviving spouse or next of kin or to the adminis-  
3 trator or executor of a deceased licensed agent or broker;

4 (2) the spouse, next of kin, employee, or legal guardian of  
5 a licensed agent or broker who is disabled because of sickness, insan-  
6 ity, or injury;

7 (3) a surviving member, [OF A FIRM OR SURVIVING] officer,  
8 or employee of a firm [CORPORATION] licensed as agent or broker, upon  
9 the death of the principal or manager of the firm holding the same  
10 licenses as the firm [AN INDIVIDUAL DESIGNATED IN THE FIRM OR CORPO-  
11 RATION'S LICENSE TO EXERCISE POWERS THEREUNDER];

12 (4) the designee of a licensed agent who enters active  
13 service in the armed forces of the United States;

14 (5) a person preparing for examination for permanent li-  
15 cense under the supervision of an authorized insurer.

16 \* Sec. 24. AS 21.27.410(a) is amended to read:

17 (a) The director may refuse to issue a license or may suspend or  
18 [,] revoke [, OR REFUSE TO RENEW] a license issued under this chapter  
19 or a surplus line broker license, or may refuse to renew a surplus  
20 line broker license, for a cause specified in another [ANY OTHER]  
21 provision of this title, or for any of the following causes:

22 (1) for a [ANY] cause for which issuance of the license  
23 could have been refused had it then existed and been known to the  
24 director;

25 (2) if the licensee or applicant wilfully violates or  
26 knowingly participates in the violation of a provision of this title;

27 (3) if the licensee or applicant has obtained or attempted  
28 to obtain the license through wilful misrepresentation or fraud, or  
29 has failed to pass an [ANY] examination required under this chapter;

1 (4) if the licensee or applicant has misappropriated or  
2 converted to personal use or has illegally withheld money required to  
3 be held in a fiduciary capacity;

4 (5) if the licensee or applicant has, with intent to de-  
5 ceive, materially misrepresented the terms or effect of an insurance  
6 contract; or has engaged or is about to engage in a fraudulent trans-  
7 action;

8 (6) if the licensee or applicant has been guilty of "twist-  
9 ing," under AS 21.36.050, or of rebating, under AS 21.36.100;

10 (7) if the licensee or applicant has been convicted, by  
11 final judgment, of a felony;

12 (8) if in the conduct of affairs under the license, the  
13 licensee exhibits conduct considered by the director to reflect incom-  
14 petence, untrustworthiness, or a source of injury and loss to the  
15 public;

16 (9) if the licensee or applicant has dealt with, or at-  
17 tempted to deal with, insurances or to exercise powers relative to  
18 insurance outside the scope of the licenses of the licensee or appli-  
19 cant.

20 \* Sec. 25. AS 21.27.410(b) is amended to read:

21 (b) The license of a firm [OR CORPORATION] may be suspended,  
22 revoked, or refused for any of the causes that [WHICH] relate to a  
23 [ANY] person acting on behalf of the firm [DESIGNATED IN THE LICENSE  
24 TO EXERCISE ITS POWERS].

25 \* Sec. 26. AS 21.27.420 is amended to read:

26 Sec. 21.27.420. PROCEDURE FOR SUSPENDING OR [,] REVOKING [OR  
27 REFUSING TO RENEW] A LICENSE. The director may suspend or [,] revoke  
28 [, OR REFUSE TO RENEW] a license

29 [(1) BY ORDER GIVEN TO THE LICENSEE NOT LESS THAN 15 DAYS

1 BEFORE THE EFFECTIVE DATE OF THE LICENSE, SUBJECT TO THE RIGHT OF THE  
2 LICENSEE TO HAVE A HEARING AS PROVIDED IN AS 21.06.180(b); PENDING A  
3 HEARING THE LICENSE SHALL BE SUSPENDED; OR

4 (2)] by an order on hearing made as provided in AS 21.06.-  
5 220 effective 10 days after the date of the giving of the order,  
6 subject to the right of the licensee to appeal to the superior court  
7 as provided in AS 21.06.230.

8 \* Sec. 27. AS 21.27.440 is amended to read:

9 Sec. 21.27.440. CIVIL PENALTIES MAY BE IMPOSED. After hearing  
10 and in addition to or in lieu of the suspension or [,] revocation of  
11 [, OR REFUSAL TO RENEW] a license, the director may levy a civil  
12 penalty upon the licensee not to exceed \$2,500. The order levying the  
13 civil penalty must [SHALL] specify the period within which the civil  
14 penalty shall be fully paid. The [, WHICH] period may not be less  
15 than 15 or more than 30 days after [FROM] the date of the order. Upon  
16 failure to pay the civil penalty when due, the director shall revoke  
17 the licenses of the licensee if not already revoked. A [THE] civil  
18 penalty collected [SHALL BE PAID] by the director shall be paid to the  
19 commissioner of revenue for deposit in the general fund.

20 \* Sec. 28. AS 21.27.450 is amended to read:

21 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE.  
22 Upon the hearing of an appeal from an order suspending or [,] revoking  
23 [, OR REFUSING TO RENEW] a license issued under this chapter, the  
24 court, if it finds that the licensee is guilty of violation of the law  
25 and if it considers the suspension or [,] revocation [, OR REFUSAL TO  
26 RENEW THE LICENSE] too severe a penalty under the facts as found, may  
27 instead impose a fine of not more than \$2,500. Payment of the fine  
28 within 10 days after its imposition reinstates or restores [SHALL  
29 REINSTATE, RESTORE, OR RENEW] the license.

1 \* Sec. 29. AS 21.27.460(a) is amended to read:

2 (a) Each license issued under this chapter, although issued and  
3 delivered to the licensee agent, broker, solicitor, or adjuster, is  
4 the property of the state. Upon the [EXPIRATION,] termination, sus-  
5 pension, or revocation of the license, the licensee or other person  
6 having possession or custody of the license shall immediately deliver  
7 it to the director either by personal delivery or by mail.

8 \* Sec. 30. AS 21.34.040(c) is amended to read:

9 (c) A nonadmitted insurer may be eligible to provide coverage in  
10 this state if it qualifies under one of the following:

11 (1) a foreign but nonalien insurer may qualify under this  
12 subsection if it has a minimum capital and surplus equal to that  
13 required in its domiciliary jurisdiction, or [,] \$1,500,000 on Septem-  
14 ber 18, 1984, [AND] \$2,500,000 on June 20, 1985, [AND] \$3,500,000 [,]  
15 on June 20, 1986, and \$5,000,000 on June 20, 1987, whichever is great-  
16 er;

17 (2) an alien insurer may qualify under this subsection if  
18 it meets the minimum capital and surplus requirements in (1) of this  
19 subsection and maintains in the United States an irrevocable trust  
20 fund in either a national bank or a member of the Federal Reserve  
21 system, in an amount not less than \$1,500,000 [THAT REQUIRED AS MINI-  
22 MUM CAPITAL AND SURPLUS IN (1) OF THIS SUBSECTION], for the protection  
23 of all its policyholders in the United States; the trust fund must  
24 [SHALL] consist of instruments of substantially the same character and  
25 quality as those that are eligible investments for the capital and  
26 statutory reserves of admitted insurers authorized to write like kinds  
27 of insurance in this state or of irrevocable letters of credit; the  
28 trust fund must [FUNDS SHALL] have an expiry date that at no time is  
29 less than five years;

1 (3) a Lloyd's or other similar unincorporated group of  
2 alien individual insurers may qualify if it maintains a trust fund of  
3 not less than \$50,000,000 as security to the full amount, for all  
4 policyholders and creditors in the United States, of each member of  
5 the group:

6 (4) an "insurance exchange" created by the laws of indi-  
7 vidual states may qualify if it maintains capital and surplus, or the  
8 substantial equivalent, of not less than \$15,000,000 in the aggregate;  
9 in the event the insurance exchange does not maintain funds for the  
10 protection of all its policyholders, each individual syndicate shall  
11 meet the minimum capital and surplus requirements of (1) of this  
12 subsection.

13 \* Sec. 31. AS 21.36.210(a) is amended to read:

14 (a) An insurer may not exercise its right to cancel a policy of  
15 personal [AN] automobile insurance [POLICY] except for the following  
16 reasons:

17 (1) nonpayment of premium; or

18 (2) the driver's license or motor vehicle registration of  
19 either the named insured or of an operator who resides in the same  
20 household as the named insured or who customarily operates a motor  
21 vehicle insured under the policy has been under suspension or revoca-  
22 tion during the policy period or, if the policy is a renewal, during  
23 its policy period or the 180 days immediately preceding its effective  
24 date.

25 \* Sec. 32. AS 21.36.210(d) is amended to read:

26 (d) This section does not apply to

27 (1) the failure to renew a policy, except as to coverage in  
28 force for less than 12 months;

29 (2) a policy that has been in effect less than 60 days at

1 the time notice of cancellation is mailed or delivered by the insurer,  
2 unless it is a renewal policy.

3 \* Sec. 33. AS 21.36.210(f) is amended to read:

4 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not  
5 exercise its right to cancel a policy of personal insurance other than  
6 personal automobile insurance, except for the following reasons [THE  
7 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING CON-  
8 DITIONS OR CIRCUMSTANCES ARISES]:

9 (1) nonpayment of premiums, including nonpayment of addi-  
10 tional premiums, calculated in accordance with the current rating  
11 manual of the insurer, justified by a physical change in the insured  
12 property or a change in its occupancy or use;

13 (2) conviction of the insured of a crime having as one of  
14 its necessary elements an act increasing a hazard insured against;

15 (3) discovery of fraud or material misrepresentation made  
16 by the insured or a representative of the insured in obtaining the  
17 insurance or by the insured in pursuing a claim under the policy;

18 (4) discovery of a grossly negligent act or omission by the  
19 insured that substantially increases the hazards insured against; or

20 (5) physical changes in the insured property that result in  
21 the property becoming uninsurable.

22 \* Sec. 34. AS 21.36 is amended by adding a new section to read:

23 Sec. 21.36.215. LIMITS ON THE CANCELLATION OF BUSINESS OR COM-  
24 Mercial INSURANCE POLICIES. (a) Except as allowed by the director  
25 under (b) of this section, an insurer may exercise its right to cancel  
26 a policy of business or commercial insurance only for the following  
27 reasons:

28 (1) nonpayment of premiums, including nonpayment of addi-  
29 tional premiums, calculated in accordance with the current rating

1 manual of the insurer, justified by a physical change in the insured  
2 property or a change in its occupancy or use;

3 (2) conviction of the insured of a crime having as one of  
4 its necessary elements an act increasing a hazard insured against;

5 (3) discovery of fraud or material misrepresentation made  
6 by the insured or a representative of the insured in obtaining the  
7 insurance or by the insured in pursuing a claim under the policy;

8 (4) discovery of a grossly negligent act or omission by the  
9 insured that substantially increases the hazards insured against;

10 (5) physical changes in the insured property that result in  
11 the property becoming uninsurable; or

12 (6) physical changes in the operations of the insured that  
13 result in the property becoming uninsurable.

14 (b) Before issuing a notice of cancellation, an insurer may  
15 request the director to determine in a particular case or cases whe-  
16 ther a reason for cancellation not specified in (a) of this section is  
17 a valid reason for cancellation. The director may allow the insurer  
18 to exercise its right to cancel if the director finds that the cancel-  
19 lation is justified. The insurer may not implement the requested can-  
20 cellation before receiving the approval of the director.

21 \* Sec. 35. AS 21.36.220 is amended to read:

22 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not  
23 exercise its right to cancel a personal insurance policy unless a  
24 written notice of cancellation is mailed or delivered to the named  
25 insured, at the address shown in the policy, at least 60 [20] days  
26 before the effective date of cancellation. However, if [, EXCEPT THAT  
27 WHEN] cancellation is for nonpayment of premium, the notice shall be  
28 mailed or delivered to the named insured at the address shown in the  
29 policy at least 20 [10] days before the effective date of

1           cancellation. If cancellation is for a reason described in  
2 AS 21.36.210(a)(2) or (f)(2) or (3), the notice shall be mailed or  
3 delivered to the named insured at the address shown in the policy at  
4 least 10 days before the effective date of cancellation (AND SHALL  
5 INCLUDE OR BE ACCOMPANIED BY A STATEMENT OF THE REASON FOR THE  
6 CANCELLATION. THIS SECTION DOES NOT APPLY TO THE FAILURE TO RENEW A  
7 POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS THAN 12 MONTHS).

8 \* Sec. 36. AS 21.36.220 is amended by adding new subsections to read:

9           (b) An insurer may not exercise its right to cancel a policy of  
10 business or commercial insurance unless a written notice of cancella-  
11 tion is mailed or delivered to the named insured, at the address shown  
12 in the policy, and to the agent or broker of record, at least 60 days  
13 before the effective date of cancellation. However, if cancellation  
14 is for nonpayment of premium, the notice shall be mailed or delivered  
15 to the named insured at the address shown in the policy and to the  
16 agent or broker of record at least 20 days before the effective date  
17 of cancellation. If cancellation is for a reason described in  
18 AS 21.36.215(a)(2) or (3), the notice shall be mailed or delivered to  
19 the named insured at the address shown in the policy and to the agent  
20 or broker of record at least 10 days before the effective date of  
21 cancellation.

22           (c) If an insurer cancels a policy under (b) of this section, it  
23 shall return or credit any unearned premium to the agent or broker of  
24 record or directly to the insured or premium finance company, if  
25 applicable, before the effective date of cancellation, except that

26           (1) if cancellation is for nonpayment of premium, any  
27 unearned premium shall be returned or credited within 45 days after  
28 the notice of cancellation is given;

29           (2) if the policy is cancelled for other than nonpayment of

1 premium and is subject to audit, the insurer shall perform or waive  
2 the audit before the effective date of the cancellation and return or  
3 credit any estimated unearned premium before the effective date of  
4 cancellation.

5 (d) An insurer who mails a notice of cancellation required under  
6 this section shall mail the notice by certified mail and shall request  
7 a return receipt that indicates the notice has been delivered. If a  
8 notice of cancellation is returned undelivered to the insurer, the  
9 insurer shall make an additional good faith effort to contact the  
10 insured.

11 (e) The division may require an insurer to perform an audit that  
12 the insurer has elected to waive under (c) of this section.

13 (f) A notice of cancellation of insurance required to be given  
14 under this section must include or be accompanied by a statement of  
15 the reason for the cancellation.

16 \* Sec. 37. AS 21.36.240 is amended to read:

17 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to  
18 renew a personal insurance policy in force for less than 12 months.  
19 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR  
20 MORE] unless a written notice of nonrenewal is mailed or delivered to  
21 the named insured, at the address shown in the policy, at least 20  
22 days for a personal insurance policy, and at least 45 days for a  
23 business or commercial insurance policy, before the expiration date of  
24 the policy [,] or of the anniversary date of a policy written for a  
25 term longer than one year or with no fixed expiration date. This  
26 section does not apply

27 (1) if the insurer has in good faith manifested [IN ANY  
28 WAY] its willingness to renew;

29 (2) in case of nonpayment of premium for the expiring

1 policy; or

2 (3) if the insured fails to pay the premium as required by  
3 the insurer for renewal.

4 \* Sec. 38. AS 21.36.250 is amended to read:

5 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-  
6 bile liability insurance is cancelled, other than for nonpayment of  
7 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A  
8 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-  
9 PLIES], the insurer shall notify the named insured of possible eligi-  
10 bility for automobile insurance through the automobile assigned risk  
11 plan, or automobile insurance plan. The notification must [SHALL]  
12 accompany or be included in the notice of cancellation or nonrenewal  
13 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

14 \* Sec. 39. AS 21.36 is amended by adding a new section to read:

15 Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is  
16 cancelled, rejected, or rescinded by the insurer or the insured, the  
17 insurer shall refund the unearned premium paid to the insured. The  
18 insurer may not provide a penalty for midterm cancellation of a policy  
19 by the insured or by the insurer and the premium charged may not be  
20 more than that provided by the rating plan of the insurer for that  
21 coverage.

22 (b) Notwithstanding (a) of this section, if the insurer clearly  
23 indicates one or more of the following features in the policy, an  
24 insurer may issue a policy

25 (1) whose premium is earned at a varying rate due to  
26 seasonality of exposure;

27 (2) that contains a minimum earned premium; or

28 (3) with a fluctuating premium base.

29 \* Sec. 40. AS 21.36.310 is amended to read:

1           Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

2           (1) "business or commercial insurance" means insurance  
3 other than personal insurance, life insurance, disability insurance,  
4 fidelity and surety insurance, title insurance, wet marine and trans-  
5 portation insurance as defined in AS 21.34.900, or an annuity con-  
6 tract;

7           (2) "nonpayment of premium" means failure of the named  
8 insured to discharge when due any obligations of the named insured in  
9 connection with the payment of premium on a policy, or any installment  
10 of the premium, whether the premium is payable directly to the insurer  
11 or its agent or indirectly under any premium finance plan or extension  
12 of credit;

13           (3) "personal automobile insurance" means insurance not  
14 related to business or commercial activities, covering [(2) "POLICY"  
15 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN  
16 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile  
17 liability, uninsured or underinsured motorists [COVERAGE, UNINSURED  
18 MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automo-  
19 bile physical damage [COVERAGE], that is delivered or issued for  
20 delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL  
21 OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which  
22 the insured vehicles are of the following types only:

23           (A) a motor vehicle of the private passenger or sta-  
24 tion wagon type that is not used as a public or livery convey-  
25 ance, nor rented to others; or

26           (B) any other four-wheel motor vehicle with a load  
27 capacity of 1,500 pounds or less that is not used in the occupa-  
28 tion, profession, or business of the insured, nor used as a  
29 public or livery conveyance, nor rented to others;

1                   (4) "personal insurance"

2                   (A) means personal automobile insurance, or insurance  
3 covering

4                   (i) loss of or damage to real property that is  
5 used predominantly for residential purposes and that does  
6 not consist of more than four dwelling units;

7                   (ii) loss of or damage to personal property,  
8 including personal effects, household furniture, fixtures  
9 and equipment located in not more than four dwelling units;

10 or

11                   (iii) legal liability of natural persons for loss  
12 of, damage to, or injury to persons or property if the in-  
13 surance does not cover liability arising from or in con-  
14 nection with business or commercial activities;

15                   (B) does not include an annuity contract or a policy  
16 of life insurance, disability insurance, or title insurance;

17                   (5) [(3)] "renewal" or "renew" means

18                   (A) the issuance and delivery [BY AN INSURER] of an  
19 insurance [A] policy [REPLACING] at the end of the policy period,  
20 that replaces a policy previously issued and delivered by the  
21 same insurer; [,]

22                   (B) the issuance and delivery of a certificate or  
23 notice extending the term of a policy beyond its policy period or  
24 term; [,] or

25                   (C) the extension of the term of a policy beyond its  
26 policy period or term under a provision for extending the policy  
27 by payment of a continuation premium.

28 \* Sec. 41. AS 21.84.430(c) is amended to read:

29 (c) The director may refuse to issue or may suspend or revoke

1 [RENEW] an insurance agent's license if, in the judgment of the direc-  
2 tor, the proposed licensee is not trustworthy and competent to act as  
3 agent, or has given cause for revocation or suspension of the license,  
4 or has failed to comply with a prerequisite for the issuance [OR  
5 RENEWAL, AS THE CASE MAY BE,] of the license.

6 \* Sec. 42. AS 21.88.050 is amended to read:

7 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The  
8 corporation shall

9 (1) in the form approved by the director, issue to all  
10 physicians, nurses, and hospitals who are found to be acceptable risks  
11 under standards developed under (5) of this subsection, and who pay  
12 the premiums for it, a contract or contracts indemnifying physicians,  
13 nurses, and hospitals and their employees who are health care provid-  
14 ers against loss by reason of liability for covered claims for an act  
15 or omission in the delivery of professional health care in this state,  
16 and agreeing to tender on behalf of the physicians, nurses, and hos-  
17 pitals and their employees who are health care providers a defense to  
18 a covered claim in a proceeding brought under AS 09.55.530 - 09.55.-  
19 560; the limits of liability for policies issued by the corporation  
20 shall be approved by the director; the contract shall cover the de-  
21 fense against but need not indemnify liability for punitive damages  
22 arising from a covered claim; at the option of the corporation, if  
23 approved by the director, and for an additional premium the contract  
24 may cover claims against the physician, nurse, or hospital that arise  
25 out of professional services performed by the physician, nurse, or  
26 hospital for any period before the contract is issued, except that  
27 coverage will not be provided for a claim already filed or that [OF  
28 WHICH] the physician, nurse, or hospital had or reasonably should have  
29 had notice at the time the retroactive insurance was purchased;

1 (2) charge a premium for the protection provided by the  
2 contracts issued by the corporation which shall be determined by the  
3 board of governors in accordance with AS 21.88.080 and subject to the  
4 approval of the director;

5 (3) comply with or be subject to AS 21.06.090, 21.06.120,  
6 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,  
7 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and  
8 AS 21.36; and shall be exempt from participation as a member insurer  
9 in the Alaska Insurance Guaranty Corporation;

10 (4) carry out the obligations of the contracts issued by  
11 the corporation by defending all covered claim made against insured  
12 health care providers and by paying all liabilities that [WHICH] are  
13 finally adjudicated against the insured health care provider or that  
14 [WHICH] may in the opinion of the corporation reasonably be expected  
15 to be finally adjudicated against the health care provider to the  
16 extent of the contract obligation;

17 (5) establish standards for the acceptability of risks; in  
18 establishing these standards the corporation may exclude an applicant  
19 for insurance based on individual risk selection factors, but may not  
20 exclude an applicant based only on the classification of the appli-  
21 cant.

22 (b) The corporation may

23 (1) employ or retain persons, individual or corporate, to  
24 discharge its obligations and pay reasonable compensation for these  
25 services; employees of the corporation are not considered state em-  
26 ployees;

27 (2) negotiate for and procure reinsurance from private  
28 casualty insurers or reinsurers for any and all liability incurred by  
29 contracts issued by it;

1 (3) provide coverage to insureds for other hazards custom-  
2 arily included in medical malpractice insurance policies when there is  
3 a finding by the director that this coverage is not available to  
4 insureds of the Medical Indemnity Corporation of Alaska in the private  
5 insurance market at a competitive price;

6 (4) borrow or advance funds necessary to carry out the  
7 purposes of the corporation;

8 (5) negotiate and become a party to those contracts as are  
9 necessary to carry out the purposes of the corporation;

10 (6) sue or be sued in the name of the corporation;

11 (7) provide risk management advice and services to hospi-  
12 tals;

13 (8) negotiate and become a party to contracts for manage-  
14 ment services for the corporation;

15 (9) perform all other acts necessary and proper to carry  
16 out the duties of the corporation;

17 (10) in a form approved by the director and for an addition-  
18 al premium determined under AS 21.88.080, issue endorsements which  
19 provide indemnity for claims not yet reported which arise out of  
20 professional services rendered during a period of continuous coverage  
21 under the originally issued contract, to physicians, nurses, and  
22 hospitals who pay the premium for it and who are terminating their  
23 original covered claims contract with the corporation for a period of  
24 not less than one year;

25 (11) subject to approval by the director, extend coverage  
26 to a person, entity, or facility that renders health care services in  
27 the state under the supervision of a physician.

28 \* Sec. 43. AS 21.90.900 is amended to read:

29 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless

1 the context requires otherwise,

2 (1) "adjuster" means a person who, for compensation as an  
3 independent contractor or as an employee of an independent contractor,  
4 or for fee or commission, investigates and adjusts claims arising  
5 under insurance contracts on behalf of the insurer, but does not  
6 include an attorney at law who adjusts insurance losses from time to  
7 time incidental to the practice of law or a salaried employee of an  
8 insurer;

9 (2) "agent" means a person appointed by an insurer to  
10 solicit applications for insurance or annuities on its behalf, and if  
11 authorized to do so, to effectuate and countersign insurance con-  
12 tracts, except life or disability insurance or annuities, and to  
13 collect premiums on insurance or annuities;

14 (3) "alien insurer" means an insurer formed under the laws  
15 of a country other than the United States of America, its states,  
16 districts, territories, and commonwealths;

17 (4) [(2)] "authorized insurer" means an insurer authorized  
18 by a [SUBSISTING] certificate of authority issued by the director to  
19 transact insurance in this state;

20 (5) "broker" means a person who is not an agent of the  
21 insurer and who, on behalf of the insured, for compensation as an  
22 independent contractor by commission or fee, solicits, negotiates, or  
23 procures insurance or reinsurance or the renewal or continuance of  
24 insurance or reinsurance; or in any manner aids in the solicitation,  
25 negotiation, procurment, renewal, or continuance of insurance or  
26 reinsurance, for insureds or prospective insureds not including the  
27 broker;

28 (6) [(3)] "commissioner" means the commissioner of the  
29 Department of Commerce and Economic Development;

1           (7) [(4)] "court" means superior court;

2           (8) [(5)] "director" means the director of the division of  
3 insurance;

4           (9) [(6)] "division" means the division of insurance,  
5 Department of Commerce and Economic Development;

6           (10) [(7)] "domestic insurer" means an insurer formed under  
7 the laws of this state;

8           (11) "firm" means an organization of two or more licensees  
9 acting in association with each other, either in a partnership, corpo-  
10 ration, or otherwise, or an organization in which a single licensee  
11 has less than 50 percent ownership interest in the organization;

12           (12) [(8)] "foreign insurer" means an insurer formed under  
13 the laws of a jurisdiction other than this state and includes an alien  
14 insurer;

15           (13) "independent adjuster" means an adjuster representing  
16 the interests of the insurer;

17           (14) [(9)] "industrial life insurance" means that form of  
18 life insurance written under policies with a face amount of \$1,000 or  
19 less, with the words "industrial policy" imprinted on the face as part  
20 of the descriptive matter, and under which premiums are payable month-  
21 ly or more often;

22           (15) [(10)] "insurance" means a contract whereby one under-  
23 takes to indemnify another or pay or provide a specified or determin-  
24 able amount or benefit upon determinable contingencies;

25           (16) [(11)] "insurer" includes a person engaged as indemni-  
26 tor, surety, or contractor in the business of entering into contracts  
27 of insurance or of annuity;

28           (17) [(12)] "person" has the meaning given in AS 01.10.C60  
29 and includes an insurer, Lloyd's, fraternal benefit society, medical

1 service or hospital service plan as defined in AS 21.87, reciprocal or  
2 interinsurance exchange, syndicate, and any other legal entity engaged  
3 in the business of transacting insurance, including agents, brokers,  
4 and claims adjusters;

5 (18) [(13)] "policy" means the written contract of or writ-  
6 ten agreement for or effecting insurance, by whatever name called, and  
7 includes all clauses, riders, endorsements and papers attached to it  
8 and a part of it;

9 (19) [(14)] "premium" means the consideration for insurance,  
10 by whatever name called, and by whatever method paid or collected,  
11 including an assessment, or membership, policy, survey, inspection,  
12 service or similar fee or charge made in consideration for an insur-  
13 ance contract;

14 (20) "solicitor" means an individual authorized by an agent  
15 or broker to solicit applications for insurance as a representative of  
16 the agent or broker and to collect premiums in connection with the  
17 insurance;

18 (21) [(15)] "state" means a state, District of Columbia,  
19 territory, commonwealth, or possession of the United States of  
20 America;

21 (22) [(16)] "transact" with respect to insurance includes  
22 (A) solicitation and inducement;  
23 (B) preliminary negotiations;  
24 (C) effectuation of a contract of insurance;  
25 (D) transaction of matters subsequent to effectuation  
26 of the contract of insurance and arising out of it;

27 (23) [(17)] "unauthorized insurer" means an insurer not  
28 authorized to transact insurance in this state.

29 \* Sec. 44. AS 21.90 is amended by adding a new section to read:

1           Sec. 21.90.910. EXCEPTIONS FROM DEFINITIONS. The definitions of  
2 "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900  
3 do not include

4           (1) individuals employed and used by agents for the perfor-  
5 mance of clerical, stenographic, and similar office duties; incidental  
6 taking of an application for insurance from time to time in the office  
7 of the employing agent if the employee's compensation is not contin-  
8 gent upon or related to the volume of applications, insurance, or  
9 premiums;

10           (2) the attorney-in-fact of a reciprocal insurer, or the  
11 salaried traveling representative of a reciprocal or mutual insurer  
12 not compensated on a commission basis.

13           \* Sec. 45. AS 21.03.030, 21.03.040, 21.03.050; AS 21.06.040; AS 21.27.-  
14 040(b), 21.27.470, 21.27.480, 21.27.490, 21.27.500, 21.27.510, 21.27.520;  
15 AS 21.36.210(c), 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

16           \* Sec. 46. Sections 1 - 29 and 31 - 45 of this Act apply to insurance  
17 policies entered into or renewed on or after the effective date of secs.  
18 1 - 29 and 31 - 45 of this Act.

19           \* Sec. 47 Section 30 of this Act takes effect immediately under  
20 AS 01.10.070(c).

**SECTION BY SECTION COMMENTARY**

**CSHB 46 (RIs)**

**4/30/87**

**Prepared by: Alaska Division of Insurance**

**Date: 5/1/87**

**OVERVIEW**

This committee substitute encompasses about 13 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division of Insurance. The Division of Insurance supports this legislation.

The material that follows will attempt to identify each issue addressed by the bill, explain the purpose and to comment section by section.

For ease in tracking the various issues, we have provided page breaks following the commentary on each issue. The issues are:

**General Agents / Managers (Pages 2-3)**

**Continuous License (Pages 4-6)**

**Firm / Individual License (Pages 7-9)**

**Broker Bond (Page 10)**

**Broker as Agent (Pages 11-12)**

**Producer Financial / Fiduciary Accounts (Pages 13-14)**

**Alien Trusts Deposits (Page 15)**

**Commercial Cancellation (Pages 16-19)**

**Pro Rata on Cancellations (Page 20)**

**Nurse Coverage (Page 21)**

**Relocation of Definitions (Page 22)**

**Elimination of Domestic Tax Exemption (Page 23)**

**Removal of Obsolete or Duplicative Provisions (Page 24)**

GENERAL AGENTS / MANAGERS

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. It is a distinction that has been difficult to apply. The basic role of both entities is often the same, and the Alaska Insurance Code does not adequately make a distinction between the two. The bill eliminates references to managers and requires all general agents to be licensed. It then lists those specific entities that will not be considered general agents.

Section 1. (Page 1, Lines 9-20)

AS 21.09 deals with insurance companies that apply for and are issued a Certificate of Authority. These companies have elected to make themselves subject to regulation by the Alaska Director of Insurance and are referred to as admitted companies. The change in this Section makes it clear that an admitted company may only do business through persons or entities licensed by Alaska including general agents.

Section 2. (Page 1, Lines 21-27; Page 2, Lines 1-16)

This Section removes the references to managers. In §(b), the point that the general agent is licensed in the same manner as an agent licensed under AS 21.27, is clarified. This is a view that the Division has applied in practice, but is more than a little vague in statute.

In §(c), the reference to AS 21.27.500 is removed since its content is incorporated in the next Section.

Section 3. (Page 2, Lines 17-29; Page 3, Line 1-2)

§ (f) in this Section, moves a provision from AS 21.27.500. It provides that salaried employees of an insurance company are not subject to license for their activities on behalf of the insurer, even though that

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activity may have the same appearance as a general agent.

§(g) exempts persons or entities who perform general agent type services for an insurance company when that person or entity is:

- (1) a subsidiary of the insurance company;
- (2) the owner of the insurance company; or
- (3) owned by the holding company that owns the insurance company.

Section 46 (Page 31, Lines 1-4)

This Section includes a repeal of AS 21.27.500, on line 2.

CONTINUOUS LICENSE

This bill introduces a continuous insurance license for agents, brokers, solicitors, adjusters, and general agents, rather than the current system requiring annual renewal. All licensees, however, will still pay an annual fee, and failure to pay will result in revocation or suspension of the license. This change should reduce the paperwork currently handled by the Division.

Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)

Continuous license language appears on Page 2, Lines 9-13.

Section 4. (Page 3, Lines 3-10)

Reference to renew is removed on Lines 5 & 6. The change on Lines 9 & 10 is not substantive.

Section 5. (Page 3, Lines 11-28)

AS 21.27.030(a)(1) is a controlled business prohibition. The substance of this paragraph has been moved to Section 6. §(a) is revised to deal with the new applicant. Reference to renewal has been removed.

Section 6. (Page 3, Line 29; Page 4, Lines 1-7)

This addition to AS 21.27.030 addresses the controlled business prohibition on an existing license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

Reference to renewal removed on Page 5, Line 6.

Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)

Reference to date of expiration is removed on Page 7, Line 2.

Section 12. (Page 7, Lines 26-29; Page 8, Lines 1-9)

This Section addresses licenses for vending machines that dispense policies of personal travel accident insurance. The only change of substance is that on Page 8, Line 3 where reference to annual continuation and expiration is removed.

Section 13. (Page 8, Lines 10-22)

The references to renewal are addressed on Lines 11-13.

Section 17. (Page 9, Lines 15-19)

The reference to renewal appears on Line 17.

Section 18. (Page 9, Lines 20-26)

The reference to date of expiration is removed on Line 24.

Section 22. (Page 11, Lines 11-27)

This Section has been completely reworked to reflect continuous licenses. In §(a) and §(b), annual fee dates differ in some cases from current renewal dates. Under present law, resident licenses expire on June 30, except for brokers, which expire on December 31. Nonresident agent and brokers expire a year from issue and nonresident adjusters on June 30. The continuation fee proposed would be due on all agents, solicitors, or adjusters on June 30, and all brokers on December 31.

The only other substantive change appears in §(d) where the surcharge for late renewal is established by regulation. This concept is already the case for all other fees of the Division of Insurance.

Section 24. (Page 12, Lines 16-29; Page 13, Lines 1-19)

The reference to refuse to renew is removed on Page 12, Line 18. Surplus lines broker licenses are not being changed to continuous license. This accounts for the inserted language on Lines 19 and 20. This type of licensee is the one that provides entry to the nonadmitted market place and is required to post a \$200,000 bond. Further, producers of business for risk retention groups or risk purchasing groups under the recently passed Federal law must have this type of license. We would prefer to see how things are going to shape up with the new Federal Act before we recommend a change

Section 26. (Page 13, Lines 25- 29; Page 14, Lines 1-7)

References relating to renewal removed.

Section 27. (Page 14, Lines 8-19)

References relating to renewal removed.

Section 28. (Page 14, Lines 20-29)

References relating to renewal removed.

Section 29. (Page 15, Lines 1-7)

Reference relating to expiration removed.

Section 42. (Page 24, Lines 16-22)

Reference relating to renewal removed.

FIRM / INDIVIDUAL LICENSE

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. Under current law, persons operating under a firm's license do not typically hold an individual license, but are named to act on the firm license. This renders individual accountability difficult. In some cases there is a constant activity on a firm's license file as individuals are added or deleted.

Also under current law, adjusting firms are not licensed, only individuals. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm. This extends the accountability principle to adjusting firms. It will give the Division of Insurance a better regulatory oversight of the industry by requiring that every person selling or adjusting insurance contracts, whether individual or firm, have the appropriate license.

Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)

This Section concerning examination of applicants for insurance license has been changed to apply to individual licensees. Since each individual is licensed it is not necessary to require that a firm be examined. This is accomplished with insertions at Page 4, Line 10 and Page 5, Line 3.

Section 8. (Page 5, Lines 10-29; Page 6, Lines 1-8)

This Section addresses the qualifications for license. It has been modified to make it applicable to individual licensees. The language on Page 6, Lines 1 and 2, avoid additional paperwork by providing that a person acting on behalf of a firm is covered by the firm's appointment.

Section 9. (Page 6, Lines 9-14)

**This Section also addresses the qualifications for license. It applies to firm licenses.**

**Section 10. (Page 6, Lines 15-29; Page 7, Line 1-3)**

**The only changes of substance in this Section are found on Page 6, Lines 22-25. The distinction between firm and corporation is removed. A definition for firm is introduced in Section 44 on Page 28, Lines 25-28. The only person to be named on a firm license will be the principal or manager of the firm.**

**Section 11. (Page 7, Lines 4-25)**

**This Section requires that the firm be licensed to the same extent as persons employed by the firm. Use by a firm of unlicensed persons who are required to be licensed is cause for revocation or suspension.**

**Section 14. (Page 8, Lines 23-26)**

**This Section provides that the firm broker bond covers individual broker members of the firm.**

**Section 23. (Page 11, Lines 28-29; Page 12, Lines 1-15)**

**This Section addresses temporary licenses. It provides for a temporary license if the principal or manager should die. This is not a substantive change.**

**Section 25. (Page 13, Lines 20-24)**

**Since persons are no longer designated in the license to exercise its powers, the language has been revised to acting on behalf of the firm.**

**CSHB 46 (RIs) (4/29/87)**

**Prepared 5/1/87**

**Section 44.** (Page 27, Lines 16-29; Page 28, Lines 1-29;  
Page 29, Lines 1-29; Page 30, Lines 1-16)

Definition of "firm" introduced on Page 28, Lines 25-28.

**Section 46.** (Page 31, Lines 1-4)

RS 21.27.040(b) is repealed on Line 2. This is the subsection that requires firms to designate all individuals on the firm license.

CSHB 46 (RIs) (4/29/87)

Prepared 5/1/87

**BROKER BOND**

This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive. This is not a Division of Insurance proposal, but we have no objection to it.

**Section 14.** (Page 8, Lines 10-22)

The increased bond amount appears on Lines 16 and 18.

BROKER AS AGENT

Alaska currently licenses two kinds of insurance producer under AS 21.27, agent and broker. The agent represents an insurance company through appointment and contract. On the other hand, the broker represents the purchaser of insurance. It is typical for an insurance producer to hold both types of license. A purchaser of insurance usually does not know, under which license a producer is acting. Most insurance producers do try to balance the interests of the purchaser of coverage and the provider of coverage, and some do this quite well. Normally this is not an issue of concern, but when a producer becomes insolvent or has misused trust account monies, the issue can be very important.

If an agent collects premium funds for an insurer, the insurer is deemed to have received those funds whether they are sent to the insurer or not. When the insurer sends notice of cancellation for nonpayment of premium, the insured need only show his cancelled check and the coverage will be reinstated.

If a broker misappropriates premium funds, and does not pay them to the insurer or intermediary, and a notice is sent by the company which has not received payment, the coverages are generally not reinstated. The Division has had two major cases of this description and a number of smaller ones, where the public has been hurt. The resolution is to provide that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

An additional issue, is the need to have the producer collecting funds at the initiation of the transaction, clearly state that he is acting as a broker and coverages are not bound until confirmed by an insurer, or to return the funds to the purchaser of coverage.

Section 13. (Page 8, Lines 10-22)

This Section deals with the brokers' bond. One group of persons who could be adversely impacted with "agent as broker", is the wholesale broker or general agent who is in between the producing broker and the insurance company. It is possible that they might bear the financial brunt of this solution. Relief is offered by allowing them to access to the brokers' bond.

Section 15. (Page 8, Lines 27-29; Page 9, Line 1)

This Section makes clear the fact that the broker cannot bind an insurer.

Section 16. (Page 9, Lines 2-14)

This Section establishes the concept of "broker as agent for purposes of premium collection." (d) newly provides that a broker may not knowingly accept payment for coverage until that coverage is authorized by an insurer.

PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. To this end, we have aided in developing some clarifications to those sections of the insurance code.

Agents and brokers are required to receive insurance premium monies in a fiduciary capacity. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill.

The Division has need of tools that can be used to resolve fiduciary and financial difficulties at an earlier point in time. One tool is the ability to review financial summaries or detail, such as trial balance, income statement, journal detail, etc. in a Division of Insurance office for examination when requested. These documents would be confidential.

The clarifications addressed in this issue coupled with the Broker as Agent resolution should maximize protection to insurance purchasers.

Section 19. (Page 9, Lines 27-29; Page 10, Lines 1-9)

This is a new requirement specifically requiring an agent or broker to have accounting and financial records and to maintain them in accordance with generally accepted accounting principles. These records are available for review and are confidential when in the possession of the director.

Section 20. (Page 10, Lines 10-21)

§(b) contains the requirement for a premium fiduciary account. The change clarifies the fact that other funds can not be commingled with

it except as specifically permitted in Section 21.

**Section 21.** (Page 10, Lines 22-29; Page 11, Lines 1-10)

§(d) permits a limited commingling of nonpremium funds in the fiduciary account for specific premium related purposes. Accounting for nonpremium funds is required.

§(e) makes clear that the premium funds required to be in the fiduciary account can not be used or represented to be asset funds. Funds optionally permitted to be in the fiduciary account, such as reserve funds are an asset of the agent or broker.

§(f) introduces a definition for "fiduciary account."

ALIEN TRUST DEPOSITS

This issue is considered the #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers wishing to business in Alaska. An alien insurer is one formed under the laws of a country other than the United States.

At the present time, AS 21.34.040(c) provides that an alien surplus lines insurer must maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required before June 20, 1985.

This proposal would avoid the necessity to declare as ineligible, approximately 95% of the alien surplus line companies doing business in the Alaska market. There is a great deal of concern about the reduction of available insurance markets for exposures in this state. If the current language in statute were to be enforced, many insurers who now provide valuable markets would be ineligible for use here. Alaska is out of step with the rest of the country on this issue where the norm is a deposit of \$1.5 million. This proposal does not impact the minimum capital and surplus required of alien insurers.

Section 30. (Page 15, Lines 8-29; Page 16, Lines 1-12)

The language to accomplish the change noted above appears on Page 15, Lines 21-22. Other changes are not substantive.

Section 48. (Page 31, Lines 8-9)

This Section is an immediate effective date for Section 30 only.

COMMERCIAL CANCELLATION

AS 21.36.210 - 310 currently places a limitation on an insurance company's right to cancel in mid-term, personal lines of insurance, such as automobile insurance or homeowners insurance. This whole section of law deals with insurer initiated cancellations. The insurance crisis of the past few years, accented the need that this kind of protection should also be provided for commercial policies.

To accomplish this, it is necessary to substantially rework AS 21.36.210 - 310. A number of sections have been relocated and a distinction made between personal insurance and business or commercial insurance. The personal insurance limitation is unchanged except that notice period has been revised. This issue has been the one generating the most fine tuning during the hearing process.

The business or commercial insurance notice is similar to those in many states. This proposal preserves the insurers right to cancel but does require an adequate period of notice, a statement of the reasons for the cancellation, and requires, in most cases, that any unearned premium be returned to the insured before the effective date of cancellation. A notice requirement has been added for an increase of premium at renewal or a change in coverage. Notice must be given prior to expiration.

The normal period of notice for cancellation will be 30 days for personal lines and 60 days for commercial and business insurance policies. Notice for nonpayment will be 20 days. Notice for special reasons such as suspension or revocation of license, conviction of a crime related to the type of coverage provided, and material misrepresentation will have a 10 day notice. Notice of nonrenewal will remain at 20 days for personal insurance and will be 45 days for commercial nonrenewals.

Section 31. (Page 16, Lines 13-24)

No substantive change.

Section 32. (Page 16, Lines 25-29; Page 17, Lines 1-2)

No substantive change. This is merely a relocation of AS 21.36.300. Reference to some exceptions has been deleted since those will be picked up under the commercial or business definition.

Section 33. (Page 17, Lines 3-21)

No substantive change.

Section 34. (Page 17, Lines 22-29; Page 18, Lines 1-9)

This Section lists the notice periods for personal insurance.

Section 35. (Page 18, Lines 10-29; Page 19, Lines 1-29;  
Page 20, Lines 1-2)

§(b) of this Section establishes the notice periods for business or commercial insurance.

§(c) requires the return of unearned premium prior to the effective date of cancellation. If the cancellation is for nonpayment, return of unearned premium must occur within 30 days after notice of cancellation is given. Audits on auditable policies must also be made before the effective date of cancellation and unearned premium returned before the expiration of the policy, where the reason for cancellation is other than nonpayment, and some specified exceptions.

While this may cause some difficulty for the insurer, it should be remembered that this speaks to an insurer initiated cancellation. Insurers can use tentative or projected numbers for the period following the notice of cancellation. They often know they are going to cancel, so usually they can also control the audit process. The insured with an auditable policy is entitled to the same protection as an insured with a nonauditable policy. The insurer may elect to waive an audit on cancellation, which is their right currently. If the Division

finds that the waiver is not in the insureds interest, it can require that an audit be made under §(d).

§(d) provides that the Director has the authority to order an audit waived by an insurer under §(c). This would be done when the director believes an insurer is acting unfairly to an insured.

§(e) clarifies that a reason for cancellation will be given in all cases.

Section 36. (Page 20, Lines 3-21)

This section provides for a notice to be given of a premium increase or of a coverage change 20 days before expiration in the case of personal insurance and 45 days before expiration in the case of business or commercial insurance. This does not apply to workers' compensation insurance.

Section 37. (Page 20, Lines 22-29; Page 21, Lines 1-12)

The notice of nonrenewal is unchanged for personal insurance at 20 days. The notice of nonrenewal for business or commercial insurance is 45 days. Failure to give required notice results in continued cover.

Section 38. (Page 21, Lines 13-22)

No substantive change.

Section 40. (Page 22, Lines 10-16)

This section requires that a notice of cancellation be sent to the last known address that the insurer have a post office receipt of mailing.

Section 41. (Page 22, Lines 17-29; Page 23, Lines 1-29;  
Page 24, Lines 1-15)

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Prepared 5/1/87

The definition of "business or commercial insurance" is new. The remainder of the changes in this Section are not substantive. The limit on cancellation will extend to vessels under 50 displacement tons which will cover most of Alaska's fishing fleet.

Section 46. (Page 31, Lines 1-4)

AS 21.36.210(c) is repealed as it is not needed.

AS 21.36.210(e) is repealed because it has been relocated in the definition of "personal insurance" on Page 23, Lines 18-29 and Page 24, Lines 1-4.

AS 21.36.230 is repealed as it is not needed.

AS 21.36.300 is repealed because it has been moved to Section 32.

PRO RATA ON CANCELLATIONS

There are two basic methods of computing return premium on a cancelled policy. In industry parlance, these are referred to as short rate and pro rata. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. The short rate method of computation is often a cause for complaint because of abuse. Most complaints deal with the size of the penalty provision.

Short rate penalty was originally intended to reflect an expense of the insurer that was, for the most part, beyond the insurers' control. It also provides some protection from severe market disruption. The Division has considered the elimination of short rate by regulation, but authority is vague. We would prefer to continue some form of short rate penalty but be able to address the abuses.

Section 39. (Page 21, Lines 23-29; Page 22, Lines 1-9)

This Section limits the short rate penalty to 7.5% of the unearned premium.

Section 47. (Page 31, Lines 5-7)

This Section makes clear that this new requirement does not affect in-force contracts, thus sidestepping potential constitutional conflicts.

NURSE COVERAGE

This proposal will add nurses to the list of health care professionals who can obtain professional liability insurance from the Medical Indemnity Corporation of Alaska which was formed under AS 21.88 in 1976. This is primarily a backup action since nurses have recently been able to put together a national program that appears to resolve their availability difficulties. The Division of Insurance has no objection to this proposal.

Section 43. (Page 24, Lines 23-29; Page 25, Lines 1-29;  
Page 26, Lines 1-29; Page 27, Lines 1-15)

"Nurse" or "nurses", is added on Page 24, Line 27; Page 25, Lines 1, 4, 12, 13, & 16 and on Page 27, Line 9.

RELOCATION OF DEFINITIONS

Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive, but merely represent relocation with one exception, the definition of "firm," which has been already discussed on Page 8-9, under Sections 10 & 44.

Section 44. (Page 27, Lines 16-29; Page 28, Lines 1-29;  
Page 29, Lines 1-29; Page 30, Lines 1-16)

§(1), "adjuster" on Page 27, Lines 19-25, was formerly AS 21.27.510(a).

§(2), "agent" on Page 27, Lines 26-29 and Page 28, Line 1, was formerly AS 21.27.470.

§(5), "broker" on Page 28, Lines 8-15, was formerly AS 21.27.480.

§(11), "firm" on Page 28, Lines 25-28 is new. See discussion on Page 8.

§(13), "independent adjuster" on Page 29, Lines 3-4, was formerly AS 21.27.510(b).

§(20), "solicitor" on Page 30, Lines 2-5, was formerly AS 21.27.490.

Section 45. (Page 30, Lines 17-29)

This Section was formerly AS 21.27.520. No substantive change.

Section 46. (Page 31, Lines 1-4)

AS 21.27.470, AS 21.27.480, AS 21.27.490, AS 21.27.510, & AS 21.27.520 are repealed as discussed in Sections 44 and 45 above.

ELIMINATION OF DOMESTIC TAX EXEMPTION

This item proposes to terminate a tax exemption presently granted to a domestic Alaska insurer during its first five years of existence. There is a potential constitutional issue with continuance of the tax exemption. In the past, large national insurance holding companies have taken advantage of this feature and in some cases, there has been a strong question about whether some of those companies were truly domestic Alaska insurers. The Division of Insurance has no objection to this proposal.

Section 46. (Page 31, Lines 1-4)

AS 21.09.210(c) is repealed on Line 3, eliminating the domestic tax exemption.

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Prepared 5/1/87

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

The present Insurance Code was adopted in 1966. At the time of adoption, there were a number of provisions intended to prevent disruption of, then, current activities. These provisions are no longer since some 20+ years have passed and the sections are obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

Section 46. (Page 31, Lines 1-4)

AS 21.03.030, AS 21.03.040, AS 21.03.050 and AS 21.05.040 are repealed.

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- Section 1. (Page 1, Lines 9-20)
- Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)
- Section 3. (Page 2, Lines 17-29; Page 3, Line 1-2)
- Section 46 (Page 31, Lines 1-4)

CONTINUOUS LICENSE

- Section 2. (Page 1, Lines 21-29; Page 2, Lines 1-16)
- Section 4. (Page 3, Lines 3-10)
- Section 5. (Page 3, Lines 11-28)
- Section 6. (Page 3, Line 29; Page 4, Lines 1-7)
- Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)
- Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)
- Section 12. (Page 7, Lines 26-29; Page 8, Lines 1-9)
- Section 13. (Page 8, Lines 10-22)
- Section 17. (Page 9, Lines 15-19)
- Section 18. (Page 9, Lines 20-26)
- Section 22. (Page 11, Lines 11-27)
- Section 24. (Page 12, Lines 16-29; Page 13, Lines 1-19)
- Section 26. (Page 13, Lines 25- 29; Page 14, Lines 1-7)
- Section 27. (Page 14, Lines 8-19)
- Section 28. (Page 14, Lines 20-29)
- Section 29. (Page 15, Lines 1-7)
- Section 42. (Page 24, Lines 16-22)

FIRM / INDIVIDUAL LICENSE

- Section 7. (Page 4, Lines 8-29; Page 5, Lines 1-9)
- Section 8. (Page 5, Lines 10-29; Page 6, Lines 1-8)
- Section 9. (Page 6, Lines 9-14)
- Section 10. (Page 6, Lines 15-29; Page 7, Line 1-3)
- Section 11. (Page 7, Lines 4-25)
- Section 14. (Page 8, Lines 23-26)
- Section 23. (Page 11, Lines 28-29; Page 12, Lines 1-15)

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Section 25.

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Page 29, Lines 1-29; Page 30, Lines 1-16)

Section 46. (Page 31, Lines 1-4)

BROKER BOND

Section 14. (Page 8, Lines 10-22)

BROKER AS AGENT

Section 13. (Page 8, Lines 10-22)

Section 15. (Page 8, Lines 27-29; Page 9, Line 1)

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ALIEN TRUST DEPOSITS

Section 30. (Page 15, Lines 8-29; Page 16, Lines 1-12)

Section 48. (Page 31, Lines 8-9)

COMMERCIAL CANCELLATION

Section 31. (Page 16, Lines 13-24)

Section 32. (Page 16, Lines 25-29; Page 17, Lines 1-2)

Section 33. (Page 17, Lines 3-21)

Section 34. (Page 17, Lines 22-29; Page 18, Lines 1-9)

Section 35. (Page 18, Lines 10-29; Page 19, Lines 1-29;  
Page 20, Lines 1-2)

Section 36. (Page 20, Lines 3-21)

Section 37. (Page 20, Lines 22-29; Page 21, Lines 1-12)

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Section 40. (Page 22, Lines 10-16)

Section 41. (Page 22, Lines 17-29; Page 23, Lines 1-29;  
Page 24, Lines 1-15)

Section 46. (Page 31, Lines 1-4)

PRO RATA ON CANCELLATIONS

Section 39. (Page 21, Lines 23-29; Page 22, Lines 1-9)

Section 47. (Page 31, Lines 5-7)

NURSE COVERAGE

Section 43. (Page 24, Lines 23-29; Page 25, Lines 1-29;  
Page 26, Lines 1-29; Page 27, Lines 1-15)

RELOCATION OF DEFINITIONS

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Section 46. (Page 31, Lines 1-4)

ELIMINATION OF DOMESTIC TAX EXEMPTION

Section 46. (Page 31, Lines 1-4)

REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS

Section 46. (Page 31, Lines 1-4)

**OVERVIEW**  
**CSHB 46 (RIs)**  
**4/30/87**

Prepared by: Alaska Division of Insurance  
Date: 5/1/87

This proposal encompasses about 13 insurance issues in one "omnibus" bill on insurance issues. Most of the items contained in the bill have, at one time or another, been requested by the Division. The Division supports this legislation.

**GENERAL AGENTS / MANAGERS**

This issue eliminates confusion with AS 21.09.280, which currently attempts to distinguish between "general agents" who are required to be licensed and "managers" who are not. The distinction is difficult to apply, since definition is unclear. The bill requires all general agents to be licensed, and lists specific exceptions.

**CONTINUOUS LICENSE**

This bill introduces a continuous license for agents, brokers, solicitors, adjusters, and general agents, to replace annual renewal. All licensees will pay an annual fee with failure to pay resulting in revocation or suspension of license. This change should reduce the paperwork handled by the Division.

**FIRM / INDIVIDUAL LICENSE**

This portion of the bill creates a new distinction between individual licenses issued to individual persons, and firm licenses issued to associations of individual licensees. License will be required for all individuals to provide individual accountability. This principle will also be extended to adjusting firms. We have experienced situations where firms have ignored Alaska Law to the detriment of the public and individual licensees within the firm.

**BROKER BOND**

X This section proposes to increase the bond required of a broker from the current \$5,000 to \$10,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not excessive.

**BROKER AS AGENT**

X Alaska currently licenses two kinds of insurance producer, agent and broker. The agent represents an insurance company through appointment and contract. The broker does not. Producers typically hold both types of license. A purchaser of insurance usually does not know which license is being used. This really becomes a concern when a producer becomes insolvent or has misused trust account monies.

**OVERVIEW**  
**CSHB 46 (RIs)**  
**4/30/87**

This proposal provides that when a broker places coverage which can be evidenced by a binder, issuance of a policy, or some acknowledgement from the insurer or its representative, then the insurer is considered to have received those funds whether it has or not. The broker is considered to be the agent of the company for purposes of premium collection.

**PRODUCER FINANCIAL / FIDUCIARY ACCOUNTS**

The Division has been working with the Alaska Association of Independent Insurance Agents and Brokers concerning financial problems with some insurance agents and brokers and their handling of insurance premium monies. Unfortunately, the first sign that all is not well with an agents' or brokers' fiduciary account, in which he required to receive all premium, is when it is too late. One good indicator of a developing problem would be good accounting records accessible by the Division, which are required with this bill. This tool, coupled with other items in this bill should maximize public protection.

**ALIEN TRUST DEPOSITS**

This issue is our #1 priority legislative need this session and it relates to the trust fund requirements for alien surplus lines insurers. An alien insurer is one formed under the laws of another country.

Statute now requires that an alien surplus lines insurer maintain a trust fund for the benefit of policyholders in the United States in an amount not less than \$3.5 million. That \$3.5 million figure is scheduled to increase to \$5 million on June 20, 1987. This portion of the bill would eliminate this scheduled increase and reduce the trust fund requirement to \$1.5 million, the level required by the other 49 states.

This proposal would avoid the necessity to declare as ineligible, approximately 95% of the alien surplus line companies doing business in the Alaska market, with resultant reduction of available insurance markets for exposures in this state.

**COMMERCIAL CANCELLATION**

X  
The insurance crisis of the past few years, accentuated the need to provide some kind of protection for commercial policies. This proposal preserves the insurers right to cancel but does require an adequate period of notice, a statement of the reasons for the cancellation, and requires, in most cases, that any unearned premium be returned to the insured before the effective date of cancellation. A notice requirement has been added for an increase of premium at renewal or a change in coverage. Notice must be given prior to expiration.

**OVERVIEW**  
**CSHB 46 (RIs)**  
**4/30/87**

**PRO RATA ON CANCELLATIONS**

There are two basic methods of computing return premium on a cancelled policy, which are referred to as pro rata and short rate. Pro rata is used on cancellations initiated by the insurance company and the earned portion of premium is proportionate to the period of coverage. Short rate is used on a cancellation initiated by the insured and has a built-in penalty. The short rate method of computation is often a cause for complaint because of abuse. Most complaints deal with the size of the penalty provision. This proposal places a reasonable limit on the size of the penalty.

**NURSE COVERAGE**

This proposal will add nurses to the list of health care professionals who can obtain professional liability insurance from the Medical Indemnity Corporation of Alaska. This is primarily a backup since nurses have been able to put together a national program that resolves their availability difficulties.

**RELOCATION OF DEFINITIONS**

Definitions in the Insurance Code (Title 21) are found in AS 21.90. In addition, chapters contain definitions that in some cases have a more general application. These should be located in the general definition chapter. The changes in this case are not substantive.

**ELIMINATION OF DOMESTIC TAX EXEMPTION**

This item proposes to terminate a tax exemption presently granted to a domestic Alaska insurer during its first five years of existence. There is a potential constitutional issue with continuance of the tax exemption.

**REMOVAL OF OBSOLETE OR DUPLICATIVE PROVISIONS**

The present Insurance Code was adopted in 1966. A number of provisions intended to prevent disruption of activities still remain in statute. These provisions are now obsolete. Included in the repeal is a section that duplicates provisions of the ethics bill adopted by the Fourteenth Legislature.

CSHB 46(Jud)  
4/27/87

AMENDMENT #1  
ALTERNATIVE #1

By Division of Insurance

- On Page 16, Lines 13-29  
Page 17, Lines 1-29  
Page 18, Lines 1-10

Delete all language (Sections 31-33)

- On Page 18, Lines 11-15

Rewrite Section 34 to read:

"Sec. 34. AS 21.36.120(a) is amended to read:

(a) A property, casualty, or surety insurer [ OR ITS EMPLOYEE OR REPRESENTATIVE, OR AN AGENT, OR SOLICITOR ] may not pay, allow, give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, a rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or a special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing with the director as provided by law. An agent or broker may give a rebate on a property, casualty, or surety insurance, provided the rebate results only in a reduction of the commission due the agent or broker and does not reduce the amount or type of insurance coverage.

- On Page 26, Lines 23-29

Delete all language (Section 46)

- On Page 27, Lines 8-13

Delete all language (Section 48)

CSHB 46(Jud)  
4/27/87

On Page 33, Line 25

Change "52" to "47"

On Page 33, Line 27

Change "52" to "47"

Renumber Sections as appropriate

**Explanation:**

This alternative is basically that discussed as the conceptual objective sought by the House Judiciary Committee on 4/23/87. It permits rebate by property and casualty agents and brokers but not by insurers. It continues the present rebate prohibition for life, annuity, disability, and title insurance.

CSHB 46(Jud)  
4/27/87

AMENDMENT #1  
ALTERNATIVE #2

By Division of Insurance

- On Page 16, Lines 13-29  
Page 17, Lines 1-29  
Page 18, Lines 1-15

Delete all language (Sections 31-34)

- On Page 26, Lines 23-29

Delete all language (Section 46)

- On Page 27, Lines 8-13

Delete all language (Section 48)

- On Page 33, Line 23

Delete "AS 21.36.120(b)"

- On Page 33, Line 25

Change "52" to "46"

- On Page 33, Line 27

Change "52" to "46"

- Renumber Sections as appropriate

CSHB 46(Jud)

4/27/87

Explanation:

This alternative removes the rebate repeal from the bill. This general issue is controversial and the impact of the change it represents should be given a good deal more thought. Our principal concern is the impact on competition in the smaller communities and the opportunity presented with this legislation to the larger brokerage houses to monopolize business.

CSHB 46(Jud)  
4/27/87

AMENDMENT #1  
ALTERNATIVE #3

By Division of Insurance

- On Page 16, Lines 13-29  
Page 17, Lines 1-29  
Page 18, Lines 1-10

Delete all language (Sections 31-33)

- On Page 18, Lines 11-15

Rewrite Section 34 to read:

"Sec. 34. AS 21.36.120(a) is amended to read:

(a) A property, casualty, or surety insurer [ OR ITS EMPLOYEE OR REPRESENTATIVE, OR AN AGENT, OR SOLICITOR ] may not pay, allow, give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, a rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or a special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing with the director as provided by law. An agent or broker may give a rebate on a property, casualty, or surety insurance, provided the rebate

(1) results only in a reduction of the commission due the agent or broker;

(2) does not reduce the amount or type of insurance coverage;  
and.

(3) applies only to an insured with insurance premium in excess of \$50,000 per year.

- On Page 26, Lines 23-29

Delete all language (Section 46)

CSHB 46(Jud)  
4/27/87

On Page 27, Lines 8-13

Delete all language (Section 48)

On Page 33, Line 25

Change "52" to "47"

On Page 33, Line 27

Change "52" to "47"

Renumber Sections as appropriate

Explanation:

This alternative is similar to that discussed as the conceptual objective sought by the House Judiciary Committee on 4/23/87. It permits rebate by property and casualty agents and brokers but not by insurers. It continues the present rebate prohibition for life, annuity, disability, and title insurance. The difference between this alternative and alternative #1, is that the rebate prohibition would only be lifted on those cases where the premium is in excess of \$50,000.



## North Valley Clinic

(HERE'S TO YOUR HEALTH)  
MILE 51.5 PARKS HIGHWAY  
MEADOWOOD MALL  
P.O. BOX 521127, BIG LAKE, ALASKA 99652  
PHONE (907) 892-9180

---

*J*

March 23, 1987

Rep. John Sund  
P.O. Box V  
Juneau, AK 99811  
Re: HB 46

Dear Representative Sund;

I wish to express my support for HB 46. As a Family Nurse Practitioner and a Certified Nurse Midwife I would like to be able to provide my services to all clients and be fairly reimbursed.

Sincerely,

*Georg Ann Beckwitt*

Georg Ann Beckwitt R.N.C., M.S.  
Certified Nurse Midwife  
Family Nurse Practitioner

Alaska State Legislature  
House of Representatives



Labor and Commerce Committee

March 24, 1987

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: Proposed CS HB 46 (L&C) W.O.#5-0306L

A new proposed CS for HB 46 (L&C), dated March 23, 1987, is in your Committee folder.

The proposed CS reflects numerous technical changes from the previous CS that were agreed on by the House Labor and Commerce Subcommittee on HB 46.

The Subcommittee agreed that the following issues should be brought before the full Committee for consideration in preparing a final CS. They are:

1. Notice of Cancellation. HB 46 requires 60 days notice of cancellation on commercial and personal insurance. Representatives from the insurance industry ask that we reduce that time. The prime sponsor of HB 46 asks that we leave the section as it is.
2. Mailing Address for Notice of Cancellation. HB 46 requires an insurance company to send notice of cancellation to the address shown on the policy. I believe we should require more effort on the part of the insurer to make sure the notice of cancellation actually reaches the insured.
3. 10 Day Notice of Cancellation. The Division of Insurance suggested amending AS 21.36.220 to allow insurers to cancel a personal insurance policy with only 10 days notice under circumstances listed under AS 21.36.215(a) subparagraphs 1 through 3.
4. Correct technical errors. Page 27, line 6 defines "nurse" for the purposes of this section. "Nurse" is

already defined in current law, AS 21.77.900(11), so this language is unnecessary.

In addition to technical changes, the Subcommittee agreed on some substantive changes that are incorporated in the CS before you today. They include:

1. Restoring the bonding requirement to \$5,000, as in current law.
2. A separate effective date for sections dealing with the Alien Trust Fund.
3. Requiring insurers to obtain a receipt to show proof of mailing and making the receipt presumptive evidence of having met the notification requirements.

*Rep. Sunset / Kochman*

To: Members of the House Judiciary Committee  
From: American Insurance Association, Tom Slagle  
Date: April 8, 1987  
Re: HB46

The American Insurance Association, representing 171 property-casualty insurance companies in the United States today, supports legislation on cancellation and non-renewal of commercial insurance policies that will both provide reasonable protection for commercial insurance consumers, and provide companies with the flexibility they need to react to changes affecting individual risks.

There are several changes the AIA would urge you to consider, and which we will be actively encouraging. Among these concerns:

Sec 34: We support this section limiting the grounds on which an insurer may cancel a business or commercial policy. We would like to suggest an additional reason. This would be violation of material policy terms and conditions by the insured. As basic matters of contract law and equity, companies ought to have the explicit authority to cancel or non-renew policies where the insured has violated any material term or condition other than those already specified in the section.

Sec. 35: We have four suggestions for changing this section on cancellation notice for personal policies: (1) This notice (as well as every other notice required to be sent to insureds) should be sent not to the address shown in the policy, but rather to the insureds' address last known to the insurer. The "last known address" will always be as current, and usually more so, than the address on the policy; (2) The advance notice should be reduced from 60 days to 30 days (except in those cases already indicated with shorter notice periods). A 60-day period may be appropriate for commercial lines of insurance because of the larger, or more unusual, risks involved; a 30-day period is more than adequate, however, for persons to obtain personal lines of coverage; (3) In the event that an insurer provides this notice less than the required number of days in advance (but still at some point before the policy is to expire), the cancellation should not be effective until the required number of days has passed; in other words, the notice period should "roll" past the expiration date. This ensures that insureds will always

have at least the minimum period of time to shop around for coverage if their policy is cancelled; it requires insurers to extend coverage even beyond what would have been the cancellation date until the full notice period has been met; and it also protects insurers from having to provide a full year (or other term) of additional coverage merely because of a technical error.

Sec. 36: We have several of the same concerns on this section, dealing with cancellation notice on commercial lines: (1) Again, there is the problem of the address to which the notice should be mailed; (2) We can live with the 60-day notice, but only if there is a "rolling" provision, as described above; (3) The requirement that notices be mailed by "certified mail" should be dropped. California and other states that have imposed "certified mail" requirements on various notices have quickly learned they create many problems and do not improve the quality of notice. First, each consumer must individually go to the post office, usually during business hours, to get the letter, and many consumers object to this imposition. Second, many consumers fear that only bad news comes in such letters and refuse to acknowledge their receipt (especially those consumers with financial problems). In fact, more political pressure to drop the certified mail requirement has come from consumers than insurers; and (4) The time periods in subsection (c) are unrealistically short---especially where audits are required---for return of unearned premiums in the event of cancellation. The specified periods of time are not practically reasonable.

Sec. 37: We would have several suggestions for this section on non-renewal: (1) Again, the notice should be sent to the last known address of the insured; (2) Again, a "rolling" provision should be added, and coverage for any period of time that extends beyond the expiration date should be determined pro-rata, based on the previous year's rate; (3) The time periods should be no longer---and ideally, should be shorter---for both personal and commercial lines than the notice periods for cancellation. As a practical matter, the factors involved in non-renewal take longer to evaluate than those in cancellation; (4) Insurers should also be required to provide similar notice of premium increases, changes in deductibles, or reductions in limits or coverages. These changes, arguably, can have the same effect as non-renewal, and should be provided to consumers.

TJS:mb:dd:11

# ALASKA BUSINESS INSURANCE INCORPORATED

April 14, 1987

Mr. Robert H. Ziegler, Sr.  
127 N. Franklin  
Juneau, AK 99801

Dear Bob,

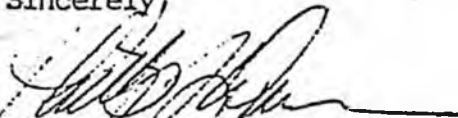
I am an insurance broker specializing in aircraft insurance for all types of Alaskan aviation risks. A copy of the Committee Substitute for House Bill 46 (3/30/87) was sent to London for comment as to how it would effect London Underwriters treatment of Alaskan aviation risks. The reply included "The return of return premium prior to the effective date of cancellation is quite onerous..." and that "The London Market will not give coverage on this basis..."

The London insurance market is virtually the only source of aircraft insurance in the state of Alaska. Clearly if this bill is passed, aircraft insurance in Alaska would not exist as we know it today. It is entirely possible it would not be available at all.

In a broader view, it is my opinion that this is a bad bill and that it should not be passed. The bill would significantly change the method by which insurers conduct business and that almost certainly Alaska would loose certain companies presently doing business here. Why should they commit capital to Alaska where they would be required to submit to such one-sided contracts of insurance?

As a legislative committee member for the Alaska Independent Insurance Agents and Brokers Association I am writing to express my desire that you do everything in your capacity to kill this bill.

Sincerely,



Phillip J. Dressen  
President

PJD/ss

cc: Mr. Pat Cowan  
AIIAB  
P.O. Box 1547  
Soldotna, AK 99669

1400 Benson Blvd., Suite 410 Anchorage, Alaska 99503

Phone: (907) 272-1825

FAX: (907) 272-8223



A policy of service and protection

AMENDMENT #2

April 10, 1987

RECEIVED  
APR 13 1987

Mr. Donald Koch  
State of Alaska  
Division of Insurance  
Pouch D  
Juneau, AK 99811

DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT  
DIVISION OF INSURANCE

Re: House Bill 46

Dear Don:

We are still concerned with the section of House Bill 46 that deals with short rate penalties for cancellation. After a review of the short rate tables filed by the National Council on Compensation Insurance, we have to agree that there is a problem. On the other hand, the Insurance Services Office short rate cancellation rule is fair and I doubt that there have been any complaints filed over the result of this approach.

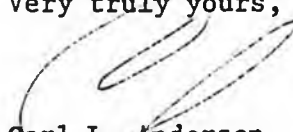
The rule states "Compute return premium at .90 of the pro rata unearned premium and round to the next higher whole dollar." A ten percent penalty does not seem unreasonable.

Our suggestion is that Section 21.36.255, Premium Refund, be rewritten as follows:

- (a) If an insurance policy is cancelled, rejected, or rescinded by the insurer or the insured, the insurer shall refund the unearned premium paid to the insured. The insurer may not provide a penalty for mid-term cancellation of a policy by the insured that is more than ten (10) percent of the unearned premium and the premium charged may not be more than that provided by the rating plan of the insurer for that coverage.

Don, we feel this is a reasonable compromise and will contribute to a more stable insurance marketplace.

Very truly yours,

  
Carl L. Anderson  
Executive Vice president

CLA:hm

# HUGHES THORSNESS GANTZ POWELL & BRUNDIN

ATTORNEYS AT LAW

DAVID M. THORSNESS  
JAMES M. POWELL  
BRIAN J. BRUNDIN  
MARCUS R. CLAPP<sup>1</sup>  
KENNETH P. JACOBUS  
GARY W. GANTZ  
JERRY E. MELCHER  
JOE M. HUDDLESTON  
SIGURD E. MURPHY  
CARL J. D. BALMAN  
FRED B. ARVIDSON  
DENNIS M. BUMP<sup>1</sup>  
MARY K. HUGHES  
FRANK A. PFIFFNER

RALPH R. BEISTLINE<sup>1</sup>  
GORDON J. TANS  
R. CRAIG HESSER  
ROBERT L. MANLEY  
JAMES M. GORSKI  
TIMOTHY R. BYRNES  
JAMES M. SEEDORF  
RONALD E. HOEL<sup>1</sup>  
FREDERICK J. ODSEN  
MICHAEL L. LESSMEIER<sup>2</sup>  
STEVEN S. TERVOOREN  
MATTHEW H. PETERSON  
JOSEPH R. D. LOESCHER  
KENNETH D. LOUGEE<sup>1</sup>

CARL M. SUTHERLAND  
JOHN B. THORSNESS  
JOHN V. ACOSTA<sup>1</sup>  
THOMAS R. LUCAS  
GREGORY W. LESSMEIER<sup>2</sup>  
DONNA P. WALKER<sup>2</sup>  
WILLIAM M. WALKER<sup>3</sup>  
DANIEL M. WOLD  
DAVID S. CARTER  
MARILYN MAY  
JOHN G. FRANK<sup>2</sup>  
ANN S. BROWN<sup>1</sup>  
BRIAN D. BJORKQUIST  
JAMES N. BARKELEY

TIMOTHY R. REDFORD  
SHELDON E. WINTERS<sup>2</sup>  
JOHN J. NOVAK  
JOHN H. TINDALL  
DAVID H. KNAPP  
MICKALE C. CARTER  
MATTHEW G. REYNOLDS  
ROBERT A. SPARKS<sup>1</sup>  
JOSEPH S. SLUSSER<sup>1</sup>  
JAMES F. KLASER  
  
OF COUNSEL  
JOHN C. HUGHES  
RICHARD O. GANTZ

509 WEST THIRD AVENUE  
ANCHORAGE, ALASKA 99501-2273  
TELEPHONE (907) 274-7522  
TELECOPIER (907) 274-7525  
TELEX 090-28378 (DENALI)

\*\*ONE SEALASKA PLAZA  
SUITE 303  
JUNEAU, ALASKA 99801-1248  
TELEPHONE (907) 586-5912  
TELECOPIER: (907) 463-3020

\*590 UNIVERSITY AVENUE  
SUITE 200  
FAIRBANKS, ALASKA 99709-3882  
TELEPHONE (907) 479-3181

\*\*\*200 CHENEGA STREET  
P.O. BOX 767  
VALDEZ, ALASKA 99868-0767  
TELEPHONE (907) 835-2963

REPLY TO JUNEAU

April 29, 1987

Representative Mike Navarre  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Re: House Bill 46  
Our File No. 30-213 and 220-92

Dear Representative Navarre:

I am writing to you on behalf of my clients, State Farm and Allstate Insurance Companies to reiterate their continuing concerns as expressed in my testimony before the House Labor and Commerce and Judiciary Committees regarding House Bill 46.

State Farm and Allstate Insurance Companies are deeply concerned about the extended time periods for notice of cancellation and non-renewal that House Bill 46 would impose. Currently, an insurer must give twenty days' notice of cancellation on personal lines of insurance. The original sponsors' version of HB 46 increased this to thirty days. That increase we would not vehemently oppose. However, with little reasoning expressed, the House Labor and Commerce Committee increased the period to sixty days. That increase we strongly oppose as well as the sixty day notice period HB 46 imposes on commercial lines.

Our clients believe the 60 day periods are unnecessary and unduly increase an insurer's exposure on bad risks, thereby inviting high cost claims, the cost of which will ultimately be borne by all policyholders. It must be remembered that only in certain, statutorily specified instances can an insurer even exercise its right to cancel personal lines. Reasons such as gross negligence of the insured and uninsurability of the property for either personal

Rep. Mike Navarre  
April 29, 1987  
Page 2

or commercial lines would still require sixty days' notice of cancellation. These are clearly warranted, justifiable reasons for cancelling a policy and to require an insurer to stay on these bad risks for sixty days is unduly onerous. This is likewise true of the forty-five day notice of non-renewal for commercial lines.

We recognize that the competing interests of the insurer in minimizing its exposure on a bad risk and providing the insured with adequate time to make other insurance arrangements must be harmonized. We believe imposing a thirty day notice of cancellation requirement for personal and commercial lines and a thirty day notice of non-renewal for commercial lines strikes the balance between these competing interests. It is disadvantageous to all policyholders to require the insurers to remain on a bad risk for extended periods of time as ultimately, all will bear the costs of the claims incurred as a result of these bad exposures.

On behalf of our clients, we respectfully request that House Bill 46 be amended to address these concerns.

Please contact me if I may provide additional information or answer any questions.

Sincerely,

HUGHES, THORSNESS, GANTZ,  
POWELL & BRUNDIN

By: 

Donna P. Walker

DPW/mh  
1743A

ALASKA CHAPTER OF THE AMERICAN COLLEGE OF NURSE-MIDWIVES  
BOX 9616 HILAND ROAD  
EAGLE RIVER, ALASKA 99577  
June 19, 1987

Rep. John Sund  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Ak. 99811

Dear Representative Sund:

On behalf of the Alaska Chapter of the American College of Nurse-Midwives, I want to thank you for your efforts on behalf of HB 46 (An Act Relating to Regulation of Insurance; and Providing for an Effective Date ). We understand that the bill has been signed by the governor. We will now be contacting the Division of Insurance and MICA regarding our participation in the program.

Sincerely,

*Pat Crevensten*

Pat Crevensten, CNM, Secretary



STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version : CSHB 46 (L&C)  
Publish Date : HOUSE 3/30/87

Revision Date: \_\_\_\_\_

Agency Affected: Div. of Insurance-DCED

Title: An Act relating to insurance;  
and providing for an effective date.

BRU: \_\_\_\_\_

Sponsor: Navarre, Sund, Swackhammer

Components: \_\_\_\_\_

Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: [Signature]  
Division: Division of Insurance

Phone: 465-2515  
Date: 3/26/87

Approved by Commissioner: [Signature]  
Agency: \_\_\_\_\_

Date: 3/26/87

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary