

H B

4 6

(7)

Date referred: 1/19/87

FURTHER REFERRALS: Judiciary

DATE: 3/26/87

The Labor & Commerce Committee has considered HB 46

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

RECOMMENDS:

- replace with CSHB46 (L+C) 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 _____
- zero with analysis

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

[Signature]
 Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST:

Revision Date: _____
 Title: An Act relating to insurance;
 and providing for an effective date.
 Sponsor: Navarre, Sund, Swackhammer
 Requestor: House Labor & Commerce

Bill Version: CSHB 46
 Publish Date: _____

Agency Affected: Div. of Insurance-DCED
 BRU: _____

Components: _____

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] Phone: 465-2515
 Division: Division of Insurance Date: 3/26/87

Approved by Commissioner: [Signature] Date: 3/26/87
 Agency: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

E

5-0306Le
Ford

Withdrawn

A M E N D M E N T

Offered in the HOUSE

B. 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,"

A M E N D M E N T # 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."

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

the cancellation."

Incorrect

2
5-0306Lg
Ford

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 46(L&C)

Page 19, line 16:

Delete "nonpayment of premium,"

Insert "a reason described in AS 21.36.215(a)(1), (2), or (3), [NON-PAYMENT OF PREMIUM]"

Page 19, line 29:

Delete "nonpayment of premium"

Insert "a reason described in AS 21.36.215(a)(1), (2), or (3)"

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB/46(L&C)

Page 19, line 18:

Delete "10"

Insert "20 [10]"

Page 20, line 2:

Delete "10"

Insert "20"

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~~ ^{delivered} 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."

Original sponsors: Navarre, Swackhammer
and Sund

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 46 (L&C)

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 hold 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 intend to use or use the license for the
26 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 ense 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 censee 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 [SPALL 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
30

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 (3) a policy issued under an automobile assigned risk plan
4 or automobile insurance plan;

5 (4) a policy insuring more than four motor vehicles;

6 (5) a policy covering the operation of a garage; automobile
7 sales agency, repair shop, or service station; or public parking
8 place;

9 (6) a policy providing insurance only on an excess basis;

10 (7) any other contract providing insurance to the named
11 insured, even though the contract may incidentally provide insurance
12 with respect to motor vehicles.

13 * Sec. 33. AS 21.36.210(f) is amended to read:

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

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

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

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

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

1 (5) physical changes in the insured property that result in
2 the property becoming uninsurable.

3 * Sec. 34. AS 21.36 is amended by adding a new section to read:

4 Sec. 21.36.215. LIMITS ON THE CANCELLATION OF BUSINESS OR COM-
5 MERCIAL INSURANCE POLICIES. (a) Except as allowed by the director
6 under (b) of this section, an insurer may exercise its right to cancel
7 a policy of business or commercial insurance only for the following
8 reasons:

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;

20 (5) physical changes in the insured property that result in
21 the property becoming uninsurable;

22 (6) physical changes in the operations of the insured that
23 result in the property becoming uninsurable;

24 (7) changes in the reinsurance program of the insurer that
25 results in an increase of the insurer's retention of risk on a subject
26 of insurance;

27 (8) changes in the financial condition of the insurer
28 resulting in a violation of AS 21.12.010;

29 (9) a material change in the law that affects the coverage

1 provided under the policy; or

2 (10) an excessive number of claims by the insured.

3 (b) Before issuing a notice of cancellation, an insurer may
4 request the director to determine in a particular case whether a
5 reason for cancellation not specified in (a) of this section is a
6 valid reason for cancellation. The director may allow the insurer to
7 exercise its right to cancel if the director finds that the cancella-
8 tion is justified. The insurer may not implement the requested can-
9 cellation before receiving the approval of the director.

10 * Sec. 35. AS 21.36.220 is amended to read:

11 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
12 exercise its right to cancel a personal insurance policy unless a
13 written notice of cancellation is mailed or delivered to the named
14 insured, at the address shown in the policy, at least 60 [20] days
15 before the effective date of cancellation. However, if [, EXCEPT THAT
16 WHEN] cancellation is for nonpayment of premium, the notice shall be
17 mailed or delivered to the named insured at the address shown in the
18 policy at least 20 [10] days before the effective date of cancella-
19 tion. If cancellation is for a reason described in AS 21.36.210-
20 (a)(2) or (f)(2) or (3), the notice shall be mailed or delivered to
21 the named insured at the address shown in the policy at least 10 days
22 before the effective date of cancellation [AND SHALL INCLUDE OR BE
23 ACCOMPANIED BY A STATEMENT OF THE REASON FOR THE CANCELLATION. THIS
24 SECTION DOES NOT APPLY TO THE FAILURE TO RENEW A POLICY, EXCEPT AS TO
25 COVERAGE IN FORCE FOR LESS THAN 12 MONTHS].

26 * Sec. 36. AS 21.36.220 is amended by adding new subsections to read:

27 (b) An insurer may not exercise its right to cancel a policy of
28 business or commercial insurance unless a written notice of cancella-
29 tion is mailed or delivered to the named insured, at the address shown

1 in the policy, and to the agent or broker of record, at least 60 days
2 before the effective date of cancellation. However, if cancellation
3 is for nonpayment of premium, the notice shall be mailed or delivered
4 to the named insured at the address shown in the policy and to the
5 agent or broker of record at least 20 days before the effective date
6 of cancellation. If cancellation is for a reason described in
7 AS 21.36.215(a)(2) or (3), the notice shall be mailed or delivered to
8 the named insured at the address shown in the policy and to the agent
9 or broker of record at least 10 days before the effective date of
10 cancellation.

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

15 (1) if cancellation is for nonpayment of premium, any
16 unearned premium shall be returned or credited within 45 days after
17 the notice of cancellation is given;

18 (2) if the policy is cancelled for other than nonpayment of
19 premium and is subject to audit, the insurer shall perform or waive
20 the audit before the effective date of the cancellation and return or
21 credit any estimated unearned premium before the effective date of
22 cancellation.

23 (d) An insurer who mails a notice of cancellation required under
24 this section shall mail the notice by certified mail and shall request
25 a return receipt that indicates the notice has been delivered. If a
26 notice of cancellation is returned undelivered to the insurer, the
27 insurer shall make an additional good faith effort to contact the
28 insured.

29 (e) The division may require an insurer to perform an audit that

1 the insurer has elected to waive under (c) of this section.

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

5 * Sec. 37. AS 21.36.240 is amended to read:

6 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
7 renew a personal insurance policy in force for less than 12 months.
8 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR
9 MORE] unless a written notice of nonrenewal is mailed or delivered to
10 the named insured, at the address shown in the policy, at least 20
11 days for a personal insurance policy, and at least 45 days for a
12 business or commercial insurance policy, before the expiration date of
13 the policy [,] or of the anniversary date of a policy written for a
14 term longer than one year or with no fixed expiration date. This
15 section does not apply

16 (1) if the insurer has in good faith manifested in any way
17 its willingness to renew;

18 (2) in case of nonpayment of premium for the expiring
19 policy; or

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

22 * Sec. 38. AS 21.36.250 is amended to read:

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

1 accompany or be included in the notice of cancellation or nonrenewal
2 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

3 * Sec. 39. AS 21.36 is amended by adding a new section to read:

4 Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is
5 cancelled, rejected, or rescinded by the insurer or the insured, the
6 insurer shall refund the unearned premium paid to the insured. The
7 insurer may not provide a penalty for midterm cancellation of a policy
8 by the insured or by the insurer and the premium charged may not be
9 more than that provided by the rating plan of the insurer for that
10 coverage.

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

14 (1) whose premium is earned at a varying rate due to
15 seasonality of exposure;

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

17 (3) with a fluctuating premium base.

18 * Sec. 40. AS 21.36.310 is amended to read:

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

20 (1) "business or commercial insurance" means insurance
21 other than personal insurance, life insurance, disability insurance,
22 fidelity and surety insurance, title insurance, wet marine and trans-
23 portation insurance as defined in AS 21.34.900, or an annuity con-
24 tract;

25 (2) "nonpayment of premium" means failure of the named
26 insured to discharge when due any obligations of the named insured in
27 connection with the payment of premium on a policy, or any installment
28 of the premium, whether the premium is payable directly to the insurer
29 or its agent or indirectly under any premium finance plan or extension

1 of credit;

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

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

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

19 (4) "personal insurance"

20 (A) means personal automobile insurance, or insurance
21 covering

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

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

28 or

29 (iii) legal liability of natural persons for loss

1 of, damage to, or injury to persons or property if the in-
2 surance does not cover liability arising from or in con-
3 nection with business or commercial activities;

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

6 (5) [(3)] "renewal" or "renew" means

7 (A) the issuance and delivery [BY AN INSURER] of an
8 insurance [A] policy [REPLACING] at the end of the policy period,
9 that replaces a policy previously issued and delivered by the
10 same insurer; [,]

11 (B) the issuance and delivery of a certificate or
12 notice extending the term of a policy beyond its policy period or
13 term; [,] or

14 (C) the extension of the term of a policy beyond its
15 policy period or term under a provision for extending the policy
16 by payment of a continuation premium.

17 * Sec. 41. AS 21.84.430(c) is amended to read:

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

24 * Sec. 42. AS 21.88.050 is amended to read:

25 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The
26 corporation shall

27 (1) in the form approved by the director, issue to all
28 physicians, nurses, and hospitals who are found to be acceptable risks
29 under standards developed under (5) of this subsection, and who pay

1 the premiums for it, a contract or contracts indemnifying physicians,
2 nurses, and hospitals and their employees who are health care provid-
3 ers against loss by reason of liability for covered claims for an act
4 or omission in the delivery of professional health care in this state,
5 and agreeing to tender on behalf of the physicians, nurses, and hos-
6 pitals and their employees who are health care providers a defense to
7 a covered claim in a proceeding brought under AS 09.55.530 - 09.55.-
8 560; the limits of liability for policies issued by the corporation
9 shall be approved by the director; the contract shall cover the de-
10 fense against but need not indemnify liability for punitive damages
11 arising from a covered claim; at the option of the corporation, if
12 approved by the director, and for an additional premium the contract
13 may cover claims against the physician, nurse, or hospital that arise
14 out of professional services performed by the physician, nurse, or
15 hospital for any period before the contract is issued, except that
16 coverage will not be provided for a claim already filed or that [OF
17 WHICH] the physician, nurse, or hospital had or reasonably should have
18 had notice at the time the retroactive insurance was purchased;

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

23 (3) comply with or be subject to AS 21.06.090, 21.06.120,
24 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,
25 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and
26 AS 21.36; and shall be exempt from participation as a member insurer
27 in the Alaska Insurance Guaranty Corporation;

28 (4) carry out the obligations of the contracts issued by
29 the corporation by defending all covered claims made against insured

1 health care providers and by paying all liabilities that [WHICH] are
2 finally adjudicated against the insured health care provider or that
3 [WHICH] may in the opinion of the corporation reasonably be expected
4 to be finally adjudicated against the health care provider to the
5 extent of the contract obligation;

6 (5) establish standards for the acceptability of risks; in
7 establishing these standards the corporation may exclude an applicant
8 for insurance based on individual risk selection factors, but may not
9 exclude an applicant based only on the classification of the appli-
10 cant.

11 (b) The corporation may

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

16 (2) negotiate for and procure reinsurance from private
17 casualty insurers or reinsurers for any and all liability incurred by
18 contracts issued by it;

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

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

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

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

29 (7) provide risk management advice and services to

1 hospitals;

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

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

6 (10) in a form approved by the director and for an addition-
7 al premium determined under AS 21.88.080, issue endorsements which
8 provide indemnity for claims not yet reported which arise out of
9 professional services rendered during a period of continuous coverage
10 under the originally issued contract, to physicians, nurses, and
11 hospitals who pay the premium for it and who are terminating their
12 original covered claims contract with the corporation for a period of
13 not less than one year;

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

17 * Sec. 43. AS 21.90.900 is amended to read:

18 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless
19 the context requires otherwise,

20 (1) "adjuster" means a person who, for compensation as an
21 independent contractor or as an employee of an independent contractor,
22 or for fee or commission, investigates and adjusts claims arising
23 under insurance contracts on behalf of the insurer, but does not
24 include an attorney at law who adjusts insurance losses from time to
25 time incidental to the practice of law or a salaried employee of an
26 insurer;

27 (2) "agent" means a person appointed by an insurer to
28 solicit applications for insurance or annuities on its behalf, and if
29 authorized to do so, to effectuate and countersign insurance

1 contracts, except life or disability insurance or annuities, and to
2 collect premiums on insurance or annuities;

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

6 (4) [(2)] "authorized insurer" means an insurer authorized
7 by a [SUBSISTING] certificate of authority issued by the director to
8 transact insurance in this state;

9 (5) "broker" means a person who is not an agent of the
10 insurer and who, on behalf of the insured, for compensation as an
11 independent contractor by commission or fee, solicits, negotiates, or
12 procures insurance or reinsurance or the renewal or continuance of
13 insurance or reinsurance; or in any manner aids in the solicitation,
14 negotiation, procurement, renewal, or continuance of insurance or
15 reinsurance, for insureds or prospective insureds not including the
16 broker;

17 (6) [(3)] "commissioner" means the commissioner of the
18 Department of Commerce and Economic Development;

19 (7) [(4)] "court" means superior court;

20 (8) [(5)] "director" means the director of the division of
21 insurance;

22 (9) [(6)] "division" means the division of insurance,
23 Department of Commerce and Economic Development;

24 (10) [(7)] "domestic insurer" means an insurer formed under
25 the laws of this state;

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

1 (12) [(8)] "foreign insurer" means an insurer formed under
2 the laws of a jurisdiction other than this state and includes an alien
3 insurer;

4 (13) "independent adjuster" means an adjuster representing
5 the interests of the insurer;

6 (14) [(9)] "industrial life insurance" means that form of
7 life insurance written under policies with a face amount of \$1,000 or
8 less, with the words "industrial policy" imprinted on the face as part
9 of the descriptive matter, and under which premiums are payable month-
10 ly or more often;

11 (15) [(10)] "insurance" means a contract whereby one under-
12 takes to indemnify another or pay or provide a specified or determin-
13 able amount or benefit upon determinable contingencies;

14 (16) [(11)] "insurer" includes a person engaged as indemni-
15 tor, surety, or contractor in the business of entering into contracts
16 of insurance or of annuity;

17 (17) [(12)] "person" has the meaning given in AS 01.10.060
18 and includes an insurer, Lloyds, fraternal benefit society, medical
19 service or hospital service plan as defined in AS 21.87, reciprocal or
20 interinsurance exchange, syndicate, and any other legal entity engaged
21 in the business of transacting insurance, including agents, brokers,
22 and claims adjusters;

23 (18) [(13)] "policy" means the written contract of or writ-
24 ten agreement for or effecting insurance, by whatever name called, and
25 includes all clauses, riders, endorsements and papers attached to it
26 and a part of it;

27 (19) [(14)] "premium" means the consideration for insurance,
28 by whatever name called, and by whatever method paid or collected,
29 including an assessment, or membership, policy, survey, inspection,

1 service or similar fee or charge made in consideration for an insur-
2 ance contract;

3 (20) "solicitor" means an individual authorized by an agent
4 or broker to solicit applications for insurance as a representative of
5 the agent or broker and to collect premiums in connection with the
6 insurance;

7 (21) [(15)] "state" means a state, District of Columbia,
8 territory, commonwealth, or possession of the United States of
9 America;

10 (22) [(16)] "transact" with respect to insurance includes
11 (A) solicitation and inducement;
12 (B) preliminary negotiations;
13 (C) effectuation of a contract of insurance;
14 (D) transaction of matters subsequent to effectuation
15 of the contract of insurance and arising out of it;

16 (23) [(17)] "unauthorized insurer" means an insurer not
17 authorized to transact insurance in this state.

18 * Sec. 44. AS 21.90 is amended by adding a new section to read:

19 Sec. 21.90.910. EXCEPTIONS FROM DEFINITIONS. The definitions of
20 "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900
21 do not include

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

28 (2) the attorney-in-fact of a reciprocal insurer, or the
29 salaried traveling representative of a reciprocal or mutual insurer

1 not compensated on a commission basis.

2 * Sec. 45. AS 21.03.030, 21.03.040, 21.03.050; AS 21.06.040; AS 21.27.-
3 040(b), 21.27.470, 21.27.480, 21.27.490, 21.27.500, 21.27.510, 21.27.520;
4 AS 21.36.210(c), 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

5 * Sec. 46. Sections 1 - 29 and 31 - 45 of this Act apply to insurance
6 policies entered into or renewed on or after the effective date of secs.
7 1 - 29 and 31 - 45 of this Act.

8 * Sec. 47. Section 30 of this Act takes effect immediately under
9 AS 01.10.070(c).

COMMENTS TO COMMITTEE SUBSTITUTE FOR HOUSE BILL 46

MARCH 7, 1987

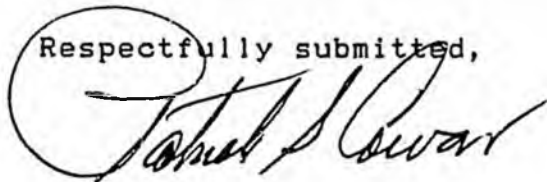
This proposed Legislation started out with some well defined issues, designed to assist the Regulatory Authorities and to improve some Insurance practices to the benefit of the Alaskan Insurance buying Public. Since then, with no forewarning, these once separate, issues have evolved in to many subsections 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

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

HL+C

3-24-87

1:30 p.m.

5-0306L

Ford
2/23/87

Original sponsors: Navarre, Swackhammer,
and Sund

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 46 (L&C)

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."

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

8 * Section 1. AS 21.09.250 is amended to read:

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

20 * Sec. 2. AS 21.09.280 is amended to read:

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

25 (b) A general agent [OR MANAGER] has the authority, consistent
26 with this title, that may be conferred by the insurer. A general
27 agent, resident or nonresident, qualified in AS 21.27.090, licensed as
28 provided in this section in the same manner as is provided for agents
29 in AS 21.27, may exercise the powers conferred by this title upon

1 agents licensed for the kinds of insurance that the general agent is
2 authorized to transact for the insurer appointing the agent.

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

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

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

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

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

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

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

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

28 (3) the person, firm, or corporation is a wholly-owned
29 subsidiary of the insurance holding company that owns or controls the

1 insurer.

2 * Sec. 4. AS 21.27.020 is amended to read:

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

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

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

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

20 (2) the circumstances of the applicant for the license [OR
21 OF A LICENSEE] are such [AS TO CAUSE THE DIRECTOR REASONABLY TO
22 BELIEVE] that during the 12-month period immediately following issu-
23 ance [OR RENEWAL] of the license, if issued [OR RENEWED], the aggre-
24 gate amount of commissions to be represented by the controlled busi-
25 ness would exceed the aggregate amount of commissions to be repre-
26 sented by all other insurance business to be procured by or through
27 the applicant [OR LICENSEE].

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

29 (d) The director may revoke an agent, solicitor, or broker

1 license if the director has reasonable cause to believe that during
2 either of the two preceding calendar years the aggregate amount of
3 commissions represented by the controlled business procured by or
4 through the licensee exceeded the aggregate amount of commissions
5 represented by all other insurance business procured by or through the
6 licensee.

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

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

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

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

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

28 (4) applicants for an agent or solicitor license covering
29 the same kinds of insurance as an agent's or solicitor's license then

1 held by them.

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

9 * Sec. 8. AS 21.27.090(a) is amended to read:

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

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

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

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

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

23 (4) [(5)] be a trustworthy person;

24 (5) [(6)] not intend to use or use the license for the
25 purpose principally of writing controlled business, as defined in AS
26 21.27.030;

27 (6) [(7)] if for an agent license, be appointed as its
28 agent by one or more authorized insurers, subject to issuance of the
29 license;

1 (7) [(8)] if for broker license, have had experience either
2 as an agent, solicitor, adjuster, general agent, broker, or as an
3 employee of insurers or representatives of insurers, or special educa-
4 tion or training of sufficient duration and extent reasonably to
5 satisfy the director that the applicant possesses the competence
6 necessary to fulfill the responsibilities of broker.

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

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

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

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

13 * Sec. 10. AS 21.27.130 is amended to read:

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

17 (1) the name and address of the licensee, or if the
18 licensee is required to have a place of business, the address of the
19 place of business;

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

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

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

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

29 (6) the date of issuance [AND DATE OF EXPIRATION] of the

1 license.

2 * Sec. 11. AS 21.27.140 is amended to read:

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

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

24 (b) The director shall issue to the agent a special vending
25 machine license for each machine to be used. The license must [SHALL]
26 specify the name and address of the insurer and agent, the name of the
27 policy to be sold, the serial number of the machine, and the place
28 where the machine is to be in operation. The license is [SHALL BE]
29 subject to [ANNUAL CONTINUATION, TO EXPIRATION,] suspension or

1 revocation coincidentally with that of the agent. The director shall
2 also revoke the license on a machine if the director finds that the
3 conditions upon which the machine was licensed, under [AS REFERRED TO
4 IN] (a) of this section, no longer exist. Proof of the existence of a
5 [SUBSISTING] license shall be displayed on or about each vending
6 machine in use in the manner the director may reasonably require.

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

8 (a) Each applicant for a broker license [OR FOR THE RENEWAL OF A
9 BROKER LICENSE EXISTING ON JULY 1, 1966,] shall file with the applica-
10 tion [OR REQUEST FOR RENEWAL] and shall after that [THEREAFTER] main-
11 tain in force while [SO] licensed a bond in favor of the people of the
12 state, executed by an authorized corporate surety approved by the
13 director, in the amount of \$50,000 [\$5,000]. The bond may be continu-
14 ous in form, and total aggregate liability on the bond may be limited
15 to the payment of \$50,000 [\$5,000]. The bond must [SHALL] be contin-
16 gent on the accounting by the broker, to a [ANY] person requesting the
17 broker to obtain insurance, for money or premiums collected in connec-
18 tion with the insurance [THEREWITH].

19 * Sec. 14. AS 21.27.200(a) is repealed and reenacted to read:

20 (a) A broker is not an agent or other representative of an
21 insurer, and except as provided under (c) of this section, does not
22 have power as a broker to bind the insurer regarding a risk or an
23 insurance contract.

24 * Sec. 15. AS 21.27.200 is amended by adding new subsections to read:

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

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

1 (2) the broker confirmed coverage as required under (d) of
2 this section.

3 (d) A broker shall, within 15 days after receiving a premium
4 payment, provide written confirmation of the insured's coverage.

5 (e) This section is not intended to alter the common law of
6 agency as applied to transactions under this title.

7 * Sec. 16. AS 21.27.240(a) is amended to read:

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

12 * Sec. 17. AS 21.27.300 is amended to read:

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

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

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

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

19 * Sec. 18. AS 21.27.350(a) is amended to read:

20 (a) Each agent, broker, or adjuster shall keep at the address as
21 shown on the license a record of all transactions consummated under
22 the license. This record shall be in organized form and must include

23 (1) if an agent or broker,

24 (A) a record of each insurance contract procured,
25 issued, or countersigned, together with the names of the insurers
26 and insureds, the amount of premium paid or to be paid, and a
27 statement of the subject of the insurance;

28 (B) the names of any other licensees from whom busi-
29 ness is accepted, and of persons to whom commissions or

1 allowances of any kind are promised or paid;

2 (C) current accounting and financial records main-
3 tained in accordance with generally accepted accounting princi-
4 ples;

5 (2) if an adjuster, a record of each investigation or
6 adjustment undertaken or consummated, and a statement of the fee,
7 commission, or other compensation received or to be received by the
8 adjuster on account of the investigation or adjustment;

9 (3) additional information that [WHICH] is customary, or
10 that [WHICH] may reasonably be required by the director.

11 * Sec. 19. AS 21.27.350(b) is amended to read:

12 (b) The records of a particular transaction shall be kept avail-
13 able and open to the inspection of the director at any business time
14 during the five years immediately after the date of the completion of
15 the transaction. Records inspected under this subsection are confi-
16 dential.

17 * Sec. 20. AS 21.27.360(b) is amended to read:

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

27 * Sec. 21. AS 21.27.360 is amended by adding new subsections to read:

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

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

7 (e) An agent or broker may not treat funds in a fiduciary ac-
8 count as a personal asset, as collateral for a personal or business
9 loan, or as a personal asset or income on a financial statement,
10 except that funds in a fiduciary account may be included in a finan-
11 cial statement of the agent or broker if clearly identified as fidu-
12 ciary account assets.

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

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

17 Sec. 21.27.380. ANNUAL FEE FOR LICENSES. (a) An annual fee set
18 under AS 21.06.250 for resident and nonresident agent, solicitor, and
19 adjuster licenses is due on or before the close of business on the
20 30th day of June.

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

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

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

1 under AS 21.06.250. This subsection may not be considered to exempt a
2 person from a penalty provided by law for transacting business without
3 a valid license.

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

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

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

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

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

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

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

21 * Sec. 24. AS 21.27.410(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

1 * Sec. 26. AS 21.27.420 is amended to read:

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

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

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

13 * Sec. 27. AS 21.27.440 is amended to read:

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

25 * Sec. 28. AS 21.27.450 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

18 * Sec. 31. AS 21.36.210(a) is amended to read:

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

22 (1) nonpayment of premium; or

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

1 * Sec. 32. AS 21.36.210(d) is amended to read:

2 (d) This section does not apply to

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

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

8 (3) a policy issued under an automobile assigned risk plan
9 or automobile insurance plan;

10 (4) a policy insuring more than four motor vehicles;

11 (5) a policy covering the operation of a garage; automobile
12 sales agency, repair shop, or service station; or public parking
13 place;

14 (6) a policy providing insurance only on an excess basis;

15 (7) any other contract providing insurance to the named
16 insured, even though the contract may incidentally provide insurance
17 with respect to motor vehicles.

18 * Sec. 33. AS 21.36.210(f) is amended to read:

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

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

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

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

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

6 (5) physical changes in the insured property that result in
7 the property becoming uninsurable.

8 * Sec. 34. AS 21.36 is amended by adding a new section to read:

9 Sec. 21.36.215. LIMITS ON THE CANCELLATION OF BUSINESS OR COM-
10 Mercial INSURANCE POLICIES. (a) Except as allowed by the director
11 under (b) of this section, an insurer may exercise its right to cancel
12 a policy of business or commercial insurance only for the following
13 reasons:

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

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

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

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

25 (5) physical changes in the insured property that result in
26 the property becoming uninsurable;

27 (6) physical changes in the operations of the insured that
28 result in the property becoming uninsurable;

29 (7) changes in the reinsurance program of the insurer that

1 results in an increase of the insurer's retention of risk on a subject
2 of insurance;

3 (8) changes in the financial condition of the insurer
4 resulting in a violation of AS 21.12.010;

5 (9) a material change in the law that affects the coverage
6 provided under the policy; or

7 (10) an excessive number of claims by the insured.

8 (b) Before issuing a notice of cancellation, an insurer may
9 request the director to determine in a particular case whether a
10 reason for cancellation not specified in (a) of this section is a
11 valid reason for cancellation. The director may allow the insurer to
12 exercise its right to cancel if the director finds that the cancella-
13 tion is justified. The insurer may not implement the requested can-
14 cellation before receiving the approval of the director.

15 * Sec. 35. AS 21.36.220 is amended to read:

16 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
17 exercise its right to cancel a personal insurance policy unless a
18 written notice of cancellation is mailed or delivered to the named
19 insured, at the address shown in the policy, at least 60 [20] days
20 before the effective date of cancellation. However, if [, EXCEPT THAT
21 WHEN] cancellation is for nonpayment of premium, the notice shall be
22 mailed or delivered to the named insured at the address shown in the
23 policy at least 10 days before the effective date of cancellation, and
24 must [SHALL] include or be accompanied by a statement of the reason
25 for the cancellation. [THIS SECTION DOES NOT APPLY TO THE FAILURE TO
26 RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS THAN 12
27 MONTHS.]

28 * Sec. 36. AS 21.36.220 is amended by adding new subsections to read:

29 (b) An insurer may not exercise its right to cancel a policy of

1 business or commercial insurance unless a written notice of cancella-
2 tion is mailed or delivered to the named insured, at the address shown
3 in the policy, and to the agent or broker of record, at least 60 days
4 before the effective date of cancellation. However, if cancellation
5 is for nonpayment of premium, the notice shall be mailed or delivered
6 to the named insured at the address shown in the policy and to the
7 agent or broker of record at least 10 days before the effective date
8 of cancellation, and must include or be accompanied by a statement of
9 the reason for the cancellation.

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

14 (1) if cancellation is for nonpayment of premium, any
15 unearned premium shall be returned or credited within 45 days after
16 the notice of cancellation is given;

17 (2) if the policy premium is subject to audit, the insurer
18 shall perform an audit within 30 days of the effective date of the
19 cancellation and return or credit any unearned premium within 30 days
20 after the completion of the audit.

21 * Sec. 37. AS 21.36.240 is amended to read:

22 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
23 renew a personal insurance policy in force for less than 12 months.
24 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR
25 MORE] unless a written notice of nonrenewal is mailed or delivered to
26 the named insured, at the address shown in the policy, at least 20
27 days for a personal insurance policy, and at least 45 days for a
28 business or commercial insurance policy, before the expiration date of
29 the policy [,] or of the anniversary date of a policy written for a

1 term longer than one year or with no fixed expiration date. This
2 section does not apply

3 (1) if the insurer has in good faith manifested in any way
4 its willingness to renew;

5 (2) in case of nonpayment of premium for the expiring
6 policy; or

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

9 * Sec. 38. AS 21.36.250 is amended to read:

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

19 * Sec. 39. AS 21.36 is amended by adding a new section to read:

20 Sec. 21.36.255. PREMIUM REFUND. If an insurance policy is
21 canceled, rejected, or rescinded, the insurer shall refund the premium
22 paid by the insured as follows:

23 (1) the entire premium paid, if the insurer has not been
24 exposed to a risk of loss; or

25 (2) the portion of the premium corresponding proportionately
26 to the unexpired period of coverage, when the insurance coverage is
27 for a definite period of time and the insured surrenders the policy.

28 * Sec. 40. AS 21.36.310 is amended to read:

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

1 (1) "business or commercial insurance" means insurance
2 other than personal insurance, life insurance, disability insurance,
3 fidelity and surety insurance, title insurance, or an annuity con-
4 tract;

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

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

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

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

28 (4) "personal insurance"

29 (A) means personal automobile insurance, or insurance

1 covering

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

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

8 or

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

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

15 (5) [(3)] "renewal" or "renew" means

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

20 (B) the issuance and delivery of a certificate or
21 notice extending the term of a policy beyond its policy period or
22 term; [,] or

23 (C) the extension of the term of a policy beyond its
24 policy period or term under a provision for extending the policy
25 by payment of a continuation premium.

26 * Sec. 41. AS 21.84.430(c) is amended to read:

27 (c) The director may refuse to issue or may suspend or revoke
28 [RENEW] an insurance agent's license if, in the judgment of the direc-
29 tor, the proposed licensee is not trustworthy and competent to act as

1 agent, or has given cause for revocation or suspension of the license,
2 or has failed to comply with a prerequisite for the issuance [OR
3 RENEWAL, AS THE CASE MAY BE,] of the license.

4 * Sec. 42. AS 21.88.050 is amended to read:

5 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The
6 corporation shall

7 (1) in the form approved by the director, issue to all
8 physicians, nurses, nurse midwives, and hospitals who are found to be
9 acceptable risks under standards developed under (5) of this sub-
10 section, and who pay the premiums for it, a contract or contracts
11 indemnifying physicians, nurses, nurse midwives, and hospitals and
12 their employees who are health care providers against loss by reason
13 of liability for covered claims for an act or omission in the delivery
14 of professional health care in this state, and agreeing to tender on
15 behalf of the physicians, nurses, nurse midwives, and hospitals and
16 their employees who are health care providers a defense to a covered
17 claim in a proceeding brought under AS 09.55.530 - 09.55.560; the
18 limits of liability for policies issued by the corporation shall be
19 approved by the director; the contract shall cover the defense against
20 but need not indemnify liability for punitive damages arising from a
21 covered claim; at the option of the corporation, if approved by the
22 director, and for an additional premium the contract may cover claims
23 against the physician, nurse, nurse midwife, or hospital that arise
24 out of professional services performed by the physician, nurse, nurse
25 midwife, or hospital for any period before the contract is issued,
26 except that coverage will not be provided for a claim already filed or
27 that [OF WHICH] the physician, nurse, nurse midwife, or hospital had
28 or reasonably should have had notice at the time the retroactive
29 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 claims 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, nurse
22 midwives, and hospitals who pay the premium for it and who are termi-
23 nating their original covered claims contract with the corporation for
24 a period of 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 21.88.900 is amended by adding new paragraphs to read:

29 (17) "nurse" means a nurse licensed under AS 08.68;

1 (18) "nurse midwife" means a registered professional nurse
2 who is certified as an advanced nurse practitioner under AS 08.68.-
3 410(1) and authorized to practice as a nurse midwife under regulations
4 adopted under AS 08.68.

5 * Sec. 44. AS 21.90.900 is amended to read:

6 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless
7 the context requires otherwise,

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

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

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

23 (4) [(2)] "authorized insurer" means an insurer authorized
24 by a [SUBSISTING] certificate of authority issued by the director to
25 transact insurance in this state;

26 (5) "broker" means a person who is not an agent of the
27 insurer and who, on behalf of the insured, for compensation as an
28 independent contractor by commission or fee, solicits, negotiates, or
29 procures insurance or reinsurance or the renewal or continuance of

1 insurance or reinsurance; or in any manner aids in the solicitation,
2 negotiation, procurement, renewal, or continuance of insurance or
3 reinsurance, for insureds or prospective insureds not including the
4 broker;

5 (6) [(3)] "commissioner" means the commissioner of the
6 Department of Commerce and Economic Development;

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

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

10 (9) [(6)] "division" means the division of insurance,
11 Department of Commerce and Economic Development;

12 (10) [(7)] "domestic insurer" means an insurer formed under
13 the laws of this state;

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

18 (12) [(8)] "foreign insurer" means an insurer formed under
19 the laws of a jurisdiction other than this state and includes an alien
20 insurer;

21 (13) "independent adjuster" means an adjuster representing
22 the interests of the insurer;

23 (14) [(9)] "industrial life insurance" means that form of
24 life insurance written under policies with a face amount of \$1,000 or
25 less, with the words "industrial policy" imprinted on the face as part
26 of the descriptive matter, and under which premiums are payable month-
27 ly or more often;

28 (15) [(10)] "insurance" means a contract whereby one under-
29 takes to indemnify another or pay or provide a specified or

1 determinable amount or benefit upon determinable contingencies;

2 (16) [(11)] "insurer" includes a person engaged as indemni-
3 tor, surety, or contractor in the business of entering into contracts
4 of insurance or of annuity;

5 (17) [(12)] "person" has the meaning given in AS 01.10.060
6 and includes an insurer, Lloyds, fraternal benefit society, medical
7 service or hospital service plan as defined in AS 21.87, reciprocal or
8 interinsurance exchange, syndicate, and any other legal entity engaged
9 in the business of transacting insurance, including agents, brokers,
10 and claims adjusters;

11 (18) [(13)] "policy" means the written contract of or writ-
12 ten agreement for or effecting insurance, by whatever name called, and
13 includes all clauses, riders, endorsements and papers attached to it
14 and a part of it;

15 (19) [(14)] "premium" means the consideration for insurance,
16 by whatever name called, and by whatever method paid or collected,
17 including an assessment, or membership, policy, survey, inspection,
18 service or similar fee or charge made in consideration for an insur-
19 ance contract;

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

24 (21) [(15)] "state" means a state, District of Columbia,
25 territory, commonwealth, or possession of the United States of
26 America;

27 (22) [(16)] "transact" with respect to insurance includes

28 (A) solicitation and inducement;

29 (B) preliminary negotiations;

1 (C) effectuation of a contract of insurance;

2 (D) transaction of matters subsequent to effectuation
3 of the contract of insurance and arising out of it;

4 (23) [(17)] "unauthorized insurer" means an insurer not
5 authorized to transact insurance in this state.

6 * Sec. 45. AS 21.90 is amended by adding a new section to read:

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

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

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

19 * Sec. 46. AS 21.03.030, 21.03.040, 21.03.050; AS 21.27.040(b), 21.27.-
20 470, 21.27.480, 21.27.490, 21.27.500, 21.27.510, 21.27.520; AS 21.36.-
21 210(c), 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

5-0306L
Ford
3/23/87

Original sponsors: Navarre, Swackhammer
and Sund

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 46 (L&C)

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 AS
23 21.27.060;

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

25 (5) [(6)] not intend to use or use the license for the
26 purpose principally of writing controlled business, as defined in AS
27 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 \$5,000. The bond may be continuous in
17 form, and total aggregate liability on the bond may be limited to the
18 payment of \$5,000. The bond must [SHALL] be contingent on the ac-
19 counting by the broker, to a [ANY] person requesting the broker to
20 obtain insurance or to a person from whom the broker obtains insur-
21 ance, for money or premiums collected in connection with the insurance
22 [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

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, re-
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 (3) a policy issued under an automobile assigned risk plan
4 or automobile insurance plan;

5 (4) a policy insuring more than four motor vehicles;

6 (5) a policy covering the operation of a garage; automobile
7 sales agency, repair shop, or service station; or public parking
8 place;

9 (6) a policy providing insurance only on an excess basis;

10 (7) any other contract providing insurance to the named
11 insured, even though the contract may incidentally provide insurance
12 with respect to motor vehicles.

13 * Sec. 33. AS 21.36.210(f) is amended to read:

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

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

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

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

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

1 (5) physical changes in the insured property that result in
2 the property becoming uninsurable.

3 * Sec. 34. AS 21.36 is amended by adding a new section to read:

4 Sec. 21.36.215. LIMITS ON THE CANCELLATION OF BUSINESS OR COM-
5 MERCIAL INSURANCE POLICIES. (a) Except as allowed by the director
6 under (b) of this section, an insurer may exercise its right to cancel
7 a policy of business or commercial insurance only for the following
8 reasons:

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;

20 (5) physical changes in the insured property that result in
21 the property becoming uninsurable;

22 (6) physical changes in the operations of the insured that
23 result in the property becoming uninsurable;

24 (7) changes in the reinsurance program of the insurer that
25 results in an increase of the insurer's retention of risk on a subject
26 of insurance;

27 (8) changes in the financial condition of the insurer
28 resulting in a violation of AS 21.12.010;

29 (9) a material change in the law that affects the coverage

1 provided under the policy; or

2 (10) an excessive number of claims by the insured.

3 (b) Before issuing a notice of cancellation, an insurer may
4 request the director to determine in a particular case whether a
5 reason for cancellation not specified in (a) of this section is a
6 valid reason for cancellation. The director may allow the insurer to
7 exercise its right to cancel if the director finds that the cancella-
8 tion is justified. The insurer may not implement the requested can-
9 cellation before receiving the approval of the director.

10 * Sec. 35. AS 21.36.220 is amended to read:

11 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
12 exercise its right to cancel a personal insurance policy unless a
13 written notice of cancellation is mailed or delivered to the named
14 insured, at the address shown in the policy, at least 60 [20] days
15 before the effective date of cancellation. However, if [, EXCEPT THAT
16 WHEN] cancellation is for nonpayment of premium, the notice shall be
17 mailed or delivered to the named insured at the address shown in the
18 policy at least 10 days before the effective date of cancellation, and
19 must [SHALL] include or be accompanied by a statement of the reason
20 for the cancellation. [THIS SECTION DOES NOT APPLY TO THE FAILURE TO
21 RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS THAN 12
22 MONTHS.]

23 * Sec. 36. AS 21.36.220 is amended by adding new subsections to read:

24 (b) An insurer may not exercise its right to cancel a policy of
25 business or commercial insurance unless a written notice of cancella-
26 tion is mailed or delivered to the named insured, at the address shown
27 in the policy, and to the agent or broker of record, at least 60 days
28 before the effective date of cancellation. However, if cancellation
29 is for nonpayment of premium, the notice shall be mailed or delivered

1 to the named insured at the address shown in the policy and to the
2 agent or broker of record at least 10 days before the effective date
3 of cancellation, and must include or be accompanied by a statement of
4 the reason for the cancellation.

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

9 (1) if cancellation is for nonpayment of premium, any
10 unearned premium shall be returned or credited within 45 days after
11 the notice of cancellation is given;

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

17 (d) A postal receipt indicating a mailing to the named insured
18 as required under this section is presumptive proof that notice has
19 been mailed as required under this section.

20 (e) The division may require an insurer to perform an audit that
21 the insurer has elected to waive under (c) of this section.

22 * Sec. 37. AS 21.36.240 is amended to read:

23 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
24 renew a personal insurance policy in force for less than 12 months.
25 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR
26 MORE] unless a written notice of nonrenewal is mailed or delivered to
27 the named insured, at the address shown in the policy, at least 20
28 days for a personal insurance policy, and at least 45 days for a
29 business or commercial insurance policy. before the expiration date of

1 the policy [,] or of the anniversary date of a policy written for a
2 term longer than one year or with no fixed expiration date. This
3 section does not apply

4 (1) if the insurer has in good faith manifested in any way
5 its willingness to renew;

6 (2) in case of nonpayment of premium for the expiring
7 policy; or

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

10 * Sec. 38. AS 21.36.250 is amended to read:

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

20 * Sec. 39. AS 21.36 is amended by adding a new section to read:

21 Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is
22 cancelled, rejected, or rescinded by the insurer or the insured, the
23 insurer shall refund the unearned premium paid to the insured. The
24 insurer may not provide a penalty for midterm cancellation of a policy
25 by the insured or by the insurer and the premium charged may not be
26 more than that provided by the rating plan of the insurer for that
27 coverage.

28 (b) Notwithstanding (a) of this section, if the insurer clearly
29 indicates one or more of the following features in the policy, an

1 insurer may issue a policy

2 (1) whose premium is earned at a varying rate due to season-
3 ality of exposure;

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

5 (3) with a fluctuating premium base.

6 * Sec. 40. AS 21.36.310 is amended to read:

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

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

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

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

29 (A) a motor vehicle of the private passenger or

1 station wagon type that is not used as a public or livery convey-
2 ance, nor rented to others; or

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

7 (4) "personal insurance"

8 (A) means personal automobile insurance, or insurance
9 covering

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

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

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

21 (B) does not include an annuity contract or a polic
22 of life insurance, disability insurance, or title insurance;

23 (5) [(3)] "renewal" or "renew" means

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

28 (B) the issuance and delivery of a certificate or
29 notice extending the term of a policy beyond its policy period or

1 term; [,] or

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

5 * Sec. 41. AS 21.84.430(c) is amended to read:

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

12 * Sec. 42. AS 21.88.050 is amended to read:

13 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The
14 corporation shall

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

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

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

11 (3) comply with or be subject to AS 21.06.090, 21.06.120,
12 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,
13 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and
14 AS 21.36; and shall be exempt from participation as a member insurer
15 in the Alaska Insurance Guaranty Corporation;

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

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

28 (b) The corporation may

29 (1) employ or retain persons, individual or corporate, to

1 discharge its obligations and pay reasonable compensation for these
2 services; employees of the corporation are not considered state em-
3 ployees;

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

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

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

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

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

17 (7) provide risk management advice and services to hospi-
18 tals;

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

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

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

1 not less than one year;

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

5 * Sec. 43. AS 21.88.900 is amended by adding a new paragraph to read:

6 (17) "nurse" means a nurse licensed under AS 08.68.

7 * Sec. 44. 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, Lloyds, 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

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

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.

HB46

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, Shari 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 Bills 71 and 45 are being considered this week in the House Labor and Commerce committee. I would like to offer an update on our needs for your use in writing this bill.

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

The American College of Nurse-Midwives (ACNM) successfully passed two 'Risk Retention' bills in Congress this past summer. These bills lay the groundwork for ACNM to start 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 CNA 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, those CNM's needing higher 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 Art Stanford at MICA that we would be placed in the Family Practice physician category for rate purposes. Those rates are prohibitively high. It is my hope that MICA would have to justify this move to the state Division of Insurance rather than arbitrarily placing us in that category. National data does exist regarding lawsuits against nurse-midwives and Mr. Stanford was given that information last March. It is our hope that this data would be used in formulating a rate structure for certified nurse-midwives.

~~Current wording in HB-21 provides for a certified nurse-midwife on the MICA 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

Marilyn Pierce-Bulger, CNM
Chairman, Alaska Chapter, ACNM
Box 9416 Hilland Road
Eagle River, AK 99577
wk 265-9245 hm 694-6076

Enclosures



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



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.

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 in prenatal care, labor and delivery, and post partum care.

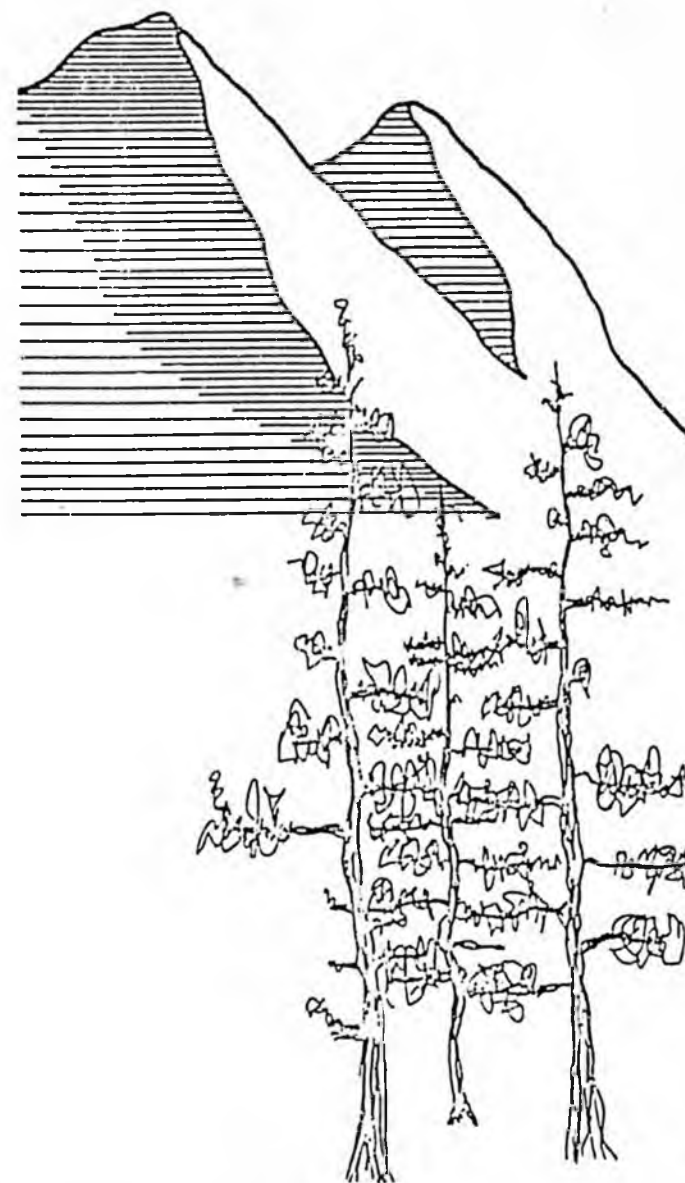
FAMILY NURSE PRACTITIONERS work with individuals and families of all ages. They are considered the generalist of nurse practitioners. Their expertise is in viewing the overall health and well-being of the family unit. They diagnose and treat acute and chronic illnesses of individuals of all ages.

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.



COPYRIGHT © 1986
STEWART/THON
Produced by
STEWART/THON
12220 Rainbow
Anchorage, Alaska 99516

SECTION BY SECTION COMMENTARY

CSHB 46 (L&C)

Work Draft - Ford 3/10/87

Prepared by: Alaska Division of Insurance

Date: 3/10/87

OVERVIEW

This work draft 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, comment section by section, and where appropriate, suggest amendments. Numerous amendments suggested previously have been incorporated in this draft. An additional amendment is suggested on page 18.

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 10-12)
- Broker Bond (Page 13)
- Broker as Agent (Pages 14-15)
- Producer Financial / Fiduciary Accounts (Pages 16-17)
- Pro Rata on Cancellations (Page 18)
- Alien Trusts Deposits (Page 19)
- Nurses, Nurse Midwife Coverage (Page 20)
- Relocation of Definitions (Page 21)
- Removal of Obsolete or Duplicative Provisions (Page 22)

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 8-19)

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 20-29; Page 2, Lines 1-15)

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 16-29; Page 3, Line 1)

§ (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)

Work Draft - Ford 3/10/87

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 46. (Page 30, Lines 16-18)

This Section includes a repeal of AS 21.27.500, on line 17.

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 20-29; Page 2, Lines 1-15)

Continuous license language appears on Page 2, Lines 8-12.

Section 4. (Page 3, Lines 2-9)

Reference to renew removed on Lines 4 & 5. Change on Line 8 is not substantive.

Section 5. (Page 3, Lines 10-27)

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, Lines 28-29; Page 4, Lines 1-6)

This addition to AS 21.27.030 addresses the controlled business prohibition on an issued license.

Section 7. (Page 4, Lines 7-29; Page 5, Lines 1-8)

Reference to renewal removed on Page 5, Line 5.

Section 10. (Page 6, Lines 14-29; Page 7, Line 1-2)

Reference to date of expiration removed on Page 7, Line 1.

Section 12. (Page 7, Lines 24-29; Page 8, Lines 1-7)

This Section addresses licenses for vending machines that dispense policies of personal travel accident insurance. The only change of substance is that on Line 1 where reference to annual continuation and expiration is removed.

Section 13. (Page 8, Lines 8-20)

The references to renewal are addressed on Lines 9-11.

Section 17 (Page 9, Lines 19-23)

The reference to renewal appears on Line 21.

Section 18. (Page 9, Lines 24-29; Page 10, Line 11)

The reference to date of expiration is removed on Line 28.

Section 22. (Page 11, Lines 10-26)

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 sur-

charge 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 15-29; Page 13, Lines 1-18)

The reference to refuse to renew is removed on Line 17. Surplus lines brokers licenses are not being changed to continuous license. This accounts for the inserted language on Lines 18 and 19. 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 there before we recommend a continuous license for surplus lines brokers.

Section 26. (Page 13, Lines 24-29; Page 14, Lines 1-6)

References relating to renewal removed.

Section 27. (Page 14, Lines 7-18)

References relating to renewal removed.

Section 28. (Page 14, Lines 19-28)

References relating to renewal removed.

Section 29. (Page 14, Line 29; Page 15, Lines 1-6)

Reference relating to expiration removed.

Section 41. (Page 23, Lines 23-29)

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 control 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 7-29; Page 5, Lines 1-8)

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 9 and Page 5, Line 2.

Section 8. (Page 5, Lines 9-29; Page 6, Lines 1-7)

This Section addresses the qualifications for license. It has been modified to make it applicable to individual licensees. The language on Lines 29 and 1, 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 8-13)

This Section also addresses the qualifications for license. It applies to firm licenses.

Section 10. (Page 6, Lines 14-29; Page 7, Line 1-2)

The only changes of substance in this Section are found on Lines 21-24. The distinction between firm and corporation is removed. A definition for firm is introduced in Section 44 on Page 29, Lines 11-14. 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 3-23)

This Section requires that the firm be licensed to the same extent as persons employed by the firm. Use of unlicensed persons by a firm is cause for revocation or suspension.

Section 14. (Page 8, Lines 21-24)

This Section provides that the firm broker license covers individual broker members of the firm.

Section 23. (Page 11, Lines 27-29; Page 12, Lines 1-14)

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 19-23)

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 (L&C)

Work Draft - Ford 3/10/87

Section 44. (Page 27, Lines 2-29; Page 28, Lines 1-29; Page 29, Lines 1-29; Page 30, Lines 1-2)

Definition of "firm" introduced on Page 28, Lines 11-14.

Section 46. (Page 30, Lines 16-18)

RS 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 extended from 20 days to 60 days.

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.

Section 31. (Page 16, Lines 12-23)

No substantive change.

Section 32. (Page 16, Lines 24-29; Page 17, Lines 1-11)

No substantive change. This is merely a relocation of AS 21.36.300.

Section 33. (Page 17, Lines 12-29; Page 18, Line 11)

No substantive change.

Section 34. (Page 18, Lines 2-29; Page 19, Lines 1-8)

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 9-21)

This Section extends the notice period for personal insurance cancellations from 20 days to 60 days.

Section 36. (Page 19, Lines 22-29; Page 20, Lines 1-14)

§(b) of this Section establishes a 60 day period of notice on business or commercial insurance, except for nonpayment of premium, which is 10 days. In each case a reason for the action must also accompany the notice.

§(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. 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.

Section 37. (Page 20, Lines 15-29; Page 21, Lines 1-2)

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 3-12)

No substantive change.

Section 40. (Page 21, Lines 24-29; Page 22, Lines 1-29;
Page 23, Lines 1-22)

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 30, Lines 16-18)

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 22, Lines 25-29 and on Page 23, Lines 1-11.

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.

CSHB 46 (L&C)

Work Draft - Ford 3/10/87

BROKER BOND

This section proposes to increase the bond required of a broker from the current \$5,000 to \$50,000. The bond is available for the people of the state. The increased bond will have an increased cost, but the amount is not known at this time. This is not a Division of Insurance proposal, but we have no objection to it. There is a concern that the size of the bond may act as a barrier to new brokers entering the profession.

Section 13. (Page 8, Lines 8-20)

The increased bond amount appears on Lines 14 and 16.

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 8-20)

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 25-28)

This Section makes clear the fact that the broker cannot bind an insurer.

Section 16. (Page 8, Line 29; Page 9, Lines 1-18)

This Section establishes the concept of "broker as agent for purposes of premium collection." It also establishes disclosure and premium handling requirements for persons acting as a broker.

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 10, Lines 2-10)

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 11-20)

§(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 21-29; Page 11, Lines 1-9)

§(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 13-23)

This Section requires pro rata cancellation and effectively prohibits short rate cancellation.

Suggested Amendment

This Section has the effect of changing the insurance contract. To avoid any hint of a constitutional problem, it should apply only to new contracts after the Section becomes law, it should not apply to in-force policies. To accomplish this, add the following language on Line 23, at the end of the Section. "This section shall not be applicable to existing policies."

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 7-29; Page 16, Lines 1-11)

The language to accomplish the change noted above appears on Page 15, Lines 20-21. Other changes are not substantive.

NURSES / NURSE MIDWIFE COVERAGE

This proposal will add nurses and nurse midwives 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 1-29; Page 25, Lines 1-29;
Page 26, Lines 1-24)

"Nurse, nurse midwives" added on Page 24, Lines 5, 8, 12, 20, 21, 22, and 24 and on Page 26, Lines 18-19.

Section 43. (Page 26, Lines 25-29; Page 27, Line 1)

Nurse is defined in §(17) on Page 26, Line 26.

Nurse midwife is defined in §(18) on Page 26, Lines 27-29 and Page 27, Line 1.

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 44.

Section 44. (Page 27, Lines 2-29; Page 28, Lines 1-29;
Page 29, Lines 1-29; Page 30, Lines 1-21)

§(1), "adjuster" on Page 27, Lines 5-11, was formerly AS 21.27.510(a).

§(2), "agent" on Page 27, Lines 12-16, was formerly AS 21.27.470.

§(5), "broker" on Page 27, Lines 23-29 and Page 28, Line 1, was formerly AS 21.27.480.

§(11), "firm" on Page 28, Lines 11-14, is new. See discussion on Page 8.

§(13), "independent adjuster" on Page 28, Lines 18-19, was formerly AS 21.27.510(b).

§(20), "solicitor" on Page 29, Lines 17-20, was formerly AS 21.27.490.

Section 45. (Page 30, Lines 3-15)

This Section was formerly AS 21.27.520. No substantive change.

Section 46. (Page 30, Lines 16-18)

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.

CSHB 46 (L&C)

Work Draft - Ford 3/10/87

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 30, Lines 16-18)

AS 21.03.030, AS 21.03.040, AS 21.03.050 and AS 21.06.040 are repealed.

**SECTION BY SECTION COMMENTARY
CSHB 46 (L&C)
Work Draft - Ford 3/23/87**

**Prepared by: Alaska Division of Insurance
Date: 3/24/87**

OVERVIEW

This work draft committee substitute encompasses about 11 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 draft.

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 10-12)**
- Broker as Agent (Pages 13-14)**
- Producer Financial / Fiduciary Accounts (Pages 15-16)**
- Pro Rata on Cancellations (Page 17)**
- Alien Trusts Deposits (Page 18)**
- Nurse Coverage (Page 19)**
- Relocation of Definitions (Page 20)**
- Removal of Obsolete or Duplicative Provisions (Page 21)**

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

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 30, Lines 21-23)

This Section includes a repeal of RS 21.27.500, on line 22.

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 removed on Lines 5 & 6. 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.

CSHB 46 (L&C)
Work Draft - Ford 3/23/87

Section 10. (Page 6, Lines 15-29; Page 7, Lines 1-3)

Reference to date of expiration 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 sur-

charge 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 brokers 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 5-11)

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 control 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 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.

CSHB 46 (L&C)

Work Draft - Ford 3/23/87

Section 44. (Page 27, Lines 7-29; Page 28, Lines 1-29; Page 29, Lines 1-29; Page 30, Lines 1-7)

Definition of "firm" introduced on Page 28, Lines 16-19.

Section 46. (Page 30, Lines 21-23)

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 extended from 20 days to 60 days.

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.

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 10-22)

This Section extends the notice period for personal insurance cancellations from 20 days to 60 days.

Section 36. (Page 19, Lines 23-29; Page 20, Lines 1-21)

§(b) of this Section establishes a 60 day period of notice on business or commercial insurance, except for nonpayment of premium, which is 10 days. In each case a reason for the action must also accompany the notice.

§(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).

A postal receipt is presumptive proof that a notice has been mailed as required under this section.

Section 37. (Page 20, Lines 22-29; Page 21, Lines 1-9)

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 10-19)

No substantive change.

Section 40. (Page 22, Lines 6-29; Page 23, Lines 1-29;
Page 24, Lines 1-4)

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 30, Lines 21-23)

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 7-22.

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.

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 20-29; Page 22, Lines 1-5)

This Section requires pro rata cancellation and effectively prohibits short rate cancellation.

Section 47. (Page 30, Lines 24-26)

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 20-21. Other changes are not substantive.

Section 48. (Page 30, Lines 27-28)

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 12-29; Page 25, Lines 1-29;
Page 26, Lines 1-29; Page 27, Lines 1-4)

"Nurse" is added on Page 24, Lines 16, 19, and 22; Page 25, Lines 1, 2, and 5; and, Page 26, Line 27.

Section 43. (Page 27, Lines 5-6)

Nurse is defined in §(17) on Line 6.

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 44.

Section 44. (Page 27, Lines 7-29; Page 28, Lines 1-29;
Page 29, Lines 1-29; Page 30, Lines 1-7)

§(1), "adjuster" on Page 27, Lines 10-16, was formerly AS 21.27.510(a).

§(2), "agent" on Page 27, Lines 17-21, was formerly AS 21.27.470.

§(5), "broker" on Page 27, Lines 28-29 and Page 28, Lines 1-6, was formerly AS 21.27.480.

§(11), "firm" on Page 28, Lines 16-19, is new. See discussion on Page 8.

§(13), "independent adjuster" on Page 28, Lines 23-24, was formerly AS 21.27.510(b).

§(20), "solicitor" on Page 29, Lines 22-25, was formerly AS 21.27.490.

Section 45. (Page 30, Lines 8-20)

This Section was formerly AS 21.27.520. No substantive change.

Section 46. (Page 30, Lines 21-23)

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.

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 30, Lines 21-23)

RS 21.03.030, RS 21.03.040, RS 21.03.050 and RS 21.06.040 are repealed.

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)

CSHB 46 (L&C)

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)

**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 . 2)**
- 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.

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.

CSHB 46 (L&C)
Offered: 3/30/87

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.

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.

CSHB 46 (L&C)
Offered: 3/30/87

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.

CSHB 46 (L&C)

Offered: 3/30/87

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 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 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.

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 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.

CSHB 46 (L&C)

Offered: 3/30/87

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 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.

*condensed
version*

**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 reuocation 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 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 21.88 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.

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.