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SENATE FINANCE COMMITTEE REPORT

DATE: 3/1/90

FURTHER:

DATE TURNED INTO OFFICE: 3/23/90

The Finance Committee considered

SB 273

"An Act relating to the licensing of insurance agents, general agents, brokers, solicitors, adjusters, and firms; and providing for an effective date."

and recommended:

replace with _____ CS SB 273 (Finance)
 or adopt _____ CS _____
 attached amendment(s)
 Finance letter of intent adopted

same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) DECLD 3/5/90

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Jim Duncan

[Signature]

1. _____

2. Fidelity (DO PASS)

Co-Chairs: Signatures and Recommendations

3/23/90

Adopted
by SFC

(Offered by Sen. Kelley)

CS SB 273 (FIN), relating to regulation of insurance agents.

LEGISLATIVE INTENT

It is the intent of the legislature that regulations prescribed under Sec. 21.27.380 (e) be consistent with recommendations of the National Association of Insurance Commissioners' regulatory model for agent continuing education requirements and standards. It is also the intent of the legislature that the director of the Division of Insurance, Department of Commerce and Economic Development, shall seek the advice of Alaska insurance organizations and associations on appropriate adaptations of the regulatory model.

R/SFC 3-23-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 273 (L&C)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act relating to the licensing of agents, general agents, brokers, solicitors and adjusters BRU: Insurance
 Sponsor: Rules Committee Components: Operations
 Requestor: Senate Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact for FY 90.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 3/2/90

Approved by Commissioner: Larry Merculieff *LM* Date: 3/5/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

Changes in CSSB 273 (Fin) have no fiscal impact. This fiscal note is appropriate. *3/23/90*

5/8 2/13

Original sponsor(s): Rules/Governor

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 273 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of insurance agents, general agents, brokers, managers, solicitors, adjusters, and firms; and providing for an effective date."

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

* Section 1. AS 21.27.010(a) is amended to read:

(a) A person may not [IN THIS STATE] act as or represent to be an agent, general agent, broker, solicitor, or adjuster unless licensed by the [THIS] state.

* Sec. 2. AS 21.27.010(b) is amended to read:

(b) An agent, general agent, solicitor, or broker may not solicit or take applications for, procure, or place for others any kind of insurance for which the person is not licensed.

* Sec. 3. AS 21.27.030(a) is amended to read:

(a) The director may not grant an agent, general agent, solicitor, or broker license to a person if the director has reasonable cause to believe that the [CIRCUMSTANCES OF THE] applicant for the license would, [ARE SUCH THAT] during the 12-month period immediately following issuance of the license, receive an [IF ISSUED, THE] aggregate amount in [OF] commissions [TO BE] represented by the controlled business that exceeds [WOULD EXCEED] the aggregate amount of commissions [TO BE] represented by all other insurance business that would [TO] be procured by or through the applicant.

* Sec. 4. AS 21.27.030(d) is amended to read:

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

* Sec. 5. AS 21.27.050 is amended to read:

Sec. 21.27.050. ONE FILING OF PERSONAL DATA SUFFICIENT. (a) The filing of personal data by an individual in connection with one application for an agent or general agent license is [SHALL BE] sufficient, regardless of the number of insurers to be represented [BY THE AGENT] or the number of subsequent applications by the same applicant.

(b) The director may [FROM TIME TO TIME] require a licensed agent, general agent, solicitor, broker, or adjuster, to supply the information called for in an application for a license.

* Sec. 6. AS 21.27.060 is amended to read:

Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) An [EACH] applicant for an individual license as agent, general agent, broker, solicitor, or adjuster shall, before the issuance of the license, personally take and pass, to the satisfaction of the director, an examination given by the director as a test of the qualifications and competence of the applicant. This requirement does not apply to

(1) applicants for limited licenses, as travel insurance agents only, under AS 21.27.150, or, at the discretion of the director, to applicants for licenses as disability insurance agents for the purpose of handling limited coverages pertaining to sports and recreation;

(2) applicants

(A) who, at any time within the two-year [FIVE-YEAR] period immediately preceding the date of application, have been licensed in this state under a license requiring qualifications required by the license applied for;

(B) [AND] who are considered by the director to be fully qualified and competent; and

(C) whose previous license was not revoked for any reason;

(3) applicants for a license [AS NONRESIDENT AGENT OR AS NONRESIDENT BROKER] who have fulfilled qualification requirements in their state or province of residence and who are considered by the director to be fully qualified and competent [;

(4) APPLICANTS FOR AN AGENT OR SOLICITOR LICENSE COVERING THE SAME KINDS OF INSURANCE AS AN AGENT'S OR SOLICITOR'S LICENSE THEN HELD BY THEM].

(b) The director may at any time require an individual licensed as an agent, general agent, broker, solicitor, or adjuster to take and successfully pass an examination testing competence and qualifications as a condition to the continuance of the license if the licensee has been guilty of a violation of this title, or has [SO] conducted affairs under the license that [AS TO] cause the director reasonably to desire further evidence of the qualifications of the licensee.

* Sec. 7. AS 21.27.080(d) is repealed and reenacted to read:

(d) The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable fee.

* Sec. 8. AS 21.27.090 is repealed and reenacted to read:

Sec. 21.27.090. QUALIFICATIONS FOR LICENSING. (a) To qualify for an agent, general agent, broker, solicitor, or adjuster license,

an applicant shall comply with this title and

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

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

(3) successfully pass any examination required under AS 21.27.060;

(4) be a trustworthy person;

(5) not use or intend to use the license for the purpose principally of writing controlled business, as defined in AS 21.27.-030;

(6) not have committed an act that is a ground for denial, suspension, or revocation set out in AS 21.27.410;

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

(8) if the application is for a general agent license, have a minimum of three years active working experience in insurance administrative functions, including those listed under the definition of "general agent" in AS 21.90.900, that, in the director's discretion, exhibits the applicant's ability to competently perform the administrative functions for all lines applied for;

(9) if the application is for a broker license, have a minimum of three years' active working experience in all lines applied for either as an agent, solicitor, adjuster, general agent, broker, or as an employee of insurers or representative of insurers, or special education or training of sufficient duration and extent to satisfy the

director that the applicant possesses the competence necessary to fulfill the responsibilities of a broker;

(10) if the application is for a solicitor license, intend to and in fact make the soliciting and handling of insurance business under the license the applicant's principal gainful occupation and represent and be employed by only one licensed agent, general agent, or broker;

(11) if the application is for an adjuster license, have at least six months' experience, special education, or training in handling loss claims under insurance contracts, of sufficient duration and extent to make the person reasonably competent to fulfill the responsibilities of an adjuster.

(b) If the director finds that the applicant is qualified and that the license fee has been paid, the director shall issue the license.

(c) The director may adopt regulations establishing additional educational or experience requirements for applicants under (a) of this section.

(d) To qualify for a firm agent or broker license an applicant must comply with this title and

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

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

* Sec. 9. AS 21.27 is amended by adding a new section to read:

Sec. 21.27.095. LICENSING OF GENERAL AGENTS. (a) A general agent has the authority, consistent with this title, that is conferred by the insurer. A general agent, resident or nonresident, qualified and licensed under AS 21.27.090, may exercise the powers conferred by this title upon agents licensed for the kinds of insurance that the

general agent is authorized to transact for the insurer appointing the agent.

(b) A person employed on salary by an insurer, including an officer or salaried employee performing the same services as a general agent, is considered to be a service representative and is not required to be licensed.

(c) For purposes of this section, a person that performs management services for an insurer is not required to be licensed as a general agent if the person

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

(2) wholly owns the insurer; or

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

* Sec. 10. AS 21.27.100 is amended to read:

Sec. 21.27.100. APPOINTMENT OF AGENTS OR GENERAL AGENTS. An [EACH] insurer [, ON] appointing an agent or general agent in the state [,] shall file written notice of the appointment [IN TRIPLICATE] with the director on forms prescribed and furnished by the director. If the appointee is [THEN] licensed and if the necessary licensing fee is paid, [OR AS SOON AS LICENSED,] the director shall provide to the insurer and to the appointee written notification of the effective date of the appointment [MAIL ONE COPY OF THE APPOINTMENT TO THE AGENT AND RETURN ONE COPY TO THE INSURER WITH THE THIRD COPY BEING RETAINED IN THE DIRECTOR'S OFFICE].

* Sec. 11. AS 21.27.100 is amended by adding a new subsection to read:

(b) An insurer that enters into an agreement with a general agent shall do so by means of a written contract that specifically sets out the duties, functions, powers, authority, and compensation of all parties to the contract. A contract with a general agent shall be

kept in the permanent records of the insurer and general agent, and be open to inspection by the director.

* Sec. 12. AS 21.27.110 is amended to read:

Sec. 21.27.110. TERM OF APPOINTMENT [OF AGENT]. An [EACH] appointment under AS 21.27.100 continues [SHALL CONTINUE] in force until

(1) the 30th of June of each year unless continued [RENEWED] by the insurer by payment to the director on or before the close of business on the 30th day of June of an annual fee set under AS 21.06.-250; [OR]

(2) the appointment is revoked by the insurer by written notice of revocation to the appointee and [AGENT; THE INSURER SHALL IMMEDIATELY FILE A DUPLICATE COPY OF THE NOTICE OF REVOCATION WITH] the director; or

(3) the appointment is revoked by the director by written notice of revocation to the appointee and insurer [NO FEE SHALL BE CHARGED FOR FILING THE COPY].

* Sec. 13. AS 21.27.120(a) is amended to read:

(a) Revocation of an appointment is [BY THE INSURER SHALL BE CONSIDERED TO BE] effective as of the date designated in the notice as being the effective date if the notice is actually received by the appointee [AGENT] before the designated date; otherwise, as of the earlier of the following dates:

(1) the date the notice of revocation was received by the appointee [AGENT];

(2) the date the notice, if mailed to the agent at the appointee's [AGENT'S] last address of record [WITH THE INSURER], in due course should have been received by the appointee [AGENT].

* Sec. 14. AS 21.27.130 is amended to read:

Sec. 21.27.130. FORM AND CONTENT OF [AGENT, BROKER, SOLICITOR] LICENSES. Agent, general agent, adjuster, solicitor, and broker licenses must be in the form the director prescribes, and must set out

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

(2) if for [THE AGENT OR BROKER IS] a firm, the name of the principal or manager of the firm [HOLDING AN INDIVIDUAL LICENSE AS REQUIRED BY AS 21.27.140];

(3) the kind or kinds of insurance the licensee is licensed to handle;

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

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

(6) the date of issuance of the license.

* Sec. 15. AS 21.27.160 is amended to read:

Sec. 21.27.160. SCOPE [NUMBER] OF LICENSES. An agent, general agent, broker, solicitor, or adjuster is only required to have [BUT] one type of license inclusive of all kinds or combination of kinds of insurance the agent, general agent, broker, adjuster, or solicitor is licensed to handle, regardless of the number of represented insurers [FOR WHOM THE AGENT IS APPOINTED].

* Sec. 16. AS 21.27.160 is amended by adding a new subsection to read:

(b) The following license types may be issued:

(1) an all lines license;

(2) a property or casualty lines license; or

(3) a life lines license.

* Sec. 17. AS 21.27.190 is amended by adding a new subsection to read:

(d) The director may adopt, by regulation, an alternative to the

bond required by this section.

* Sec. 18. AS 21.27.240 is amended to read:

Sec. 21.27.240. FEE FOR AND [,] CUSTODY OF SOLICITOR'S LICENSE [AND CANCELLATION]. (a) An agent, general agent, or broker who employs a solicitor shall pay the fee for issuance, or annual fee for continuation, of a solicitor license.

(b) The solicitor license [SHALL BE DELIVERED TO AND] shall remain in the possession of the employer [EMPLOYING AGENT OR BROKER]. Upon termination of the employment, the license terminates and shall be returned to the director for cancellation.

* Sec. 19. AS 21.27.250(a) is amended to read:

(a) A solicitor license may not cover [ANY KIND OF] insurance for which the agent, general agent, or broker by whom the solicitor is employed is not [THEN] licensed.

* Sec. 20. AS 21.27.250(c) is amended to read:

(c) An individual may [SHALL] not be licensed as an agent, general agent, or broker while licensed as a solicitor.

* Sec. 21. AS 21.27.260 is amended to read:

Sec. 21.27.260. EMPLOYER'S RESPONSIBILITY FOR SOLICITOR [OF EMPLOYING AGENT OR BROKER]. All business transacted by a solicitor under license as a solicitor shall be in the name of the agent, general agent, or broker by whom the solicitor is employed. The [AND THE] agent, general agent, or broker is [SHALL BE] responsible for all acts or omissions of the solicitor within the scope of employment as solicitor.

* Sec. 22. AS 21.27.270(a) is amended to read:

Sec. 21.27.270. LICENSING OF NONRESIDENT AGENTS, GENERAL AGENTS, BROKERS, OR ADJUSTERS. (a) The director may license as a nonresident insurance agent, general agent, broker, or adjuster a person who

otherwise qualifies under this title, but who is not a resident of or domiciled in the state [ALASKA].

* Sec. 23. AS 21.27.280(a) is amended to read:

Sec. 21.27.280. DIRECTOR AS AGENT FOR SERVICE OF PROCESS [AGAINST NONRESIDENT AGENT, BROKER, ADJUSTER]. (a) A [EACH] licensed nonresident agent, general agent, broker, or adjuster shall appoint the director as attorney to receive service of legal process issued against the licensee [AGENT, BROKER OR ADJUSTER] in this state upon causes of action arising in this state. Service upon the director as attorney constitutes [SHALL CONSTITUTE] effective legal service upon the licensee [AGENT, BROKER OR ADJUSTER].

* Sec. 24. AS 21.27.280(b) is amended to read:

(b) The appointment is [SHALL BE] irrevocable for as long as [THERE COULD BE] a cause of action may be brought against the licensee [AGENT, BROKER OR ADJUSTER] arising out of insurance transactions in this state.

* Sec. 25. AS 21.27.280(c) is amended to read:

(c) Duplicate copies of legal process against the licensee [AGENT, BROKER OR ADJUSTER] shall be served upon the director either by a peace officer or through certified mail with return receipt requested. At the time of service the plaintiff shall pay to the director a fee set under AS 21.06.250, taxable as costs in the action.

* Sec. 26. AS 21.27.280(d) is amended to read:

(d) Upon receiving a [THE] service of legal process, the director shall immediately send one of the copies of the process, by certified mail with return receipt requested, to the defendant licensee [AGENT, BROKER OR ADJUSTER] at the defendant's last address of record with the director.

* Sec. 27. AS 21.27.310(a) is amended to read:

(a) An individual who has not passed the examination required by AS 21.27.090(a)(3) or does not have the experience or special education with reference to the handling of loss claims required under AS 21.27.090(a)(11), but who otherwise meets the requirements of AS 21.27.090, [AS 21.27.290(3)] may be employed and licensed as a trainee adjuster, subject to the provisions of this section.

* Sec. 28. AS 21.27.310(b) is amended to read:

(b) A licensed adjuster employing a trainee adjuster shall immediately submit to the director the [INFORM THE DIVISION OF INSURANCE BY CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED, OF THE EMPLOYMENT OF A TRAINEE ADJUSTER, GIVING THE EXACT DATE OF EMPLOYMENT AND ENCLOSING WITH THE CORRESPONDENCE THE ADJUSTER LICENSE] application [FORM] of the trainee adjuster, with the fee set under AS 21.06.250 [PROPERLY COMPLETED].

* Sec. 29. AS 21.27.310(c) is amended to read:

(c) A trainee adjuster shall comply with the adjuster licensing requirements of AS 21.27.090(a)(3) and (11) within 12 months after the effective date of [MAY TAKE] the trainee adjuster license [EXAMINATION AFTER SIX MONTHS FROM THE DATE OF RECEIPT OF THE APPLICATION BY THE DIVISION OF INSURANCE].

* Sec. 30. AS 21.27.310 is amended by adding a new subsection to read:

(g) The director shall terminate the license of a trainee adjuster who is not in compliance with this section. A licensee or other person having possession or custody of the license shall immediately deliver the license to the director either personally or by mail.

* Sec. 31. AS 21.27.320(a) is amended to read:

Sec. 21.27.320. [ADJUSTMENT BY] AGENT OR GENERAL AGENT AS ADJUSTER; [AND] NONRESIDENT ADJUSTERS. (a) On behalf of and as

authorized by an insurer for which the agent or general agent is ap-
pointed [LICENSED AS AGENT], an agent or general agent may occasion-
ally [FROM TIME TO TIME] act as an adjuster and investigate and report
upon claims without being required to be licensed as an adjuster.

* Sec. 32. AS 21.27.330 is amended to read:

Sec. 21.27.330. PLACE OF BUSINESS. A [EACH] licensed agent,
general agent, broker, and adjuster, other than those [AN AGENT]
licensed for life or disability insurances or annuities only, shall
have and maintain in this state, or if a nonresident agent or nonresi-
dent broker, in the state of domicile, a place of business accessible
to the public [. THE PLACE OF BUSINESS IS] where the licensee [AGENT,
BROKER, OR ADJUSTER] principally conducts transactions under the
licenses. The address of the place of business must [SHALL] appear on
all licenses of the licensee, and the licensee must [SHALL] promptly
notify the director of any change of address. If the licensee main-
tains more than one place of business in this state, the licensee
shall obtain a [DUPLICATE OF THE] license or licenses for each addi-
tional place, and shall pay an additional license fee for each [DUPLI-
CATE] license.

* Sec. 33. AS 21.27.340 is amended to read:

Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. (a) The license or
licenses of each agent, general agent, broker, and adjuster, other
than licenses as to life or disability insurances or annuities only,
[OR OF EACH BROKER OR ADJUSTER] shall be displayed in a conspicuous
place in that part of the place of business that [WHICH] is customar-
ily open to the public.

(b) The license of a solicitor shall be displayed in each place
of business of the agent, general agent, or broker by whom the solici-
tor is employed.

* Sec. 34. AS 21.27.350 is amended to read:

Sec. 21.27.350. MAINTENANCE OF RECORDS; FORM AND CONTENT [OF AGENTS, BROKERS, ADJUSTERS]. (a) An [EACH] agent, general agent, broker, or adjuster shall keep at the address [AS] shown on the license a record of all transactions consummated under the license. This record shall be in organized form and must include

(1) if an agent, general agent, or broker,

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

(B) the names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid;

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

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

* Sec. 35. AS 21.27.350(c) is amended to read:

(c) In addition to the record required under (a) of this section, each agent, general agent, or broker shall have and maintain at the [AGENT'S OR BROKER'S] principal place of business current accounting and financial records maintained under [IN ACCORDANCE WITH] generally accepted accounting principles. The director may request summary or detailed copies for examination by the division. Records examined under this subsection are confidential when in the possession of the division, but may be used by the director in a proceeding against the

licensee. For purposes of this subsection, the records of a firm are also [SHALL BE CONSIDERED] the records of an individual licensee [AGENT OR BROKER] acting on behalf of the firm.

* Sec. 36. AS 21.27.360 is amended to read:

Sec. 21.27.360. REPORTING AND ACCOUNTING FOR PREMIUMS. (a) A licensee [AN AGENT OR OTHER REPRESENTATIVE OF AN INSURER] involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as a premium for the contract. The amount charged shall be shown in the contract and in the records of the licensee [AGENT].

(b) All money [FUNDS], except that [THOSE] made payable to the insurer, representing premiums or return premiums received by the licensee [AN AGENT OR BROKER], shall be received in the fiduciary account of the licensee [AGENT OR BROKER,] and shall be deposited in a bank account or depository separate from any other account or depository, and shall be promptly accounted for and paid to the insured, insurer, or agent entitled to the money [FUNDS]. For purposes of this subsection, the fiduciary account of the firm shall be considered the fiduciary account of an individual licensee [AGENT OR BROKER] acting on behalf of the firm. Money [FUNDS] deposited into a fiduciary account may not be commingled or otherwise combined with other money [FUNDS], except as allowed under (d) of this section.

(c) A licensee [AN AGENT, SOLICITOR, OR BROKER] who, [NOT BEING LAWFULLY ENTITLED TO FUNDS,] is determined by the director, following an appropriate hearing as provided in AS 21.06.170 - 21.06.230, to have unlawfully diverted or appropriated money [THEM OR ANY PORTION OF THEM] to personal use, is subject to a civil penalty not to exceed \$25,000 for each violation.

(d) A licensee [AN AGENT OR BROKER] may commingle with premium

money [FUNDS], additional money [FUNDS] for the purpose of advancing premiums, establishing reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium money. Money [FUNDS. FUNDS] collected for the payment of premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money [FUNDS] on deposit, may be commingled in a fiduciary account, but shall be separately accounted for and periodically removed from the fiduciary account.

(e) A licensee [AN AGENT OR BROKER] may not treat money [FUNDS] required to be in a fiduciary account as a personal asset, as collateral for a personal or business loan, or as a personal asset or income on a financial statement, except that money [FUNDS] in a fiduciary account may be included in a financial statement of the licensee [AGENT OR BROKER] if clearly identified as fiduciary account assets.

(f) In this section, "fiduciary account" means an account in which the licensee [AGENT OR BROKER] holds money [FUNDS] as a trustee for the insured, insurer, general agent, surplus lines broker, or agent entitled to the money [FUNDS].

* Sec. 37. AS 21.27.360 is amended by adding a new subsection to read:

(g) The director may adopt regulations as necessary to implement this section.

* Sec. 38. AS 21.27.380 is repealed and reenacted to read:

Sec. 21.27.380. LICENSE CONTINUATION. (a) A license continues in force, upon payment of

(1) an annual fee set under AS 21.06.250 for resident and nonresident agent, general agent, solicitor, and adjuster licenses that must be received by the director on or before the close of business on the 30th day of June;

(2) an annual fee set under AS 21.06.250 for resident and

nonresident broker licenses, that must be received by the director on or before the close of business on the 31st day of December.

(b) An agent, general agent, or broker shall file the annual fee set under AS 21.06.250 on behalf of a solicitor employed by the agent, general agent, or broker.

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

(d) If a licensee does not wish to continue a license issued under this chapter, the licensee shall surrender the license as provided in AS 21.27.460. *3/23/90 New language in final approved by Dale Gray - Sen. Kelly's office memo.*

(e) A license continues in force if, in addition to meeting the other requirements of this chapter, the individual licensee, or, if a firm licensee, the principal or manager demonstrates to the director that the licensee continues to meet additional educational requirements that the director prescribes by regulation.

* Sec. 39. AS 21.27.390(a) is amended to read:

(a) The director may issue a [ADOPT REGULATIONS REGARDING THE ISSUANCE OF AN AGENT OR BROKER] temporary license to

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

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

(3) a surviving member, officer, or employee of a firm licensed as agent, general agent, or broker, upon the death of the principal or manager of the firm holding the same licenses as the firm; or

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

(5) A PERSON PREPARING FOR EXAMINATION FOR PERMANENT LICENSE UNDER THE SUPERVISION OF AN AUTHORIZED INSURER].

* Sec. 40. AS 21.27.400(b) is amended to read:

(b) A person requesting a temporary agent or general agent license because of the death or disability of an agent or general agent may not be appointed by [LICENSED FOR] an insurer for which the agent or general agent was not appointed [LICENSED] at the time of death or commencement of disability.

* Sec. 41. AS 21.27.410(a) is amended by adding a new paragraph to read:

(10) if the applicant failed to continue or surrender a similar license as provided in AS 21.27.380, that resulted in revocation of the license within the 12 months preceding the date the new application is received.

* Sec. 42. AS 21.27.460(a) is amended to read:

(a) A [EACH] license issued under this chapter [,ALTHOUGH ISSUED AND DELIVERED TO THE LICENSEE AGENT, BROKER, SOLICITOR, OR ADJUSTER,] is the property of the state. Upon the termination, suspension, or revocation of the license, the licensee or other person having possession or custody of the license shall immediately deliver it to the director either personally [BY PERSONAL DELIVERY] or by mail.

* Sec. 43. AS 21.34.140(d) is amended to read:

(d) A firm or corporation is eligible for license if the firm or

corporation complies with AS 21.27.090(d) and 21.27.140

[(1) THE LICENSE LISTS INDIVIDUALS WITHIN THE CORPORATION WHO HAVE SATISFIED ALL REQUIREMENTS OF THIS CHAPTER TO BECOME SURPLUS LINES BROKERS; AND

(2) ONLY THOSE INDIVIDUALS LISTED ON THE LICENSE WILL TRANSACT SURPLUS LINES BUSINESS].

* Sec. 44. AS 21.34.140 is amended by adding a new subsection to read:

(f) The requirements of (b)(4) of this section do not apply to an individual who acts on behalf of a firm that files and maintains in force the bond described in (b)(4) of this section. The director may adopt, by regulation, an alternative to the bond required by (b)(4) of this section.

* Sec. 45. AS 21.88.050(a) is amended to read:

(a) The corporation shall

(1) in the form approved by the director, issue to all physicians, nurses, and hospitals who are found to be acceptable risks under standards developed under (5) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians, nurses, and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians, nurses, and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought under AS 09.55.530 - 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the corporation, if approved by the director, and for an additional premium the contract

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

(2) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors under [IN ACCORDANCE WITH] AS 21.88.080 and subject to the approval of the director;

(3) comply with or be subject to AS 21.06.090, 21.06.120, 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250, [21.09.280,] AS 21.12.020(b) - (e), AS 21.18, AS 21.21, AS 21.24, AS 21.27.100, and AS 21.36; and shall be exempt from participation as a member insurer in the Alaska Insurance Guaranty Corporation;

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

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

* Sec. 46. AS 21.90.900 is amended by adding new paragraphs to read:

(24) "general agent" means a person, firm, or corporation

that

(A) has authority to exercise general supervision over the business, or any part of the business, of one or more authorized insurers in this state, with the authority to appoint agents for the insurer and to terminate the appointment; and

(B) for compensation from an authorized insurer performs administrative functions normally performed by the insurer including claims administration and payment, marketing administration, agent appointment, premium accounting, premium billing, coverage verification, final underwriting authority, and certificate issuance; "general agent" includes a third-party administrator;

(25) "licensee" means a person or firm licensed as provided in AS 21.27 or AS 21.34.

* Sec. 47. AS 21.09.280; AS 21.27.180, 21.27.220, 21.27.230, 21.27.-280(e), 21.27.290, and 21.27.300 are repealed.

* Sec. 48. This Act takes effect January 1, 1991.

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CS SB 273 (L&C), An act relating to regulation of insurance agents.

AMENDMENT: #1

BY KELLY

Section 38, page 16, line 16. Add new subsection to read:

(e) A license continues in force, if the individual licensee, or principal or manager if a firm licensee, has demonstrated to the director that the person has continued to meet additional educational requirements as the director may prescribe by regulation adopted for the purpose of maintaining or improving the licensees insurance skills or knowledge.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 11, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

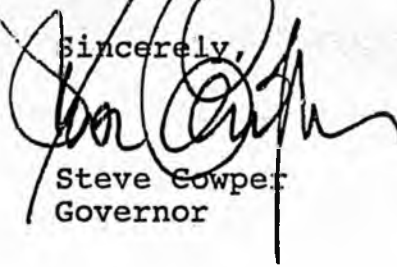
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing of insurance agents, brokers, solicitors, and adjusters. This bill will improve and up-date our licensing system.

The proposal is based on a National Association of Insurance Commissioners model Act. The proposal makes a number of changes in the present licensing statutes, the most important of which are the following:

- (1) requires more frequent re-testing of applicants who were previously licensed, by requiring that persons who have dropped out of the industry for more than two years be retested;
- (2) adds educational requirements for licensing by requiring a high school degree or its equivalent;
- (3) allows the director of insurance to establish more educational or experience requirements by regulation;
- (4) increases bond requirements for brokers and their firms;
- (5) limits the term of a trainee adjuster to one year; after that time, a person must obtain a regular adjuster license; and
- (6) limits the use of a "temporary license" to cases involving the disability or death of an agent, general agent, or broker.

The bill contains other, more technical, changes up-dating our statutes. The division of insurance will provide you with a section-by-section analysis.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper
Governor