

HB

279

To: House Labor and Commerce  
Committee

From: Division of Insurance  
David J. Walsh, Director

Date: April 8, 1991

Subject: 1991 Legislative Package

The Division of Insurance is requesting the introduction and passage of several bills during the 1991 legislative session. Most of these requests come directly from our need to meet the requirements for accreditation through the National Association of Insurance Commissioners.

The National Association of Insurance Commissioners (NAIC) has adopted a program of accreditation of state insurance departments to ensure an acceptable level of regulation in all of the 50 states. This program consists of a review of the statutes and operations of each state on a periodic basis by a team of examiners working for the NAIC. The team has been given a set of standards to use in evaluating the regulatory programs in each state and part of these standards include laws adopted by the NAIC as model laws that address the regulation of insurer solvency. The bills we have requested come entirely from these model laws and are necessary to our goal of becoming an accredited state under the NAIC program.

Managing General Agents Bill - This bill does two things: 1) amends the term "general agent" to the more correct term "managing general agent", and 2) adopts NAIC model law on Managing General Agents. The change in terms is being requested to convert the term currently used in the statute to the term that is used in industry and in the NAIC model law when referring to people with the responsibilities of managing some part of an insurer. In addition to changing the term used in the statute, the bill exempts the manager of a United States branch of an alien insurer from licensure as a managing general agent (MGA), allows the director to require bonds or errors and omissions insurance policies for licensed MGAs, requires a written contract between the MGA and the company for which he is given authority, sets out the ownership of claim files, sets out actions of the MGA which are prohibited, sets out requirements of the insurer when using MGAs, and defines the term MGA for licensing purposes.

Examination Bill - This bill adopts the requirements of the Model Law on Examinations as adopted by the NAIC. The model law is one of the accreditation standards and is necessary for our success in becoming an accredited state. The bill adopts rules on scheduling and identifying licensees for examination, requires that the state only accept examination reports prepared by accredited states after December 31, 1993, allows the director to examine any business or person that is necessary or material to completing an examination, requires that insurer accounts be kept according to the Accounting Practices and Procedures Manual of the NAIC, sets out procedures for calling an examination and assigning examiners, sets out procedures for filing an examination report with the office of the director of insurance, requires that the director and chief executive officer of the person being examined submit affidavits stating that the report has been received and reviewed, and gives relief to examiners from civil action for libel or slander in performing their duties when a suit is not substantially justified.

Reinsurance Intermediary Bill - This bill adopts the requirements of the Model Law on Reinsurance Intermediary Brokers and Managers as adopted by the NAIC. The model law is one of the accreditation standards and is necessary for our success in becoming an accredited state. The bill adopts rules for licensing of persons acting as reinsurance intermediaries, requires a written contract with specific information between a reinsurance intermediary broker and the insurer, requires the broker to keep records of each transaction for 10 years, gives requirements of an insurer using a reinsurance intermediary broker, requires a written contract with specific information between a reinsurance intermediary manager and the insurer, requires the manager to keep records of each transaction for 10 years, specifies what the manager is prohibited from doing, gives requirements of an insurer using a reinsurance intermediary manager, and defines reinsurance intermediary broker and manager for licensing purposes.

Miscellaneous Bill regarding reinsurance credit, reserves, securities and investments - This bill adopts several small changes that are required under the NAIC accreditation standards in order for the state of Alaska to meet the requirements. The bill requires that accredited reinsurers file statutory financial statements and audited financial statements annually with the director, changes the minimum amount to be held in trust by a group of individual unincorporated insurers who wish to be an authorized reinsurer in Alaska from \$50,000,000 to \$100,000,000, gives requirements for accreditation for reinsurers who are a group of incorporated insurers under common administration, requires that a letter of credit issued to guarantee reinsurance credit from a reinsurer must be automatically renewable and be in possession of the ceding company before the filing of the annual statement with the director, gives the director the authority to require increases in reserves by the insurer for incurred but not reported losses, gives rules for valuing mortgage securities on financial statements, requires real property to be valued at the lower of cost or market, and provides a limit on investments in mortgage loans of 10% of insurer's assets.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

MEMORANDUM

April 22, 1991

**SUBJECT:** Insurance clean-up changes - (CSHB 279(L&C))

**TO:** Representative David Finklestein

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

The attached draft of CSHB 279(L&C) contains several changes recommended by the division of insurance. These changes are as follows:

1. The deletion of the term "general agent" in sec. 3. This change is consistent with the other changes in the CS.
2. Insertion of an oath requirement in Sec. 21.06.150, enacted in sec. 8, and the deletion of the requirement of a presumption of approval for certain examination reports.
3. In Sec. 21.27.340, amended in sec. 48, the deletion of the requirement that only in state licensee's have a license in each place of business.
4. In Sec. 21.28.020, enacted in sec. 57, the addition of "and" at the end of paragraph 3. This clearly requires the contract to include all provisions in this subsection.

Please contact me if you have any questions regarding the work draft.

MFF:pl  
91-288.plm

Enclosure

**THE FOLLOWING PAGES  
WERE TREATED AS A UNIT  
IN THE ORIGINAL FILE**

## MEMORANDUM

## State of Alaska

Representative David Finkelstein

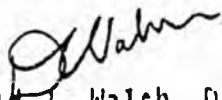
TO:

DATE: April 25, 1991

FILE NO:

TELEPHONE NO: 465-2515

THRU:

SUBJECT: Insurance Clean-up  
Changes - CSHB 279 L&C  
FROM: David J. Walsh, Director  
Division of Insurance

The attached draft of CSHB 279 L&C contains several changes recommended by the Division of Insurance. Additional changes are as follows:

## 1. Sec. 1 (Page 1, Line 13)

Please remove the words "imbued with" and replace with the words "in the".

## 2. Sec. 2 (Page 2, Line 10)

Please remove the word "shall" on line 10 and replace it with the word "may".

## 3. Sec. 3 (Page 2, Line 21)

Please change (f) so that it reads "For purposes of completing an examination of a company under this title, the director may extend the examination or investigation under AS 21.06.170."

## 4. Sec. 5 (Page 3, Line 9)

Please restore the deleted portion of the subsection that starts "after the director" and ends "correct the accounting". The subsection will then only be amended to add language on lines 10, 11 and 12.

## 5. Sec. 6 (Page 3, Line 17)

Please add a sentence at the end of (f) at Line 29 that reads "The director shall have authority to promulgate regulations as to limitations on the scope of examination work to be performed by specialists and limitations on the cost of specialists to the person being examined".

## Page 2

## 6. Sec. 7 (Page 3, Line 22)

In section (f) remove lines 23, 24, 25, (the first sentence) that starts "Upon determining" and ends "the examination." Section (f) will then start with "In conducting the examination, . . .".

## 7. Sec. 7 (Page 4, Line 11)

Please remove the words "and conclusions of law".

## 8. Sec. 8 (Page 4, Line 31)

Please remove from (b)(1) all language after "corrections;". The paragraph will then read "(1) approving the examination report as filed or approving the examination report with modification or corrections;"

## 9. Sec. 8 (Page 5, Line 18)

Please remove the language in (d) after "country", place a period, and add the sentence "Any other disclosure must be pursuant to state law."

## 10. Sec. 12 (Page 9, Lines 11 and 13)

Please remove the references to "life" in (g). There are two on Line 11 and one on Line 13.

## 11. Sec. 18 (Page 12, Line 19)

Please remove language in (8) after the word "manage". The subsection will then read "ownership and management of assets that the parent corporation could own or manage;"

## 12. Following Line 21, Page 14, please add a new section 20 to the bill (and renumber accordingly) as follows:

Sec. 20. AS 21.22.010 is amended by adding a new subsection to read:

(i) A transaction which requires approval by the director under (b) of this section is not subject to the requirements of AS 21.22.065.

## 13. Sec. 21 (Page 18, Lines 22, 26, and 27)

Please remove the words "of the total" and insert "in any" on Lines 12, 16, and 17 of Page 8.

## 14. Sec. 24 (Page 20, Line 1)

Please remove the amendment starting in Lines 17 and 18 and Lines 23 and 24 which read "not including realized capital gains."

Page 3

15. Sec. 25 (Page 21, Line 23)

Please add the following subsection to read:

"(f) This section does not apply to domestic insurers holding a certificate of authority under AS 21 on December 31, 1990."

16. Sec. 57 (Page 36, Line 25)

Following line 25 please insert a new subsection (b) (and renumber accordingly) that reads as follows:

"(b) Notwithstanding (a) of this section a domestic insurer may use a reinsurance intermediary broker that is not licensed under AS 21.28 if the person meets the licensing requirements regarding reinsurance intermediaries of the state, territory, or country of residence."

17. Sec. 58 (Page 42, Lines 21, 22, 23)

Please delete the sentence that begins "A person who . . ." and ends with ". . . paid immediately."

If you have any questions or comments, please contact me.

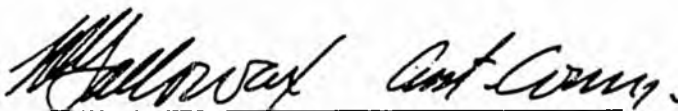
0375B

HB 279: "An Act relating to reinsurance credit, reserves, securities, and investments of certain insurers."

This department is in favor of this legislation.

This bill is part of a series of bills proposing changes designed to achieve accreditation for the Alaska Division of Insurance by the National Association of Insurance Commissioners (NAIC). Accreditation would mean that this state would meet the national standards considered necessary to regulate the insurance industry.

This bill adopts those sections of various NAIC model laws which Alaska currently does not have in its insurance laws or alters sections it does have to conform to the current model law. A sectional analysis is attached.



Glenn A. Olds, Commissioner

Date: 4-25-91

SECTIONAL ANALYSIS  
OF

**HB 279: An Act relating to reinsurance credit, reserves, securities,  
and investments of certain insurers; and providing for an  
effective date.**

Section 1. (Page 1, line 14 - page 2, line 2)

**Subject:** Filing of financial statements by accredited reinsurers.

**Change:** Added requirement for filing annual financial statements and audited financial statements by accredited reinsurers with the director.

**Reason:** NAIC accreditation requirement. These filings allow the division to monitor the financial standing of reinsurers that the division has accredited.

Section 1. (Page 3, line 12)

**Subject:** Rules for a group of unincorporated insurers to be a reinsurer accredited by the state.

**Change:** Increase amount of trust surplus from \$50 million to \$100 million and require annual certification of solvency by a public accountant who is a certified public accountant.

**Reason:** NAIC accreditation requirement. The trust money is to ensure payment of US claim liability, the change to a certified public accountant is to ensure competency and reliability of the certifications filed.

Section 1. (Page 3, lines 16-31)

**Subject:** Rules for a group of incorporated insurers under common administration to be accredited by the state.

**Change:** Addition of rules to be met to be accredited as a reinsurer.

**Reason:** NAIC accreditation requirement. The addition is meant to specify the requirements for this type of reinsurer.

Section 2.

**Subject:** Letters of credit (LOC) received by an insurer to guarantee payment of reinsurance receivables or credits.

**Change:** Addition of requirement that the LOC include an evergreen clause; that the LOC must be in existence on December 31 of the year in which it is guaranteeing credits and must be in the possession of the insurer prior to the filing of the annual statement with the division for that year.

**Reason:** NAIC accreditation requirement. The evergreen clause automatically requires renewal of the LOC at the time of its expiration if other procedures for cancellation have not been performed. This keeps the guarantee from quietly expiring. The dates for issuing the LOC and receiving the document are to ensure that the placement be made on a timely basis and not some time after the financial statements are prepared.

### Section 3.

**Subject:** Allowing credit for reinsurance transactions when the reinsurance agreements meet all requirements.

**Change:** Added that credit for reinsurance transactions can be recorded only if the reinsurance agreement meets the requirements of the director and gives authority to adopt regulations to the director.

**Reason:** The NAIC accreditation program has adopted standards which include model regulations on life reinsurance agreements. This proposed subsection gives the director statutory authority to adopt the NAIC model regulations.

### Section 4.

**Subject:** Director's authority to increase loss reserves.

**Change:** Added to the director's authority to increase reserves the ability to increase reserve for incurred but not reported losses.

**Reason:** NAIC accreditation requirement. Current statute only allows the director to require increases for loss reserves. Incurred but not reported loss reserves can have a significant effect on the financial standing of an insurer.

### Section 5.

**Subject:** Valuation of securities held as investments by insurance companies.

**Change:** Addition of mortgage loans as securities to be valued under this section and that appraisals used for valuation of any security must be acceptable to the director. Also added rules for valuing mortgage loans for quarterly or annual financial statements.

Sectional Analysis of HB 279  
Page 3

Reason: NAIC accreditation requirement. Alaska statutes do not contain rules for valuation of mortgage loans on financial statements required by the division.

Sections 6 and 7.

Subject: Valuation of real property.

Change: Added that the recorded value must be valued at the lower of cost or fair market value.

Reason: NAIC accreditation requirement. current statute allowed value to possibly be set above cost which is contrary to the financial statement valuation principles of purchased assets.

Section 8.

Subject: Limitation on types of investments of insurers.

Change: Added reference to mortgage loans making mortgage loans subject to the limit of 10% of total assets.

Reason: NAIC accreditation requirement. Alaska Statute does not include a limit on the amount of mortgage loan investments that could be held by an insurer. Limitations are needed to ensure diversification of investments.

Section 9.

Subject: Definition

Change: "Evergreen Clause" used in connection with Letter of Credit in Section 2 is defined.

Section 10.

Immediate effective date.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO.** HB 279

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to reinsurance credit, reserves, securities and investments of certain insurers BRU: Insurance  
 Sponsor: House Labor & Commerce Component: Operations  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRA /EL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
 Division: Insurance Date: 4/25/91  
 Approved by Commissioner: Glenn A. Olds   
 Agency: Department of Commerce & Economic Development Date: 4-25-91

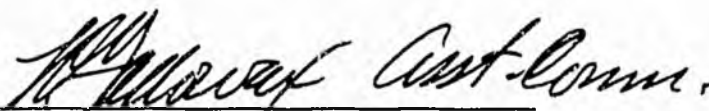
Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB 280: An act relating to regulation of insurance holding companies; and providing for an effective date.

The department is in favor of this legislation.

This bill is part of a series of bills proposing changes designed to achieve accreditation for the Alaska Division of Insurance by the National Association of Insurance Commissioners (NAIC). Accreditation would mean that this state would meet the national standards considered necessary to regulate the insurance industry.

This bill adopts those sections of the model holding company law drafted by the NAIC, which Alaska currently does not have in its insurance laws, or alters sections it does have to conform to the current model law. A Sectional Analysis is attached.

  
\_\_\_\_\_  
Glenn A. Olds, Commissioner

Date: 4-25-91

## SECTIONAL ANALYSIS OF HB 280

HB 280: "An Act relating to regulation of insurance holding companies."

- Section 1 - The section repeals and reenacts AS 21.21.180. The former AS 21.21.180 established authority for an insurer to invest in the stock of wholly-owned subsidiaries which would either be insurers or businesses necessary and incidental to the convenient operation of the insurer's insurance business. The new AS 21.21.180 alters this authority to allow for less than 100% owned subsidiaries and changes the standard for types of businesses allowed by defining twelve specific activities. New limits are also established for the dollar value of these investments in relation to an insurer's surplus and provides instructions for making that calculation. Finally, this section provides for mandatory disposal should an insurer cease to control a subsidiary.
- Section 2 - This section adds the disclosure of the acquisition of a subsidiary to a previously existing requirement for written disclosure of certain transactions to an insurer's board of directors.
- Section 3 - This section provides for annual holding company system reregistration/re-registration for foreign insurers in line with the existing requirement for Alaskan domestic insurers. Also, for both foreign and domestic insurance holding companies, a requirement for inclusion of a summarization of changes from a prior holding company annual filing is established.
- Section 4 - This section establishes a competitive standard requiring director approval of transactions during a new preacquisition notification period in which the director is allowed to disallow an acquisition of a subsidiary if there is substantial evidence that the effect of the acquisition may be to substantially lessen competition in any line of insurance in Alaska or tend to create a monopoly therein. Standards for prima facie evidence of violation of the competitive standards are established and for when substantial evidence is present that there is a significant trend toward increased concentration. Fines for noncompliance with the disclosure requirements are established. Exceptions are provided for normal insurer investment activities.

- Section 5 - This section expands the standards for the material transactions by insurers with their affiliates by requiring that charges or fees for services performed be reasonable, requiring adherence to and consistent application of customary insurance accounting practices and expands certain requirements for documentation of these standards.
- Section 6 - This section substitutes investment portfolio for surplus as regards policyholders in a test dealing with the recent past and projected future trend which is used in determining the reasonableness of an insurer's surplus as regards policyholders. In another test dealing with the quality and liquidity of investments in subsidiaries, the scope of the test is changed to consider affiliates rather than just subsidiaries.
- Section 7 - AS 21.22.100 prohibits an insurer subject to registration as a holding company from making an extraordinary dividend to its shareholders under certain circumstances. This amendment changes the circumstances under which a dividend may be paid by allowing a new two-year carry forward computation and eliminates realized capital gains from consideration in the previously existing overall computation.
- Section 8 - This section prohibits the relief by holding company registration of any obligation or liability existing for officers and directors of an insurer to which they would otherwise be subject by law and requires each insurer to be managed so as to assure that insurer's separate operating identity. An exception is provided for common management and cooperative or joint use of personnel, property or services.
- A new requirement is established calling for a portion of the board of directors of a domestic insurer to be independent of the insurer's ownership. Certain board activities are required to be approved by committees comprised solely of independent directors.
- Section 9 - This section includes preacquisition notification information received under the competitive standard established in Section 3 in those items which shall be given confidential treatment by the director under AS 21.21.120.
- Section 10 - This section adds to Title 21 definitions for the words: acquisition, highly concentrated, involved insurer, market or insurance market and statement value.
- Section 11 - This section provides for the recovery from affiliates of any loss suffered by a domestic insurer which is placed into liquidation or rehabilitation.
- Section 12 - This section provides an effective date.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO.** HB 280

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to regulation of insurance holding companies . . . . BRU: Insurance  
 Sponsor: House Labor & Commerce Component: Operations  
 Requestor: \_\_\_\_\_ **COMPONENT SERIAL NO.**

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**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

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

Estimate of current year impact: \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
 Division: Insurance Date: 4/25/91  
 Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*  
 Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB 281: An Act relating to examination of insurers, agents, brokers, adjusters, and solicitors.

The department is in favor of this legislation.

This bill is part of a series of bills proposing changes designed to achieve accreditation for the Alaska Division of Insurance by the National Association of Insurance Commissioners (NAIC). Accreditation would mean that this state would meet the national standards considered necessary to regulate the insurance industry.

The proposed legislation adopts significant portions of the NAIC model law on examinations. This model law is one which is included in the NAIC's accreditation standards and must be adopted by states in a substantially similar form in order to meet the requirements for becoming accredited by NAIC. The bill revamps the requirements for the conduct of examinations, the preparation of examination reports, and the resolution of concerns regarding information included in the report. A Sectional Analysis is attached.

  
Glenn A. Olds, Commissioner

Date: 4-25-91

## SECTIONAL ANALYSIS OF HB 281

HB 281: "An Act relating to examination of insurers, agents, brokers, adjusters, and solicitors."

Section 1 - The section lists information that the director may review when determining the need for examinations and the subjects to be covered.

The authority for calling an examination is broad and the listing of factors to be used in determining the examination to be conducted is meant to focus the issues to be examined.

Section 2 - In lieu of the director conducting a required examination, after January 1, 1994, the director may only accept reports prepared by persons working for states which are accredited by the NAIC.

The restriction on receiving reports from accredited states is to ensure a reliable report is received that is prepared based on procedures similar to these.

Section 3 - The director is given authority to examine any person which is necessary to complete the examination. The inclusion of examination authority over other persons who may be material to the examination allows the director to conduct a complete examination of the issues involving an insurer to gain a complete overview (cause, effect, etc.) of the situation being examined.

Section 4 - Preparations of examination reports is to be conducted under the requirements of AS 21.06.150. We have removed the inclusion of examinations of managing general agents, persons who have a contract to manage or control an insurer and those who control the management of an insurer. The section also removes from this area of the statute the discretion of the director to withhold information from the public.

An examination report prepared for an exam conducted under this section needs to be prepared under the same procedures as other exam reports. The persons removed from examination in this section are included in the new subsection (b) in Section 1 as affiliated persons who the director has authority to examine if the director feels they are necessary or material to an examination. The section regarding withholding of information is removed because AS 21.06.150(e) of this bill has similar requirements.

Section 5

- Added the requirement that books and records are to be kept according to Accounting Practices and Procedures Manual of the NAIC and removed the requirement that notice and opportunity must be given to the licensee to correct accounting inadequacies.

The NAIC accreditation standards require that statute include requirements that records be kept according to the NAIC Accounting Practices and Procedures Manuals. The removal of notice and opportunity to correct inadequacies in accounts is removed to require the licensee to use these recordkeeping practices at all times. Current statute does not require ongoing good practices and encourages attention on the accounts only after examiners have begun an initial review.

Section 6

- Addition that provides the director the authority to hire specialists and charge the cost as an examination expense. Removed the specific procedures for valuing real estate in an examination.

The NAIC model law on examinations include this section. Examination issues can be raised in areas that are outside of the expertise of in-house examiners. This allows the director to conduct the examination and gather information from examiners knowledgeable in specific areas of insurance or related issues. The section would cover the use of an appraiser for valuing real estate in an examination.

Section 7

- Additions to statute that specify the procedures for beginning an examination and adopting rules for conducting the exam as included in the Examiners' Handbook or otherwise deemed appropriate by the director. Added the prohibition of assigning an examiner that has a conflict of interest with the person being examined and sets out circumstances where a conflict would not be found. Added authority that the director may end or suspend an exam should other regulatory action need to be pursued and added that findings and conclusion drawn by the director in adopting an exam are prima facie evidence in any proceeding.

These sections were in the NAIC model law. They specify that rules to complete the examination efficiently. It recognizes that conflicts of interest may arise between examiners and persons being examined and provides guidelines for the director. It recognizes that, once an exam is begun, it need not be carried to the end result if the director feels other action is more appropriate. It provides that an exam report accepted by the director would be introduced as prima facie evidence because opportunity had been given to the person being examined to refute information in the report prior to the director's acceptance of the report as provided in Section 6 of this bill.

Section 8

- All prior procedures for filing exam reports are removed from the statutes and replaced by procedures in the NAIC model law. The old procedures required that the person being examined be given 20 days to request a hearing before the report was filed in the director's office. The new procedure requires the report to be written within 60 days after the end of field work. The person examined has 30 days to respond to the proposed report and the director has 30 days to review the report and any response. The director then may accept the report, reject the report, or request a hearing. The director may initiate any regulatory proceedings at any time during the examination and may use information gathered in the exam process. The director is required to prepare findings of facts and conclusions of law for any orders he prepares after consideration of the exam report and any response. The person examined must file affidavits by the director and CEO stating that the report has been reviewed.

This procedure is included in the NAIC model law. These procedures provide a time line for completing the report process, provide for review of any concerns about information in the report, provides for documentation that the managers of the person being examined are aware of the outcome of the report.

Section 9

- This is a new section that clarifies who shall pay for defense of civil action filed for duties performed during the examination process when the substance of the suit did not substantially justify its being filed.

More often examiners are being sued regarding information found during examinations and suits are being used as a means of intimidating examiners and swaying their results. This section ensures that defense of frivolous suits will not be a cost to the examiner.

Section 10

- Addition of definition for "examiner."

Section 11

- Repeal of superfluous section.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO.** HB 281

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to examination of BRU: Insurance  
insurers, agents, brokers, adjusters, and Component: Operations  
solicitors  
 Sponsor: House Labor & Commerce  
 Requestor: \_\_\_\_\_ **COMPONENT SERIAL NO.**

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**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

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

Estimate of current year impact: \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
 Division: Insurance Date: 4/25/91  
 Approved by Commissioner: Glenn A. Olds *[Signature]* Ant. Comm.  
 Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB 282: An Act relating to licensing, employing and the authority of managing general agents and defining certain terms related to insurance.

The department is in favor of this legislation.

This bill is part of a series of bills proposing changes designed to achieve accreditation for the Alaska Division of Insurance by the National Association of Insurance Commissioners (NAIC). Accreditation would mean that this state would meet the national standards considered necessary to regulate the insurance industry.

This proposed legislation is offered to serve two purposes:

1. to further incorporate the term "managing general agent" into Title 21; and
2. to adopt the provisions of the NAIC Model Act on managing general agents.

The term "managing general agent" is used more often in industry to refer to a person who would have the authority set out in this section. The term "general agent" more often refers to a person who is an employee and who does not have the extension of authority by the company that this chapter addresses. Although many amendments of the terms "general agent" to "managing general agent" have been accomplished in this bill, many other references in other areas of statute and regulation have not been addressed and instead the definitions of the terms have been adjusted to facilitate the transition.

  
Glenn A. Olds, Commissioner

Date: 4-25-91

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 282

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to licensing, employing, and the authority of managing general agents BRU: Insurance  
 Sponsor: House Labor & Commerce Component: Operations  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
 Division: Insurance Date: 4/25/91  
 Approved by Commissioner: Glenn A. Olds *[Signature]*  
 Agency: Department of Commerce & Economic Development Date: 4-25-91

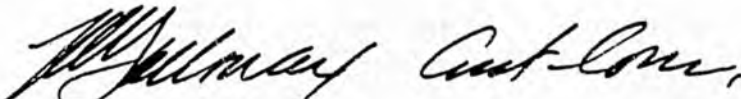
Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**HB 283:** An Act relating to brokers and managers who act as reinsurance intermediaries, to duties of insurers who use a reinsurance intermediary, and defining certain terms related to insurance.

The department is in favor of this legislation.

This bill is part of a series of bills proposing changes designed to achieve accreditation for the Alaska Division of Insurance by the National Association of Insurance Commissioners (NAIC). Accreditation would mean that this state would meet the national standards considered necessary to regulate the insurance industry.

The bill adopts licensure of reinsurance intermediary brokers and managers, provides for operating requirements for those licensees, sets out duties of reinsurers utilizing reinsurance intermediary brokers or managers, and definitions. A Sectional Analysis is attached.

  
\_\_\_\_\_  
Glenn A. Olds, Commissioner

Date: 4-25-91

SECTIONAL ANALYSIS  
OF

HB 283: An Act relating to brokers and managers who act as reinsurance intermediaries, to duties of insurers who use a reinsurance intermediary, and defining certain terms related to insurance.

Sec. 21.28.010

These are all new sections setting out a definition of reinsurance intermediary broker and reinsurance intermediary manager, who shall be licensed, gives the director authority to require a bond or errors and omissions policy of the licensee, gives the director authority to conduct examinations of the licensees, and provides for penalties and restitution for persons who are in violations of this Title.

This entire bill is an NAIC model law. It is to provide a mechanism for determining who is acting in the capacity of reinsurance intermediary for insurers in the state and for domestic insurers outside of the state. Reinsurance is an area that can be the cause of the failure of an insurer if the program is not well managed for the benefit of the insurer. Fraudulent reinsurance placement can also occur with companies that do not exist.

Sec. 21.28.020

This sets out the procedure that must be followed by reinsurance intermediary brokers. The relationship between the broker and the insurer must be recorded in a contract that has specific minimum information. The broker is required to keep specific information regarding each transaction of reinsurance for 10 years after expiration of the reinsurance contract. The insurer is given the right to copy and audit any information held by the broker dealing with the insurer's business.

It forces the parties to the reinsurance arrangement to record their agreement on paper and requires minimum records for the examination of transactions conducted by the broker. It also allows the insurer to conduct investigations of transactions conducted in its interest.

Sec. 21.28.030

This section requires insurers to only use licensed reinsurance intermediary brokers, prohibiting the employment of employees of the broker, and requiring the insurer to obtain annual statements of the financial condition of the reinsurance intermediary broker.

This makes the insurer that chooses to use a reinsurance intermediary broker to use one that is in good standing with the state, requires them to maintain independence from each other so that the results will not be a gain to any employee of the broker, and to encourage the insurer to monitor the financial standing of its broker on an annual basis.

Sec. 21.28.040

This section requires a written contract between the insurer and the manager that must have specific provisions and must be approved by the director before any transactions take place. The manager must keep specific records of each transaction for 10 years after expiration of the reinsurance contract and the manager is prohibited from several specific activities.

This cause the parties to record their agreement and ensure that the director finds it complete and not hazardous to the insurer. Minimum record requirements for the manager allows for examination of transactions by the division and specific prohibition on certain activities ensures that the manger will not exceed authority in placing some kinds of reinsurance transactions, nor commit to excessive payments, or employment employees of the reinsurer, nor transfer the manager authority to others.

Sec. 21.28.050

This section requires the use of licensed managers, the annual receipt of a copy of annual statements of financial condition of the manager, the receipt of an annual opinion of loss reserves for business in which the manger sets loss reserves maintaining of binding authority of the reinsurer for any retrocessional contracts, notification to the director of termination of a manager contract, and prohibition of the appointment of an affiliate of the manager to the board of directors of the reinsurer.

This section ensures us of licensed managers, encourages the reinsurer to monitor the financial condition of the manger, verify that reserves are adequate, hold binding authority for retrocessional contracts and not allow the manager full authority for these placements, and not allow the manager to be less than independent in its dealings with the reinsurer.

Section 2

Definition of terms.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO.** HB 283

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to brokers and BRU: Insurance  
managers who act as reinsurance inter- Component: Operations  
mediaries  
 Sponsor: House Labor & Commerce  
 Requestor: \_\_\_\_\_ **COMPONENT SERIAL NO.**

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance <sup>(A)</sup> Phone: 465-2572  
 Division: Insurance Date: 4/25/91  
 Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*  
 Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**THE PRECEDING PAGES  
WERE TREATED AS A UNIT  
IN THE ORIGINAL FILE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
Title: An Act relating to reinsurance BRU: Insurance  
credit, reserves, securities and Component: Operations  
investments of certain insurers  
Sponsor: House Labor & Commerce  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
Division: Insurance Date: 4/25/91  
Approved by Commissioner: Glenn A. Olds  
Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**COMMITTEE COPY**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
Title: An Act relating to reinsurance BRU: Insurance  
credit, reserves, securities and Component: Operations  
investments of certain insurers  
Sponsor: House Labor & Commerce  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance Phone: 465-2572  
Division: Insurance Date: 4/25/91  
Approved by Commissioner: Glenn A. Olds  
Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**COMMITTEE COPY**

I USE COMMITTEE REPORT

5/9/91

Date Referred: April 17, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 5-7-91

The LABOR AND COMMERCE Committee considered:

HB 279

HOUSE BILL NO. 279

INSURER CREDIT, RESERVES & INVESTMENTS

"An Act relating to reinsurance credit, reserves, securities, and investments of certain insurers; and providing for an effective date."

RECOMMENDATIONS: [x] the same title  
be replaced with CS HB 279 (L+C) [ ] a new title

- [ ] have attached amendments(s)
- [ ] do pass
- [ ] do not pass
- [x] no recommendations
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

- [ ] fiscal impact \_\_\_\_\_
- [x] zero fiscal note DCED
- [ ] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i> FINKELSTEIN		<i>[Signature]</i> DANLEY		✓	
<i>[Signature]</i> BRUCKMAN		<i>[Signature]</i> IVAN		✓	
		<i>[Signature]</i> ZAWACKI		✓	
		<i>[Signature]</i> DARNELL		✓	
		<i>[Signature]</i> TAYLOR		✓	

*[Signature]* FINKELSTEIN  
CHAIRMAN'S SIGNATURE

**THE FOLLOWING PAGES  
WERE TREATED AS A UNIT  
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May 10, 1991

## VIA FEDERAL EXPRESS

Representative Dave Donley  
House Judiciary Committee  
Alaska House of Representatives  
Capitol Room 120  
Capitol Building  
Juneau, Alaska 99811

Dear Dave:

When I met with you at the COIL meeting in Florida, I didn't expect to ask for your support regarding legislation (so soon)!!

I've enclosed a letter of support for H.#279 sent to the Chairman of the Committee that introduced the bill, the House Labor and Commerce Committee.

Our firm is general counsel for the Institute of London Underwriters ("the Institute") which, as an association for 116 companies underwriting marine and aviation insurance and reinsurance risks, plays a central role in the administration of marine, aviation and transportation insurance.

H. 279 follows the format of the Credit for Reinsurance Model law adopted by the National Association of Insurance Commissioners. Section 1(a)(4)(A)(v) of H.B. 279 provides for accreditation of the Institute. This provision will permit the Institute to offer marine, aviation and transportation reinsurance coverage in Alaska.

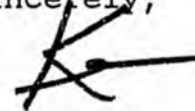
Rep. Dave Donley  
May 10, 1991  
Page 2

The Institute's enormous capacity will result in price competition that will benefit the Alaska consumer. The Institute provides a great deal of capacity with the highest degree of solvency. Indeed, in the recent Congressional report highly critical of the regulatory attention paid to the solvency of insurers and reinsurers alike, the Institute of London Underwriters was singled out for the attention it pays to solvency (Report of the U.S. House of Representatives, Committee Energy and Commerce, Oversight and Investigations Subcommittee, February, 1990.)

We would be most happy to provide any information necessary to support this provision, and would be willing to testify on behalf of this legislation at any House hearings.

I have attached a packet which provides further information about the Institute.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Merin', with a horizontal line extending to the right.

Kenneth D. Merin

KDM/pjc  
Encl.

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May 10, 1991

**VIA FEDERAL EXPRESS**

Representative David Finkelstein  
House Labor and Commerce Committee  
Alaska House of Representatives  
Capitol Room 15  
Capitol Building  
Juneau, Alaska 99811

Re: H.B. #279

Dear Representative Finkelstein:

Our firm is general counsel for the Institute of London Underwriters ("the Institute") which, as an association for 116 companies underwriting marine and aviation insurance and reinsurance risks, plays a central role in the administration of marine, aviation and transportation insurance.

The purpose of this letter is to inform you of our support for H.B. 279. This bill follows the format of the Credit for Reinsurance Model law adopted by the National Association of Insurance Commissioners. Section 1(a)(4)(A)(v) of H.B. 279 provides for accreditation of the Institute. This provision will permit the Institute to offer marine, aviation and transportation reinsurance coverage in Alaska.

The Institute's enormous capacity will result in price competition that will benefit the Alaska consumer. The Institute provides a great deal of capacity with the highest degree of solvency. Indeed, in the recent Congressional report highly critical of the regulatory attention paid to the solvency of insurers and reinsurers alike, the Institute of London Underwriters was singled out for the attention it pays to solvency (Report of the U.S. House of Representatives, Committee Energy and Commerce, Oversight and Investigations Subcommittee, February, 1990.)

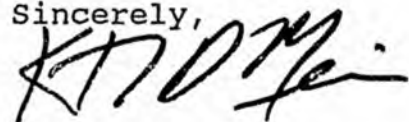
Representative Finkelstein  
May 10, 1991  
Page 2

We have just learned that H. 279 has been referred to the House Judiciary Committee, and wanted to go on record as endorsing this proposal as one which will work to the economic benefit of the citizens of Alaska.

We would be most happy to provide any information necessary to support this provision, and would be willing to testify on behalf of this legislation at any House hearings.

I have attached a packet which provides further information about the Institute.

Sincerely,



Kenneth D. Merin

KDM/pjc  
Encl.

cc: David Donley

# MEMBERS

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Andrew Weir Insurance Co., Ltd.  
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Assurances Generales de France I.A.R.T.  
Atlantic Mutual Insurance Co.  
Atlas Assurance Co., Ltd.  
Aviation & General Insurance Co. Ltd.  
The Baloise Insurance Co., Ltd.  
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- Gerling-Konzern Allgemeine  
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Lombard Continental Insurance plc  
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Insurance Co., Ltd.  
London & Edinburgh Insurance Company  
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Sun Insurance Office Ltd.  
Swiss Reinsurance Co. (U.K.) Ltd.  
Switzerland Insurance Company UK  
Limited  
Taisho Marine & Fire Insurance Co. (U.K.)  
Ltd.  
Terra Nova Insurance Company Ltd.  
The Threadneedle Insurance Co., Ltd.  
The Toa-Re Insurance Company (U.K.)  
Ltd.  
The Tokio Marine & Fire Insurance Co.  
(U.K.) Ltd.  
Ulster Marine Insurance Co., Ltd.  
L'Union des Assurances de Paris I.A.R.D.  
The Union Marine & General Insurance  
Co., Ltd.  
Uni-Polaris Insurance Company Limited  
Vesta (U.K.) Insurance Co., Ltd.  
The Victory Reinsurance Co., Ltd.  
Wausau Insurance Company (U.K.) Ltd.  
Wurtembergische Feuerversicherung AG  
The Yasuda Fire & Marine Insurance Co.  
of Europe Ltd.  
Yorkshire Insurance Co., Ltd.  
Zurich Re (UK) Ltd.

## HONORARY MEMBERS

- P. R. Dugdale, CBE  
L. A. Locke  
A. E. Mann  
E. D. Rainbow, OBE  
H. G. Merriman, BEM

## AFFILIATE MEMBER

- The Liverpool Underwriters' Association

NAIC MODEL LAW ON CREDIT FOR REINSURANCE

(ILU Provision as approved in Wilmington, Delaware in September, 1989. Technical corrections adopted in Baltimore, Maryland in June, 1990).

"In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation; and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10,000,000,000; the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusted surplus of which \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant."

**FAILED PROMISES**

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**Insurance Company Insolvencies**

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**A REPORT**

**BY THE**

**SUBCOMMITTEE ON OVERSIGHT AND  
INVESTIGATIONS**

**OF THE**

**COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES**



**FEBRUARY 1990**

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ferences. The primary difference is that European countries are geographically much smaller, their insurance markets are more centralized, and entrance to their markets is more restricted. Regulatory officials and industry participants say these factors mean that reputations of individuals and companies are better known, and exchange of significant information is easier. They point to their limited number of reported insolvencies as proof that their regulatory systems work.

Ireland and Great Britain rely upon independent auditors to check insurance company reports for accuracy, while Switzerland uses government examiners to perform that task. Both Ireland and Great Britain have legal requirements for auditors to report important problems directly to government regulators, and actuaries in Great Britain have a professional responsibility to report such problems, even if they are company employees. The United States currently has no equivalent requirements for actuaries and independent auditors. Great Britain also has useful provisions for prior regulatory approval of key executives and shareholders, as well as restrictions on reentering the insurance industry for senior company officials associated with prior insolvencies.

Another difference in Great Britain is the existence of self-regulating insurance markets such as Lloyd's of London and the Institute of London Underwriters. These organizations enable many participating entities to operate in a centralized marketplace using common support functions. They are generally supervised by British regulators, but have important self-regulatory mechanisms intended to assure the solvency of their markets. Efforts to establish similar organizations in New York and Miami have failed.

Lloyd's is best known as an exclusive market where selected brokers and underwriters are permitted to write insurance and reinsurance coverages in a free-form atmosphere. Specific risks are insured by separate syndicates representing groups of Lloyd's "names", who are wealthy individuals pledging their full assets to satisfy claims taken on by the syndicates. As a market, Lloyd's is one of the world's largest reinsurers and has an impressive record of solvency and dependability, but a few notable problems have arisen in recent years.

Lloyd's has experienced fraudulent and incompetent behavior by some syndicate managers and brokers, as well as resistance to paying large claims by syndicate members whose personal fortunes are threatened. The process of screening "names" for good character and financial worth has not included strong background checks or regular financial reports on individual syndicate members, and has not prevented persons such as Carlos Miro from using his status as a Lloyd's "name" as an advertisement of his respectability. Industry participants have also complained to the Subcommittee that Lloyd's syndicates are becoming very slow in paying legitimate claims presented to them.

The Institute of London Underwriters is another exclusive market organized to permit its members open negotiation and joint participation in insurance coverages. Unlike Lloyd's, the Institute of London Underwriters' members are actual insurance companies operating in the London market, many of which are affiliated with large international companies. They use the organization to facili-

tate the writing of purely marine and aviation business. Although much newer than Lloyd's, the Institute of London Underwriters has achieved success in securing a solvent market through initial screening and regular monitoring of member companies.

The challenge for the United States is to strengthen its own system of solvency regulation, while determining which foreign regulatory systems are worthy of recognition and reliance in regard to solvency matters. This must be accompanied by an acknowledgment that United States and foreign regulatory bodies, like the companies they regulate, vary widely in terms of size, resources, competence, and commitment to the public. The key to resolving solvency problems may well lie in placing more reliance on those who deserve it, while more closely monitoring and restricting those who do not meet appropriate standards.

Regulating international insurance entities and transactions requires international cooperation and coordination, which seems lacking under the present system. A lot can be learned and copied from successful foreign regulatory efforts, but the United States is a geographic giant with decentralized markets and an economic culture based on open entry and competition. There must be better balance among the insurance industry's solvency needs, the unavoidable realities of the United States market, and present tendencies to let everyone participate equally and freely under ineffective rules. The existing regulatory system treats Lafayette Re the same as Munich Re, and Great Britain the same as the Cayman Islands. This dissipates limited resources and ignores obvious differences.

The Subcommittee plans further inquiry into foreign regulatory and business practices, particularly in the area of reinsurance. Solvency and reliability are common international objectives, but the Subcommittee has also noted common international weaknesses, such as failure to control MGA's, failure to require actuaries for establishing property/casualty loss reserves, and too little focus on the activities and solvency of reinsurers. If the reform efforts of concerned government regulators, self-regulatory organizations, and industry participants can be promoted and coordinated, there could be a real opportunity to substantially improve international solvency regulation for the mutual benefit of everyone involved. The Subcommittee looks forward to working with all interested parties in developing a system that is more rigid in addressing solvency requirements, and more flexible in recognizing where and how such requirements should be implemented.

#### ISSUES TO BE ADDRESSED

The Subcommittee's inquiry into solvency issues thus far has documented many problems and weaknesses in the present regulatory framework, some of which fundamentally affect the well-being of the system. The inquiry has been conducted with an open attitude for seeing and describing things the way they really are, but with no preconceived agenda of solutions for correcting problems found by the Subcommittee. The focus of the inquiry will continue to be on understanding the causes of insolvency, and finding work-

The Institute of London Underwriters  
Reinsurance Accreditation  
Position Paper

The Role of the Institute in the U.K. and World Markets

The Institute of London Underwriters ("the Institute"), the trade association for London-based companies underwriting marine and aviation insurance and reinsurance risks, plays a central role in the administration of marine, aviation and transportation ("M.A.T.") insurance business in the London Market.

The Institute's London operations are both a headquarters and an underwriting marketplace for the placement of highly specialized covers with companies that meet only the highest standards of solvency.

Policies issued by the Institute are freely subscribed to by the individual member companies who have accepted specified shares of a particular risk. The payment of premiums and the reporting and payment of claims are processed centrally by the Institute. Once a risk has been written by member companies, all premium and claims accounting and policy issuing are then handled centrally on their behalf by the Institute's processing departments. The typical portion of a risk taken by a member generally becomes smaller as the size and the degree of exposure of the risk increases, particularly when one or more risks may face a catastrophe exposure, e.g., where several risks are in a region prone to windstorms.

The Institute's authoritative role in the international M.A.T. market is highlighted by the fact that the wide variety of policy wordings developed by the Institute is found not only in the policies it issues on behalf of its member companies but also in most M.A.T. policies worldwide. The Institute, together with Lloyd's, has developed a range of clauses, covering such risks as cargo, hull, shipowners liability and war, all of which are used by Lloyd's underwriters, as well as by their company counterparts as standard policy wording. The Institute's influence in the markets is also exercised through joint Institute-Lloyd's committees, prominent among which are those relating to hull, cargo, excess loss, rig & associated business and war risks. The work of both these joint market committees, as well as of the Institute's own internal committees, has escalated as a result of new problems faced by international M.A.T. insurers, placing the Institute at the nerve center of market trends and developments.

The central importance of the Institute in the U.K. M.A.T. insurance and reinsurance market is underscored by the total net premiums received through the Institute in 1989 - over 42,200,000,000 (U.S.).

*Knoll & Tract*

## The Institute's Membership

The Institute's security is simply as good as can be found anywhere in the world.

The Institute counts among its members some of the most reputable and financially sound insurers in Britain, the United States, Japan, France, West Germany and other major insurance centers.

In the more than 104 years of its existence no Institute member company has ever been the subject of an insolvency proceeding.

Exhibit A shows the unparalleled stability of the Institute's membership. As you will note, out of the Institute's total membership, nine are founding members. Nearly half of the Institute's companies have been members for over 20 years. Nearly 90% have been in existence for over 50 years.

The Institute's standards for membership are high and are embodied in a series of rigorous financial tests and review procedures. Once admitted, a member must comply with annual reporting requirements, by which the Institute monitors the member's financial strength. The member companies of the Institute have a more than substantial surplus to support their writings. For example, over 50 of the Institute's member companies maintain trust funds in the U.S. for the security of their respective policyholders. The aggregate market value of such funds, as of January 1, 1990, exceeded \$125,000,000. The aggregate capital and surplus of Institute companies is currently in excess of \$15,000,000,000.

The Institute currently has at least 56 of its member companies on the Non-Admitted Insurers Information Office list of Non-Admitted Insurers. Their inclusion, of course, indicates that each has put up the requisite NAIC trust fund of not less than \$2.5 million.

## Parent Company Guarantee

As stated above, no member of the Institute has ever become insolvent. For a fuller understanding of just how the Institute's security works, however, let us suppose that an Institute member were unable to pay its obligations.

In such an unlikely event the claimant would first have a claim against the member's assets. (Once elected, a member must undertake to honor all of its liabilities incurred on Institute policies during its period of membership for as long as such liabilities remain.) To the extent that the obligations were not

then totally satisfied, the claimant would then have recourse to the assets of the member's guarantor, because, over the past twenty years, any company elected to membership that has a parent company must be guaranteed by that parent in respect of those liabilities. The guarantee is unlimited in amount and time and is irrevocable.

#### The Institute Program for Accreditation

In September, 1989, the Institute achieved a significant breakthrough when the Reinsurance Task Force and the Special Issues Committees of the National Association of Insurance Commissioners at the NAIC Northeast Zone Meeting in Wilmington, Delaware voted favorably to amend the Reinsurance Credit Model Law to add language permitting the Institute to qualify for reinsurance accreditation thereby placing them on an equal footing with Lloyd's. A copy of this amendment along with various technical modifications that were approved at the NAIC Summer Meeting in June, 1990 is attached herewith as Exhibit B.

Further evidence of State recognition of the Institute is apparent from recent action taken by the New York Insurance Department. On March 23, 1990, the New York Insurance Department promulgated the Sixth Amendment to their Regulation No. 20 (11 NYCRR 125) to enable a group of individual incorporated assuming insurers located outside the United States to receive a certificate of recognition as an accredited reinsurer. Essentially, New York law permitted that Department to permit by regulation that which the Institute amendment to the NAIC Model Law will accomplish.

On July 11, 1990, Missouri Governor John Ashcroft signed into law House Bill 1739 which, among other provisions, adopts the NAIC's Credit for Reinsurance Model Act as amended. By enacting this law, Missouri becomes the first state to adopt the entire NAIC Model Act thereby permitting the Institute as a group of incorporated underwriters, to qualify as an accredited reinsurer on the same basis as the Model Act permitted a group of unincorporated underwriters to qualify.

On June 29, 1990, Alabama Insurance Commissioner Mike Weaver accepted the member companies of the Institute as accredited reinsurers for wet marine and transportation reinsurance for the year ending May 31, 1991 in accordance with Section 27-5-12, Code of Alabama, 1975 (as amended May, 1990). This approval follows similar action taken by the State of Maryland in June 1987.

#### Removal of Restrictions on Competition

Despite the Institute's superlative record, recognition by state legislators has not kept pace with recognition by state regulators. The great disparity in treatment by state insurance laws with regard to non-U.S. insurers has been a continuing obstacle to the Institute's achieving collective recognition for

its member companies. Legislatures should be careful to distinguish, we submit, protection of assureds and reassureds, which the Institute wholeheartedly supports, from anti-competitive protectionism. The Institute opposes protectionism, on a global basis, just as it seeks to give its members, regardless of nationality, the opportunity to compete effectively with each other on the world market. It is the Institute's aim to see this freedom of competition equally available to members wishing to underwrite American business.

The financial stability, integrity and solvency of the Institute and its member companies are reinforced by standards substantially in excess of those set by the United States and United Kingdom regulators. The accreditation of these companies as reinsurers would be of major benefit to the United States domestic insurers and reinsurers who could effectively utilize the resulting growth in reinsurance and retrocession capacity.

We ask your support, on behalf of the Institute, for revisions to your state's law, that would permit the Institute and its member companies to provide the highest quality reinsurance capacity essential to the American markets.

Respectfully submitted,

KROLL & TRACT

THE INSTITUTE OF LONDON  
UNDERWRITERS

July 20, 1990

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LONDON UNDERWRITERS

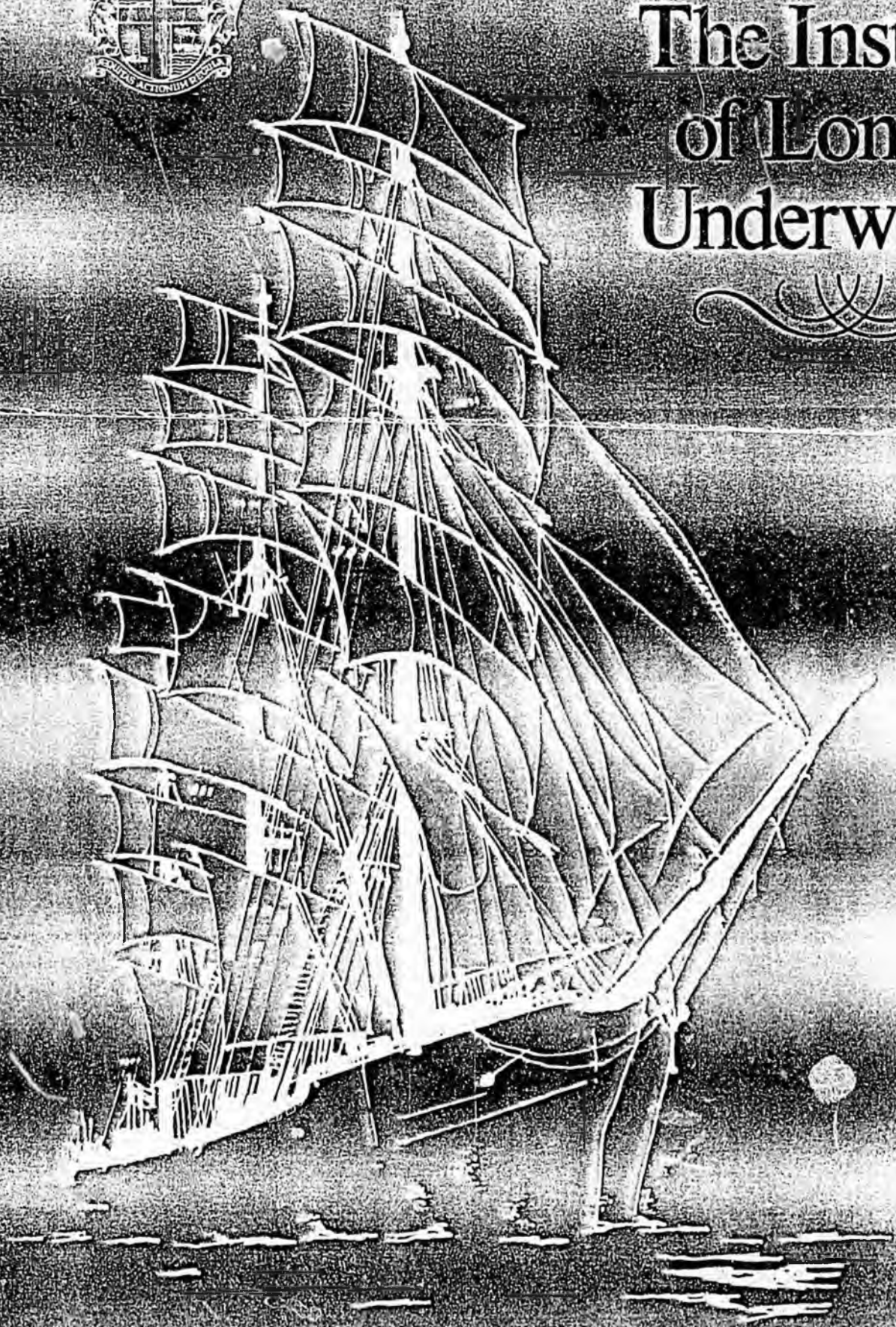


ANNUAL REPORT  
1990

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# The Institute of London Underwriters



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