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STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

PO. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2515

April 16, 1992

The Honorable Dave Donley
Alaska House of Representatives
House Judiciary Committee
State Capital
Juneau, AK 99801-1182

Dear Representative Donley:

Enclosed as you requested, are lists of the sections of the CSSB 376 as passed by the Senate yesterday that identify the general purpose of the sections in terms of:

- (1) approved models required by the NAIC for accreditation;
- (2) approved models of the NAIC which, although not strictly required for accreditation, are necessary additions to our statute in order to implement the required models or too close loopholes;
- (3) a general revision of Chapter 27 which includes the NAIC approved Single Producer Procedure Act and relocates licensing of surplus lines brokers included in the NAIC Surplus Lines Law;
- (4) numerous consumer protection enhancements to current statutes including additions from the approved NAIC model Unfair Trade Practices Act; and
- (5) statute updating which incorporates editorial changes, deletes obsolete references, clarifies certain statutes, and coordinates premium tax payments with annual statement filing.

The first grouping shows accreditation model statutes and regulations required for accreditation which may be either wholly new to our statute such as the Reinsurance Intermediary Act or revisions to our statutes to bring them up to current models required for accreditation such as Insurance Holding Company System Regulatory Act. The legislation passed in 1990 incorporated parts of many other accreditation models and reduced our effort here.

The second grouping is also necessary for accreditation. The 1990 legislation prepared, before I got here, updated solvency for insurers, but inadvertently missed title insurers and fraternal benefit societies. In order to implement the new licenses for managing general agents, reinsurance intermediary brokers, and reinsurance intermediary managers, the old licensing chapter had to be rewritten to include the many nuts and bolts that are the heart of any licensure system.

SECTIONS FOR MODELS ON THE NAIC ACCREDITATION LIST

| <u>CSSB 376 Section(s)</u> | <u>NAIC Model(s)</u> | <u>CSSB 376 Bill Page(s)</u> |
|---|---|---|
| 1 through 13 | Law on Examinations (Also Managing General Agents Act and Reinsurance Intermediary Act) | 1 through 7 |
| 15 | Regulation To Define Standards And Commissioner's Authority For Companies Decmed To Be In Hazardous Condition | 7 |
| 19 through 22 | Credit for Reinsurance | 9 through 15 |
| 24 through 28; 214 | Standard Valuation Law | 15 through 18; 152 |
| 29 through 33; 35 through 49; 178 | Insurance Holding Company System Regulatory Act | 18 through 23; 25 through 36; 150 and 151 |
| 34 and 35 | Investments In Medium Grade And Lower Grade Obligations Regulation | 24 and 25 |
| 94 | Business Transacted With Producer Controlled Property/Casualty Insurer Act | 64 through 68; 101 through 103 |
| 94 and 95 | Managing General Agents Act | 68 through 74; 101 through 103 |
| 94 and 96 | Reinsurance Intermediary Act | 74; 101 through 103 |
| 190 through 211 | Reciprocal Attorney-in-Fact Act | 139 through 150 |

**SECTIONS FOR ADDITIONAL MODELS AND ADDITIONAL SECTIONS
REQUIRED TO IMPLEMENT REQUIRED MODELS FOR NAIC
ACCREDITATION**

| <u>CSSB 376 Section(s)</u> | <u>NAIC Model(s)</u> | <u>CSSB 376 Bill Page(s)</u> |
|------------------------------|--|------------------------------|
| 15 | Regulation To Define Standards And Commissioner's Authority For Companies Deemed To Be In Hazardous Condition (Required increase in reserves to include IBNR) | 7 |
| 50 through 92 | Managing General Agents Act (Licensure process) | 36 through 59 |
| 50 through 92 | Reinsurance Intermediary Act (Licensure process) | 36 through 59 |
| 94 | Third Party Administrator Statute (Focused regulation of TPAs is better than regulation as an MGA) | 75 through 84 |
| 155; 156; 158 through 160 | All solvency models (Title insurers subjected to previously revised capital, surplus, deposit, unearned premium reserve, annual statement; certificate of authority; requirements) | 128 through 130 |
| 187 | All solvency models (Establishes records required to be maintained by domestic insurers) | 138 and 139 |
| 216 | All solvency models (Fraternal Benefit Societies subjected to previously revised capital, surplus, deposit, unearned premium reserve, annual statement; certificate of authority requirements) | 152 and 153 |
| 222 | All accreditation requirements (Adds definitions to Title 21) | 156 through 161 |

LICENSING

| <u>CSSB 376 Section(s)</u> | <u>Subject</u> | <u>CSSB 376 Bill Page(s)</u> |
|---|---|---|
| 50 through 94 | Single License Procedure Act | 36 through 64; 101 through 103 |
| 94 and 153 | Surplus Lines Law (Combines all licensees into Chapter 27) | 95 through 98; 125 and 125 |
| 162 and 163; 165 through 172; 183 | Title Insurance (Combines all licensees into Chapter 27) | 130 and 131; 132 through 134; 137 |
| 215 and 216 | Fraternal Benefit Societies (Combines all licensees into Chapter 27) | 152 and 153 |

CONSUMER PROTECTION

| <u>CSSB 376 Section(s)</u> | <u>Subject</u> | <u>CSSB 376 Bill Page(s)</u> |
|----------------------------|--|------------------------------|
| 94 | Independent Adjusters (Provides stricter limitations on unlicensed nonresident adjusters) | 98 through 101 |
| 138 | Unfair Trade Practices Act (Clarifies applies to transactions in this state and transactions relative to a subjects resident, located, or to be performed in Alaska) | 121 |
| 139 | Unfair Trade Practices Act (Unfair Financial Planning Practices section from current NAIC model is added) | 121 and 122 |
| 140 through 142 | Unfair Trade Practices Act (Clarifies that undefined unfair or deceptive acts or practices applies to all of Title 21; the director may adopt regulations to define other methods of competition found to be unfair or deceptive) | 122 and 123 |
| 143 and 144 | Alaska's Cancellation, Renewal, and Nonrenewal Laws (Adds timeliness standard for insurer's to return premiums if insured cancels policy and for insurer to promptly complete audits) | 123 and 124 |
| 145 | Alaska's Cancellation, Renewal, and Nonrenewal Laws (Extends protection to wet marine and transportation insurance such as Alaska's fishing vessels) | 124 |
| 146 | Unfair Trade Practices Act (Clarifies applies to all persons, not just persons in this state) | 124 |
| 147 through 152 | Unfair Trade Practices Act (Increases monetary civil penalties for violations; violations are cause for suspension or revocation of licenses; restitution may be ordered; misc. editorial changes) | 124 and 125 |
| 154 | Insurable Interest (Permits and provides consumer protection for charitable donations using life insurance beneficiary provisions) | 126 through 128 |

CSSB 376 Section(s)

Subject

CSSB 376 Bill Page(s)

| | | |
|------------------|---|--------------|
| 157 | Title Insurer Guaranty Fund (Increases guaranty fund from \$100,000 to \$750,000) | 129 |
| 164 | Title Insurance (Allows greater flexibility in establishing title plants to reduce policy costs) | 131 and 132 |
| 218 through 220; | Senior Driver Training Discount (Clarifies eligibility; adds policyholder notice mechanism) | 154 and 155; |
| 221 | Mandatory Appraisal (Provides policyholders a quick and inexpensive means to resolve first party property loss valuation disputes with their insureds) | 155 and 156 |

STATUTE UPDATING

| <u>CSSB 376 Section(s)</u> | <u>Subject</u> | <u>CSSB 376 Bill Page(s)</u> |
|--|---|------------------------------|
| 14 | Title Insurer Trust Deposits (combines all insurers into Chapter 9) | 7 |
| 16 | Annual Statement Due Date (Editorial change) | 7 |
| 17 and 18; 161 | Tax Due Date (April to March to be with annual statement) | 8 and 9; 130 |
| 94 | Independent Adjusters (Combines all licensees into Chapter 27; clarifies regulation of trainees; improves oversight of unlicensed nonresident adjusters) | 98 through 101 |
| 97 through 116 | Unauthorized Insurers Act Unauthorized Insurers Process Act Non-Admitted Insurance Act (Clarifies applies to transactions in this state and transactions relative to a subjects resident, located, or to be performed in Alaska; tax due date changed from April to March for consistency; interest charged on late payment of taxes; increased penalties for violations of the Chapter 33; allocation schedule consistent with NAIC Surplus Lines Act for consistency for all unauthorized premiums; misc.editorial changes for consistent terminology throughout Title 21) | 104 through 112 |
| 117 through 137 | Surplus Lines Act (Clarifies status of subscription policies; separates capital and surplus for alien P & I clubs; enables SL stamping office; coordinates reports to division; adds late fee and interest on late payment of taxes and fees; brings premium allocation up to date with current NAIC model; misc.editorial changes for consistent terminology throughout Title 21) | 113 through 121 |
| 173 through 185 (Deletes references to title insurance rating organizations which do not exist) | Title Insurance | 134 through 138 |
| 186 | Title Insurance (Deletes obsolete date) | 138 |
| 213 | Fraternal Benefit Societies (Deletes obsolete date) | 151 |
| 217 (Relocates definitions consistent with drafting manual for consistency) | Fraternal Benefit Societies | 153 and 154 |

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kertula



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SENATE LABOR AND COMMERCE COMMITTEE

TO: Mike Ford, Legal Services
Legislative Affairs Agency

FROM: Senator Drue Pearce, Chair
Senate Labor and Commerce *Drue Pearce*

RE: SB 376 Title Change and Revision

DATE: March 16, 1992

David Dierdorff's March 12 memo makes a suggestion for a title change which we think would be appropriate. The word "taxation" however, as Mr. Dierdorff points out, is problematic. Luckily, this should be easy to fix as that section needs to be deleted.

As Mr. Dierdorff points out, the title's reference to taxation is a result of to Section 133 which deals with the taxation of nonadmitted insurers. This section should have been deleted in light of Senator Halford's motion (adopted unanimously by the Senate Labor and Commerce Committee on March 11), to delete Section 19 -- the taxation of admitted insurers. This is a technical amendment making a corresponding change to the previous deletion of Section 19.

Dave Walsh, Director of the Division of Insurance, feels that this amendment would enable us to remove the word "taxation" completely from the title.

Please prepare another CS with the title changed according to Mr. Dierdorff's March 12, 1992 memo deleting the word "taxation" from the title and deleting Section 133.

I am sorry, Mike, to have to bring this before you once again. I deeply appreciate all the work you have done on this. Please thank Mr. Dierdorff for his expert advice also.

If you have any questions, please don't hesitate to call.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101


240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 12, 1992

SUBJECT: Title of CSSB 376(L&C) (7-LS1887\G)

TO: Senator Drue Pearce
Chair, Senate Labor & Commerce Committee

FROM: David R. Dierdorff 
Revisor of Statutes

You have asked us to identify the specific sections of CSSB 376(L&C) that would have to be deleted if the title of the bill were changed to "An Act relating to Accreditation, Solvency, and Licensing of Insurance."

I reviewed the latest version of the bill and believe that a large number of sections would not fit under the proposed title. The most common reason is that many sections relate to general regulatory and management issues that affect licensees, but do not really fit under the descriptive term "licensing." There are also a few sections that are related to the time of filing of various reports and tax returns. Specifically, I have difficulty with bill sections 17, 18, 44, 77 - 84, 87, 91, 97 - 118, 122 - 155, 162 - 165, 167 -190, 192 - 203, 205 - 209, 214, and 216 - 223. I did not have time to review which of the repealers would fit within the title.

I believe that a descriptive title can be drafted that would not be as broad as the current title, yet would not be so specific that it would add a full page to the bill or serve as a trap in the event we failed to describe one or two specific provisions. I would suggest that you consider something like:

"An Act relating to the licensing, accreditation, examination, regulation, taxation, and solvency of persons engaged in the insurance business, including insurers and nonadmitted insurers; relating to the management of and the filing of reports by, persons licensed or otherwise doing business under the insurance code; and providing for an effective date."

It may be possible to delete the reference to "taxation," which I assume would be politically desirable. Time did not permit me to explore the exact changes being made in sec. 133. If that change does not affect the rate of tax or the flow of wealth

Senator Drue Pearce

March 12, 1992

Page 2

or value being taxed, but merely changes the administration of the tax (as do all other tax-related provisions of the bill), "taxation" could be deleted and those provisions would fit under "regulation" and under "the filing of reports."

I would be happy to work with you and Mike Ford as necessary to improve the title.

DRD:mi

92-039.mai

HAND DELIVERED

TO: Mike Ford, Legal Services
Legislative Affairs Agency

FROM: Senator Drue Pearce, Chair
Senate Labor and Commerce

RE: Title to SB 376

DATE: March 12, 1992

A number of Labor and Commerce Committee members continue to have problems with the current broad title of SB 376. In discussions yesterday evening, we were thinking about changing the title to something like "An Act relating to Accreditation, Solvency and Licensing of Insurance."

Could you please identify for us which specific sections of the existing CS would NOT fit under that title?

As time is short, I'd appreciate a written reply as soon as possible.

Mike, thank you for all your diligent work on the bill. I know it's been a monster to deal with . . . but it seems that we're getting most of the problems out of the way early. Hopefully, it will go easier in future committees.

DP:BM:ec

SENATOR RICK HALFORD
JUNEAU, AK

RE: CS 376 INSURANCE LEGISLATION

DEAR; SENATOR HALFORD

I AM WRITING TO YOU CONCERNING THE ABOVE BILL AS I WAS CHAIRMAN OF INDEPENDENT AGENTS ASSOCIATION'S COMMITTEE THAT ATTENDED THE TASK FORCE MEETINGS WITH THE DIVISION OF INSURANCE.

CS 376 PAGE 36, LINE 25 " EXPLAINING THAT THE MATTER MUST BE REVIEWED BY A LICENSEE". I AM WONDERING WHY WE ARE BEING SELECTED FOR THIS DISCLOSURE BY REGULATION (LAW). IF THE INSURANCE AGENTS HAVE TO MAKE DISCLOSURES AS TO WHO ISN'T LICENSED THAT MAY BE HANDLING YOUR FILE WHY DO WE NOT HAVE ATTORNEY'S, DOCTOR'S, CONTRACTOR' OR ANYONE WHO IS LICENSED BY THE STATE INFORMING THE PUBLIC JUST WHO IS HANDLING YOUR FILE AND THAT IT WILL BE REVIEWED BY A LICENSEE.

THIS IS NOT REQUIRED IN THE NAIC MODEL THAT THE DIVISION IS FOLLOWING TO TRY AND BECOME ACCREDITED.

I HAVE BEEN OUT OF STATE WITH MY FATHER WHO HAS BEEN QUITE ILL AND I JUST RETURNED YESTERDAY TO FIND THIS SUGGESTED CHANGE. I DO NOT THINK WE WOULD HAVE SIGNED OFF ON THIS CHANGE IF I HAD BEEN PRESENT TO DISCUSS WITH COMMITTEE. I HAVE BEEN OPPOSED TO THIS LEGISLATION FROM THE VERY BEGINNING AND FIND IT VERY INTRUSIVE OF THIS REGULATORY DIVISION TO TRY AND REGULATE THIS FAR DOWN AND INTO MY BUSINESS.

THEY HAVE MY LICENSE WHICH THEY CONTROL IF ANYTHING CAUSES A PROBLEM WITH THE CONSUMER OR WITH REGULATORY VIOLATIONS. I AM RESPONSIBLE TO TRAIN AND GIVE THESE PEOPLE THEIR EXPERIENCE IN THIS BUSINESS. THE SMALL AGENT WHO ONLY HAS ONE OR TWO EMPLOYEES AND IS IN A REMOTE AREA DOESN'T ALWAYS HAVE LICENSED PEOPLE AVAILABLE. HE HAS TO TRAIN THEM AND LICENSE THEM. IS IT FAIR THAT AN EMPLOYEE THAT HANDS OUT AN AUTO QUOTE THAT A COMPUTER PRODUCED HAS TO EXPLAIN "THAT THE MATTER MUST BE REVIEWED BY A LICENSEE?" WHEN AND IF THE CONSUMER BUYS SHE OR HE WILL BE WITH A LICENSED AGENT WHO WILL EXPLAIN THE DETAILS.

IF WE MUST DISCLOSE, THEN WHY NOT OTHER LICENSEE'S OF THE STATE. IT IS THINKING LIKE THIS THAT IS MAKING THE BUSINESS CLIMATE IN ALASKA TOUGH. WE NEED TO ENCOURAGE BUSINESS TO DEVELOP JOBS.

ATTACHED IS A COPY OF THE SENATE AMENDMENT. WE WOULD LIKE ANY REFERENCE TO DISCLOSURE DELETED IN ANY FORM.

SINCERELY;

GARY L. BOCKSNICK
312 TYEE
SOLDOTNA, ALASKA 99669

BY: Division of Insurance

TO: Page 36, line 25

SENATE BILL NO. CS 376 (L&C)

TO: _____

HOUSE BILL NO. _____

After: "after"

Insert: "explaining that the matter must be reviewed by a licensee"

Delete: "disclosure that the person is not licensed"

SPONSOR STATEMENT: Insurance licensees felt that "disclosure" may have unintended negative connotations which the suggested language would avoid. The division is satisfied that consumers will not be misled that the person is a licensed insurance professional.

THUR 10 92 02:27 PM SENATOR FRED SHAROFF 863 5043 P.275

To: Pam Dundy
Fax #: 463-3043

Add in proper language to 21.87.140

Medical service corporations shall meet the following provisions:

Open panel of all providers licensed in Alaska to provide the services they offer.

All reserves shall be provided from the Service Corporation funds. (not provider withholding)

Provider panel agreements shall be negotiated with a provider panel committee of 5 members appointed according to a ratio of Alaska providers from each provider group. (ie: 1 panel member per given number of providers appointed by their respective professional associations)

The insurance contract shall be re-negotiated together with the provider panel once every two years

Claims shall be based on nationally used and accepted insurance procedures and treatment and diagnostic codes that are approved by the provider panel committee.

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by a public agency, or under agreements between other parties not solicited by the corporation. (§ 1 ch 120 SLA 1966; am §§ 5 — 7 ch 40 SLA 1981)

Sec. 21.87.130. Services and benefits that may be provided, hospital service corporations. (a) A hospital service corporation shall have the right to provide to its subscribers part or all of the following services and benefits only:

(1) hospital services furnished to the subscriber by participant hospitals;

(2) indemnity in a reasonable amount with respect to hospital services furnished to the subscriber by nonparticipant hospitals, but subject to AS 21.87.070(3);

(3) indemnity in a reasonable amount for other health care services, as defined in AS 21.87.330.

(b) This section does not prohibit the corporation from acting as compensated servicing agent as to health care services to be provided by a public agency, or under agreements between other parties not solicited by the corporation. (§ 1 ch 120 SLA 1966)

Sec. 21.87.140. Medical service agreements. (a) A medical service corporation shall enter into service agreements with providers licensed by the state only.

(b) Each service agreement shall require the participant providers to furnish to subscribers of the service corporation the medical or surgical services, or both, that are, under the subscriber's contract, to be furnished by participant providers. This obligation to furnish the services, as provided for in the subscriber's contract, shall be a direct obligation of the participant providers to the subscribers as well as to the service corporation.

(c) Each service agreement shall further effectively provide in substance that

(1) the participant provider shall be compensated for services rendered to a subscriber in accordance with a schedule of fees contained in the agreement or attached to and made a part of the agreement, and that the participant provider may not request or receive from the service corporation compensation for the services which is not in accord with the schedule;

(2) compensation for services may be prorated and settled under the circumstances and in the manner referred to in AS 21.87.900;

(3) if the participant provider withdraws from the agreement, the withdrawal may not be effective as to a subscriber's contract in force on the date of the withdrawal until the termination of the subscriber's contract or the next anniversary of the subscriber's contract, whichever date is the earlier.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

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PHONE: (907) 465-2515

DIVISION OF INSURANCE

March 18, 1992

The Honorable Drue Pearce
Chairman
Senate Labor and Commerce Committee
State Capitol
Juneau, AK 99801-1182

Dear Senator Pearce:

Committee Substitute for Senate Bill 376 is a single bill that includes the legislation needed for the Division of Insurance to become an accredited regulatory office by the National Association of Insurance Commissioners (NAIC) and includes revisions which bring the insurance statutes up to date.

The NAIC has instituted a program of accreditation for state insurance regulatory offices to provide a minimum level of regulation across the United States. The program consists of two facets: (1) adoption of specific NAIC model legislation and regulations; and (2) the presence of sufficient resources to provide a level of regulatory activity which is acceptable in overseeing the insurance industry. This bill includes those required NAIC model laws that are not presently in Alaska Statute.

This bill also includes reorganization and revision of the requirements for licensing of insurance professionals and revision of other areas of the Alaska insurance statute to reflect current regulatory needs.

The bill includes the following:

- o incorporates the NAIC model law on examination of insurance companies including requirements for processing of examination reports;
- o adopts authority for regulations to adopt the NAIC model regulation on action available to the director when an insurer is found to be in hazardous financial condition;
- o changes the date for premium tax payments from April 1 to March 1;

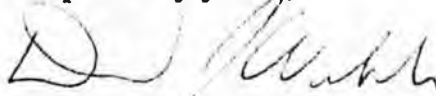
- o requires reinsurers accredited by the division to file financial statements annually and adds requirements for accreditation of differing insurance organizations;
- o requires domestic insurers to obtain annual actuarial opinions on claim reserves and adds requirements for valuation of assets and claim reserves for financial statement presentation;
- o adopts limitations on the type of subsidiaries in which insurer may invest and limitations on subsidiary acquisitions which result in market concentration;
- o adopts limitations on investment in medium and lower grade bonds;
- o adopts rules on evaluating material transactions between affiliates and determining payment of extraordinary dividends;
- o requires annual filing of holding company registration statements;
- o restructures statute to consolidate all requirements and qualifications for licensing of insurance professionals in one chapter;
- o adopts biennial license renewal for insurance professionals;
- o adopts licensure of reinsurance intermediary brokers and reinsurance intermediary managers;
- o adopts additional requirements for licensure and operation of managing general agents;
- o adopts registration for third-party administrators;
- o requires that persons may not call themselves financial planners when they are only engaging in the business of insurance;
- o clarifies a 45-day limit on return of unearned premium to consumers who cancel insurance policies;
- o increases penalties for violations of the insurance statutes;
- o allows specific types of charitable organizations to be life insurance policyholders or beneficiaries;
- o adopts financial requirements for title insurers that are similar to those required for other insurers;

March 18, 1992

- o requires licensing of attorneys-in-fact and establishes minimum requirements for subscriber advisory committees for reciprocals;
- o allows a receiver to recover distributions to affiliates of an insurer paid within 12 months of a liquidation or rehabilitation order;
- o adopts for fraternal benefit societies the requirement and limitations on other insurers for assets, investments, and licensing;
- o clarifies the timing and determination of eligibility for senior premium discounts; and
- o requires insurance policies to have an appraisal clause for settling first-party property valuation disputes.

Please contact me at any time if you have questions about this proposed legislation.

Respectfully yours,



David J. Walsh
Director

DJW/mst3644&3653m
012492a

John L. George and Associates
9515 Moraine Way
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Tel 907 789-0172 Fax 907 789-6964

February 21, 1992

Senator Drue Pearce
Senate Labor and Commerce Committee
P.O. Box v
Juneau, Alaska 99811

Re: Senate Bill 376

Dear Senator Pearce,

My client, the American Council of Life Insurance, a life insurance trade association representing the majority of the life insurers licensed in the state, supports passage of S.B. 376 with certain modifications that we have discussed with the Director of Insurance. It is our understanding that the Director of Insurance will request these amendments at the next hearing on the bill. By working through the Director we hope to have simplified the process for the Director and for the legislature. We reserve the right to bring these issues up independently if for some reason the Division of Insurance does not.

We have requested deletion of Third Party Administrators from the definition of Managing General Agents (Sec 222) and the addition of the NAIC Third Party Administrator Model language. We have also requested that Sec 144 be amended to provide that any undefined unfair methods, acts or practices may be DEFINED BY REGULATIONS ADOPTED BY THE DIRECTOR. Additionally we have requested several other minor changes that do not warrant comment here.

The ACLI recognizes the importance of adequate regulatory supervision by state insurance regulators. Without the tools provided in S.B. 376 the Director will be at a distinct disadvantage. We also support the additional staffing needs of the division. Uniquely, the additional staff will be self funded through additional cost plus billings to our industry. As insurers are examined by the Division of Insurance, new revenue is generated. Failure to add positions will result in lost revenue opportunity and more importantly lost examination opportunity. Our industry strongly believes that sound regulation of all insurers

Senator Pearce

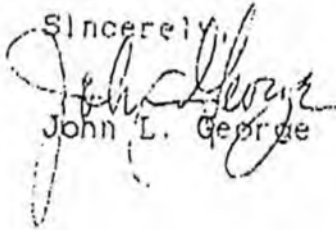
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February 21, 1992

benefits each of us. Failure of the Division of Insurance to meet the NAIC requirements will prove detrimental to insureds, insurers, and the State.

I will be available at the hearing next week or you may contact me at your convenience to discuss this or other legislation.

Sincerely,



John L. George

John L. George and Associates
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Tel 907 789-0172 Fax 907 789-6964

February 21, 1992

Senator Drue Pearce
Senate Labor and Commerce Committee
P.O. Box v
Juneau, Alaska 99811

Re: Senate Bill 376

Dear Senator Pearce,

My client, National Association of Independent Insurers a property and casualty insurance trade association, supports passage of S.B. 376 with certain modifications that we have discussed with the Director of Insurance. It is our understanding that the Director of Insurance will request these amendments at the next hearing on the bill. By working through the Director we hope to have simplified the process for the Director and for the legislature. We reserve the right to bring these issues up independently if for some reason the Division of Insurance does not.

The ACLI recognizes the importance of adequate regulatory supervision by state insurance regulators. Without the tools provided in S.B. 376 the Director will be at a distinct disadvantage. We also support the additional staffing needs of the division. Uniquely, the additional staff will be self funded through additional cost plus billings to our industry. As insurers are examined by the Division of Insurance, new revenue is generated. Failure to add positions will result in lost revenue opportunity and more importantly lost examination opportunity. Our industry strongly believes that sound regulation of all insurers benefits each of us. Failure of the Division of Insurance to meet the NAIC requirements will prove detrimental to insureds, insurers, and the State.

I will be available at the hearing next week or you may contact me at your convenience to discuss this or other legislation.

Sincerely,


John L. George



HUGHES THORSNESS
GANTZ POWELL & BRUNDIN

Est. 1939

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Reply to: JUNEAU

February 21, 1992

FEB 21 1992

Senator Drue Pearce
Room 101, Capitol Building
PO Box V
Juneau, Alaska 99811

Re: Senate Bill 376
Our File No: 220-92 & 30-213

Dear Senator Pearce:

We are writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company concerning the above-referenced legislation. State Farm and Allstate are the two largest personal lines insurers currently doing business in the State of Alaska. Cumulatively, they are writing approximately 70% of the automobile insurance policies in the State.

SB 376 is obviously a very lengthy and complex piece of legislation. Both State Farm and Allstate support the Division of Insurance's efforts to seek NAIC accreditation. Moreover, State Farm and Allstate have no objection with respect to the proposed single producer licensing provisions. There is however

one additional provision unrelated to NAIC accreditation or to the single producer licensing provisions that both companies have problems with. Section 221 of the bill provides for a mandatory appraisal process. As drafted, this provision would require all automobile, homeowner, or dwelling insurance policies to contain a mandatory appraisal clause for disputes over first party property losses. First party losses are those claims made by a policyholder to his or her insurer. For example, if a driver has a claim under his or her own automobile policy for a loss associated with his or her own vehicle, this would be a first party loss. Under this provision, if there is a dispute over the value of that property loss, the insured and the insurer each retain an appraiser to provide a value estimate. If the two appraisers do not agree on a mutual value, an umpire is selected to resolve the difference.

In concept, State Farm and Allstate do not have a problem with the appraisal process. However, as drafted, this particular appraisal provision is problematic. It is uncertain under this provision whether the appraisal process is mandatory for all losses, optional at the election of the insured or insurer, or if it is the final resolution of the claim. In other words, after the appraisal process is completed, it is ambiguous as to whether the insured or the insurer, if they are unhappy, can still file a complaint in superior court.

State Farm and Allstate are also concerned that the appraisal concept be drafted to avoid certain abuses they have experienced in other states. In some states insureds have used the appraisal process to raise disputes about policy terms or definitions. For example, if there are estimates from three body shops to repair the same damage and the insured wants the repairs made by a shop other than the low bidder, the appraisal process has been used in other states to dispute this. This practice has nothing to do with the value of the loss since both body shops will be obligated to make the same repair. As such, claims like these should not be subject to appraisal. This is the reason why we would strongly recommend that appraisal be limited to only total losses. If it is made applicable to partial losses, the legislation should clearly set forth that it will only pertain to disputes concerning the value of the property loss.

We would be happy to work with members of the Senate Labor & Commerce Committee, the Division of Insurance, and any other interested parties to find a solution to the above-referenced concerns.

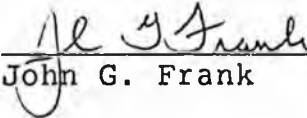
Senator Drue Pearce
February 21, 1992
Page 3

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

As always, should you have any question or comment concerning the above or any other aspect of SB 376, we would be happy to respond. Thank you for your courtesy and cooperation.

Sincerely,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: 
John G. Frank

JGF:sb/1176

cc: Senator Virginia Collins
Senator Richard Eliason
Senator Rick Halford
Senator Jalmar Kertulla

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 376

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: An Act relating to insurance BRU: Insurance
 Component: Operations
 Sponsor: Sen. Pearce
 Requestor: _____ COMPONENT SERIAL NO.

| | | | |
|---|---|---|---|
| 0 | 3 | 5 | 4 |
|---|---|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 FUND SOURCE: | 0 | 0 | 0 | 0 | 0 | 0 |
|-----------------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------|---|---|---|---|---|---|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER FUND SOURCE: | | | | | | |
| 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.)

No fiscal impact.

Prepared By: David J. Walsh, Director Phone: 465-2515
 Division: Insurance *David Walsh* Date: 1-28-92
 Approved by Commissioner: Glenn A. Olds, Commissioner *for* Arthur Bellway, Asst Comm.
 Agency: Commerce and Economic Development Date: 1-29-92

SB 376: An Act relating to insurance; and providing for an effective date."

This department is in favor of this legislation.

The Insurance Reform Act of 1992 is a single bill that includes the legislation needed for the Division of Insurance to become an accredited regulatory office by the National Association of Insurance Commissioners (NAIC) and includes revisions which bring the insurance statutes up to date.

The NAIC has instituted a program of accreditation for state insurance regulatory offices to provide a minimum level of regulation across the United States. The program consists of two facets: (1) adoption of specific NAIC model legislation and regulations; and (2) the presence of sufficient resources to provide a level of regulatory activity which is acceptable in overseeing the insurance industry. This bill includes those required NAIC model laws that are not presently in Alaska Statute.

This bill also includes reorganization and revision of the requirements for licensing of insurance professionals and revision of other areas of the Alaska insurance statute to reflect current regulatory needs.

The bill includes the following:

- o incorporates the NAIC model law on examination of insurance companies including requirements for processing of examination reports;
- o adopts authority for regulations to adopt the NAIC model regulation on action available to the director when an insurer is found to be in hazardous financial condition;
- o changes the date for premium tax payments from April 1 to March 1;
- o requires reinsurers accredited by the division to file financial statements annually and added requirements for accreditation of differing insurance organizations;
- o requires domestic insurers to obtain annual actuarial opinions on claim reserves and adds requirements for valuation of assets and claim reserves for financial statement presentation;
- o adopts limitations on the type of subsidiaries in which insurer may invest and limitations on subsidiary acquisitions which result in market concentration;

POSITION PAPER
SB 376
Page 2

- o adopts limitations on investment in medium and lower grade bonds;
- o adopts rules on evaluating material transactions between affiliates and determining payment of extraordinary dividends;
- o requires annual filing of holding company registration statements;
- o restructures statute to consolidate all requirements and qualifications for licensing of insurance professionals in one chapter;
- o adopts biennial license renewal for insurance professionals;
- o adopts licensure of reinsurance intermediary brokers and reinsurance intermediary managers;
- o adopts additional requirements for licensure and operation of managing general agents;
- o requires that persons may not call themselves financial planners when they are only engaging in the business of insurance;
- o clarifies the 30-day limit on return of unearned premium to consumers who cancel insurance policies;
- o increases penalties for violations of the insurance statutes;
- o allows specific types of charitable organizations to be life insurance policyholders;
- o adopts financial requirements for title insurers that are similar to those required for other insurers;
- o requires licensing of attorneys-in-fact;
- o allows a receiver to recover distributions to affiliates of an insurer paid within 12 months of the liquidation or rehabilitation order;
- o adopts for fraternal benefit societies the requirement and limitations on other insurers for assets, investments, and licensing;

POSITION PAPER
SB 376
Page 3

- o clarifies the timing and determination of eligibility for senior premium discounts; and
- o requires automobile and homeowner insurance policies to have an appraisal clause for settling claim disputes.



Glenn A. Olds, Commissioner *for*

Date: 2.7.92

LEGISLATIVE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/29/92

FURTHER: Judiciary

Date of 5-Day Notice: 2/12/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/20/92

L&C Committee considered SB 376

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

and recommends:

replace with _____ CS SB 376 (L+C)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical title change (HB only)

NEW FISCAL NOTES: Dept/Date
 zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date
 Governor's bill with fiscal notes:
zero fiscal notes _____

fiscal notes _____

DO PASS:

OTHER RECOMMENDATIONS:

Shirley Craft
Caroline Callahan
Pete Halford

1 new hearing - 10/1/92
Chair, Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 376

Revision Date: _____ Department Affected: Commerce & Economic Dev.

Title: An Act relating to insurance BRU: Insurance

Component: Operations

Sponsor: Sen. Pearce

Requestor: _____ COMPONENT SERIAL NO.

| | | | |
|---|---|---|---|
| 0 | 3 | 5 | 4 |
|---|---|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|-------------------|-------|-------|-------|-------|-------|-------|
| 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 FUND SOURCE: | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------|---|---|---|---|---|---|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER FUND SOURCE: | | | | | | |
| 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.)

No fiscal impact.

Prepared By: David J. Walsh, Director Phone: 465-2515

Division: Insurance *[Signature]* Date: 1-28-92

Approved by Commissioner: Glenn A. Olds, Commissioner *[Signature]* for the Bellway Cont Comm.

Agency: Commerce and Economic Development Date: 1-29-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

Handwritten: 70-211
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop .101

MEMORANDUM

March 17, 1992

SUBJECT: Insurance reform act - (CSSB 376(L&C))

TO: Senator Drue Pearce
Attn: Bill Miles

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

The attached work draft contains a new title as you requested and also deletes section 133 of the prior draft. At the request of the Division of Insurance, the 3/12/92 work draft was also changed as follows:

1. Page 80, line 31 - delete "settle", and insert "administer";
2. Page 81, line 24, - change "insurer" to "insurer's";
3. Page 85, line 19 - before "reinsurance" insert "licensed";
4. Page 101, line 17 - delete "interest" insert "business".

Please contact me if you have further questions.

MFF.pl
92-182.plm

7-LS1887G

Ford

3/16/92

CS FOR SENATE BILL NO. 376 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the licensing, accreditation, examination, regulation, and solvency of
2 persons engaged in the insurance business, including insurers and nonadmitted insurers;
3 relating to the management of and the filing of reports by persons licensed or otherwise
4 doing business under the insurance code; and providing for an effective date."

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

6 * Section 1. AS 21.06.120(a) is amended to read:

7 (a) The director may examine the affairs, transactions, accounts, records, and assets of
8 each authorized and formerly authorized insurer and each licensed and formerly licensed
9 managing general agent, reinsurance intermediary broker, reinsurance intermediary
10 manager, surplus lines broker, and surplus lines association as often as the director considers
11 advisable. In scheduling and determining the nature, scope, and frequency of examinations,
12 the director may consider the results of financial statement analysis and ratios, competency
13 of management or change of ownership, actuarial opinions, reports of independent certified
14 public accountants, number and nature of consumer complaints, results of prior

1 examinations, frequency of prior violations of statute and regulation, criteria set out in the
2 Examiners' Handbook most recently approved by the National Association of Insurance
3 Commissioners and in effect when the director conducts an examination, and other material
4 authorized by this title that the director determines is appropriate [THE DIRECTOR SHALL
5 SO EXAMINE EACH DOMESTIC INSURER AT LEAST ONCE EVERY THREE YEARS].
6 Examination of an alien insurer may be limited to its insurance transactions and affairs in the
7 United States. Examination of a reciprocal insurer may also include examination of its
8 attorney-in-fact to the extent that the transactions of the attorney-in-fact relate to the insurer.

9 * Sec. 2. AS 21.06.120(c) is amended to read:

10 (c) In place of an examination by the director, the director may accept a full report of
11 the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory
12 official of another state, territory, commonwealth, or district of the United States if

13 (1) the insurance regulatory agency conducting the examination was at the
14 time of the examination accredited by the National Association of Insurance Commissioners;

15 (2) the examination is performed under the supervision of an insurance
16 regulatory agency accredited by the National Association of Insurance Commissioners; and
17 the supervising examiner after a review of the examination work papers states under oath
18 that the examination and report complies with the standards and procedures required by
19 their accredited state insurance regulatory agency; or

20 (3) the examiner conducting the examination was employed by an insurance
21 regulatory agency accredited at the time of the examination by the National Association of
22 Insurance Commissioners and the examiner, after review of the examination work papers,
23 states under oath that the examination and report complies with the standards and
24 procedures required by the accredited insurance regulatory agency.

25 * Sec. 3. AS 21.06.120(e) is amended to read:

26 (e) The director may use a contract examiner to carry out the functions of this section.
27 The selection of a contract examiner and the award of a contract is not subject to AS 36.30
28 (State Procurement Code).

29 * Sec. 4. AS 21.06.120 is amended by adding new subsections to read:

30 (f) For the purpose of completing an examination of a person under this title, the director
31 may extend the examination or investigation as provided under AS 21.06.170.

1 (g) The director shall examine a domestic insurer at least once every three years. Unless
2 the director determines that there is a clear and present danger of the imminent wasting of the
3 insurer's assets, when the director intends to conduct an interim examination of a domestic
4 insurer covering the same subjects as included in the scope of the last examination report, the
5 director shall give at least 10 days prior written notice stating the scope and purpose of the
6 examination, and the interim examination shall be limited to the scope and purpose stated in the
7 notice. In this subsection, "interim examination" means an examination of a domestic insurer that
8 occurs within three years after the start of the domestic insurer's last examination.

9 * Sec. 5. AS 21.06.130(a) is amended to read:

10 (a) To determine compliance with this title, the director may as often as the director
11 considers advisable examine or require a written report from a person of the accounts, records,
12 documents, and transactions pertaining to or affecting the insurance affairs or proposed insurance
13 affairs of

14 (1) an insurance producer [AGENT, BROKER, SOLICITOR, GENERAL
15 AGENT,] or independent adjuster; or

16 (2) [A PERSON HAVING A CONTRACT UNDER WHICH THE PERSON
17 ENJOYS IN FACT THE EXCLUSIVE OR DOMINANT RIGHT TO MANAGE OR CONTROL
18 AN INSURER;

19 (3) A PERSON HOLDING THE SHARES OF VOTING STOCK OR
20 POLICYHOLDER PROXIES OF A DOMESTIC INSURER, FOR THE PURPOSE OF
21 CONTROLLING ITS MANAGEMENT, AS VOTING TRUSTEE OR OTHERWISE;

22 (4) a person engaged in or proposing to be engaged in or assisting in the
23 promotion or formation of a domestic insurer or insurance holding corporation, or corporation
24 to finance a domestic insurer or the production of its business.

25 * Sec. 6. AS 21.06.140(b) is amended to read:

26 (b) Every person being examined and its officers, employees, agents, and representatives
27 shall produce and make freely available to the director the accounts, records, documents, files,
28 information, assets, and matters in their possession or control relating to the subject of the
29 examination, and shall facilitate and aid the examination as far as reasonably possible, including
30 providing to the director, at the expense of the person being examined, a copy of any document
31 requested during the examination. The director may suspend, revoke, or refuse to issue or

1 renew a license or authority of a person engaging in the business of insurance or other
2 business under the jurisdiction of the director if the person or an officer, director,
3 employee, or agent of the person refuses to submit to examination or to comply with a
4 reasonable written request of an examiner. This subsection does not apply to material
5 subject to the insurer's attorney-client privilege.

6 * Sec. 7. AS 21.06.140(c) is amended to read:

7 (c) If the director finds financial or other records [ACCOUNTS] to be inadequate or
8 inadequately kept or posted or if an insurer's financial records are not kept as required by
9 the Accounting Practices and Procedures Manual currently approved by the National
10 Association of Insurance Commissioners after the director has issued an order citing [GIVEN
11 THE PERSON NOTICE OF] the inadequacy of the accounts and given a reasonable opportunity
12 to complete or correct the accounting, the director may employ experts to rewrite, post, or
13 balance them at the expense of the person being examined.

14 * Sec. 8. AS 21.06.140(d) is repealed and reenacted to read:

15 (d) When conducting an examination under this section, the director may retain attorneys,
16 appraisers, independent actuaries, independent certified public accountants, or other professionals
17 and specialists as examiners, the reasonable cost of which shall be paid by the person being
18 examined under AS 21.06.160(a). The director may adopt regulations limiting the scope of
19 examination work performed by specialists and limiting the amount charged by specialists to the
20 person being examined.

21 * Sec. 9. AS 21.06.140 is amended by adding new subsections to read:

22 (f) In conducting an examination under this section, the examiner shall observe those
23 guidelines and procedures set out in the Examiners' Handbook currently approved by the National
24 Association of Insurance Commissioners that are consistent with the scope of the examination
25 as authorized by this title. The director may adopt by regulation other guidelines or procedures
26 consistent with this title.

27 (g) An examiner may not be appointed by the director if the examiner, either directly or
28 indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary
29 interest in a person subject to examination under this title. This section may not be construed
30 to automatically preclude an examiner from being, in the ordinary course of business,

31 (1) a policyholder or claimant under an insurance policy;

1 (2) a grantor of a mortgage or similar instrument on the examiner's residence to
2 a regulated entity if obtained under customary terms;

3 (3) an investment owner in shares of regulated mutual fund companies; or

4 (4) a settlor or beneficiary of a blind trust into which otherwise impermissible
5 holdings have been placed.

6 (h) The director may terminate or suspend an examination in order to pursue other legal
7 or regulatory action under this title.

8 (i) In a judicial or administrative proceeding a finding of fact made in an examination
9 report approved under AS 21.06.150(b)(1) is prima facie evidence of the fact.

10 * Sec. 10. AS 21.06.150 is repealed and reenacted to read:

11 Sec. 21.06.150. EXAMINATION REPORTS. (a) An examination report may only
12 consist of facts appearing upon the books, records, or other documents of the examined company,
13 the company's agents, or other persons examined, or facts determined from the testimony of
14 officers, agents, or other persons examined concerning the company's affairs, and the conclusions
15 and recommendations that the examiners find reasonably warranted from the facts.

16 (b) The examiner shall file with the division a proposed written report of an examination,
17 signed by the examiner under oath, not later than 60 days following the last day of examination
18 field work. The period for filing the proposed report may be extended for 60 additional days
19 upon approval of the director. Upon receipt of the proposed report, the division shall transmit
20 the report to the person being examined, together with a notice that gives the person being
21 examined a period of 30 days or additional time, as allowed by the director, to make a written
22 submission or rebuttal with respect to matters contained in the proposed examination report.
23 Within 30 days of the end of the period allowed for the receipt of written submissions or
24 rebuttals, the director shall fully consider and review the report, together with any written
25 submissions or rebuttals, and any relevant portions of the examiner's work papers and enter an
26 order

27 (1) approving the examination report as filed or approving the examination report
28 with modification or corrections;

29 (2) rejecting the examination report with directions to the examiners to reopen the
30 examination for the purpose of obtaining additional data, documentation, or information and
31 refile the report under this subsection; or

1 (3) setting a hearing under AS 21.06.180 for purposes of obtaining additional
2 information.

3 (c) In the event the director determines that regulatory action is appropriate as a result
4 of an examination, the director may initiate proceedings as provided by law. The director may
5 use an examination report, work papers or other documents, the testimony of the examiners, or
6 other information discovered or developed during the course of an examination in a judicial or
7 administrative proceeding, whether or not a written report of the examination at the time has been
8 made, transmitted, or approved by the director.

9 (d) The director may disclose the content of an examination report, preliminary
10 examination report or results, or a matter relating to it to the insurance division of this or another
11 state or country. Except as allowed by this subsection or other provision of law, the director may
12 not disclose the contents of a preliminary examination report before the report is filed in the
13 office of the director under AS 21.06.060.

14 (e) An order entered under (b)(1) of this section must be accompanied by findings of fact
15 and conclusions of law resulting from the director's consideration and review of the examination
16 report, relevant examiner work papers, and written submissions or rebuttals.

17 (f) Within 30 days of the receipt of the approved report, the person examined shall file
18 affidavits executed by each director and the chief executive officer or equivalent officer stating
19 under oath that they have received and reviewed a copy of the approved report and related orders.

20 (g) The director may withhold a document, information, account, record, examination,
21 or report from the public inspection for as long as the director finds the withholding is necessary
22 to protect a person against unwarranted injury or is in the public interest.

23 * Sec. 11. AS 21.06.160(b) is amended to read:

24 (b) The director shall pay into the general fund of the state all money received under (a)
25 of this section. Instead of charging and collecting the costs and expenses of the examination
26 under (a) of this section [MAKING A DEPOSIT INTO THE GENERAL FUND], the director
27 may give written authorization for [ORDER] the person examined to make direct payment to
28 the contract examiner for all or part of the contract examiner's compensation or expenses. The
29 contract between the state and a contract examiner who will receive direct payment under this
30 subsection must require that the examiner provide the director with a copy of each billing for the
31 examination.

1 * **Sec. 12.** AS 21.06.165 is amended by adding a new subsection to read:

2 (d) Except as provided in this section, a person may not bring a civil action if the civil
3 action arises out of the act of communicating or delivering information to the director, a
4 representative of the director, or an examiner who is performing an examination under this title.

5 * **Sec. 13.** AS 21.06.180 is amended by adding a new subsection to read:

6 (d) If the parties agree, the director may conduct a hearing under this section by
7 teleconference.

8 * **Sec. 14.** AS 21.09.090(a) is amended to read:

9 (a) This section applies to all insurers [OTHER THAN TITLE INSURERS].

10 * **Sec. 15.** AS 21.09 is amended by adding a new section to read:

11 **Sec. 21.09.175. DETERMINATION OF HAZARDOUS CONDITION.** The director may
12 adopt regulations establishing the procedures for determining when the continued operation of
13 an insurer transacting business in this state is hazardous to the public or its policyholders and
14 procedures for the regulatory oversight of an insurer in a hazardous condition. Continued
15 operation of an insurer shall be considered hazardous only if the insurer is impaired or in
16 imminent danger of becoming impaired. The director may order an insurer determined to be in
17 a hazardous condition to limit or change the insurer's business practices, increase the insurer's
18 capital and surplus, or file additional reports with the director. If an insurer is aggrieved by an
19 order under this section, the insurer may request a hearing under AS 21.06.170 - 21.06.230.

20 * **Sec. 16.** AS 21.09.210(a) is amended to read:

21 (a) Each authorized insurer, and each formerly authorized insurer with respect to
22 premiums received while an authorized insurer in this state, shall file with the director, on or
23 before March 1 [MARCH 2] in each year, a report of all insurance business written or contracted
24 in the state, [(with proper proportionate allocation of premium for the property, subjects, or
25 risks in the state insured under policies or contracts covering property, subjects, or risks located
26 or resident in more than one state,)] during the preceding year ending December 31. The report
27 must show

28 (1) the amounts paid policyholders on losses;

29 (2) the total direct premium income including policy membership and other fees,
30 premiums paid by application of dividends, refunds, savings coupon, and similar returns or credits
31 to payment of premiums for new or additional or extended or renewed insurance, charges for

1 payment of premium in installments, and all other consideration for insurance from all kinds and
2 classes of insurance whether designated a premium or otherwise;

3 (3) the amounts paid policyholders as returned premiums;

4 (4) the amounts paid policyholders as dividends.

5 * Sec. 17. AS 21.09.210(b) is amended to read:

6 (b) Each insurer, and each formerly authorized insurer with respect to premiums received
7 while an authorized insurer in this state, shall pay a tax on the total direct premium income
8 received during the year ending on the preceding December 31 and paid for the insurance of
9 property or risks resident or located in the state other than wet marine and transportation
10 insurance, after deducting from the total direct premium income the applicable cancellations,
11 returned premiums, the unabsorbed portion of any deposit premium, all policy dividends,
12 unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other
13 similar returns paid or credited to policyholders with respect to their policies. No deductions may
14 be made of cash surrender value of policies. Considerations received on annuity contracts are
15 not included in the direct premium income and are not subject to tax. The tax shall be paid to
16 the director annually on or before March 1 [APRIL 1], and is computed at the rate of

17 (1) for domestic and foreign insurers, except hospital and medical service
18 corporations, 2.7 percent;

19 (2) for hospital and medical service corporations, six percent of their gross
20 premiums less claims paid.

21 * Sec. 18. AS 21.09.210(d) is amended to read:

22 (d) An authorized insurer shall, with respect to all wet marine and transportation contracts
23 written in this state during the preceding calendar year, on or before March 1 [APRIL 1] of each
24 year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit.
25 The gross underwriting profit is computed by deducting from the net premiums [(I.E., GROSS
26 PREMIUMS LESS ALL RETURN PREMIUMS AND PREMIUMS FOR REINSURANCE),] on
27 wet marine and transportation insurance contracts, the net losses paid [(I.E., GROSS LOSSES
28 PAID, LESS SALVAGE AND RECOVERIES ON REINSURANCE CEDED)] during the
29 calendar year under the contracts. In the case of an insurer issuing participating contracts, the
30 gross underwriting profit may [SHALL] not include, for computation of the tax prescribed by
31 this section, the amounts refunded or paid as participation dividends by the insurers to the holders

1 of the contracts. In this subsection,

2 (1) "net losses" means gross losses less salvage and recoveries on reinsurance
 3 ceded;

4 (2) "net premiums" means gross premiums less all return premiums and
 5 premiums for reinsurance.

6 * Sec. 19. AS 21.12.020(a) is amended to read:

7 (a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as
 8 either an asset or a deduction from liability on account of reinsurance ceded only if the
 9 reinsurance is ceded to an

10 (1) assuming insurer that is licensed to transact insurance or reinsurance in this
 11 state;

12 (2) assuming insurer that is accredited as a reinsurer in this state; an accredited
 13 reinsurer is one that

14 (A) files evidence of submission [SUBMITS] to this state's jurisdiction,
 15 submits to this state's authority to examine its books and records under AS 21.06.120,
 16 and is licensed to transact insurance or reinsurance in at least one state, or in the case
 17 of a United States branch of an alien admitted insurer, is entered through and
 18 licensed to transact insurance or reinsurance in at least one state; [OR]

19 (B) [IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN
 20 ASSUMING INSURER, IS ENTERED THROUGH, AND LICENSED TO TRANSACT
 21 INSURANCE OR REINSURANCE IN, AT LEAST ONE STATE, FILES ANNUALLY
 22 WITH THE DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT
 23 IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS STATE OF
 24 DOMICILE, AND] maintains at least \$20,000,000 in policyholder surplus and whose
 25 accreditation has not been denied by the director within 90 days of application to the
 26 director, or maintains less than \$20,000,000 in policyholder surplus and whose
 27 application for accreditation has been approved by the director; and

28 (C) files annually with the director a copy of the reinsurer's annual
 29 financial statement filed with the insurance department of the reinsurer's state of
 30 domicile [; THE SURPLUS REQUIREMENTS IN THIS SUBPARAGRAPH DO NOT
 31 APPLY TO REINSURANCE CEDED AND ASSUMED UNDER A POOLING

1 ARRANGEMENT AMONG INSURERS IN THE SAME HOLDING COMPANY
2 SYSTEM];

3 (3) assuming insurer that is domiciled in a state, or in the case of a United States
4 branch of an alien assuming insurer, is entered through a state that employs standards regarding
5 credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this
6 subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and
7 the assuming insurer submits to the authority of this state to examine its books and records; the
8 surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a
9 pooling arrangement among insurers in the same holding company system;

10 (4) assuming alien insurer that

11 (A) maintains a trust fund in a qualified United States financial institution
12 for the payment of the valid claims of its United States policyholders and ceding insurers,
13 and their assigns and successors in interest, that conforms to the following requirements:

14 (i) the trust shall be established in a form approved by the director;
15 the trust instrument must provide that contested claims are valid and enforceable
16 upon the final order of any court of competent jurisdiction in the United States;
17 the trust shall vest legal title to its assets in the trustees of the trust for its United
18 States policyholders and ceding insurers, their assigns, and successors in interest;
19 the trust and the assuming insurer are subject to examination as determined by the
20 director; the trust must remain in effect for so long as the assuming insurer has
21 outstanding liabilities due under the reinsurance agreements subject to the trust;

22 (ii) on or before March 1 of each year the trustees shall report in
23 writing to the director on the balance of the trust and list the trust's investments
24 at the end of the preceding year, and shall certify the date of termination of the
25 trust, if so planned, or certify that the trust does not expire before the following
26 December 31;

27 (iii) in the case of a single assuming insurer, the trust shall consist
28 of trust money representing the assuming insurer's liabilities attributable to
29 business written in the United States and, in addition, include a trust surplus of not
30 less than \$20,000,000; the single assuming insurer shall make available to the
31 director an annual certification of the insurer's solvency by the insurer's

1 domiciliary regulator and by an independent public accountant;

2 (iv) in the case of a group of individual unincorporated insurers,
3 the trust shall consist of trust money representing the group's liabilities attributable
4 to business written in the United States and, in addition, include a trust surplus not
5 less than \$100,000,000 [\$50,000,000]; the group shall make available to the
6 director an annual certification of the solvency of each of the individual
7 unincorporated insurers by the group's domiciliary regulator and by an
8 independent certified public accountant, or for a Canadian or British insurer,
9 an independent Canadian or British chartered accountant;

10 (v) in the case of a group of incorporated insurers under
11 common administration that complies with the reporting requirements
12 contained in (ii) of this subparagraph, that has continuously transacted an
13 insurance business outside the United States for at least three years
14 immediately before making application for accreditation, that submits to this
15 state's authority to examine its books and records and bears the expense of
16 the examination, and that has aggregate policyholders' surplus of
17 \$10,000,000,000, the trust shall be in an amount equal to the group's several
18 liabilities attributable to business ceded by United States ceding insurers to
19 a member of the group under reinsurance contracts issued in the name of the
20 group, and the group shall maintain a joint trustee surplus, of which
21 \$100,000,000 shall be held jointly for the benefit of United States ceding
22 insurers of a member of the group as additional security for the group's
23 liabilities, and each member of the group shall make available to the director
24 an annual certification of the member's solvency by the member's domiciliary
25 regulator and the member's independent certified public accountant, or for
26 a Canadian or British insurer, the member's independent Canadian or British
27 chartered accountant; and

28 (B) reports annually to the director information substantially the same as
29 that required to be reported on the National Association of Insurance Commissioners'
30 annual statement form by licensed insurers to enable the director to determine the
31 sufficiency of the trust fund;

1 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
2 subsection, but only with respect to the insurance of risks located in jurisdictions where the
3 reinsurance is required by applicable law or regulation of that jurisdiction.

4 * Sec. 20. AS 21.12.020(a) is repealed and reenacted to read:

5 (a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as
6 either an asset or a deduction from liability on account of reinsurance ceded only if the
7 reinsurance is ceded to an

8 (1) assuming insurer that is licensed to transact insurance or reinsurance in this
9 state;

10 (2) assuming insurer that is accredited as a reinsurer in this state; an accredited
11 reinsurer is one that

12 (A) submits to this state's jurisdiction, submits to this state's authority to
13 examine its books and records, is licensed to transact insurance or reinsurance in at least
14 one state, that is accredited by the National Association of Insurance Commissioners, and
15 files annually with the director a copy of the reinsurer's annual statement filed with the
16 insurance department of the reinsurer's state of domicile and a copy of the reinsurer's
17 most recent audited financial statement; or

18 (B) in the case of a United States branch of an alien assuming insurer, is
19 entered through, and licensed to transact insurance or reinsurance in, at least one state
20 accredited by the National Association of Insurance Commissioners, files annually with
21 the director a copy of its annual financial statement that is filed with the insurance
22 regulatory agency of its state of domicile, and maintains at least \$20,000,000 in
23 policyholder surplus; the surplus requirements in this subparagraph do not apply to
24 reinsurance ceded and assumed under a pooling arrangement among insurers in the same
25 holding company system;

26 (3) assuming insurer that is domiciled in a state, or in the case of a United States
27 branch of an alien assuming insurer, is entered through a state accredited by the National
28 Association of Insurance Commissioners that employs standards regarding credit for reinsurance
29 ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming
30 insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits
31 to the authority of this state to examine its books and records; the surplus requirements in this

1 paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among
2 insurers in the same holding company system;

3 (4) assuming alien insurer that

4 (A) maintains a trust fund in a qualified United States financial institution
5 for the payment of the valid claims of its United States policyholders and ceding insurers,
6 and their assigns and successors in interest, that conforms to the following requirements:

7 (i) the trust shall be established in a form approved by the director;
8 the trust instrument must provide that contested claims are valid and enforceable
9 upon the final order of any court of competent jurisdiction in the United States;
10 the trust shall vest legal title to its assets in the trustees of the trust for its United
11 States policyholders and ceding insurers, their assigns, and successors in interest;
12 the trust and the assuming insurer are subject to examination as determined by the
13 director; the trust must remain in effect for so long as the assuming insurer has
14 outstanding liabilities due under the reinsurance agreements subject to the trust;

15 (ii) on or before March 1 of each year the trustees shall report in
16 writing to the director on the balance of the trust and list the trust's investments
17 at the end of the preceding year, and shall certify the date of termination of the
18 trust, if so planned, or certify that the trust does not expire before the following
19 December 31;

20 (iii) in the case of a single assuming insurer, the trust shall consist
21 of trust money representing the assuming insurer's liabilities attributable to
22 business written in the United States and, in addition, include a trust surplus of not
23 less than \$20,000,000; the single assuming insurer shall make available to the
24 director an annual certification of the insurer's solvency by the insurer's
25 domiciliary regulator and by an independent public accountant;

26 (iv) in the case of a group of individual unincorporated insurers,
27 the trust shall consist of trust money representing the group's liabilities attributable
28 to business written in the United States and, in addition, include a trust surplus not
29 less than \$100,000,000; the group shall make available to the director an annual
30 certification of the solvency of each of the individual unincorporated insurers by
31 the group's domiciliary regulator and by an independent certified public

1 accountant;

2 (v) in the case of a group of incorporated insurers under common
3 administration that complies with the reporting requirements contained in (ii) of
4 this subparagraph, that has continuously transacted an insurance business outside
5 the United States for at least three years immediately before making application
6 for accreditation, that submits to this state's authority to examine its books and
7 records and bears the expense of the examination, and that has aggregate
8 policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal
9 to the group's several liabilities attributable to business ceded by United States
10 ceding insurers to a member of the group under reinsurance contracts issued in the
11 name of the group, and the group shall maintain a joint trustee surplus, of which
12 \$100,000,000 shall be held jointly for the benefit of United States ceding insurers
13 of a member of the group as additional security for the group's liabilities, and
14 each member of the group shall make available to the director an annual
15 certification of the member's solvency by the member's domiciliary regulator and
16 the member's independent certified public accountant; and

17 (B) reports annually to the director information substantially the same as
18 that required to be reported on the National Association of Insurance Commissioners'
19 annual statement form by licensed insurers to enable the director to determine the
20 sufficiency of the trust fund;

21 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
22 subsection, but only with respect to the insurance of risks located in jurisdictions where the
23 reinsurance is required by applicable law or regulation of that jurisdiction.

24 * Sec. 21. AS 21.12.020(c) is amended to read:

25 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting
26 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities
27 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or
28 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a
29 reinsurance contract with the assuming insurer as security for the payment of obligations under
30 it, if the security is held in the United States subject to withdrawal solely by, and under the
31 exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States

1 financial institution. The security must be in the form of

2 (1) cash;

3 (2) securities listed by the Securities Valuation Office of the National Association
4 of Insurance Commissioners that qualify as admitted assets under AS 21.21;

5 (3) clean, irrevocable, unconditional letters of credit that contain an evergreen
6 clause issued or confirmed by a qualified United States financial institution not later than
7 December 31 in the year for which filing is made, and in the possession of the ceding
8 company on or before the filing date of the ceding company's annual statement; letters of
9 credit meeting applicable standards of issuer acceptability as of the dates of their issuance or
10 confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to
11 meet applicable standards of issuer acceptability, continue to be acceptable as security until their
12 expiration, extension, renewal, modification, or amendment, whichever occurs first; or

13 (4) other security acceptable to and approved in advance by the director.

14 * Sec. 22. AS 21.12.020 is amended by adding new subsections to read:

15 (h) A life insurer may receive credit for reinsurance transactions if the reinsurance
16 agreement meets all applicable requirements established by the director. The director may
17 establish requirements for life reinsurance agreements by regulation.

18 (i) A domestic ceding insurer may not be allowed credit if the assuming insurer's
19 accreditation has been revoked by the director.

20 * Sec. 23. AS 21.18.100 is amended to read:

21 Sec. 21.18.100. INCREASE OF [INADEQUATE] RESERVES. If loss experience shows
22 that an insurer's loss reserves or reserves for incurred but not reported losses, however
23 computed or estimated, are inadequate, the director shall require the insurer to maintain loss
24 reserves or reserves for incurred but not reported losses in the increased amount needed to
25 make them adequate.

26 * Sec. 24. AS 21.18.110 is amended by adding new subsections to read:

27 (m) A life insurance company doing business in the state shall annually submit to the
28 director an opinion of a qualified actuary as to whether the reserves and related actuarial items
29 held in support of a policy or contract specified by regulation are computed appropriately, are
30 based on assumptions that satisfy contractual provisions, are consistent with prior reported
31 amounts, and comply with the applicable laws of this state. The director may adopt regulations

1 to define the specific form, substance, and standards of the actuarial opinion.

2 (n) The actuarial opinion must

3 (1) be submitted with the annual statement reflecting the valuation of the reserve
4 liabilities;

5 (2) apply to all business in force, including individual and group health insurance
6 plans;

7 (3) be based on standards adopted by the Actuarial Standards Board; and

8 (4) include an assessment as to whether the reserves and related actuarial items
9 held in support of the policies and contracts, when considered in light of the assets held by a
10 company with respect to the reserves and related actuarial items, including investment earnings
11 on the assets and considerations anticipated to be received and retained under policies and
12 contracts, make adequate provision for a company's obligations under a policy or contract
13 including the benefits under and expenses associated with a policy or contract.

14 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
15 director shall accept an opinion filed by the company with the insurance supervisory official of
16 another state if the director determines that the opinion meets the requirements applicable to a
17 company domiciled in this state.

18 (p) The director may adopt regulations to provide a transition period for establishing
19 higher reserves that a qualified actuary may consider necessary in order to render the opinion
20 required under (n) of this section.

21 (q) A qualified actuary who submits an opinion under (m) of this section

22 (1) is not liable for damages to a person, other than the insurance company and
23 the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion
24 except in a case of fraud or wilful misconduct;

25 (2) may be subject to disciplinary action by the director; and

26 (3) shall include a memorandum, in form and substance acceptable to the director,
27 to support the actuarial opinion.

28 (r) If the insurance company fails to provide a supporting memorandum required by
29 (q)(3) of this section within a period specified by regulation or the director determines that the
30 supporting memorandum fails to meet the standards adopted by regulation or is otherwise
31 unacceptable to the director, the director may engage a qualified actuary, at the expense of the

1 insurance company, to review the opinion and the basis for the opinion and to prepare a
2 supporting memorandum as required under (q) of this section.

3 (s) A memorandum in support of an actuarial opinion and other supporting material
4 provided by an insurance company to the director is confidential and may not be made public
5 by the director or another person and is not subject to a civil subpoena, except for the purpose
6 of defending an action seeking damages from a person by reason of an action required by this
7 section. The memorandum or other material may be released by the director with the written
8 consent of the company or to the American Academy of Actuaries upon a request stating that the
9 memorandum or other material is required for the purpose of a disciplinary proceeding and
10 setting out procedures satisfactory to the director for preserving the confidentiality of the
11 memorandum or other material. Once a portion of the memorandum or other material is cited
12 by the company in its marketing, is cited before a governmental agency other than a state
13 insurance department, or is released by the company to the news media, the remainder of the
14 confidential memorandum or other material is no longer confidential.

15 (t) An insurer's aggregate reserves for

16 (1) all life insurance policies, excluding disability and accidental death benefits,
17 issued on or after the effective date of this act, may not be less than the aggregate reserves
18 calculated under (b)(2), (5), (8), and (1) of this section, and the mortality table and rates of
19 interest used in calculating nonforfeiture benefits for the policies; and

20 (2) all policies, contracts, and benefits may not be less than the aggregate reserves
21 determined by a qualified actuary to be necessary to render the opinion required under (m) of this
22 section.

23 * Sec. 25. AS 21.18.110(o) is repealed and reenacted to read:

24 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
25 director shall accept an opinion filed by the company with the insurance supervisory official of
26 another state that is accredited by the National Association of Insurance Commissioners if the
27 director determines that the opinion meets the requirements applicable to a company domiciled
28 in this state.

29 * Sec. 26. AS 21.18.130 is amended to read:

30 Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than
31 those referred to in AS 21.18.120 or AS 21.21.260, held by an insurer shall be valued, in the

1 discretion of the director, at [THEIR MARKET VALUE, OR AT] their appraised value as
2 determined by a competent appraisal acceptable to the director, or at prices determined by
3 the director as representing their fair market value, all consistent with the current method for the
4 valuation of a security formulated or approved by the National Association of Insurance
5 Commissioners.

6 (b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried
7 at a fixed value in lieu of market value at the discretion of the director and consistent [IN
8 ACCORDANCE] with the method of computation the director approves.

9 * Sec. 27. AS 21.18.130 is amended by adding a new subsection to read:

10 (c) Securities referred to in AS 21.21.260 at any time after the date of investment by an
11 insurer shall be valued on that insurer's quarterly and annual statement at an amount that may
12 not exceed the larger of the following amounts:

13 (1) 100 percent of the market value of the real property or leasehold securing the
14 same as determined by a competent appraisal acceptable to the director or at values determined
15 by the director as representing fair market value of the real property or leasehold;

16 (2) the amount of insurance or guaranty of the loan by the United States or by
17 an agency or instrumentality of the United States; or

18 (3) the amount provided in (1) of this subsection plus the amount by which the
19 excess of the loan over the amount provided in (1) of this subsection is insured or guaranteed by
20 the United States or by an agency or instrumentality of the United States.

21 * Sec. 28. AS 21.18.140(b) is amended to read:

22 (b) Other real property held by an insurer shall [MAY NOT] be valued at the lower of
23 cost or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal.

24 If valuation is based on an appraisal more than three years old, the director may call for and
25 require a new appraisal in order to determine fair market value. The reasonable cost of the
26 appraisal shall be borne by the insurer. if the director has a reasonable belief that the new
27 appraised value will be sufficiently lower than the reported value and will materially reduce
28 policyholder's surplus.

29 * Sec. 29. AS 21.21.050 is amended to read:

30 Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in
31 or hold as admitted assets categories of investments only within applicable limits as follows:

1 (1) an insurer may not, except with the consent of the director, have a
2 combination of investments in or loans upon the security of the obligations, property, or securities
3 of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's
4 assets; for purposes of this paragraph, the value of the investment or loan shall be the cost
5 of the investment or loan to the insurer; this restriction does not apply to

6 (A) general obligations of the United States; or

7 (B) general obligations of a state of the United States that is not insolvent
8 and whose securities are not then in default; or

9 (C) policy loans made under AS 21.21.210;

10 (2) an insurer may not invest in or hold at any one time more than 10 percent of
11 the outstanding voting stock of a corporation, except with the consent of the director given with
12 respect to voting rights of preference stock during default of dividends; this paragraph does not
13 apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer
14 acquired under AS 21.21.170;

15 (3) an insurer, other than title insurer, shall invest and maintain invested funds
16 in an amount not less than the higher of

17 [(A)] the minimum basic capital for stock insurers or basic guarantee
18 surplus for mutual insurers and additional surplus for both stock and mutual insurers
19 required under AS 21.09.070, [;] or

20 [(B)] 50 percent of the total capital and surplus shown on the most recent
21 statement of the insurer's financial condition as filed with the director under
22 AS 21.09.200, but the insurer may not invest or maintain funds except in [ONLY IN]

23 (A) [(i)] cash;

24 (B) [(ii)] the fully insured portion of bank deposits when the insurance is
25 provided by a solvent agency of the United States government or by collateral in the form
26 of the securities provided for under AS 21.21.060 and 21.21.080; [OR]

27 (C) [(iii)] the securities provided for under AS 21.21.060 and 21.21.080;

28 or

29 (D) the securities provided for under AS 21.21.090 issued by this state
30 or a political subdivision of this state, but only if rated Class 1 by the securities
31 valuation office for the period during which the securities are held for the purposes

1 of this section, and only if the insurer invests and maintains not more than 15
2 percent of its total capital and surplus in the securities as shown on the most recent
3 statement of the insurer's financial condition filed with the director under
4 AS 21.09.200;

5 (4) a life insurer shall invest and keep invested its funds in an amount not less
6 than the reserves under its life insurance policies and annuity contracts, other than variable
7 annuities, in force, in cash or the securities or investments provided for under this chapter;

8 (5) except with the director's written consent, an insurer may not have invested
9 at any one time more than 20 percent of its assets in the class of securities described in
10 AS 21.21.140, exclusive of obligations of public utilities;

11 (6) an insurer may invest and have invested at any one time in aggregate amount
12 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and
13 21.21.200, except with the director's written consent; determination of the amount that an insurer
14 has invested in common stocks for the purposes of this paragraph is based on the cost of the
15 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary
16 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;

17 (7) except with the director's written consent, an insurer may not have invested
18 at any one time more than 10 percent of its assets in any one of the class of securities described
19 in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260.

20 * Sec. 30. AS 21.21.170(b) is amended to read:

21 (b) With the director's consent an insurer may acquire and hold the controlling interest
22 in the outstanding voting stock of another stock insurer formed under the laws of this or another
23 state. All stocks under this subsection shall be subject to the limitations on acquisition
24 [LIMITATION AS TO AMOUNT] as provided in AS 21.21.180.

25 * Sec. 31. AS 21.21.180 is repealed and reenacted to read:

26 Sec. 21.21.180. INVESTMENTS IN SUBSIDIARIES. (a) A domestic insurer, either
27 alone or in cooperation with one or more persons, may organize or acquire one or more
28 subsidiaries engaged in the following kinds of business:

29 (1) insurance business authorized by this title;

30 (2) acting as an insurance producer or as an insurance agent for the insurer's
31 parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;

1 (3) investing, reinvesting, or trading in securities for the insurer's own account,
2 that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;

3 (4) management of an investment company subject to or registered under 15
4 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;

5 (5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78
6 (Securities Exchange Act of 1934, as amended);

7 (6) rendering investment advice to a government, government agency, corporation,
8 or other organization or group;

9 (7) rendering other services related to the operations of an insurance business
10 including actuarial, loss prevention, safety engineering, data processing, accounting, claims,
11 appraisal, and collection services;

12 (8) ownership and management of assets that the parent corporation could own
13 or manage;

14 (9) acting as administrative agent for a governmental instrumentality that is
15 performing an insurance function;

16 (10) financing insurance premiums, agents, and other forms of consumer
17 financing;

18 (11) any other business activity determined by the director in writing using the
19 standards set out in this section to be reasonably ancillary to an insurance business; or

20 (12) owning a corporation engaged or organized to engage exclusively in one or
21 more of the businesses specified in this section.

22 (b) A domestic insurer may also

23 (1) invest in securities described in AS 21.21.140 - 21.21.160 of one or more
24 subsidiaries in amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50
25 percent of the insurer's surplus regarding policyholders, if, after the investment, the insurer's
26 surplus regarding policyholders will be reasonable in relation to the insurer's outstanding
27 liabilities and adequate to the insurer's financial needs; in calculating the amount of the
28 investment, investment in domestic or foreign insurance subsidiaries shall be excluded, but the
29 following shall be included:

30 (A) total net moneys or other consideration expended and all obligations
31 assumed in the acquisition or formation of a subsidiary, including all organizational

1 expenses and contributions to capital and surplus of the subsidiary if represented or not
2 represented by the purchase of capital stock or issuance of other securities; and

3 (B) all amounts expended in acquiring additional securities described in
4 AS 21.21.140 - 21.21.160 and all contributions to the capital or surplus of a subsidiary
5 subsequent to the subsidiary's acquisition or formation;

6 (2) invest an amount in securities described in AS 21.21.140 - 21.21.160 of one
7 or more subsidiaries engaged or organized to engage exclusively in the ownership and
8 management of assets authorized as an investment for the insurer if that subsidiary agrees to limit
9 the subsidiary's investment in an asset in a way that the investment does not cause the amount
10 of the total investment of the insurer to exceed the investment limitations specified in (1) of this
11 subsection or AS 21.21.050; for the purpose of this paragraph, the total investment of the insurer
12 includes:

13 (A) a direct investment by the insurer in an asset; and

14 (B) the insurer's proportionate share of an investment in an asset by a
15 subsidiary of the insurer calculated by multiplying the amount of the subsidiary's
16 investment by the percentage of the ownership in the subsidiary; or

17 (3) with the prior written approval of the director, invest a greater amount in those
18 securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the
19 investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's
20 outstanding liabilities and adequate to the insurer's financial needs.

21 (c) A domestic insurer shall determine if an investment meets the applicable requirements
22 under (b) of this section before the investment is made by calculating the applicable investment
23 limitations under AS 21.21.020(d) as though the investment had already been made and by taking
24 into account the then outstanding principal balance on all previous investments under
25 AS 21.21.140 - 21.21.160, calculated at statement value, giving effect to a return of capital
26 invested and not giving effect to dividends.

27 (d) If an insurer ceases to control a subsidiary, it shall dispose of an investment in the
28 subsidiary made under this section within three years from the time of the cessation of control
29 or within a further time that the director prescribes unless, at any time after the investment has
30 been made, the investment meets the requirements for investment under another section of this
31 chapter and the insurer has notified the director regarding the application of another section of

1 this chapter to the investment.

2 * Sec. 32. AS 21.21.255 is amended to read:

3 Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided
4 under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984),
5 securities that are purchased, held, or invested in by an insurer shall be regulated under
6 AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, [AS 21.66.030,] and other applicable
7 provisions of this title.

8 * Sec. 33. AS 21.21.350(b) is amended to read:

9 (b) Before completing investment activities with or through affiliated or controlling
10 persons or completing a transaction of the type listed in AS 21.21.180, an insurer shall fully
11 disclose and document in writing to its board of directors, the committee or committees having
12 responsibility for reviewing the insurer's financial condition under AS 21.22.105(d) or (e),
13 and the committee authorized by the board and charged with the supervision or making of the
14 investment or loan involved, the material facts concerning the affiliation or circumstances of
15 control. An insurer may not complete an investment activity with or through affiliated or
16 controlling persons [,] unless the board of directors, by specific board action, authorizes the
17 transaction and concludes that the transaction complies with (c) and (d) of this section. The vote
18 of the board authorizing the transaction must be recorded in the minutes, on a
19 member-by-member basis, and must indicate each vote approving, disapproving, or abstaining
20 on the transaction.

21 * Sec. 34. AS 21.21 is amended by adding new sections to read:

22 Sec. 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE
23 OBLIGATIONS. (a) A domestic insurer may not acquire, directly or indirectly, a medium grade
24 or lower grade obligation of an institution if, after giving effect to the acquisition,

25 (1) the aggregate amount of all medium grade and lower grade obligations held
26 by the domestic insurer exceeds 20 percent of its admitted assets if not more than

27 (A) 10 percent of its admitted assets consist of obligations rated four, five,
28 or six by the securities valuation office;

29 (B) three percent of its admitted assets consist of obligations rated five or
30 six by the securities valuation office; and

31 (C) one percent of its admitted assets consist of obligations rated six by

1 the securities valuation office; or

2 (2) the aggregate amount of all medium grade or lower grade obligations held by
3 the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the
4 insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.

5 (b) Attaining or exceeding the limit of one category does not preclude an insurer from
6 acquiring an obligation in another category subject to the specific or multi-category limits.

7 (c) A domestic insurer may not invest in medium grade and lower grade obligations
8 issued, guaranteed, or insured by a single institution in an aggregate amount greater than

9 (1) one percent of its admitted assets in medium grade obligations;

10 (2) one-half of one percent of its admitted assets in lower grade obligations; and

11 (3) one percent of its admitted assets in a combination of medium grade or lower
12 grade obligations.

13 (d) The investment limitations in this section apply in addition to the limits on
14 investments under AS 21.21.050 and 21.21.250.

15 (e) The investment limitations in this section and AS 21.21.380(b) shall be calculated
16 after including, as though they were already owned, the medium grade and lower grade
17 obligations that the domestic insurer is committed to acquire at the time of the calculation.

18 Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM
19 GRADE AND LOWER GRADE OBLIGATIONS. (a) AS 21.21.370 does not prohibit a
20 domestic insurer from acquiring an obligation that it has committed to acquire if the insurer
21 would have been permitted to acquire that obligation under AS 21.21.370 on the date on which
22 the insurer committed to purchase that obligation.

23 (b) Notwithstanding AS 21.21.370, a domestic insurer may acquire an obligation of an
24 institution in which the insurer already has an obligation if the obligation is acquired in order to
25 protect an investment previously made in the obligations of the institution, if all the acquired
26 obligations do not exceed one-half of one percent of the insurer's admitted assets.

27 (c) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation
28 created by a restructuring of a medium grade or lower grade obligation that is already held.

29 (d) AS 21.21.370 does not require a domestic insurer to sell or otherwise dispose of an
30 obligation legally acquired before July 1, 1992.

31 Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM

1 GRADE AND LOWER GRADE OBLIGATIONS. (a) The board of directors of a domestic
2 insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets
3 in medium grade and lower grade obligations, shall adopt a written plan for making these
4 investments.

5 (b) The written plan adopted under (a) of this section must contain

6 (1) guidelines for the quality of the issues in which investments are to be made;
7 and

8 (2) diversification standards including standards for issuer, industry, duration,
9 liquidity, and geographic locations.

10 Sec. 21.21.400. DISPOSITION OR WRITE-DOWN OF LOWER GRADE
11 OBLIGATIONS. If the limitation in AS 21.21.370(a)(2) is exceeded and the director determines
12 that the continued holding of the insurer's medium grade and lower grade obligations would be
13 detrimental to the interests of policyholders, the director may issue an order under AS 21.06.100
14 requiring one or more of the following:

15 (1) the disposition of lower grade obligations;

16 (2) the write-down of lower grade obligations to current market value as
17 determined by the securities valuation office or other person upon whom the director may rely;

18 or

19 (3) action under AS 21.09.150.

20 * Sec. 35. AS 21.21.600 is amended by adding new paragraphs to read:

21 (17) "admitted asset" has the meaning given in AS 21.18.900;

22 (18) "aggregate amount" means the aggregate statutory statement value of medium
23 grade and lower grade obligations;

24 (19) "institution" means a corporation, joint stock company, association, trust,
25 business partnership, business joint venture, or similar entity;

26 (20) "lower grade obligation" means an obligation that is rated four, five, or six
27 by the securities valuation office or its successor;

28 (21) "medium grade obligation" means an obligation that is rated three by the
29 securities valuation office or its successor;

30 (22) "securities valuation office" means the organization designated by the
31 National Association of Insurance Commissioners to determine the carrying or admitted asset

1 value of obligations owned by the insurer.

2 * Sec. 36. AS 21.22.030 is amended by adding a new subsection to read:

3 (c) When evaluating the effect of a merger or other acquisition under (a)(2) of this
4 section, the director may consider relevant factors including market shares, volatility of ranking
5 market leaders, number of competitors, concentration, trend of concentration in the industry, and
6 ease of entry into and exit out of the market, but may not consider the standards under
7 AS 21.22.065(d) or (e).

8 * Sec. 37. AS 21.22.060 is amended by adding new subsections to read:

9 (k) An insurer subject to registration under (a) of this section shall register annually by
10 April 1 of each year for the previous calendar year unless, for good cause shown, the director
11 extends the time for registration. The director may require an insurer authorized to do business
12 in the state, that is a member of a holding company system and that is not subject to registration
13 under (a) of this section, to furnish a copy of the registration statement, the summary specified
14 in (l) of this section, or other information filed by the insurer with the insurance regulatory
15 authority of the insurer's state of domicile.

16 (l) An annual registration statement filed under (k) of this section must contain a
17 summary outline of items in the current registration statement representing changes from the prior
18 registration statement.

19 * Sec. 38. AS 21.22 is amended by adding a new section to read:

20 Sec. 21.22.065. ACQUISITIONS INVOLVING CHANGE OF CONTROL. (a) Unless
21 exempted in (j) of this section, this section applies to any acquisition in which there is a change
22 in control of an insurer authorized to do business in this state.

23 (b) If an acquisition violates the standards established in (d) and (f) of this section, the
24 director may enter an order requiring an involved insurer to cease doing business in this state
25 with respect to the line or lines of insurance involved in the violation or denying the application
26 of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of
27 the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive
28 effect of the acquisition within a reasonable time. Based upon a plan or other information
29 submitted, the director shall specify the conditions, if any, under a time period during which the
30 aspects of the acquisition causing a violation of the standards of this section would be remedied
31 and the order vacated or modified. The order is stayed by the insurer's submission of a plan and

1 shall be rescinded if the acquisition is not consummated.

2 (c) An acquisition that meets the requirements under (a) of this section is subject to an
3 order under (b) of this section unless the acquiring person files a preacquisition notification and
4 the waiting period has expired. The person to be acquired may file a preacquisition notification.
5 A preacquisition notification by a person to be acquired may not be filed in place of a
6 preacquisition filing by an acquiring person. The preacquisition notification

7 (1) must be in a form and contain the information prescribed in regulations
8 adopted by the director relating to insurance markets that, under (j)(5) of this section, cause the
9 acquisition not to be exempt from the provisions of this section; the director may require
10 additional material and information the director considers necessary to determine whether the
11 proposed acquisition, if consummated, would violate the competitive standards of this section;

12 (2) may include an opinion of an economist regarding the competitive effect of
13 the acquisition in this state accompanied by a summary of the education and experience
14 indicating the economist's ability to render an informed opinion; and

15 (3) must be followed by a waiting period beginning on the date of receipt by the
16 director of a preacquisition notification and ending on the earlier of the 30th day after the date
17 of receipt or termination of the waiting period by the director unless, before the end of the
18 waiting period, the director requires the submission of additional information relevant to the
19 proposed acquisition, in which event the waiting period shall end on the 30th day after receipt
20 of the additional information by the director or termination of the waiting period by the director,
21 whichever is earlier.

22 (d) The director may enter an order under (b) of this section regarding an acquisition if

23 (1) the insurer fails to file adequate information in compliance with (c) of this
24 section;

25 (2) there is substantial evidence that the acquisition may substantially lessen
26 competition, create a monopoly in a line of insurance in this state or significantly increase an
27 insurer's market concentration; there is substantial evidence when the aggregate market share of
28 any grouping of the largest insurers in the market, from the two largest to the eighth largest, has
29 increased by seven percent or more of the market over a period of time extending from any base
30 year five to 10 years before the acquisition up to the time of the acquisition;

31 (3) after considering an acquisition covered under (a) of this section involving two

1 or more insurers competing in the same market there is evidence of a violation of the competitive
2 standards contained in the following tables:

3 (A) if the market is highly concentrated, the involved insurers possess the
4 following shares of the market:

| 5 | Insurer A | Insurer B |
|---|------------|--------------------|
| 6 | 4 percent | 4 percent or more |
| 7 | 10 percent | 2 percent or more |
| 8 | 15 percent | 1 percent or more; |

9 (B) if the market is not highly concentrated, the involved insurers possess
10 the following shares of the market:

| 11 | Insurer A | Insurer B |
|----|------------|--------------------|
| 12 | 5 percent | 5 percent or more |
| 13 | 10 percent | 4 percent or more |
| 14 | 15 percent | 3 percent or more |
| 15 | 19 percent | 1 percent or more. |

16 (e) A percentage not shown in the tables contained in (d) of this section may be
17 interpolated proportionately to the percentage that is shown. The insurer with the largest share
18 of the market shall be considered Insurer A. If more than two insurers are involved, a market
19 share that exceeds the total of the two columns in the table by the insurers involved is prima
20 facie evidence of a violation of the competitive standards contained in (d) of this section.

21 (f) Even though an acquisition does not violate the competitive standard under (d) of this
22 section, the director may establish the requisite anticompetitive effect based upon other
23 substantial evidence. Even though an acquisition does violate the competitive standard under (d)
24 of this section, a party may establish the absence of the requisite anticompetitive effect based
25 upon other substantial evidence. Relevant factors in making a determination under (d) of this
26 section include market shares, volatility of ranking of market leaders, number of competitors,
27 concentration, trend of concentration in the industry, and ease of entry into and exit out of the
28 market. The burden of showing substantial evidence of a violation of the competitive standards
29 rests with the director.

30 (g) An order may not be entered under (b) of this section if

31 (1) the acquisition will yield substantial economy of scale or economy in resource

1 utilization that cannot be achieved in another way and the public benefits that would arise from
2 the economy exceed the public benefits that would arise from not lessening competition; or

3 (2) the acquisition will substantially increase the availability of insurance and the
4 public benefits of the increase exceed the public benefits that would arise from not lessening
5 competition.

6 (h) A person who violates a cease and desist order of the director under (b) of this
7 section may, after hearing and on order of the director, be subject to the suspension or revocation
8 of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.

9 (i) An insurer or other person who fails to make a preacquisition filing required by (c)
10 of this section and who also fails to demonstrate a good faith effort to comply with filing
11 requirements shall be subject to a fine of not more than \$50,000.

12 (j) This section does not apply to

13 (1) an acquisition subject to approval or disapproval by the director under
14 AS 21.22.010;

15 (2) a purchase of securities solely for investment purposes if the securities are not
16 used by voting or otherwise to cause or attempt to cause the substantial lessening of competition
17 in an insurance market in this state; if a purchase of securities for investment purposes results
18 in a presumption of control under AS 21.22.200(2), it is not solely for investment purposes unless
19 the insurance supervisory official of the insurer's state of domicile accepts a disclaimer of control
20 or affirmatively finds that control does not exist and the disclaimer action or affirmative finding
21 is communicated by the domiciliary commissioner to the director;

22 (3) the acquisition of a person by another person resulting in a change of control
23 of an insurer when both persons are neither directly nor through affiliates primarily engaged in
24 the business of insurance if preacquisition notification is filed with the director under (c) of this
25 section 30 days before the proposed effective date of the acquisition; however, the preacquisition
26 notification is not required for exclusion if the acquisition would otherwise be excluded under
27 this subsection;

28 (4) the acquisition of an already affiliated person;

29 (5) an acquisition if, as an immediate result of the acquisition,

30 (A) the combined market share of the involved insurers would not exceed
31 five percent of a market;

1 (B) there would not be an increase in a market share of the larger writer;
2 or

3 (C) the combined market share of the involved insurers would not exceed
4 12 percent of a market and the market share of the larger writer would not increase by
5 more than two percent of a market;

6 (6) an acquisition for which a preacquisition notification would be required under
7 this section due solely to the resulting effect on the ocean marine insurance line of business; or

8 (7) an acquisition of an insurer whose domiciliary commissioner affirmatively
9 finds that the insurer is in a failing condition, there are no feasible alternatives to improving this
10 condition, the public benefits of improving the insurer's condition through the acquisition exceed
11 the public benefits that would arise from not lessening competition, and these findings are
12 communicated by the domiciliary commissioner to this state's director.

13 (k) AS 21.22.150 - 21.22.160 and 21.22.180 do not apply to acquisitions covered under
14 this section.

15 * Sec. 39. AS 21.22.080 is amended to read:

16 Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by
17 registered insurers with their affiliates are subject to the following standards:

18 (1) the terms shall be fair and reasonable;

19 (2) charges or fees for services performed shall be reasonable;

20 (3) expenses incurred and payment received shall be allocated to the insurer
21 in conformity with customary insurance accounting practices consistently applied;

22 (4) the books, accounts, and records of each party shall be maintained so as to
23 disclose clearly and accurately the precise nature and details of the transactions including
24 accounting information that is necessary to support the reasonableness of the charges or
25 fees to the respective parties; and

26 (5) [(3)] the insurer's surplus as regards policyholders following any dividends
27 or distributions to shareholder affiliates or performance under a material transaction with an
28 affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its
29 financial needs.

30 * Sec. 40. AS 21.22 is amended by adding a new section to read:

31 Sec. 21.22.085. TRANSACTIONS INVOLVING A DOMESTIC INSURER REQUIRING

1 DIRECTOR REVIEW. (a) The following transactions involving a domestic insurer and a person
2 in its holding company system may not be entered into unless the insurer has notified the director
3 in writing of the insurer's intention to enter into the transaction at least 30 days before the
4 transaction, or a shorter period if allowed by the director, and the director has not disapproved
5 the transaction within the required notice period:

6 (1) a sale, purchase, exchange, loan or extension of credit, guarantee, or
7 investment, provided the transaction is equal to or exceeds

8 (A) with respect to insurers other than life insurers, the lesser of three
9 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
10 policyholder surplus, each calculated under AS 21.21.020(d); or

11 (B) with respect to life insurers, three percent of the insurer's admitted
12 assets calculated under AS 21.21.020(d);

13 (2) a loan or extension of credit to a person who is not an affiliate, where the
14 insurer makes loans or extensions of credit with the agreement or understanding that the proceeds
15 of the transaction, in whole or in substantial part, are to be used to make a loan or extension of
16 credit to, purchase an asset of, or make an investment in an affiliate of the insurer making the
17 loan or extension of credit provided the transaction is equal to or exceeds

18 (A) with respect to insurers other than life insurers, the lesser of three
19 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
20 policyholder surplus, each calculated under AS 21.21.020(d); or

21 (B) with respect to life insurers, three percent of the insurer's admitted
22 assets calculated under AS 21.21.020(d);

23 (3) a reinsurance agreement or modification in which the reinsurance premium
24 or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that
25 pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that
26 may require as consideration the transfer of assets from an insurer to a nonaffiliated if an
27 agreement or understanding exists between the insurer and nonaffiliated that a portion of the
28 assets will be transferred to an affiliate of the insurer;

29 (4) a management agreement, service contract, or cost-sharing arrangement; and

30 (5) a material transaction specified by regulation that the director determines may
31 adversely affect the interests of the insurer's policyholders.

1 (b) Nothing in (a) of this section authorizes or permits a transaction that, in the case of
2 an insurer not a member of the same holding company system, would violate a provision of law.

3 (c) A domestic insurer may not enter into a transaction that is part of a plan or series of
4 similar transactions with persons within the holding company system if the purpose of the
5 separate transaction is to avoid the statutory threshold amount and avoid review that would
6 otherwise occur. If the director determines that this separate transaction is entered into over a
7 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i),
8 21.22.170, AS 21.36.320, and 21.36.360(a).

9 (d) The director, in reviewing a transaction under this section, shall consider whether the
10 transaction complies with the standards provided in AS 21.22.080 and whether the transaction
11 may adversely affect the interests of policyholders.

12 (e) A domestic insurer shall notify the director within 30 days of an investment of a
13 domestic insurer in a corporation if, after the investment, the total investment by the insurance
14 holding company system in a corporation exceeds 10 percent of the corporation's voting
15 securities.

16 * Sec. 41. AS 21.22.090 is amended to read:

17 Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in
18 determining whether an insurer's surplus as regards policyholders is reasonable in relation to the
19 insurer's outstanding liabilities and adequate to its financial needs, the following factors, among
20 others, shall be considered:

21 (1) the size of the insurer as measured by its assets, capital and surplus, reserves,
22 premium writings, insurance in force, and other appropriate criteria;

23 (2) the extent to which the insurer's business is diversified among the several
24 lines of insurance;

25 (3) the number and size of risks insured in each line of business;

26 (4) the extent of the geographical dispersion of the insurer's insured risk;

27 (5) the nature and extent of the insurer's reinsurance program;

28 (6) the quality, diversification, and liquidity of the insurer's investment portfolio;

29 (7) the recent past and projected future trend in the size of the insurer's
30 investment portfolio [SURPLUS AS REGARDS POLICYHOLDERS];

31 (8) the surplus as regards policyholders maintained by other comparable insurers;

- 1 (9) the adequacy of the insurer's reserves; and
2 (10) the quality and liquidity of investments in affiliates [SUBSIDIARIES] made
3 under AS 21.21; the director may treat any such investment as a disallowed asset for purposes
4 of determining the adequacy of surplus as regards policyholders whenever the director determines
5 the investment warrants it.

6 * Sec. 42. AS 21.22.100(a) is amended to read:

7 (a) A domestic insurer [SUBJECT TO REGISTRATION UNDER AS 21.22.060] may
8 not pay any extraordinary dividend or make any other extraordinary distribution to its
9 shareholders until

10 (1) 30 days after the director has received notice of the declaration of the dividend
11 or distribution and has not within that period disapproved its payment; or

12 (2) the director has approved its payment within the 30-day period.

13 * Sec. 43. AS 21.22.100(b) is amended to read:

14 (b) For purposes of this section, an extraordinary dividend or distribution includes a
15 [ANY] dividend or distribution of cash or other property, the fair market value of which together
16 with that of other dividends or distributions made within the preceding 12 months exceeds the
17 lesser [GREATER] of (1) 10 percent of the insurer's surplus as regards policyholders as of
18 December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the
19 insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the
20 12-month period ending December 31 of the preceding year; but does not include pro rata
21 distributions of any class of the insurer's own securities. In determining whether a dividend
22 or distribution is extraordinary, an insurer other than a life insurer may carry forward net
23 income from the previous two calendar years that has not already been paid out as
24 dividends. The carry forward provision shall be computed by taking the net income from
25 the second and third preceding calendar years, not including realized capital gains, less
26 dividends paid in the second and immediate preceding calendar years.

27 * Sec. 44. AS 21.22 is amended by adding a new section to read:

28 Sec. 21.22.105. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO
29 REGISTRATION. (a) Notwithstanding the control of a domestic insurer by any person, the
30 officers and directors of the insurer may not be relieved of an obligation or liability to which the
31 officers and directors would otherwise be subject to by law, and the insurer shall be managed so

1 as to assure the insurer's separate operating identity consistent with this title.

2 (b) This section does not preclude a domestic insurer from having or sharing a common
3 management or cooperative or joint use of personnel, property, or services with one or more
4 other persons under arrangements meeting the standards of AS 21.22.080.

5 (c) Not less than one-third of the directors of a domestic insurer registered under
6 AS 21.22.060 and not less than one-third of the members of each committee of the board of
7 directors of a domestic insurer registered under AS 21.22.060 shall be persons who are not
8 officers or employees of the insurer or of an entity controlling, controlled by, or under common
9 control with the insurer and who are not beneficial owners of a controlling interest in the voting
10 stock of the insurer or an entity. At least one person who is not an officer, employee, or owner
11 of a controlling interest in stock of an insurer or controlling entity must be included in a quorum
12 for the transaction of business at a meeting of the board of directors or a committee of the board
13 of directors.

14 (d) The board of directors of a domestic insurer shall establish one or more committees
15 comprised solely of directors who are not officers or employees of the insurer or of an entity
16 controlling, controlled by, or under common control with the insurer and who are not beneficial
17 owners of a controlling interest in the voting stock of the insurer or an entity. The committee
18 or committees shall have responsibility for recommending the selection of independent certified
19 public accountants, reviewing the insurer's financial condition, the scope and results of the
20 independent audit, and an internal audit, nominating candidates for director for election by
21 shareholders or policyholders, evaluating the performance of officers that are principal officers
22 of the insurer, and recommending to the board of directors the selection and compensation of the
23 principal officers.

24 (e) The provisions of (c) and (d) of this section do not apply to a domestic insurer if the
25 person controlling the insurer is an insurer having a board of directors and committees that meet
26 the requirements of (c) and (d) of this section, or to a domestic insurer that holds a certificate
27 of authority under this title on December 31, 1991.

28 * Sec. 45. AS 21.22.120 is amended to read:

29 Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the
30 information and documents obtained by or disclosed to the director or any other person in the
31 course of an examination or investigation made under AS 21.22.110 and all information reported

1 under AS 21.22.060 and all preacquisition notification information received under
2 AS 21.22.065, shall be given confidential treatment and may not be made public by the director
3 or any other person, except to insurance departments of other states, without the prior written
4 consent of the insurer to which it pertains. However, if the director, after giving the insurer and
5 its affiliates who would be affected by publication of the information notice and opportunity to
6 be heard, determines that the interests of policyholders, shareholders, or the public will be served
7 by the publication of the information, the director may publish all or part of the information in
8 the manner the director considers appropriate.

9 * Sec. 46. AS 21.22.150 is amended by adding a new subsection to read:

10 (c) This section does not apply to a security that constitutes an acquisition covered by
11 AS 21.22.065.

12 * Sec. 47. AS 21.22.160 is amended by adding a new subsection to read:

13 (b) This section does not apply to a security that constitutes an acquisition covered by
14 AS 21.22.065.

15 * Sec. 48. AS 21.22.180 is amended by adding a new subsection to read:

16 (b) This section does not apply to a violation involving a security that constitutes an
17 acquisition covered by AS 21.22.065.

18 * Sec. 49. AS 21.22.200 is amended by adding new paragraphs to read:

19 (11) "acquisition" means an agreement, arrangement, or activity the consummation
20 of which results in a person acquiring directly or indirectly the control of another person, and
21 includes the acquisition of voting securities, assets, bulk reinsurance, and mergers;

22 (12) "highly concentrated" means a market in which the share of the four largest
23 insurers is 75 percent or more of the market;

24 (13) "insurer" has the meaning given in AS 21.90.900 and includes a company
25 or group of companies under common management, ownership, or control;

26 (14) "involved insurer" means an insurer that either acquires or is acquired, is
27 affiliated with an acquirer or acquired, or is the result of a merger;

28 (15) "market" or "insurance market" means direct written insurance premium in
29 this state for a line of business as contained in the annual statement required to be filed by
30 insurers licensed to do business in this state; in determining the relevant product and geographical
31 markets, the director shall give due consideration to, among other things, the definitions or

1 guidelines adopted by the National Association of Insurance Commissioners and to information
2 submitted by parties to the acquisition; in the absence of sufficient information to the contrary,
3 the relevant product market is assumed to be the direct written insurance premium for a line of
4 business, the line being that used in the annual statement required to be filed by insurers doing
5 business in this state, and the relevant geographical market is assumed to be this state;

6 (16) "statement value" means the value that an insurer is instructed by the
7 securities valuation office of the National Association of Insurance Commissioners to carry on
8 the insurer's financial statement and that represents an investment.

9 * Sec. 50. AS 21.27.010 is repealed and reenacted to read:

10 Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not act as or represent to be
11 an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance
12 intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a
13 subject resident, located, or to be performed in this state unless licensed under this chapter. A
14 person may not act as or represent to be a managing general agent, reinsurance intermediary
15 broker, or reinsurance intermediary manager representing an insurer domiciled in this state
16 regarding a risk located outside this state unless licensed by this state.

17 (b) An insurance producer, a managing general agent, a reinsurance intermediary broker,
18 a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications
19 for, procure, place for others, or otherwise transact business for a kind or class of insurance for
20 which the person is not licensed.

21 (c) A person who for a resident of this state, or for a resident of another jurisdiction from
22 a place of business in this state, performs administrative functions, including claims
23 administration and payment, marketing administrative functions, premium accounting, premium
24 billing, coverage verification, underwriting authority, or certificate issuance only in regard to life
25 insurance, disability insurance, or annuities is not required to be licensed as a managing general
26 agent if the person

27 (1) is registered under this chapter as a third-party administrator; or

28 (2) only investigates and adjusts claims and is licensed under this chapter as an
29 independent adjuster.

30 (d) A licensee may not use a fictitious name or alias unless the licensee's legal name and
31 fictitious name or alias are on the license.

1 (e) A person who is an employee of an admitted insurer, who acts within the course and
2 scope of that employment, and within the scope of the insurer's certificate of authority is not
3 required to be additionally licensed under this section.

4 (f) A person who performs management services under a written contract for an admitted
5 insurer is not required to be licensed as a managing general agent, if

6 (1) either

7 (A) the person is a United States manager of the United States branch of
8 an alien admitted insurer; or

9 (B) the person's compensation is not based on the volume of premium
10 written; and

11 (2) the person

12 (A) is a wholly-owned subsidiary of the admitted insurer;

13 (B) wholly owns the admitted insurer;

14 (C) is a wholly-owned subsidiary of the insurance holding company
15 subject to AS 21.22 that owns or controls the admitted insurer.

16 (g) A person who performs management services for an admitted reinsurer is not required
17 to be licensed as a reinsurance intermediary manager if

18 (1) the person's compensation is not based on the volume of premium written and
19 the person

20 (A) is a wholly-owned subsidiary of the admitted insurer;

21 (B) wholly owns the admitted insurer; or

22 (C) is a wholly-owned subsidiary of an insurance holding company subject
23 to AS 21.22 that owns or controls the admitted insurer;

24 (2) the person is a United States manager of the United States branch of an alien
25 admitted insurer; or

26 (3) the person is the manager of a group, association, pool, or organization of
27 insurers that does joint underwriting and that is subject to examination by its resident insurance
28 regulator in a state that

29 (A) the director has determined has enacted provisions substantially similar
30 to those contained in this chapter; and

31 (B) is accredited by the National Association of Insurance Commissioners.

1 (h) This chapter does not apply to a person licensed to practice as an attorney at law
2 while the person is acting as an attorney at law.

3 (i) A person licensed under AS 21.75 as an attorney-in-fact is not required to be
4 additionally licensed under this chapter while acting on behalf of subscribers and within the scope
5 and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under
6 AS 21.75.

7 (j) This section does not apply to a person who

8 (1) is employed on salary or hourly wage by a person licensed under this section
9 solely for the performance of accounting, clerical, stenographic, and similar office duties;

10 (2) only secures and forwards information required for the purposes of group
11 insurance covering the unpaid balance, or remaining payments proposed to be made, in
12 connection with the purchase of merchandise or services, if the person receives no compensation,
13 directly or indirectly, arising out of or in any way relating to the insurance transactions; or

14 (3) is employed on salary by a licensee at the licensee's place of business, is
15 supervised by and reports directly to a licensee in the firm, and who, after explaining that the
16 matter must be reviewed by a licensee, may

17 (A) furnish premium estimates from published or printed lists of standard
18 rates if the person does not advise, counsel, or suggest what coverage may be needed, or
19 otherwise solicit insurance coverage;

20 (B) arrange appointments for a licensee if the person does not solicit
21 insurance coverage;

22 (C) record information from an applicant or policyholder and complete for
23 the licensee's personal review and signature, a certificate of insurance that is not a
24 contract of insurance; the licensee's signature may be by facsimile;

25 (D) inform a policyholder of the type of coverage shown in the licensee's
26 policy record if the person does not advise that an event or hypothetical event is or is not
27 covered; or

28 (E) in the physical presence of the licensee, record information from an
29 applicant or policyholder and complete for a licensee's personal review and personal
30 signature, applications, binders, endorsements, or identification cards if the person
31 discloses to the applicant or policyholder that the applicant or policyholder may review

1 the matter with a licensee.

2 (k) In addition to the business activities expressly exempt from licensing under this
3 section, the director may adopt regulations that exempt other activities from the licensing
4 requirements of this section.

5
6 * Sec. 51. AS 21.27.020 is amended to read:

7 Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of
8 the people of this state, the director may not issue or renew a license except in compliance with
9 this chapter and may not issue a license to a person, or to be exercised by a person, found by
10 the director to be untrustworthy, incompetent, or who has not established to the satisfaction of
11 the director that the person is qualified under this chapter.

12 * Sec. 52. AS 21.27.020 is amended by adding new subsections to read:

13 (b) To qualify for issuance or renewal of an individual or individual in the firm license,
14 an applicant or licensee shall comply with this title and

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

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

19 (3) successfully pass an examination required under AS 21.27.060;

20 (4) be a trustworthy person;

21 (5) not use or intend to use the license for the purpose principally of writing
22 controlled business, as defined in AS 21.27.030;

23 (6) not have committed an act that is a cause for denial, nonrenewal, suspension,
24 or revocation of a license in this state or another jurisdiction.

25 (c) To qualify for issuance or renewal of a license as a firm insurance producer, a firm
26 managing general agent, a firm reinsurance intermediary broker, a firm reinsurance intermediary
27 manager, a firm surplus lines broker, or a firm independent adjuster, an applicant or licensee shall

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

29 (2) have the principal or manager licensed as an individual in the firm;

30 (3) if a corporation or partnership,

31 (A) maintain a lawfully established place of business in this state, except

1 when licensed as a nonresident as provided in AS 21.27.270;

2 (B) disclose to the director all officers, directors, or partners, and whether
3 or not they are licensed;

4 (C) designate a licensed officer or partner responsible for the firm's
5 compliance with the insurance statutes and regulations of this state; and

6 (D) provide to the director documents necessary to verify the information
7 contained in or made in connection with the application;

8 (4) notify the director within 30 days in writing by certified mail of a change in
9 a principal or manager of the firm or the termination of employment of an individual in the firm
10 licensee.

11 (d) The director may adopt regulations establishing additional education or experience
12 requirements for applicants or licensees under this chapter.

13 (e) If the director finds that the applicant or licensee is qualified and that application,
14 license, or renewal fees have been paid, the director may issue or renew the license.

15 (f) A licensed individual in the firm who changes employers remains licensed under this
16 chapter pending the issuance of a new license if the licensee otherwise meets the requirements
17 of this chapter.

18 * Sec. 53. AS 21.27 is amended by adding a new section to read:

19 Sec. 21.27.025. REQUIRED NOTICE BY LICENSEE. (a) A licensee shall notify the
20 director within 30 days in writing by certified mail of a change in residence, employment that
21 is licensed under this chapter, place of business, mailing address, or phone number; a suspension
22 or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or
23 felony.

24 (b) A principal or manager shall notify the director in writing within 30 days of a
25 termination of employment of a licensed individual in the firm. Notice required under this
26 subsection must include the licensee's name; the firm's name and address; the date of hire, self-
27 employment, or termination; and other information required by the director.

28 (c) In addition to any other penalty provided by law, a failure to notify the director as
29 required by this section is cause for denial, nonrenewal, suspension, or revocation of a license.

30 * Sec. 54. AS 21.27.030(a) is repealed and reenacted to read:

31 (a) The director may not issue an insurance producer, a managing general agent, or a

1 surplus lines broker license to a person if the director has reasonable cause to believe that the
2 applicant for the license would, during the 12-month period immediately following issuance of
3 the license, earn or receive an aggregate amount in commission, service fees, brokerage, or other
4 valuable consideration, directly or indirectly, by whatever name called, represented by the
5 controlled business that exceeds 50 percent of the aggregate amount of compensation,
6 commission, service fees, brokerage, or other valuable consideration represented by all other
7 insurance business that would be procured by or through the applicant.

8 * Sec. 55. AS 21.27.030(c) is repealed and reenacted to read:

9 (c) A licensee may not earn or receive an aggregate amount in commission, service fees,
10 brokerage, or other valuable consideration, directly or indirectly, by whatever name called,
11 represented by the controlled business that exceeds 50 percent of the aggregate amount in
12 compensation, commission, service fees, brokerage, or other valuable consideration represented
13 by all other insurance business in a calendar year.

14 * Sec. 56. AS 21.27.030 is amended by adding a new subsection to read:

15 (e) In addition to any other penalty provided by law, a person who violates this section
16 is subject to the penalties provided under AS 21.27.440.

17 * Sec. 57. AS 21.27.040(a) is amended to read:

18 (a) Application for a license shall be made to the director upon forms prescribed [AND
19 FURNISHED] by the director. As a part of or in connection with the application, the applicant
20 shall furnish information concerning the identity, personal history, experience, business record,
21 purposes of the applicant [,] and other pertinent facts concerning the applicant that the director
22 may reasonably require. The applicant shall declare under penalty of denial, nonrenewal,
23 suspension, or revocation of a license issued by the director that the statements made in or
24 in connection with the application are true, correct, and complete to the best of the
25 applicant's knowledge and belief. Payment of an application fee established under
26 AS 21.06.250 must be submitted with the application.

27 * Sec. 58. AS 21.27.040(c) is amended to read:

28 (c) In addition to any other penalty provided by law, a [A] person wilfully
29 misrepresenting a fact required to be disclosed in or in connection with the application or other
30 information required by this section is subject to the penalties provided for under
31 AS 21.27.440 [IN THIS TITLE].

1 * Sec. 59. AS 21.27.040 is amended by adding a new subsection to read:

2 (d) The director may require an applicant or licensee at any time, including at the time
3 of license renewal, to supply current information of the type made in or supplemental to an
4 application.

5 * Sec. 60. AS 21.27.060 is repealed and reenacted to read:

6 Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as
7 provided in this chapter, an applicant for an individual license and a principal or manager
8 applicant for a firm license shall, before the issuance of the license, personally take and pass, to
9 the satisfaction of the director, an examination that tests the knowledge and competence of the
10 applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and
11 regulations of the state.

12 (b) If the director determines that a licensee has violated this title or that a licensee has
13 conducted affairs under the license that cause the director reasonably to desire further evidence
14 of the qualifications of the licensee, the director may at any time require the licensee to
15 personally take and pass, to the satisfaction of the director, an examination that tests the
16 knowledge and competence of the licensee as to the licensee's duties and responsibilities as a
17 licensee, or the insurance laws of the state.

18 (c) An applicant who files a current letter of clearance from a prior state of residence
19 certifying that the applicant was in good standing and has held a license in that state that had the
20 same qualifications as the license applied for in this state, including passing an examination, shall
21 personally take and pass, to the satisfaction of the director, an examination pertaining to this
22 state's statutes and regulations and any kind or class of insurance not covered under the license
23 held in the prior state of residence, provided the filing of the letter of clearance is made within
24 180 days of cancellation of the prior state's resident license.

25 (d) This section does not apply, at the discretion of the director, to an applicant

26 (1) for a limited license under AS 21.27.150;

27 (2) who, at any time within the two-year period immediately preceding the date
28 the current pending application is received by the division, had been licensed in good standing
29 in this state under a license requiring substantially similar qualifications as required by the license
30 applied for, or

31 (3) whose license in the resident jurisdiction requires the same qualifications as

1 the license applied for in this state if the license in all jurisdictions is in good standing.

2 (e) The director may make available a printed manual specifying in general terms the
3 subjects that may be covered in an examination for a particular license.

4 * Sec. 61. AS 21.27.060(c) is repealed and reenacted to read:

5 (c) An applicant who files a current letter of clearance from a prior state of residence
6 certifying that the applicant was in good standing and has held a license in that state that had the
7 same qualifications as the license applied for in this state, including passing an examination, shall
8 personally take and pass, to the satisfaction of the director, an examination pertaining to this
9 state's statutes and regulations and any kind or class of insurance not covered under the license
10 held in the prior state of residence, provided the filing of the letter of clearance is made within
11 180 days of cancellation of the prior state's resident license. This subsection only applies if the
12 prior resident state is accredited by the National Association of Insurance Commissioners.

13 * Sec. 62. AS 21.27.060(d) is repealed and reenacted to read:

14 (d) This section does not apply, at the discretion of the director, to an applicant

15 (1) for a limited license under AS 21.27.150;

16 (2) who, at any time within the two-year period immediately preceding the date
17 the current pending application is received by the division, had been licensed in good standing
18 in this state under a license requiring substantially similar qualifications as required by the license
19 applied for; or

20 (3) whose license in the resident jurisdiction requires the same qualifications as
21 the license applied for in this state if the license in all jurisdictions is in good standing and its
22 resident jurisdiction is accredited by the National Association of Insurance Commissioners.

23 * Sec. 63. AS 21.27.080(b) is amended to read

24 (b) The director shall give examinations at the times and places [WITHIN THIS STATE]
25 that the director considers necessary to reasonably serve the convenience of [BOTH] the director,
26 [AND] applicants, and licensees.

27 * Sec. 64. AS 21.27.100 is repealed and reenacted to read:

28 Sec. 21.27.100. APPOINTMENT OF INSURANCE PRODUCER, MANAGING
29 GENERAL AGENT, AND REINSURANCE INTERMEDIARY MANAGER. (a) On forms
30 prescribed by the director, an appointment shall be filed with the director at least 10 days before
31 its proposed effective date by the following licensees:

1 (1) an admitted insurer appointing a managing general agent in this state or
2 relative to a subject resident, located, or to be performed in this state;

3 (2) a managing general agent appointing an insurance producer as its subagent
4 in this state or relative to subjects resident, located, or to be performed in this state;

5 (3) a domestic reinsurer appointing a reinsurance intermediary manager; and

6 (4) a reinsurance intermediary manager appointing an insurance producer as its
7 subagent in this state.

8 (b) On forms prescribed by the director, an admitted insurer appointing an insurance
9 producer as its agent in this state or relative to a subject resident, located, or to be performed in
10 this state shall file written notice of appointment not later than 30 days from the date the written
11 agency contract is executed or the first insurance application is submitted to the admitted insurer
12 by the licensed insurance producer. If the licensed insurance producer has not received written
13 acknowledgement of the appointment from the director within 45 days from the date the written
14 agency contract is executed or the first insurance application is submitted to the admitted insurer
15 by the insurance producer, whichever is later, the insurance producer shall immediately
16 discontinue acting as an insurance producer on behalf of the insurer until an acknowledgement
17 has been received.

18 (c) If the appointee is licensed, the director shall provide written acknowledgement of
19 the appointment, including the effective date to the person making the appointment, to the
20 appointee, and to the insurer or reinsurer.

21 (d) The person making the appointment, the appointee, and the insurer shall review the
22 acknowledgement for accuracy and advise the director of an error within 30 days for correction.

23 * Sec. 65. AS 21.27.110 is repealed and reenacted to read:

24 Sec. 21.27.110. TERM OF APPOINTMENT. (a) An appointment under AS 21.27.100
25 continues in force until the appointment is terminated

26 (1) by the insurer, reinsurer, managing general agent as authorized by the insurer,
27 or reinsurance intermediary manager as authorized by the reinsurer, a written notice of
28 termination shall be mailed at least 10 days before the effective date of the termination to the last
29 known address of the appointee and to the director by first class certified mail, first class
30 registered mail, or first class with a certificate of mailing from the United States Postal Service;
31 or

1 (2) by the director; a written notice of termination shall be mailed at least 10 days
2 before the effective date of the termination by first class certified mail to the last address of
3 record with the director of the appointee and insurer, reinsurer, managing general agent, or
4 reinsurance intermediary.

5 (b) A notice of termination submitted to the director under (a) of this section must
6 include a statement of the reasons for the termination. A statement of the reasons for termination
7 is privileged and may not be admitted as evidence in an action or proceeding against the insurer,
8 reinsurer, managing general agent, or reinsurance intermediary or their representatives by or on
9 behalf of a person affected by the termination, except in an action involving perjury, false
10 statement, fraud, or failure to comply with this subsection.

11 (c) The director may require that an insurer renew an appointment annually and may
12 require payment of a renewal fee under AS 21.06.250 for an appointment in effect on
13 December 31 of the current year. If the director requires that an appointment be renewed or a
14 renewal fee be paid, the director shall terminate an insurer's appointment if the renewal fees have
15 not been received by the director on or before the close of business of March 1 of the renewal
16 year.

17 * Sec. 66. AS 21.27.130 is amended to read:

18 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license [AGENT,
19 GENERAL AGENT, ADJUSTER, SOLICITOR, AND BROKER LICENSES] must be in the
20 form the director prescribes [,] and must set out

21 (1) the name and mailing address of the licensee, and [OR] if the licensee is
22 required to have a place of business, the physical address of the place of business;

23 (2) if for a firm, the name of the principal or manager of the firm;

24 (3) the kind or class [KINDS] of insurance the licensee is licensed to handle;

25 (4) the effective date and expiration date of the license [IF A SOLICITOR'S
26 LICENSE, THE NAME AND ADDRESS OF THE AGENT OR BROKER REPRESENTED BY
27 THE SOLICITOR];

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

29 (6) the date of issuance of the license;

30 (7) each fictitious name and alias under which the licensee may do business;

31 and

1 (8) other information required by the director.

2 * Sec. 67. AS 21.27.140 is repealed and reenacted to read:

3 Sec. 21.27.140. FIRM LICENSES. (a) A firm shall have a firm license of the same
4 scope as each individual employee of the firm.

5 (b) A firm may not be licensed as an insurance producer, managing general agent,
6 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or
7 independent adjuster, or transact insurance unless each individual employed as an insurance
8 producer, managing general agent, surplus lines broker, trainee insurance producer, trainee
9 independent adjuster, or independent adjuster by the firm is licensed as an individual in the firm
10 and the principal or manager of the firm is licensed as an individual in the firm to exercise all
11 the powers conferred by the firm's license.

12 (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew or should
13 have known of an act or representation made on the firm's behalf by a person not licensed as
14 required by this chapter, the firm and the firm's principal or manager are subject to the penalties
15 provided under AS 21.27.440.

16 * Sec. 68. AS 21.27.150 is repealed and reenacted to read:

17 Sec. 21.27.150. LIMITED LICENSES. The director may issue a

18 (1) travel insurance limited producer license to a person whose place of business
19 is located in this state, who sells transportation tickets of a common carrier of persons or
20 property, who is appointed under AS 21.27.100, and whose sole purpose is to be appointed by
21 and to act as an agent for transportation ticket policies of disability insurance, baggage insurance
22 on personal effects, and trip cancellation or trip interruption insurance;

23 (2) disability insurance limited producer license to a resident of this state whose
24 sole purpose is to be appointed by and act as an agent for disability insurance pertaining to sports
25 and recreation;

26 (3) title insurance limited producer license to a person whose place of business
27 is located in this state and whose sole purpose is to be appointed by and act on behalf of a title
28 insurer;

29 (4) bail bond limited producer license to a person whose place of business is
30 located in this state and whose sole purpose is to be appointed by and act on behalf of a surety
31 insurer pertaining to bail bonds;

1 (5) fraternal benefit society limited producer license to a person whose sole
2 purpose is to be appointed by and to act on behalf of a fraternal benefit society licensed under
3 AS 21.84;

4 (6) retired insurance producer license to a resident who is retired or retiring from
5 the business of insurance and surrenders all in-force licenses to allow the person to receive a
6 continuing commission in regard to insurance transacted before retirement; a retired insurance
7 producer licensee may not solicit, induce, negotiate, or effectuate contracts of insurance; the
8 director may renew a retired insurance producer license if the licensee ceases to be a resident of
9 this state;

10 (7) the director may waive the bond required under AS 21.27.530(5) for a person
11 licensed under this section.

12 * Sec. 69. AS 21.27.160 is repealed and reenacted to read:

13 Sec. 21.27.160. SCOPE OF LICENSES. An insurance producer, managing general
14 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker,
15 or independent adjuster is only required to have one license inclusive of all kinds or combination
16 of kinds or all classes or combination of classes of insurance the insurance producer, managing
17 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
18 broker, or independent adjuster is licensed to handle.

19 * Sec. 70. AS 21.27.170 is amended to read:

20 Sec. 21.27.170. INSURANCE VENDING MACHINES LICENSE. (a) A licensed
21 insurance producer that has a place of business in this state [RESIDENT AGENT] may
22 solicit applications for and issue policies on behalf of an admitted insurer providing [OF]
23 personal travel accident insurance by means of a mechanical vending machine supervised by the
24 licensed insurance producer [AGENT] and placed at airports, railroad stations, bus stations, and
25 similar places where transportation tickets are sold as a convenience to the traveling public, if
26 the director finds that

27 (1) the policy to be sold provides reasonable coverage and benefits, is reasonably
28 suited for sale and issuance through vending machines, and that use of a machine in a particular
29 proposed location would be of material convenience to the public;

30 (2) the type of vending machine proposed to be used is reasonably suitable and
31 practical for the purpose;

1 (3) reasonable means are provided for informing the prospective purchaser of the
2 policy of the coverage and restrictions of the policy;

3 (4) reasonable means are provided for refund to the applicant or prospective
4 applicant of money inserted in defective machines and for which no insurance, or a less amount
5 than that paid for is actually received.

6 (b) The director shall issue to the licensed insurance producer [AGENT] a special
7 vending machine license for each machine to be used. The license must specify the name and
8 mailing address of the insurer and insurance producer [AGENT], the name of the policy to be
9 sold, the serial number of the machine, and the physical location [PLACE] where the machine
10 is to be in operation. The special vending machine license is subject to nonrenewal,
11 suspension, or revocation coincidentally with that of the insurance producer [AGENT]. The
12 director shall also revoke the license on a machine if the director finds that the conditions upon
13 which the machine was licensed, under (a) of this section, no longer exist. Proof of the existence
14 of a license shall be displayed on or about each vending machine in use in the manner the
15 director may [REASONABLY] require.

16 * Sec. 71. AS 21.27.190 is repealed and reenacted to read:

17 Sec. 21.27.190. BOND. (a) In addition to any other requirements in this title, a bond
18 or an alternative indemnity permitted under this section shall meet the following requirements:

19 (1) it shall be continuous in form;

20 (2) it shall remain in force until the licensee is released from liability by the
21 director or until cancelled by the issuer;

22 (3) without prejudice to any liability accrued before the effective cancellation, it
23 may be cancelled if the director receives 60 days advance written notice;

24 (4) the amount required to be maintained must be maintained unimpaired; and

25 (5) it shall be in favor of insurers, insureds, and this state.

26 (b) A bond may only be issued by an admitted insurer authorized to transact surety
27 insurance in this state, or by a surplus lines insurer on the most recent list of eligible surplus
28 lines insurers published by the director, that is acceptable to the director.

29 (c) For a firm licensee, a single bond or an alternative indemnity permitted under this
30 section may combine the sureties required

31 (1) by separate sections of this title; and

1 (2) for separate places of business.

2 (d) An individual in the firm who acts solely on behalf of a firm that has and maintains
3 a bond or an alternative permitted under this section may not be required to also have and
4 maintain a bond if the individual in the firm deposits all money into the firm's fiduciary account.

5 (e) Except as provided in this title, the director may adopt, by regulation, a deposit of
6 cash, a certificate of deposit, or letter of credit as an alternative to a bond if the deposit of cash,
7 certificate of deposit, or letter of credit meets the requirements of this section, other provisions
8 of this title, and other requirements established by the director.

9 * Sec. 72. AS 21.27.270(a) is amended to read:

10 (a) The director may license as a nonresident licensee [INSURANCE AGENT,
11 GENERAL AGENT, BROKER, OR ADJUSTER] a person who otherwise qualifies under this
12 title, but who is not a resident of [OR DOMICILED IN] the state.

13 * Sec. 73. AS 21.27.270(c) is repealed and reenacted to read:

14 (c) In addition to the other requirements of this chapter, a person may not be licensed
15 as a nonresident licensee until the person files a power of attorney as follows:

16 (1) an applicant shall appoint the director as attorney to receive service of legal
17 process issued against the licensee in this state upon a cause of action arising in this state or
18 relative to a subject resident, located, or to be performed in this state; service upon the director
19 as attorney shall constitute effective legal service upon the licensee; and

20 (2) the appointment shall be irrevocable for as long as there could be a cause of
21 action against the licensee arising out of an insurance transaction in this state or relative to a
22 subject resident, located, or to be performed in this state.

23 * Sec. 74. AS 21.27.270 is amended by adding new subsections to read:

24 (d) Duplicate copies of legal process against a licensed or formerly licensed nonresident
25 licensee shall be served upon the director either by a peace officer or through certified mail with
26 return receipt requested. At the time of service, the plaintiff shall pay to the director a fee set
27 under AS 21.06.250.

28 (e) Upon receiving a service of process, the director shall immediately send one of the
29 copies of the process by certified mail with return receipt requested to the licensed or formerly
30 licensed nonresident licensee at the last address of record filed with the director.

31 (f) If, under the law of another state or foreign country, a tax, license, fee, fine, penalty,

1 deposit requirement or other material obligation, prohibition or restriction is or may be imposed
2 upon a licensee of this state that is in excess of the tax, license, fee, fine, penalty, deposit
3 requirement or other material obligation, prohibition or restriction directly imposed upon a similar
4 licensee of another state or country under the statutes of this state, the same tax, license, fee, fine,
5 penalty, deposit requirement or other material obligation, prohibition or restriction may, in the
6 discretion of the director, be imposed by the director upon the licensee of the other state or
7 country transacting or seeking to transact business in this state or relative to a subject resident,
8 located, or to be performed in this state. For the purposes of this section, a tax, license, fee, or
9 other obligation imposed by a city, borough, or other political subdivision or agency or another
10 state or country on a licensee of this state shall be considered imposed by the state or country.

11 * Sec. 75. AS 21.27.330 is repealed and reenacted to read:

12 Sec. 21.27.330. PLACE OF BUSINESS. A licensed insurance producer, managing
13 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
14 broker, and independent adjuster, other than those licensed for life or disability insurance or
15 annuity only, shall have and maintain a place of business physically accessible to the public
16 where the licensee principally conducts transactions under the license in this state, or if a
17 nonresident licensee, in the state of residence. The address of the place of business must appear
18 on each license, and the licensee shall within 30 days notify the director in writing by certified
19 mail of a change of address or place of business. If the licensee maintains more than one place
20 of business, the licensee shall obtain a separate license for each place of business and pay a
21 license fee for each license.

22 * Sec. 76. AS 21.27.340 is repealed and reenacted to read:

23 Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. The license of a licensee other than
24 a licensee whose license has a scope of only life or disability insurance or annuity shall be
25 conspicuously displayed in that part of the place of business that is customarily open to the
26 public.

27 * Sec. 77. AS 21.27.350 is repealed and reenacted to read:

28 Sec. 21.27.350. RECORDS OF LICENSEES. (a) A licensee shall document each action
29 taken in regard to an insurance transaction. The documentation must contain all notes, work
30 papers, documents, and similar material, and be in sufficient detail that relevant events, the dates
31 of those events, and all persons participating in those events can be identified. The

1 documentation must include a record of each insurance contract procured, issued, or
2 countersigned, together with the names of the insurers and insureds, the amount of premium paid
3 or to be paid, and a statement of the subject of the insurance; the names of other licensees from
4 whom business is accepted, and of persons to whom commissions or allowances are promised
5 or paid; and a record of each investigation or adjustment undertaken or consummated, and a
6 statement of the fee, commission, or other compensation received or to be received on account
7 of the investigation or adjustment.

8 (b) A licensee shall keep at the licensee's place of business or at the place of business
9 of an admitted insurer a complete record of transactions under the license. An admitted insurer
10 shall maintain records received from a licensee as required by this section.

11 (c) The records of a particular transaction shall be retained and kept open for examination
12 and inspection by the director at any business time during the five years immediately after the
13 date of the completion of the transaction or 10 years for reinsurance transactions, unless the
14 director orders a longer period of retention. If a licensee assumes the business of another
15 licensee or former licensee by merger, purchase, or otherwise, the principal or manager of the
16 assuming licensee firm shall provide to the director in writing each location where the assumed
17 licensee's records are maintained by the assuming licensee during the period in which the records
18 must be kept available and open to the inspection of the director. A formerly licensed person
19 shall provide to the director in writing each location where records shall be maintained during
20 the period in which the records of a particular transaction must be kept available and open to the
21 examination and inspection of the director. A formerly licensed person may, with the permission
22 of the director, arrange to have a current licensee or the home office of the last known insurer
23 of each policyholder, maintain the records open to the examination and inspection of the director
24 during the period in which the records must be maintained.

25 (d) In addition to the record required under (a) of this section, a licensee shall have and
26 maintain at the licensee's principal place of business current accounting and financial records
27 maintained under generally accepted accounting principles.

28 (e) A licensee shall reply in writing within 10 working days to a records inquiry of the
29 director. The director may inspect or request summary or detailed copies of records for
30 examination by the division. Accounting and financial records inspected or examined under this
31 section are confidential when in the possession of the division, but may be used by the director

1 in a proceeding against the licensee. For purposes of this section, the records of a firm shall
2 include and be considered the records of an individual licensee acting on behalf of the firm.

3 * Sec. 78. AS 21.27.360(b) is amended to read:

4 (b) All money, except that made payable to the insurer, representing premium taxes
5 and fees, premiums or return premiums received by the licensee, shall be received in the
6 fiduciary account of the licensee [AND SHALL BE DEPOSITED IN A BANK ACCOUNT OR
7 DEPOSITORY SEPARATE FROM ANY OTHER ACCOUNT OR DEPOSITORY,] and shall
8 be promptly accounted for and paid to the person [INSURED, INSURER, OR AGENT] entitled
9 to the money. For purposes of this section [SUBSECTION], the fiduciary account of the firm
10 shall be considered the fiduciary account of an individual licensee acting on behalf of the firm
11 and shall be the responsibility of the firm. Money deposited into a fiduciary account may not
12 be commingled or otherwise combined with other money, except as allowed under (d) of this
13 section and AS 21.27.365.

14 * Sec. 79. AS 21.27.360(c) is repealed and reenacted to read:

15 (c) In addition to any other penalty provided by law, a person who the director has
16 determined has acted to divert or appropriate fiduciary account money for personal use shall be
17 ordered to make restitution and shall be subject to suspension or revocation under AS 21.27.420
18 21.27.435 of all licenses and a civil penalty not to exceed \$50,000 for each violation.

19 * Sec. 80. AS 21.27.360(d) is amended to read:

20 (d) A licensee may only commingle premium taxes and fees, premiums, and return
21 premiums with [PREMIUM MONEY,] additional money for the purpose of advancing
22 premiums, establishing reserves for the payment of return premiums, or reserves for receiving
23 and transmitting premium or return premium money. Money collected for the payment of
24 premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money on
25 deposit, may be commingled in a fiduciary account, but shall be separately accounted for and
26 periodically removed from the fiduciary account.

27 * Sec. 81. AS 21.27.360(e) is amended to read:

28 (e) A licensee may not treat money required to be in a fiduciary account as a personal
29 asset, as collateral for a personal or business loan, or as a personal asset or income on a financial
30 statement, except that money in a fiduciary account may be included in a financial statement of
31 the licensee if clearly identified as fiduciary account assets and liabilities.

1 * Sec. 82. AS 21.27.360(f) is repealed and reenacted to read:

2 (f) This section does not apply to an individual in the firm who acts solely on behalf of
3 a firm that maintains compliance with this section and deposits all money into the firm's
4 fiduciary account.

5 * Sec. 83. AS 21.27 is amended by adding a new section to read:

6 Sec. 21.27.365. DEPOSIT OR SURETY BOND IN PLACE OF FIDUCIARY
7 ACCOUNT. (a) Instead of maintaining a separate fiduciary account for premium trust funds,
8 a licensed firm, eligible under (c) of this section, may apply in writing to the director for
9 permission to maintain, while licensed or thereafter as the director may require, the deposit or
10 surety bond described in (b) of this section.

11 (b) A deposit in a financial institution as defined by regulation or a surety bond executed
12 by an authorized insurer acceptable to the director shall be maintained in an amount not less than
13 10 percent of the eligible licensee's prior year's gross written premium on insurance in this state
14 or relative to a risk resident, located, or to be performed in this state, and in trust in favor of the
15 director for the protection of an insurer, insured, and this state.

16 (c) To become and to remain eligible under this section, a licensed firm shall

17 (1) have been licensed in good standing in this state for the last two calendar
18 years;

19 (2) file with the director with its application, and by June 1 of each subsequent
20 year

21 (A) a premium report certified by an independent certified public
22 accountant licensed in this state, of the prior two calendar year's gross written premiums
23 on insurance in this state or relative to a risk resident, located, or to be performed in this
24 state; this report may include all places of business of the firm; and

25 (B) a report that certifies that the licensee's system of accounting, internal
26 control, and procedure is operating effectively to provide reasonable assurance that
27 premium taxes and fees, premiums, and return premiums are promptly accounted for and
28 paid to the person entitled to the money;

29 (3) be current in paying this state's taxes and fees; and

30 (4) satisfy additional requirements that the director may establish by regulation.

31 (d) Deposits under (b) of this section shall be administered under the procedures

1 described in AS 21.24.030 - 21.24.090 and 21.24.120 - 21.24.130, as if the licensee were the
2 insurer. Income from the deposit is the property of the firm making the deposit.

3 (e) If the director approves a licensee's application, the licensee as a fiduciary shall
4 account for premium taxes and fees, premiums, and return premiums received and promptly pay
5 the money to the person entitled to its receipt. The director may exempt the licensee from trust
6 accounting requirements established by regulation.

7 * Sec. 84. AS 21.27.370 is repealed and reenacted to read:

8 Sec. 21.27.370. SHARING COMPENSATION. (a) A licensee may not compensate or
9 offer to compensate a person, other than an insurance producer, managing general agent,
10 reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker,
11 licensed by this state who is acting within the scope of their license, for procuring or in any
12 manner helping to procure applications for insurance or to place insurance in this state or relative
13 to a risk resident, located, or to be performed in this state. Nothing in this subsection prohibits
14 the payment of compensation to a regular employee of an insurance producer or managing
15 general agent by the employing licensee that is not contingent upon the volume of business
16 transacted.

17 (b) A licensee may not be promised or paid, directly or indirectly, compensation for
18 procuring an application or for placing a kind or class of insurance for which the licensee is not
19 then licensed to procure or place or for insurance that the licensee is prohibited by this title from
20 procuring or placing.

21 (c) In addition to any other penalty provided by law, the director may suspend or revoke
22 the license of an individual licensee and a firm licensee participating in a violation of this
23 section. The director may order a licensee who violates this section to pay a penalty of not more
24 than three times the compensation promised or paid.

25 * Sec. 85. AS 21.27.380 is repealed and reenacted to read:

26 Sec. 21.27.380. LICENSE RENEWAL, LAPSE, AND REINSTATEMENT. (a) Except
27 as provided in this title, the director may renew a license biennially on a date set by the director
28 if the licensee continues to be qualified under this chapter and if renewal license fees set under
29 AS 21.06.250 for each license are received by the director on or before the close of business of
30 the renewal date. A licensee is responsible for knowing the date that a license lapses and for
31 renewing a license before expiration. The director shall mail a renewal notice to the licensee's

1 current address on file with the director 30 days before the renewal date.

2 (b) If a license is not renewed on or before the renewal date set by the director, the
3 license lapses. A licensee may not act as or represent to be an insurance producer, managing
4 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
5 broker, or independent adjuster during the time a license has lapsed. The director may reinstate
6 a lapsed license if the person continues to qualify for the license, pays renewal license fees, and
7 a delayed renewal penalty. Reinstatement does not exempt a person from a penalty provided
8 by law for transacting business while unlicensed. A license may not be renewed if it has lapsed
9 for two years or longer.

10 (c) If a licensee does not wish to renew a license issued under this chapter, the licensee
11 shall surrender the license to the director on or before the close of business of the renewal date
12 in the manner prescribed in AS 21.27.460.

13 (d) Notice of lapse from the director shall be mailed to a licensee at the licensee's last
14 address on record with the director. The director shall obtain a certificate of mailing from the
15 United States Postal Service.

16 (e) A trainee license issued to an insurance producer or an independent adjuster shall be
17 for a term not to exceed 12 months and may not be renewed.

18 (f) A two-year trainee license issued to a managing general agent, reinsurance
19 intermediary broker, reinsurance intermediary manager, or surplus lines broker may be renewed
20 only once.

21 * Sec. 86. AS 21.27.390 is repealed and reenacted to read:

22 Sec. 21.27.390. TEMPORARY LICENSE. (a) The director may issue a temporary
23 license only to a person who, except for experience, training, or the taking of an examination,
24 meets all qualifications for a permanent license and if the person is

25 (1) the surviving spouse, next of kin, or the administrator or executor of a
26 deceased licensed insurance producer or managing general agent;

27 (2) the spouse, next of kin, employee, or legal guardian of a licensed insurance
28 producer or managing general agent who is disabled from transacting insurance because of
29 sickness, insanity, or injury;

30 (3) a surviving member, officer, or employee of a firm licensed as insurance
31 producer or managing general agent upon the death of the principal or manager of the firm

1 holding the same licenses as the firm; or

2 (4) the designee of a licensed insurance producer who enters active service in the
3 armed forces of the United States, but only for insurance relating to insurers for whom the
4 licensee was acting as an agent.

5 (b) A temporary license may not be in effect for more than 90 consecutive days, and may
6 not be renewed or reissued for more than one additional 90-day period.

7 (c) A temporary licensee may not be appointed by an insurer for which a licensed
8 insurance producer or managing general agent was not appointed at the time of death or
9 commencement of disability.

10 * **Sec. 87.** AS 21.27 is amended by adding a new section to read:

11 **Sec. 21.27.405. HEARING AND ORDER ON VIOLATION.** (a) On the complaint of
12 a person or on the motion of the director, the director may conduct an investigation to determine
13 whether a person has violated this chapter.

14 (b) If the director determines that a person has violated this chapter, the director shall
15 serve an order upon the person charged requiring that person to cease and desist from engaging
16 in the act or practice. Service required under this subsection shall be by mail with a certificate
17 of mailing from the United States Postal Service. A person aggrieved by the cease and desist
18 order may demand a hearing under AS 21.06.170 - 21.06.240.

19 (c) If the director believes that a person has violated a cease and desist order issued
20 under (b) of this section, the director may certify the relevant facts to the superior court for
21 proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in
22 AS 44.62.590, the superior court, upon finding that the cease and desist order has been violated,
23 may order the violator to comply with the order, pay a penalty of not more than \$100,000 for
24 each violation, revoke or suspend the violator's license, and bar the violator from transacting the
25 business of insurance in the future.

26 * **Sec. 88.** AS 21.27.410 is repealed and reenacted to read:

27 **Sec. 21.27.410. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF**
28 **LICENSES.** (a) The director may deny issuance of or not renew a license, or may suspend or
29 revoke a license issued under this chapter for any of the following:

30 (1) a cause for which issuance of the license or its renewal could have been
31 denied had it then existed and been known to the director;

- 1 (2) a violation or participation in a violation of a provision of this title;
- 2 (3) wilful misrepresentation or fraud by the licensee or applicant to obtain or
- 3 attempt to obtain a license;
- 4 (4) misappropriation, conversion to personal use, or illegally withholding money
- 5 required to be held in a fiduciary capacity by a licensee or applicant;
- 6 (5) with intent to deceive, material misrepresentation of the terms or effect of an
- 7 insurance contract by a licensee or applicant;
- 8 (6) twisting in violation of AS 21.36.050 or rebating in violation of AS 21.36.100
- 9 by a licensee or applicant;
- 10 (7) conviction of a felony;
- 11 (8) the conduct of affairs under a license if the licensee exhibits conduct
- 12 considered by the director to reflect incompetence or untrustworthiness, or to be a source of
- 13 potential injury and loss to the public;
- 14 (9) the licensee or applicant dealing with, or attempting to deal with, or to
- 15 exercise a power relative to, insurance outside the scope of the license of the licensee or
- 16 applicant;
- 17 (10) failure to surrender a license as required by this chapter, or revocation of a
- 18 license within the 12 months preceding the date a new application is received;
- 19 (11) failure to pass an examination required under this chapter;
- 20 (12) cheating on an examination required under this title;
- 21 (13) a licensee or applicant engaging in or about to engage in an unfair or
- 22 fraudulent insurance transaction;
- 23 (14) suspension or revocation of a license in another jurisdiction;
- 24 (15) forgery of another's name to an application for insurance by a licensee or
- 25 applicant;
- 26 (16) accepting insurance business from a person not licensed as required by this
- 27 title if the applicant or licensee knew or should have known that the person was unlicensed.
- 28 (b) The license of a firm and its principal or manager may be denied, nonrenewed,
- 29 suspended, or revoked for a violation or cause that relates to a person representing or acting on
- 30 behalf of the firm.

31 * Sec. 89. AS 21.27.420 is repealed and reenacted to read:

1 Sec. 21.27.420. PROCEDURE FOR SUSPENDING, REVOKING, OR CONDITIONING
 2 A LICENSE. (a) After a hearing under AS 21.06.170 - 21.06.240, if the director determines that
 3 a person has violated a provision of this title and that the person's license should be suspended
 4 or revoked, the director shall issue an order effective 10 days after the date of issuing that the
 5 license is suspended or revoked.

6 (b) After a hearing under AS 21.06.170 - 21.06.240, if the director determines the person
 7 has violated a provision of this title, the director may place conditions on a person's license if
 8 the director finds that the conditions will protect the public from injury or potential injury.

9 * Sec. 90. AS 21.27.430 is repealed and reenacted to read:

10 Sec. 21.27.430. SUSPENSIONS AND REVOCATIONS. (a) An order suspending a
 11 license shall specify the period during which the license is suspended. A period of suspension
 12 may not exceed 12 months.

13 (b) An order revoking a license shall specify the period during which the person may not
 14 seek to be licensed in this state or licensed relative to a subject resident, located, or to be
 15 performed in this state.

16 (c) In addition to any other penalty provided by law, a person whose license has been
 17 suspended or revoked shall pay a penalty equal to all or a portion of the compensation received
 18 during the suspension or revocation relating to the transaction of insurance.

19 * Sec. 91. AS 21.27.440 is repealed and reenacted to read:

20 Sec. 21.27.440. PENALTIES. (a) In addition to any other penalty provided by law, a
 21 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
 22 of this chapter is subject to

23 (1) a civil penalty equal to the compensation promised, paid, or to be paid,
 24 directly or indirectly, to a licensee in regard to each violation;

25 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
 26 penalty of not more than \$25,000 for each violation if the director determines that the person
 27 wilfully violated the provisions of this chapter; and

28 (3) denial, nonrenewal, suspension, or revocation of a license.

29 (b) An order issued by the director that levies a civil penalty shall specify the time period
 30 within which the civil penalty must be fully paid. The period may not be less than 15 days or
 31 more than one year after the date of the order. Upon failure to pay a civil penalty when due, the

1 director shall revoke, without further hearing, all licenses of the licensee not already revoked.

2 * Sec. 92. AS 21.27.460(a) is amended to read:

3 (a) A license issued under this chapter is the property of the state. Within 10 days of
4 an order or notice of nonrenewal [UPON THE TERMINATION], suspension, or revocation
5 of the license, the licensee or other person having possession or custody of the license shall
6 [IMMEDIATELY] deliver it to the director either personally or by certified mail.

7 * Sec. 93. AS 21.27.460 is amended by adding a new subsection to read:

8 (c) Upon a change in the state of residence, a place of business, a mailing address, or in
9 the principal or manager of a firm, a license subject to the change shall be surrendered to the
10 director within 10 days either personally or by certified mail and the division shall reissue the
11 license reflecting the changes if the licensee continues to satisfy the qualifications under this
12 chapter.

13 * Sec. 94. AS 21.27 is amended by adding new sections to read:

14 ARTICLE 2. INSURANCE PRODUCERS.

15 Sec. 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition to the
16 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an insurance
17 producer license, an applicant or licensee

18 (1) must possess the competence necessary to fulfill the responsibilities of an
19 insurance producer;

20 (2) if previously licensed in good standing in this state as an insurance producer,
21 must not have had a license suspended or revoked within the previous four calendar years;

22 (3) for a fraternal society limited insurance producer license, shall file with the
23 application a statement by an officer or director of the appointing fraternal society that affirms
24 that the society has satisfied itself that the applicant is trustworthy and competent to act as its
25 insurance agent;

26 (4) for a license with a scope that includes variable contracts, must either be
27 currently registered with the federal Securities and Exchange Commission as a broker-dealer or
28 personally take and pass, to the satisfaction of the director, tests of the knowledge and
29 competence of the applicant concerning securities; and

30 (5) except for an applicant or licensee who represents to be and acts solely on
31 behalf of admitted insurers as an agent and who does not receive money required to be received

1 in the fiduciary account of the licensee, shall file with the application and maintain in force while
2 licensed a bond in the amount of \$10,000, unless a greater amount is required by another
3 provision of this title.

4 Sec. 21.27.540. TRAINEE INSURANCE PRODUCERS. (a) Except for life, disability,
5 and annuity insurance, a person who has not passed the examinations required under
6 AS 21.27.060 but who otherwise meets the requirements of AS 21.27.530, may be employed by
7 a licensed insurance producer as a trainee insurance producer.

8 (b) Before a trainee may transact insurance, the licensed insurance producer employing
9 the trainee insurance producer shall submit to the director the application of the trainee insurance
10 producer, with the fee set under AS 21.06.250, and receive the trainee insurance producer license.

11 (c) The director shall terminate a trainee insurance producer license unless the individual
12 has

13 (1) not later than four months after the effective date of the trainee insurance
14 producer license, complied with the insurance producer licensing requirements of AS 21.27.060
15 concerning the insurance laws and regulations of this state; and

16 (2) within eight months after the effective date of the trainee insurance producer
17 license, complied with the insurance producer licensing requirements of AS 21.27.060 concerning
18 the knowledge and competence of the licensee and the licensee's duties and responsibilities as
19 a licensee.

20 (d) Upon satisfying the requirements of (c) of this section, a trainee insurance producer
21 shall apply within 30 days for an insurance producer license.

22 (e) A licensed trainee insurance producer

23 (1) shall at all times be working at the direction and under the supervision of the
24 employing licensed insurance producer; file and record documentation must reflect the direction
25 and supervision, and activities must be in the name of the employing licensed insurance producer,
26 who is responsible for all actions of the trainee insurance producer;

27 (2) is restricted to assisting the employing licensed insurance producer to prepare
28 applications; binders; certificates of insurance; schedules of equipment, vehicles, drivers; loss
29 notices to insurers; and invoices; and to performing clerical functions for which a license is not
30 required; file and record documentation must reflect compliance with these restrictions;

31 (3) may not transact business away from the place of business with clients or

1 insurers unless a licensed insurance producer physically accompanies the trainee.

2 (f) In addition to any other penalty provided by law, the director shall revoke the trainee
3 license of a trainee insurance producer that the director determines has violated the provisions
4 of this section. A licensee or other person having possession or custody of the license shall
5 immediately surrender the license to the director either personally or by certified mail.

6 (g) In addition to any other penalty provided by law, if the director determines under
7 AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have
8 known that a trainee insurance producer violated this section, the employing licensed insurance
9 producer and firm, principal and manager, if any, are subject to the penalties provided under
10 AS 21.27.440.

11 Sec. 21.27.550. APPOINTMENT OF INSURANCE PRODUCER AS AN AGENT. (a)
12 A person may not act as or represent to be a representative of, authorized or appointed agent of,
13 or other term implying a contractual relationship with a particular admitted insurer, or accept
14 applications on behalf of an admitted insurer, unless the person is licensed as an insurance
15 producer under this chapter and is or becomes an appointed agent of the admitted insurer under
16 AS 21.27.100.

17 (b) An admitted insurer or managing general agent of an admitted insurer may not enter
18 into an agency agreement with an insurance producer unless the managing general agent and the
19 insurance producer are licensed under this chapter, and there is in effect a written agency
20 agreement that specifically sets out the duties, functions, powers, authority, and compensation of
21 all parties to the contract. The written agreement shall be kept in the permanent records of the
22 insurer or managing general agent, if any, and the insurance producer, and be open to inspection
23 by the director.

24 (c) All money collected for the account of an insurer shall be held by the insurance
25 producer in a fiduciary account as described under AS 21.27.360, and the insurance producer
26 shall comply with all applicable fiduciary account statutes and regulations.

27 (d) An agency agreement may not be assigned in whole or in part by the insurance
28 producer.

29 (e) If the agency agreement permits the insurance producer to settle a claim on behalf
30 of the insurer

31 (1) a claim must be reported to the insurer within 30 days;

1 (2) a copy of the claim file shall be sent to the insurer;

2 (3) all insurance claim files shall be the property of the insurer or managing
3 general agent, if any, and insurance producer, but upon an order of liquidation of the insurer, the
4 files shall become the sole property of the insurer or the insurer's estate; the insurance producer
5 shall have reasonable access to and the right to copy the files on a timely basis.

6 (f) An insurance producer is subject to the unfair trade practice and fraud provisions
7 under AS 21.36.

8 (g) The insurance producer may not

9 (1) bind reinsurance or retrocessions on behalf of the insurer;

10 (2) commit the insurer to participate in insurance or reinsurance syndicates;

11 (3) appoint an agent or subagent;

12 (4) jointly employ an individual who is employed by the insurer or by the
13 managing general agent; or

14 (5) delegate insurance producer authority to another person.

15 (h) Except as provided under AS 21.27.560, an agency appointment may not extend,
16 directly or indirectly, to a client for whom the insurance producer is a producing broker or for
17 whom insurance is exported to nonadmitted insurers under AS 21.34.

18 (i) A reinsurance intermediary manager may not enter into an agency agreement with an
19 insurance producer unless both parties are licensed under this chapter, and there is in effect a
20 written agency agreement that specifically sets out the duties, functions, powers, authority, and
21 compensation of all parties to the agreement. The written agreement shall be kept in the
22 permanent records of the reinsurance intermediary manager, the reinsurer, and the insurance
23 producer, and be open to inspection by the director. A written agreement must contain the
24 following minimum provisions:

25 (1) money collected for the account of a reinsurer must be held by the insurance
26 producer in a fiduciary account as described under AS 21.27.360; the insurance producer shall
27 comply with all applicable fiduciary account statutes and regulations;

28 (2) the agreement may not be assigned in whole or in part by the insurance
29 producer;

30 (3) the agreement may not permit the insurance producer to settle claims on
31 behalf of the reinsurer or reinsurance intermediary manager; and

1 (4) the insurance producer may not

2 (A) jointly employ an individual who is employed with the reinsurer or
3 reinsurance intermediary manager; or

4 (B) delegate insurance producer authority to another person.

5 Sec. 21.27.560. APPOINTMENT OF INSURANCE PRODUCERS AS BROKERS. (a)

6 A client who appoints an insurance producer as its broker in this state or relative to a subject
7 resident, located, or to be performed in this state shall execute a written contract that specifically
8 sets out the duties, functions, powers, authority, and compensation of the insurance producer, if
9 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client
10 and a commission paid by an insurer with which coverage has been placed. The written contract
11 shall be kept in the permanent records of the insurance producer and be open to inspection by
12 the director.

13 (b) The insurance producer may not knowingly accept payment of a premium for
14 coverage until the coverage has been authorized by the insurer. This subsection does not apply
15 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for
16 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not
17 obtained within 10 working days.

18 (c) An insurance producer appointed as a client's broker may only receive compensation
19 if the compensation is a

20 (1) fee that requires the insurance producer to offset or reimburse the client for
21 the full amount of a commission earned by the insurance producer;

22 (2) combination of a fee paid by a client and a commission paid by an insurer
23 with which coverage is placed that may offset or reimburse a client for all or part of a
24 commission earned by the insurance producer if the amount of the commission is disclosed to
25 the client; or

26 (3) commission paid by an insurer with which coverage has been placed.

27 (d) A contract between a client and an insurance producer may not be assigned in whole
28 or in part by the insurance producer.

29 (e) An insurance producer appointed as a broker by a client may act as an appointed
30 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium
31 from the client on behalf of the admitted insurer.

1 (f) A controlling insurance producer may not be appointed as a broker by a client in this
2 state or relative to a subject resident, located, or to be performed in this state unless, in a form
3 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
4 the relationship between the controlling insurance producer and the controlled insurer, each client
5 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is
6 maintained by the controlling insurance producer in its records. The records shall be available
7 for inspection by the director.

8 (g) Money paid by a client to an insurance producer for insurance premiums shall be held
9 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the
10 insurance producer shall comply with applicable fiduciary account statutes and regulations.

11 (h) An insured shall be entitled to coverage or a return premium and the premium shall
12 be considered received by the insurer if the premium payment made to the insurance producer
13 was, at the time made, designated for specific coverage, and the insurer accepted or
14 acknowledged coverage by issuing a policy binder or other evidence of temporary insurance, or
15 the insurance producer received information from the insurer in the normal course of business
16 that the insurance had been granted.

17 (i) Except as provided under (c) and (e) of this section, this section does not alter the
18 common law of agency as applied to transactions under this title.

19 Sec. 21.27.570. OPERATING REQUIREMENTS FOR CONTROLLING INSURANCE
20 PRODUCERS. (a) If the aggregate amount of gross written premium on business placed by a
21 controlling insurance producer exceeds five percent of the admitted assets of the controlled
22 insurer for a calendar year as reported in the insurer's most recent financial statement filed with
23 the director, the controlling insurance producer may not place business with the controlled insurer
24 and the controlled insurer may not accept business from the controlling insurance producer unless
25 a written contract is in effect between the parties that

26 (1) establishes the responsibilities of each party, indicates each party's share of
27 responsibility for each particular function, and specifies the division of responsibilities;

28 (2) has been approved by the board of directors of the controlled insurer;

29 (3) contains the following minimum provisions:

30 (A) the controlled insurer may terminate the contract for cause upon
31 written notice sent by certified mail to the controlling producer and shall suspend the

1 authority of the controlling insurance producer to write business during a dispute
2 regarding the cause for termination;

3 (B) the controlling insurance producer shall render accounts to the
4 controlled insurer detailing all transactions including information necessary to support
5 compensation, commissions, charges, and other fees received by, or owing to, the
6 controlling producer;

7 (C) the controlling insurance producer shall remit money due under the
8 contract to the controlled insurer at least monthly;

9 (D) premiums or installments collected shall be due not later than 90 days
10 after the effective date of coverage placed with the controlled insurer;

11 (E) money collected for the account of a controlled insurer shall be held
12 by the controlling insurance producer in a fiduciary account as described under
13 AS 21.27.360, except a controlling insurance producer not required to be licensed under
14 this chapter shall maintain its fiduciary account in compliance with the requirements of
15 its domiciliary jurisdiction;

16 (F) a licensed controlling insurance producer shall comply with all
17 applicable fiduciary account statutes and regulations;

18 (G) a fiduciary account must be used for all payments on behalf of the
19 controlled insurer;

20 (H) the controlling insurance producer shall maintain separate records for
21 each controlled insurer in a form usable by the controlled insurer; the controlled insurer
22 or its authorized representative shall have the right to audit and the right to copy all
23 accounts and records related to the controlled insurer's business; the director, in addition
24 to authority granted in this title, shall have access to all books, bank accounts, and records
25 of the controlling insurance producer in a form usable to the director;

26 (I) the contract may not be assigned in whole or in part by the controlling
27 insurance producer;

28 (J) the controlled insurer shall provide, and the controlling producer shall
29 follow, written underwriting standards, rules, procedures, and manuals that must include
30 the conditions for acceptance or rejection of risks, including types of risks that may be
31 written, maximum limits of liability, applicable exclusions, territorial limitations, policy

1 cancellation provisions, the maximum policy term, the rating system, and basis of the
2 rates to be charged;

3 (K) the underwriting standards, rules, procedures, and manuals shall be the
4 same as those applicable to comparable business placed with the controlled insurer by
5 licensees other than the controlling licensee;

6 (L) the rates and terms of the controlling insurance producer's
7 compensation including commissions, charges, and other fees may not be greater than
8 those applicable to comparable business placed with the controlled insurer by licensees
9 other than the controlling licensee;

10 (M) the controlled insurer shall establish a limit, that may be different for
11 each kind or class of business, on the amount of premium that the controlling insurance
12 producer may place with the controlled insurer in relation to the controlled insurer's
13 surplus and total writings;

14 (N) the controlled insurer shall notify the controlling insurance producer
15 if an applicable limit is approached and the controlling insurance producer may not place
16 and the controlled insurer may not accept business if the limit under (M) of this paragraph
17 has been reached;

18 (O) if the contract provides that the controlling insurance producer, on
19 insurance placed with the controlled insurer, is to be compensated contingent upon the
20 controlling insurer's profits on the placed insurance, the contingent compensation may not
21 be determined or paid until

22 (i) at least five years after the premiums are earned on casualty
23 business and at least one year after the premiums are earned on any other
24 insurance;

25 (ii) a later period established by the director for specified kinds or
26 classes of insurance; and

27 (iii) not until the profits have been verified under (b) of this
28 section;

29 (P) the controlling insurance producer may negotiate but may not bind
30 reinsurance on behalf of the controlled insurer on insurance that the controlling insurance
31 producer places with the controlled insurer, except that the controlling insurance producer

1 may bind facultative reinsurance contracts under obligatory agreements if the contract
2 with the controlled insurer contains reinsurance underwriting guidelines including, for
3 both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements
4 are in effect, the coverage and amounts or percentages that may be reinsured, and
5 commission schedules; and

6 (4) provides that the controlled insurer has an audit committee composed of
7 independent members of the board of directors that meet at least annually with management, the
8 insurer's independent certified public accountants, and an independent actuary specialist
9 acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and
10 outstanding.

11 (b) In addition to any other required loss reserve certification, the controlled insurer shall
12 annually obtain the opinion of an independent qualified actuary attesting to the adequacy of loss
13 reserves established for losses incurred and outstanding on business produced by the controlling
14 insurance producer. The controlled insurer shall file with the director on or before April 1 of
15 each year an opinion of an independent actuary attesting to the adequacy of the reserves for
16 losses incurred and outstanding and reporting the loss ratios for each kind and class of business
17 placed with the controlled insurer by the controlling producer.

18 (c) The controlled insurer shall annually report by kind and class of insurance in a form
19 acceptable to the director the amount of compensation paid to the controlling producer, the
20 percentage the compensation represents to the net premiums written, the amount of compensation
21 paid to uncontrolling producers, and the percentage the compensation represents to the net
22 premiums written.

23 (d) A controlling insurance producer may be examined by the director as if it were the
24 controlled insurer.

25 (e) If the conservator, rehabilitator, or liquidator of a controlled insurer or formerly
26 controlled insurer has reason to believe that the controlled insurer or formerly controlled insurer
27 suffered loss or damage arising out of a failure to comply with this section by the controlling
28 producer or another person, the conservator, rehabilitator, or liquidator may maintain a civil
29 action for recovery of damages or other relief for the benefit of the controlled insurer or its
30 estate.

31 (f) In addition to any other liability and without intent to limit in any manner the rights

1 of policyholders, claimants, auditors, creditors, or third parties, if the director determines after
2 a hearing under AS 21.06.170 - 21.06.240 that a controlling insurance producer caused losses
3 arising out of a violation of this section to a controlled insurer, the director may order the
4 controlling insurance producer to make restitution to the controlled insurer, the rehabilitator, or
5 the liquidator of the controlled insurer for the loss.

6 (g) In addition to any other penalty provided by law, a person who violates this section
7 is subject to the penalties provided under AS 21.27.440 and a controlled insurer's certificate of
8 authority may be suspended or revoked. The director may also order the controlling producer
9 to cease placing business with the controlled insurer.

10 (h) This section does not apply to

11 (1) a person appointed to act on behalf of the controlled insurer as a managing
12 general agent under this chapter;

13 (2) a person who receives no compensation based upon the amount of premiums
14 written with the controlled insurer and who places insurance only with the controlled insurer,
15 only with the controlled insurer and an admitted member or admitted members of the insurer's
16 holding company system, or only with the controlled insurer's parent, affiliate, or subsidiary if
17 admitted in this state;

18 (3) a person who does not accept insurance placements directly from an insured
19 and who only accepts insurance placements from a nonaffiliated subagent;

20 (4) a controlled insurer and its controlling insurance producer if, except for
21 insurance written through a residual market facility under this title, insurance placements are
22 accepted only from a controlling producer, an insurance producer controlled by the controlled
23 insurer, or a producer that is a subsidiary of the controlled insurer;

24 (5) a risk retention group under 15 U.S.C. 3901; or

25 (6) a risk apportionment plan under AS 21.39.150 or an assigned risk pool under
26 AS 21.39.155.

27 ARTICLE 3. MANAGING GENERAL AGENTS.

28 Sec. 21.27.590. MANAGING GENERAL AGENT QUALIFICATIONS. (a) In addition
29 to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of a
30 managing general agent license, an applicant or licensee shall have at least three years active
31 working experience within the previous 10 calendar years in insurance administrative functions

1 which, in the director's opinion, exhibits the applicant's ability to competently perform the
2 administrative functions for all kinds and classes of insurance applied for.

3 (b) The director may require that a managing general agent maintain

4 (1) a bond in an amount acceptable to the director and conditioned in that the
5 managing general agent will conduct business as required by this title; and

6 (2) an errors and omissions insurance policy acceptable to the director.

7 Sec. 21.27.600. TRAINEE MANAGING GENERAL AGENTS. (a) An individual
8 licensed in this state as an insurance producer who does not have the experience required to be
9 licensed as a managing general agent, but who otherwise meets the requirements of
10 AS 21.27.590, may be employed by a licensed managing general agent as a trainee managing
11 general agent, subject to the provisions of this section.

12 (b) Before an individual may transact insurance as a managing general agent, a managing
13 general agent employing the trainee managing general agent shall submit to the director the
14 application of the trainee managing general agent, with the fee set under AS 21.06.250, and
15 receive the trainee managing general agent license.

16 (c) Upon satisfying the managing general agent experience requirement, a trainee
17 managing general agent shall apply within 30 days for a managing general agent license.

18 (d) A trainee managing general agent shall at all times be working at the direction and
19 under the supervision of the employing licensed managing general agent, and file and record
20 documentation must reflect the direction and supervision. The activities of a managing general
21 agent trainee must be in the name of the employing managing general agent. A managing
22 general agent who employs a trainee is responsible for all actions of the trainee managing
23 general agent.

24 (e) A trainee managing general agent is restricted to assisting the employing licensed
25 managing general agent in preparing applications; binders; certificates of insurance; schedules of
26 equipment, vehicles, drivers; loss notices to insurers; and invoices; and to performing clerical
27 functions for which a license is not required. The file and record documentation must reflect
28 compliance with this subsection.

29 (f) A trainee managing general agent may not transact business away from the place of
30 business with clients or insurers unless a licensed managing general agent physically accompanies
31 the trainee.

1 (g) In addition to any other penalty provided by law

2 (1) the director shall revoke the trainee license of a trainee managing general
3 agent who the director determines has violated the provisions of this section; a licensee or other
4 person having possession or custody of the license shall immediately surrender the license to the
5 director either personally or by certified mail;

6 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
7 managing general agent knew of or should have known that a trainee managing general agent
8 violated this section, the employing managing general agent and firm, principal, and manager,
9 if any, are subject to the penalties provided under AS 21.27.440.

10 Sec. 21.27.610. AUTHORITY OF MANAGING GENERAL AGENTS. A managing
11 general agent has only the authority consistent with this title that is conferred by an admitted
12 insurer. A managing general agent, resident or nonresident, qualified and licensed under this
13 chapter, may exercise the powers conferred by this title upon insurance producers and
14 independent adjusters only for the kinds or classes of insurance and within the scope authorized
15 by the insurer appointing the managing general agent.

16 Sec. 21.27.620. OPERATING REQUIREMENTS FOR MANAGING GENERAL
17 AGENTS. (a) An insurer may not transact business with a managing general agent unless

18 (1) the insurer holds a certificate of authority in this state;

19 (2) the managing general agent is licensed under this chapter or, when the
20 managing general agent is operating only for a foreign insurer, is licensed by its resident
21 insurance regulator in a state that the director has determined has enacted provisions substantially
22 similar to those contained in this chapter and the state is accredited by the National Association
23 of Insurance Commissioners;

24 (3) a written contract is in effect between the parties that establishes the
25 responsibilities of each party, indicates both party's share of responsibility for a particular
26 function, and specifies the division of responsibilities;

27 (4) a written contract between an insurer and a managing general agent contains
28 the following provisions:

29 (A) the insurer may terminate the contract for cause upon written notice
30 sent by certified mail to the managing general agent and may suspend the underwriting
31 authority of the managing general agent during a dispute regarding the cause for

1 termination;

2 (B) the managing general agent shall render accounts to the insurer
3 detailing all transactions and remit all money due under the contract to the insurer at least
4 monthly;

5 (C) all money collected for the account of an insurer shall be held by the
6 managing general agent in a fiduciary account as described under AS 21.27.360;

7 (D) the managing general agent shall comply with all applicable fiduciary
8 account statutes and regulations;

9 (E) a fiduciary account shall be used for all payments on behalf of the
10 insurer;

11 (F) the managing general agent may not retain more than three months
12 estimated claims payments and allocated loss adjustment expenses;

13 (G) the managing general agent shall maintain separate records for each
14 insurer in a form usable by the insurer; the insurer or its authorized representative shall
15 have the right to audit and the right to copy all accounts and records related to the
16 insurer's business; the director, in addition to authority granted in this title, shall have
17 access to all books, bank accounts, and records of the managing general agent in a form
18 usable to the director;

19 (H) the contract may not be assigned in whole or in part by the managing
20 general agent;

21 (I) if the contract permits the managing general agent to do underwriting,
22 the contract must include the following:

23 (i) the managing general agent's maximum annual premium
24 volume;

25 (ii) the rating system and basis of the rates to be charged;

26 (iii) the types of risks that may be written;

27 (iv) maximum limits of liability;

28 (v) applicable exclusions;

29 (vi) territorial limitations;

30 (vii) policy cancellation provisions;

31 (viii) the maximum policy term; and

1 (ix) that the insurer shall have the right to cancel or not renew a
2 policy of insurance subject to applicable state law;

3 (J) if the contract permits the managing general agent to settle claims on
4 behalf of the insurer, the contract must include the following:

5 (i) written settlement authority must be provided by the insurer and
6 may be terminated for cause upon the insurer's written notice sent by certified
7 mail to the managing general agent or upon the termination of the contract, but
8 the insurer may suspend the settlement authority during a dispute regarding the
9 cause of termination;

10 (ii) claims shall be reported to the insurer within 30 days;

11 (iii) a copy of the claim file shall be sent to the insurer upon
12 request or as soon as it becomes known that the claim has the potential to exceed
13 an amount determined by the director or exceeds the limit set by the insurer,
14 whichever is less, involves a coverage dispute, may exceed the managing general
15 agent's claims settlement authority, is open for more than six months, involves
16 extra contractual allegations, or is closed by payment in excess of an amount set
17 by the director or an amount set by the insurer, whichever is less;

18 (iv) each party shall comply with unfair claims settlement statutes
19 and regulations;

20 (v) transmission of electronic data at least monthly if electronic
21 claim files are in existence; and

22 (vi) claim files shall be the property of both the insurer and
23 managing general agent; upon an order of liquidation of the insurer, the files shall
24 become the sole property of the insurer or the insurer's estate; the managing
25 general agent shall have reasonable access to and the right to copy the files on a
26 timely basis;

27 (K) if the contract provides for sharing of interim profits by the managing
28 general agent, and the managing general agent has the authority to determine the amount
29 of the interim profits by establishing loss reserves, by controlling claim payments, or in
30 any other manner, interim profits may not be paid to the managing general agent until

31 (i) one year after they are earned for property insurance business

1 and five years after they are earned on casualty business;

2 (ii) a later period established by the director for specified kinds or
3 classes of insurance; and

4 (iii) not until the profits have been verified under (d) of this
5 section;

6 (L) if the insurer is domiciled in this state or the managing general agent
7 has a place of business in this state, a copy of the contract must be filed with and
8 approved by the director at least 30 days before the managing general agent transacts
9 business on behalf of the insurer; and

10 (M) if the contract is not required to be approved in advance by the
11 director, the insurer shall provide written notification to the director within 30 days of the
12 entry into or termination of a contract with a managing general agent; the notice must
13 include a statement of duties to be performed by the managing general agent on behalf
14 of the insurer, the kinds and classes of insurance for which the managing general agent
15 has authorization to act, and other information required by the director.

16 (b) The managing general agent may not

17 (1) bind reinsurance or retrocessions on behalf of the insurer, except that the
18 managing general agent may bind facultative reinsurance contracts under obligatory agreements
19 if the contract with the insurer contains reinsurance underwriting guidelines including, for both
20 reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in
21 effect, the coverage and amounts or percentages that may be reinsured, and commission
22 schedules;

23 (2) commit the insurer to participate in insurance or reinsurance syndicates;

24 (3) appoint a subagent unless the scope of the subagent's license as an insurance
25 producer includes the kinds and classes of insurance for which the subagent is appointed;

26 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of
27 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last
28 completed calendar year without the prior written approval of the insurer for the settlement and
29 the approval is received after the insurer has been notified in writing that the claim settlement
30 will exceed one percent of the insurer's policyholder's surplus as of December 31 of the last
31 completed calendar year;

1 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement
2 with a reinsurer without prior written approval of the insurer, but if prior written approval is
3 given, a complete report must be forwarded to the insurer within 30 days;

4 (6) permit a subagent to serve on the insurer's board of directors;

5 (7) jointly employ an individual who is employed with the insurer; or

6 (8) delegate managing general agent authority to another person.

7 (c) In a form acceptable to the director, a managing general agent shall annually provide
8 and an insurer shall annually obtain a copy of certified financial statements of each managing
9 general agent with which the insurer has done business. The financial statements shall be
10 prepared by an independent certified public accountant if the managing general agent, with or
11 without authority, either separately or with affiliates, directly or indirectly produces or
12 underwrites an amount of gross written premium equal to or more than five percent of the policy
13 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

14 (d) In addition to any other required loss reserve certification, if a managing general
15 agent establishes loss reserves, the insurer shall annually obtain the opinion of an independent
16 qualified actuary attesting to the adequacy of loss reserves established for losses incurred and
17 outstanding; on business produced by the managing general agent. The insurer retains an
18 independent responsibility to determine the adequacy of its loss reserves, including those
19 established by its managing general agents.

20 (e) An insurer shall at least semiannually conduct an on-site review of the underwriting
21 and claims processing operations of the managing general agent if the managing general agent,
22 with or without authority, either separately or with affiliates, directly or indirectly produces or
23 underwrites an amount of gross written premium equal to or more than five percent of the policy
24 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

25 (f) An insurer shall review its books and records quarterly to determine if a person or
26 insurance producer has acted as its managing general agent. If an insurer determines that a
27 person or insurance producer has acted as its managing general agent, the insurer shall promptly
28 notify the person or insurance producer and the director of the determination and the insurer and
29 person or insurance producer must fully comply with the provisions of this chapter within 30
30 days.

31 (g) An insurer may not appoint to its board of directors an officer, director, employee,

1 subagent, insurance producer, or controlling shareholder of its managing general agent.

2 (h) The actual or apparently authorized acts of the managing general agent are considered
3 the acts of the insurer upon whose behalf it is acting.

4 (i) A managing general agent may be examined by the director as if it were the insurer.

5 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
6 managing general agent caused loss arising out of a violation of AS 21.27.590 - 21.27.630 to an
7 insurer, the director may order the managing general agent to make restitution to the insurer, the
8 rehabilitator, or the liquidator of the insurer for the loss. Restitution ordered under this
9 subsection is in addition to any other liability of the managing general agent and does not affect
10 the rights of a policy holder, claimant, creditor, or third party.

11 (k) In addition to any other penalty provided by law, a person who violates this section
12 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
13 may be suspended or revoked.

14 ARTICLE 4. THIRD-PARTY ADMINISTRATORS.

15 Sec. 21.27.630. REGISTRATION REQUIRED. (a) A person may not act as or
16 represent to be a third-party administrator in this state or relative to a subject resident, located,
17 or to be performed in this state, unless registered under this chapter or in another jurisdiction
18 under AS 21.27.650. A person may not act as or represent to be a third-party administrator
19 representing an insurer domiciled in this state regarding a risk located outside this state unless
20 registered by this state under the provisions of this chapter.

21 (b) A third-party administrator may not transact business for a kind or class of insurance
22 for which the person is not registered.

23 (c) A person who performs administrative functions, including claims administration and
24 payment, marketing administrative functions, premium accounting, premium billing, coverage
25 verification, underwriting authority, or certificate issuance in regard to insurance as a third-party
26 administrator shall be registered as a third-party administrator unless the person only investigates
27 and adjusts claims and is licensed under this chapter as an independent adjuster.

28 (d) A third-party administrator may not use a fictitious name or alias unless the licensee's
29 legal name and fictitious name or alias are on the registration.

30 (e) A person who is an employee of an admitted insurer, who acts within the course and
31 scope of that employment, and within the scope of the insurer's certificate of authority is not

1 required to be registered under this section.

2 (f) A person who performs management services for an admitted insurer is not required
3 to be registered as a third-party administrator if the person's compensation is not based on the
4 volume of premium written and the person

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

6 (2) wholly owns the admitted insurer;

7 (3) is a wholly-owned subsidiary of the insurance holding company that owns or
8 controls the admitted insurer;

9 (4) is a United States manager of the United States branch of an alien admitted
10 insurer; or

11 (5) is the manager of a group, association, pool, or organization of admitted
12 insurers that does joint underwriting if it is subject to examination by the authorized insurance
13 regulator in the state in which the person's principal place of business is located.

14 (g) A credit union or a financial institution subject to supervision or examination by
15 federal or state banking authorities, or a mortgage lender, that performs no functions other than
16 advancing premiums to the insurer and collecting a debt from the insured is not required to be
17 registered as a third-party administrator.

18 (h) A credit card issuing company that performs no functions, including adjustment or
19 settlement of claims, other than advancing and collecting premiums from its credit card holders
20 who have authorized collection is not required to be registered as a third-party administrator.

21 (i) A person who only provides services to bona fide employee benefit plans that are
22 established by an employer or an employee organization, or both, for which the insurance laws
23 of this state are preempted under the Employee Retirement Income Security Act of 1974, is not
24 required to be additionally registered as a third-party administrator if the person certifies to the
25 director on or before February 1 of each year its exempt status.

26 (j) A third-party administrator

27 (1) shall apply for registration under the procedures of AS 21.27.040;

28 (2) shall renew its registration under the procedures of AS 21.27.380; and

29 (3) is subject to hearings and orders on violations; denial, nonrenewal, suspension,
30 or revocation of registration; penalties; and surrender of registration under the procedures set out
31 in AS 21.27.405 - 21.27.460.

1 Sec. 21.27.640. THIRD-PARTY ADMINISTRATOR QUALIFICATIONS. (a) The
2 director may not issue or renew a registration except in compliance with this chapter and may
3 not issue a registration to a person, or to be exercised by a person, found by the director to be
4 untrustworthy, incompetent, financially irresponsible, or who has not established to the
5 satisfaction of the director that the person is qualified under this chapter.

6 (b) To qualify for issuance or renewal of a registration, an applicant or registrant shall
7 comply with this title and

8 (1) be a trustworthy person;

9 (2) have active working experience in administrative functions that, in the
10 director's opinion, exhibits the ability to competently perform the administrative functions of a
11 third-party administrator;

12 (3) not have committed an act that is a cause for denial, nonrenewal, suspension,
13 or revocation of a registration in this state or another jurisdiction;

14 (4) if a corporation or partnership,

15 (A) maintain a lawfully established place of business as described in
16 AS 21.27.330 in this state, except when licensed as a nonresident as provided in
17 AS 21.27.270;

18 (B) disclose to the director all officers, directors, or partners, and whether
19 or not they are licensed in this state or another jurisdiction;

20 (C) designate an officer or partner responsible for the firm's compliance
21 with the insurance statutes and regulations of this state;

22 (5) provide in or with its application

23 (A) all basic organizational documents of the third-party administrator,
24 including articles of incorporation, articles of association, partnership agreement, trade
25 name certificate, trust agreement, shareholder agreement and other applicable documents
26 and all endorsements to the required documents;

27 (B) the bylaws, rules, regulations or similar documents regulating the
28 internal affairs of the administrator;

29 (C) the names, mailing addresses, physical addresses, official positions,
30 and professional qualifications of persons who are responsible for the conduct of affairs
31 of the third-party administrator; including the members of the board of directors, board

1 of trustees, executive committee or other governing board or committee; the principal
2 officers in the case of a corporation or the partners or members in the case of partnership
3 or association; shareholders holding directly or indirectly 10 percent or more of the voting
4 securities of the third-party administrator; and any other person who exercises control or
5 influence over the affairs of the third-party administrator;

6 (D) certified financial statements for the prior two years prepared by an
7 independent certified public accountant that establish that the applicant is solvent, that the
8 applicant's system of accounting, internal control, and procedure is operating effectively
9 to provide reasonable assurance that money is promptly accounted for and paid to the
10 person entitled to the money, and any other information that the director may require to
11 review the current financial condition of the applicant; and

12 (E) a statement describing the business plan, including information on
13 staffing levels and activities proposed in this state and in other jurisdictions and providing
14 details establishing the third-party administrator's capability for providing a sufficient
15 number of experienced and qualified personnel in the areas of claims handling,
16 underwriting, and record keeping;

17 (6) provide to the director documents necessary to verify the statements contained
18 in or in connection with the application; and

19 (7) notify the director within 30 days in writing by certified mail of a change in
20 principal or manager, residence, place of business, mailing address, phone number, suspension
21 or revocation of an insurance license or registration by another state or jurisdiction; or a
22 conviction of a misdemeanor or felony of the third-party administrator, its officers, directors,
23 partners, owners, or employees.

24 (c) The director may adopt regulations establishing additional education or experience
25 requirements for third-party administrator applicants or registrants.

26 (d) The director may require that a third-party administrator maintain

27 (1) a bond as described in AS 21.27.190 in an amount acceptable to the director
28 and conditioned in that the third-party administrator will conduct business as required by this
29 title; and

30 (2) an errors and omissions insurance policy acceptable to the director.

31 (e) If the director finds that the applicant or registrant is qualified and that application,

1 registration, or renewal fees have been paid, the director may issue or renew the registration.

2 Sec. 21.27.650. OPERATING REQUIREMENTS FOR THIRD-PARTY
3 ADMINISTRATORS. (a) An insurer may not transact business with a third-party administrator
4 unless

5 (1) the insurer holds a certificate of authority in this state;

6 (2) the third-party administrator is registered under this chapter or, when the third-
7 party administrator is operating only for a foreign insurer, is registered as a third-party
8 administrator by the third-party administrator's resident insurance regulator in a state that the
9 director has determined has enacted provisions substantially similar to those contained in
10 AS 21.27.630 - 21.27.650 and that is accredited by the National Association of Insurance
11 Commissioners;

12 (3) the third-party administrator provides the director on January 1, April 1,
13 July 1, and October 1 of each year

14 (A) a list of current employees, identifying those transacting business in
15 this state or upon a subject resident, located or to be performed in this state;

16 (B) a list of current insurers under contract; and

17 (C) other information the director may require;

18 (4) a written contract is in effect between the parties that establishes the
19 responsibilities of each party, indicates both parties' share of responsibility for a particular
20 function, and specifies the division of responsibilities;

21 (5) there is in effect a written contract between the insurer and third-party
22 administrator that contains the following provisions:

23 (A) the insurer may terminate the contract for cause upon written notice
24 sent by certified mail to the third-party administrator and may suspend the underwriting
25 authority of the third-party administrator during a dispute regarding the cause for
26 termination; but the insurer must fulfill all lawful obligations with respect to policies
27 affected by the written agreement, regardless of any dispute between the insurer and the
28 third-party administrator;

29 (B) the third-party administrator shall render accounts to the insurer
30 detailing all transactions and remit all money due under the contract to the insurer at least
31 monthly;

1 (C) all money collected for the account of an insurer shall be held by the
2 third-party administrator in a fiduciary account as described under AS 21.27.360;

3 (D) the third-party administrator shall comply with all applicable fiduciary
4 account statutes and regulations;

5 (E) a fiduciary account shall be used for all payments on behalf of the
6 insurer;

7 (F) the third-party administrator may not retain more than three months
8 estimated claims payments and allocated loss adjustment expenses;

9 (G) the third-party administrator shall maintain separate records for each
10 insurer in a form usable by the insurer; the insurer or its authorized representative shall
11 have the right to audit and the right to copy all accounts and records related to the
12 insurer's business; the director, in addition to other authority granted in this title, shall
13 have access to all books, bank accounts, and records of the third-party administrator in
14 a form usable to the director; any trade secrets contained in books and records reviewed
15 by the director, including the identity and addresses of policyholders and certificate
16 holders, shall be kept confidential, except that the director may use the information in a
17 proceeding instituted against the third-party administrator or the insurer;

18 (H) the contract may not be assigned in whole or in part by the third-party
19 administrator;

20 (I) if the contract permits the third-party administrator to do underwriting,
21 the contract must include the following:

22 (i) the third-party administrator's maximum annual premium
23 volume;

24 (ii) the rating system and basis of the rates to be charged;

25 (iii) the types of risks that may be written;

26 (iv) maximum limits of liability;

27 (v) applicable exclusions;

28 (vi) territorial limitations;

29 (vii) policy cancellation provisions;

30 (viii) the maximum policy term; and

31 (ix) that the insurer shall have the right to cancel or not renew a

1 policy of insurance subject to applicable state law;

2 (J) if the contract permits the third-party administrator to administer claims
3 on behalf of the insurer, the contract must include the following:

4 (i) written settlement authority must be provided by the insurer and
5 may be terminated for cause upon the insurer's written notice sent by certified
6 mail to the third-party administrator or upon the termination of the contract, but
7 the insurer may suspend the settlement authority during a dispute regarding the
8 cause of termination;

9 (ii) claims shall be reported to the insurer within 30 days;

10 (iii) a copy of the claim file shall be sent to the insurer upon
11 request or as soon as it becomes known that the claim has the potential to exceed
12 an amount determined by the director or exceeds the limit set by the insurer,
13 whichever is less, involves a coverage dispute, may exceed the third-party
14 administrator's claims settlement authority, is open for more than six months,
15 involves extra contractual allegations, or is closed by payment in excess of an
16 amount set by the director or an amount set by the insurer, whichever is less;

17 (iv) each party to the contract shall comply with unfair claims
18 settlement statutes and regulations;

19 (v) transmission of electronic data must occur at least monthly if
20 electronic claim files are in existence; and

21 (vi) claim files shall be the sole property of the insurer, upon an
22 order of liquidation of the insurer, the third-party administrator shall have
23 reasonable access to and the right to copy the files on a timely basis; and

24 (K) the contract may not provide for commissions, fees, or charges
25 contingent upon savings obtained in the adjustment, settlement, and payment of losses
26 covered by the insurer's obligations; but a third-party administrator may receive
27 performance-based compensation for providing hospital or other auditing services or may
28 receive compensation based on premiums or charges collected or the number of claims
29 paid or processed.

30 (b) If the insurer is domiciled in this state or the third-party administrator has a place of
31 business in this state, a copy of the contract must be filed with and approved by the director at

1 least 30 days before the third-party administrator transacts business on behalf of the insurer. If
2 the contract is not required to be approved in advance by the director, the insurer shall provide
3 written notification to the director within 30 days of the entry into or termination of a contract
4 with a third-party administrator; the notice must include a statement of duties to be performed
5 by the third-party administrator on behalf of the insurer, the kinds and classes of insurance for
6 which the third-party administrator has authorization to act, and other information required by
7 the director.

8 (c) If the contract provides for the third-party administrator to receive or collect
9 premiums, payment by or on behalf of the insured of premiums for insurance to the third-party
10 administrator shall be presumed to have been received by the insurer; payment of return
11 premiums or claim payments forwarded by the insurer to the third-party administrator may not
12 be presumed to have been received by the person entitled to the money until the payments are
13 received by the insured or claimant. Nothing in this subsection limits the rights that the insurer
14 may have against the third-party administrator resulting from the failure of the third-party
15 administrator to make payments to persons entitled to money.

16 (d) Policies, certificates, booklets, termination notices or other written communications
17 delivered by the insurer to the third-party administrator for delivery to the insured or covered
18 individuals shall be delivered by the third-party administrator within 10 days after receipt of
19 instructions from the insurer to deliver them.

20 (e) When the services of a third-party administrator are utilized, the third-party
21 administrator shall provide a written notice, approved in writing by the insurer, to a covered
22 person advising the person of the identity of the insurer and the relationship between the third-
23 party administrator, the policyholder, and the insurer.

24 (f) The third-party administrator may not

- 25 (1) bind reinsurance or retrocessions on behalf of the insurer;
26 (2) commit the insurer to participate in insurance or reinsurance syndicates;
27 (3) appoint a subagent unless the scope of the subagent's license as an insurance
28 producer includes the kinds and classes of insurance for which the subagent is appointed and
29 there is in effect a written agency agreement that specifically sets out the duties, functions,
30 powers, authority, and compensation of all parties to the contract;
31 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of

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1 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last
2 completed calendar year without prior written approval of the insurer for the settlement; the
3 approval of an insurer must be received after the insurer has been notified in writing that the
4 claim settlement will exceed one percent of the insurer's policyholder's surplus as of
5 December 31 of the last completed calendar year;

6 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement
7 with a reinsurer without prior written approval of the insurer, but if prior written approval is
8 given, a complete report must be forwarded to the insurer within 30 days;

9 (6) serve on the insurer's board of directors;

10 (7) jointly employ an individual who is employed by the insurer;

11 (8) delegate third-party administrator authority to another person;

12 (9) solicit applications for insurance or renewals of insurance directly through
13 employees or by appointments of insurance producers as its subagents unless its employees or
14 the insurance producers appointed under the procedures set out in AS 21.27.100 and 21.27.110
15 are licensed for the kinds or classes of insurance and the solicitation or renewals are within the
16 scope of authority granted by the insurer contracting with the third-party administrator; or

17 (10) advertise the business underwritten by an insurer unless the advertising has
18 been approved in writing by the insurer in advance of its use.

19 (g) In a form acceptable to the director, a third-party administrator shall annually provide
20 to the insurer and an insurer shall annually obtain a copy of certified financial statements
21 prepared by an independent certified public accountant of each third-party administrator with
22 which the insurer has done business.

23 (h) In addition to any other required loss reserve certification, if a third-party
24 administrator establishes loss reserves, the insurer shall annually obtain the opinion of an
25 independent qualified actuary attesting to the adequacy of loss reserves established for losses
26 incurred and outstanding on business produced by the third-party administrator. The insurer
27 retains an independent responsibility to determine the adequacy of its loss reserves, including
28 those established by its third-party administrators.

29 (i) If a third-party administrator provides services for more than 100 certificate holders
30 on behalf of an insurer, the insurer shall at least semiannually conduct a review of the operations
31 of the third-party administrator. At least one review required under this subsection must be an

1 on-site review.

2 (j) A third-party administrator shall maintain records as described in AS 21.27.350.

3 (k) An insurer may not appoint to its board of directors an officer, director, employee,
4 subagent, insurance producer, or controlling shareholder of its third-party administrator.

5 (l) An actual or apparently authorized act of the third-party administrator is considered
6 to be the act of the insurer upon whose behalf the third-party administrator is acting.

7 (m) A third-party administrator may be examined by the director under AS 21.06.120 as
8 if it were the insurer.

9 (n) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a third-
10 party administrator caused loss arising out of a violation of AS 21.27.630 - 21.27.650 to an
11 insurer, the director may order the third-party administrator to reimburse the insurer, the
12 rehabilitator, or the liquidator of the insurer for the loss. Reimbursement ordered under this
13 subsection is in addition to any other liability of the third-party administrator and does not affect
14 the rights of a policyholder, claimant, creditor, or third-party.

15 (o) In addition to any other penalty provided by law, a person who violates this section
16 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
17 may be suspended or revoked.

18 ARTICLE 5. REINSURANCE INTERMEDIARY BROKERS.

19 Sec. 21.27.670. REINSURANCE INTERMEDIARY BROKER QUALIFICATIONS. (a)
20 In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal
21 of a reinsurance intermediary broker license, an applicant or licensee shall have at least three
22 years active working experience within the previous 10 calendar years in insurance administrative
23 functions, that, in the director's opinion, exhibit the applicant's ability to competently perform
24 the functions for all kinds and classes of insurance applied for.

25 (b) The director may require that a reinsurance intermediary broker maintain

26 (1) a bond in an amount acceptable to the director in favor of insurers and this
27 state, and with a condition in that the reinsurance intermediary broker conduct business as
28 required under this title; and

29 (2) an errors and omissions insurance policy acceptable to the director.

30 Sec. 21.27.680. TRAINEE REINSURANCE INTERMEDIARY BROKERS. (a) An
31 individual licensed in this state as an insurance producer, who does not have the experience

1 required of a reinsurance intermediary broker but who otherwise meets the requirements of
2 AS 21.27.670, may be employed by a licensed reinsurance intermediary broker as a trainee
3 reinsurance intermediary broker, subject to the provisions of this section.

4 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
5 broker, the reinsurance intermediary broker employing the trainee reinsurance intermediary broker
6 shall submit to the director the application of the trainee reinsurance intermediary broker, with
7 the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary broker license.

8 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary broker
9 shall apply within 30 days for a reinsurance intermediary broker license.

10 (d) A trainee reinsurance intermediary broker shall at all times be working at the
11 direction and under the supervision of the employing licensed reinsurance intermediary broker,
12 and the file and record documentation must reflect the direction and supervision. Insurance
13 activities must be in the name of the employing reinsurance intermediary broker who is
14 responsible for all actions of the trainee reinsurance intermediary broker.

15 (e) A trainee reinsurance intermediary broker is restricted to assisting the employing
16 licensed reinsurance intermediary broker in preparing applications; binders; certificates of
17 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
18 and to performing clerical functions for which a license is not required. The file and record
19 documentation must reflect compliance with this subsection.

20 (f) A trainee reinsurance intermediary broker may not transact business away from the
21 place of business with clients, insurers, or reinsurers unless a licensed reinsurance intermediary
22 broker physically accompanies the trainee.

23 (g) In addition to any other penalty provided by law,

24 (1) the director shall revoke the license of a trainee reinsurance intermediary
25 broker who the director determines has violated the provisions of this section; a licensee or other
26 person having possession or custody of the license shall immediately surrender the license to the
27 director either personally or by certified mail;

28 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
29 reinsurance intermediary broker knew of or should have known that a trainee reinsurance
30 intermediary broker violated this section, the employing reinsurance intermediary broker and firm,
31 principal and manager, if any, are subject to the penalties provided under AS 21.27.440.

1 Sec. 21.27.690. OPERATING REQUIREMENTS FOR REINSURANCE
2 INTERMEDIARY BROKERS. (a) Except as provided in (b) of this section, an insurer may not
3 transact business with a reinsurance intermediary broker unless the insurer holds a certificate of
4 authority in this state, the reinsurance intermediary broker is licensed in this state, and there is
5 in effect a written contract between the parties that establishes the responsibilities of each party,
6 indicates each party's share of responsibility for each particular unction, and specifies the
7 division of responsibilities. The written contract shall be kept in the permanent records of the
8 insurer and the reinsurance intermediary broker, be open to inspection by the director, and must
9 contain the following minimum provisions:

10 (1) the insurer may terminate the reinsurance intermediary broker's authority at
11 any time by written notice sent by certified mail;

12 (2) the reinsurance intermediary broker shall render accounts to the insurer
13 detailing all transactions including information necessary to support all commissions, charges, and
14 other fees received by or owing to the reinsurance intermediary broker and remit the money due
15 under the contract to the insurer within 30 days of receipt;

16 (3) money collected for the account of an insurer shall be held by the reinsurance
17 intermediary broker in a fiduciary account required under AS 21.27.360; the reinsurance
18 intermediary broker shall comply with applicable fiduciary account statutes and regulations;

19 (4) the reinsurance intermediary broker shall maintain separate accounts and
20 records for each insurer and maintain the records in a form usable by the insurer; the insurer or
21 the authorized representative of the insurer shall have access and the right to audit and the right
22 to copy all accounts and records related to the insurer's business; the director, in addition to the
23 other authority granted in this title, shall have access to all books, bank accounts, and records of
24 the insurance intermediary broker in a form usable to the director;

25 (5) the insurer shall establish written standards for the cession or retrocession of
26 all risks, and the reinsurance intermediary broker shall comply with those standards;

27 (6) the reinsurance intermediary broker shall disclose to the insurer all its
28 relationships with insurers and reinsurers to whom risks are ceded or retroceded; and

29 (7) the contract may not be assigned in whole or in part by the reinsurance
30 intermediary broker.

31 (b) A domestic insurer may use a nonresident reinsurance intermediary broker who is not

1 licensed under this chapter if the person is licensed in good standing as a resident reinsurance
2 intermediary broker by an insurance regulator of another state that is accredited by the National
3 Association of Insurance Commissioners. Upon written request, the director may grant written
4 permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed
5 by and without a place of business in a jurisdiction subject to accreditation by the National
6 Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed
7 in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed
8 reinsurance intermediary broker are subject to all other requirements of this section.

9 (c) An insurer may not employ a person who is employed by a reinsurance intermediary
10 broker with which it transacts business, unless the reinsurance intermediary broker is under
11 common control with the insurer and subject to AS 21.22.

12 (d) In a form acceptable to the director, a reinsurance intermediary broker shall annually
13 provide and an insurer shall annually obtain a copy of certified financial statements of each
14 reinsurance intermediary broker with which the insurer has done business, prepared by the
15 independent certified public accountant.

16 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
17 reinsurance intermediary broker caused losses arising out of a violation of AS 21.27.670 -
18 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker
19 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
20 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
21 is in addition to any other liability of the reinsurance intermediary broker and does not affect the
22 rights of a policyholder, claimant, creditor, or third party.

23 (f) In addition to any other penalty provided by law, a person who violates this section
24 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
25 may be suspended or revoked.

26 Sec. 21.27.700. REINSURANCE INTERMEDIARY BROKER RECORDS. In addition
27 to any other records requirements under this title, a reinsurance intermediary broker shall
28 maintain in organized form a record of each transaction including

29 (1) the type of contract, limits, underwriting restrictions, class of risks, and
30 territory;

31 (2) the period of coverage, including effective and expiration dates, cancellation

- 1 provisions, and required notice of cancellation;
- 2 (3) the reporting and settlement requirements of balances;
- 3 (4) the rate used to compute the reinsurance premium;
- 4 (5) the names and addresses of reinsurers;
- 5 (6) the rate of all reinsurance commissions, including the commissions on
- 6 retrocessions handled by the reinsurance intermediary broker;
- 7 (7) the related correspondence and memoranda;
- 8 (8) the proof of placement;
- 9 (9) the details regarding retrocessions handled by the reinsurance intermediary
- 10 broker including the identity of retrocessionaires and the percentage of each contract assumed or
- 11 ceded;
- 12 (10) the financial records of premium and loss accounts;
- 13 (11) if the reinsurance intermediary broker procures a reinsurance contract on
- 14 behalf of an admitted ceding insurer
- 15 (A) written evidence directly from an assuming reinsurer that it has agreed
- 16 to assume the risk; or
- 17 (B) written evidence, if placed through a representative of the assuming
- 18 reinsurer other than an employee, that the reinsurer had delegated binding authority to the
- 19 representative; and
- 20 (12) additional information that is customary or that may be required by the
- 21 director.

ARTICLE 6. REINSURANCE INTERMEDIARY MANAGERS.

Sec. 21.27.730. REINSURANCE INTERMEDIARY MANAGER QUALIFICATIONS.

(a) In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of a reinsurance intermediary manager license, an applicant or licensee shall have at least three years active working experience within the previous 10 calendar years in insurance administrative functions, that, in the director's opinion, exhibit the applicant's abilities to competently perform the functions for all kinds and classes of insurance applied for.

(b) The director may require that a reinsurance intermediary manager maintain

- (1) a bond in an amount acceptable to the director and with a condition that the reinsurance intermediary manager conduct business as required under this title; and

1 (2) an errors and omissions insurance policy acceptable to the director.

2 Sec. 21.27.740. TRAINEE REINSURANCE INTERMEDIARY MANAGERS. (a) An
3 individual licensed in this state as an insurance producer who does not have the experience
4 required of a reinsurance intermediary manager, but who otherwise meets the requirements of
5 AS 21.27.730, may be employed by a licensed reinsurance intermediary manager as a trainee
6 reinsurance intermediary manager, subject to the provisions of this section.

7 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
8 manager, the reinsurance intermediary manager employing the trainee reinsurance intermediary
9 manager shall submit to the director the application of the trainee reinsurance intermediary
10 manager, with the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary
11 manager license.

12 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary
13 manager shall apply within 30 days for a reinsurance intermediary manager license.

14 (d) A trainee reinsurance intermediary manager shall at all times be working at the
15 direction and under the supervision of the employing licensed reinsurance intermediary manager,
16 and the file and record documentation must reflect the direction and supervision. Insurance
17 activities must be in the name of the employing reinsurance intermediary manager, who is
18 responsible for all insurance actions of the trainee reinsurance intermediary manager.

19 (e) A trainee reinsurance intermediary manager is restricted to assisting the employing
20 licensed reinsurance intermediary manager in preparing applications; binders; certificates of
21 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
22 and to performing clerical functions for which a license is not required. The file and record
23 documentation must reflect compliance with this subsection.

24 (f) A trainee reinsurance intermediary manager may not transact business away from the
25 place of business with clients, insurers, or reinsurers unless a reinsurance intermediary manager
26 physically accompanies the trainee.

27 (g) In addition to any other penalty provided by law,

28 (1) a trainee reinsurance intermediary manager who the director determines has
29 violated the provisions of this section shall have its license revoked; a licensee or other person
30 having possession or custody of the license shall immediately surrender the license to the director
31 either personally or by certified mail;

1 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
2 reinsurance intermediary manager knew of or should have known that a trainee reinsurance
3 intermediary manager violated this section, the employing reinsurance intermediary manager and
4 firm, principal, and manager, if any, are subject to the penalties provided under AS 21.27.440.

5 Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.

6 A reinsurance intermediary manager has only the authority that is consistent with this title and
7 that is conferred by the reinsurer. A reinsurance intermediary manager, resident or nonresident,
8 qualified and licensed under this chapter, may exercise the powers conferred by this title upon
9 insurance producers and independent adjusters only for the kinds or classes of insurance and
10 within the scope that reinsurance intermediary is authorized by the reinsurer appointing the
11 reinsurance intermediary manager.

12 Sec. 21.27.760. OPERATING REQUIREMENTS FOR REINSURANCE
13 INTERMEDIARY MANAGERS. (a) A reinsurer may not transact business with a reinsurance
14 intermediary manager unless there is in effect a written contract approved by the reinsurer's
15 board of directors between the parties that establishes the responsibilities of each party, indicates
16 each party's share of responsibility for each particular function, and specifies the division of
17 responsibilities.

18 (b) The contract required under (a) of this section must include the following provisions:

19 (1) the reinsurer may terminate the contract for cause upon written notice sent by
20 certified mail to the reinsurance intermediary manager and may suspend the underwriting
21 authority of the reinsurance intermediary manager during a dispute regarding the cause for
22 termination;

23 (2) the reinsurance intermediary manager shall render accounts to the reinsurer
24 detailing all transactions including information necessary to support all commissions, charges, and
25 other fees received by or owing to the reinsurance intermediary manager and remit all money due
26 under the contract to the insurer at least monthly;

27 (3) money collected for the account of a reinsurer shall be held by the reinsurance
28 intermediary manager in a fiduciary account as described under AS 21.27.360;

29 (4) the reinsurance intermediary manager shall comply with applicable fiduciary
30 account statutes and regulations;

31 (5) the reinsurance intermediary manager shall maintain a separate bank account

1 for each reinsurer that it represents;

2 (6) a fiduciary account must be used for all payments on behalf of the reinsurer;

3 (7) the reinsurance intermediary manager may retain not more than three months
4 estimated claims payments and allocated loss adjustment expenses;

5 (8) the reinsurance intermediary manager shall maintain separate accounts and
6 records for each reinsurer and maintain the records in a form usable by the reinsurer; the
7 reinsurer or its authorized representative shall have access and the right to audit and the right to
8 copy all accounts and records related to the reinsurer's business; the director, in addition to the
9 other authority granted in this title, shall have access to all books, bank accounts, and records of
10 the reinsurance intermediary manager in a form usable to the director;

11 (9) the contract may not be assigned in whole or in part by the reinsurance
12 intermediary manager;

13 (10) the reinsurer shall establish written underwriting and rating standards for the
14 acceptance, rejection, or cession of all risks and the reinsurance intermediary manager shall
15 comply with the standards;

16 (11) compensation including rates, terms, purposes of commissions, charges, and
17 other fees that the reinsurance intermediary manager may levy against the reinsurer;

18 (12) if the contract permits the reinsurance intermediary manager to settle claims
19 on behalf of the reinsurer,

20 (A) written settlement authority must be provided by the reinsurer and
21 may be terminated for cause upon the insurer's written notice by certified mail to the
22 reinsurance intermediary manager or upon the termination of the contract; the reinsurer
23 may suspend the settlement authority during a dispute regarding the cause of termination;

24 (B) claims shall be reported to the reinsurer within 30 days;

25 (C) a copy of the claim file shall be sent to the reinsurer upon request or
26 as soon as it becomes known that the claim

27 (i) has the potential to exceed an amount determined by the
28 director or exceeds the limit set by the insurer, whichever is less;

29 (ii) involves a coverage dispute;

30 (iii) may exceed the reinsurance intermediary manager's claims
31 settlement authority;

- 1 (iv) is open for more than six months;
2 (v) involves extra contractual allegations; or
3 (vi) is closed by payment in excess of an amount set by the
4 director or an amount set by the insurer, whichever is less;

5 (D) the reinsurance intermediary manager shall comply with unfair claims
6 settlement statutes and regulations;

7 (E) transmission of electronic data at least once a month if electronic
8 claims files are in existence;

9 (F) claim files shall be the property of both the reinsurer and reinsurance
10 intermediary manager, but upon an order of liquidation of the reinsurer, the files shall
11 become the sole property of the reinsurer or the reinsurer's estate; the reinsurance
12 intermediary manager shall have reasonable access to and the right to copy the files on
13 a timely basis;

14 (13) if the contract provides for sharing of interim profits by the reinsurance
15 intermediary manager, the interim profits may not be paid until

16 (A) one calendar year after the end of each underwriting period for
17 property risks and five years after the end of each underwriting period for casualty risks;

18 (B) a later period established by the director for specified kinds or classes
19 of insurance; and

20 (C) the profits have been verified under (e)(2) of this section;

21 (14) the reinsurance intermediary manager may not

22 (A) cede retrocessions on behalf of the reinsurer, except that the
23 reinsurance intermediary manager may cede facultative retrocessions under obligatory
24 agreements if the contract with the reinsurer contains reinsurance underwriting guidelines
25 including a list of reinsurers with which automatic agreements are in effect, and, for each
26 reinsurer, the coverage and amounts or percentages that may be reinsured, and
27 commission schedules;

28 (B) commit the reinsurer to participate in reinsurance syndicates;

29 (C) appoint a subagent unless the scope of the subagent's license as an
30 insurance producer includes the kinds and classes of insurance for which the subagent is
31 appointed;

1 (D) pay or commit the reinsurer to pay a claim, net of retrocessions, the
2 amount of which exceeds one percent of the reinsurer's policyholder's surplus as of
3 December 31 of the last completed calendar year without the prior written approval of the
4 reinsurer for the settlement and the approval is received after the reinsurer has been
5 notified in writing that the claim settlement will exceed one percent of the reinsurer's
6 policyholder's surplus as of December 31 of the last completed calendar year;

7 (E) collect payment from a retrocessionaire or commit the reinsurer to a
8 claim settlement with a retrocessionaire without prior written approval of the reinsurer,
9 but if prior written approval is given, a complete report shall be forwarded to the reinsurer
10 within 30 days;

11 (F) jointly employ an individual who is employed with the reinsurer; or

12 (G) delegate reinsurance intermediary manager authority to another person;

13 (15) if the insurer is domiciled in this state or the reinsurance intermediary
14 manager has a place of business in this state, a copy of the contract must be filed with and
15 approved by the director at least 30 days before the reinsurance intermediary manager transacts
16 business on behalf of the reinsurer; and

17 (16) if the contract is not required to be approved in advance by the director, the
18 insurer shall provide written notification to the director within 30 days of the entry into or
19 termination of a contract with a reinsurance intermediary manager; the notice must include a
20 statement of duties to be performed by the reinsurance intermediary manager on behalf of the
21 reinsurer, the kinds and classes of insurance for which the reinsurance intermediary manager has
22 authorization to act, and other information required by the director.

23 (c) Binding authority for all retrocession contracts or participation in reinsurance
24 syndicates may only rest with an officer of the reinsurer who is not affiliated with a reinsurance
25 intermediary manager.

26 (d) In a form acceptable to the director, a reinsurance intermediary manager shall
27 annually provide and a reinsurer shall annually obtain a copy of certified financial statements of
28 each reinsurance intermediary manager that the reinsurer has used, prepared by an independent
29 certified public accountant.

30 (e) The reinsurer shall

31 (1) at least semiannually conduct an on-site review of the underwriting and claims

1 processing operations of each reinsurance intermediary manager;

2 (2) in addition to any other required loss reserve certification, annually obtain the
3 opinion of an independent qualified actuary attesting to the adequacy of loss reserves established
4 for losses incurred and outstanding on business produced by the reinsurance intermediary
5 manager if a reinsurance intermediary manager establishes loss reserves; the reinsurer retains an
6 independent responsibility to determine the adequacy of its loss reserves, including those
7 established by its reinsurance intermediary manager; and

8 (3) provide written notification to the director by certified mail within 30 days
9 of the termination of a contract with a reinsurance intermediary manager.

10 (f) The reinsurance intermediary manager shall disclose to the reinsurer a relationship
11 with an insurer before ceding or assuming risks with the insurer under the contract.

12 (g) A reinsurer may not appoint to its board of directors an officer, director, employee,
13 subagent, insurance producer, or controlling shareholder of its reinsurance intermediary manager.

14 (h) Within the scope of the actual or apparent authority, the acts of the reinsurance
15 intermediary manager are considered the acts of the reinsurer upon whose behalf it is acting.

16 (i) A reinsurance intermediary manager may be examined by the director as if it were
17 the insurer.

18 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
19 reinsurance intermediary manager caused losses arising out of a violation of AS 21.27.730 -
20 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager
21 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
22 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
23 is in addition to any other liability of the reinsurance intermediary manager and does not affect
24 the rights of a policyholder, claimant, creditor, or third party.

25 (k) In addition to any other penalty provided by law, a person who violates this section
26 is subject to the penalties provided under AS 21.27.440 and an insurer's or reinsurer's certificate
27 of authority may be suspended or revoked.

28 Sec. 21.27.770. REINSURANCE INTERMEDIARY MANAGER RECORDS. In
29 addition to any other records requirements under this chapter, a reinsurance intermediary manager
30 shall maintain in organized form a complete record of each transaction including

31 (1) the type of contract, limits, underwriting restrictions, classes or risks, and

1 territory;

2 (2) the period of coverage, including effective and expiration dates, cancellation
3 provisions, and required notice of cancellation;

4 (3) disposition of outstanding reserves on covered risks;

5 (4) the reporting and settlement requirements of balances;

6 (5) the rate used to compute the reinsurance premium;

7 (6) the names and addresses of reinsurers;

8 (7) the rate of all reinsurance commissions, including the commissions on
9 retrocessions handled by the reinsurance intermediary broker and reinsurance intermediary
10 manager;

11 (8) related correspondence and memoranda;

12 (9) proof of placement;

13 (10) details regarding retrocessions handled by the reinsurance intermediary broker
14 and reinsurance intermediary manager including the identity of retrocessionaires and the
15 percentage of each contract assumed or ceded;

16 (11) financial records of premium and loss accounts; and

17 (12) if the reinsurance intermediary broker procures a reinsurance contract on
18 behalf of an admitted ceding insurer or when the reinsurance intermediary manager places a
19 reinsurance contract on behalf of a ceding insurer, written evidence

20 (A) directly from an assuming reinsurer that it has agreed to assume the
21 risk; or

22 (B) that the reinsurer had delegated binding authority to the representative,
23 if placed through a representative of the assuming reinsurer other than an employee of the
24 assuming reinsurer.

25 ARTICLE 7. SURPLUS LINES BROKER.

26 Sec. 21.27.790. SURPLUS LINES BROKER QUALIFICATIONS. In addition to the
27 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a surplus
28 lines broker license, an applicant or licensee shall

29 (1) have a minimum two years active working experience within the previous five
30 calendar years as an insurance producer, managing general agent, reinsurance intermediary
31 broker, reinsurance intermediary manager, independent adjuster, or underwriter or claims adjuster

1 employee of an insurer and, in the director's opinion, exhibit the ability to competently perform
2 the responsibilities of the license applied for;

3 (2) have and maintain while licensed, a bond in the sum of not less than \$200,000
4 aggregate liability and with the conditions that the surplus lines broker conduct business under
5 the provisions of this title, promptly remit the taxes and fees provided by law, return premiums
6 promptly when due, and pay proper losses promptly;

7 (3) if the director requires, maintain an errors and omissions insurance policy
8 acceptable to the director.

9 Sec. 21.27.800. TRAINEE SURPLUS LINES BROKER. (a) An individual licensed in
10 this state as an insurance producer who does not have the experience required of a surplus lines
11 broker, but who otherwise meets the requirements of AS 21.27.790, may be employed by a
12 licensed surplus lines broker as a trainee surplus lines broker, subject to the provisions of this
13 section.

14 (b) Before an individual may transact insurance as a trainee surplus lines broker, the
15 licensed surplus lines broker employing the trainee surplus lines broker shall submit to the
16 director the application of the trainee surplus lines broker, with the fee set under AS 21.06.250,
17 and receive the trainee surplus lines broker license.

18 (c) Upon satisfying the experience requirement, a trainee surplus lines broker shall apply
19 within 30 days for a surplus lines broker license.

20 (d) A trainee licensed under this section shall at all times be working at the direction and
21 under the supervision of the employing licensed surplus lines broker, and the file and record
22 documentation shall reflect the direction and supervision. Insurance activities must be in the
23 name of the employing licensed surplus lines broker, who is responsible for all actions of the
24 trainee surplus lines broker.

25 (e) A trainee licensed under this section is restricted to assisting the employing licensed
26 surplus lines broker in preparing applications; binders; certificates of insurance; schedules of
27 equipment, vehicles, and drivers; loss notices to insurers; and invoices; and to perform clerical
28 functions for which a license is not required. The file and record documentation must reflect
29 compliance with this subsection.

30 (f) A trainee surplus line broker licensed under this section may not transact business
31 away from the place of business with clients or insurers unless a licensed surplus lines broker

1 physically accompanies the trainee.

2 (g) In addition to any other penalty provided by law,

3 (1) the director shall revoke the license of a trainee surplus lines broker who the
4 director determines has violated the provisions of this section; a licensee or other person having
5 possession or custody of the license shall immediately surrender the license to the director either
6 personally or by certified mail;

7 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
8 surplus lines broker knew of or should have known that a trainee licensed under this section
9 violated this section, the employing surplus lines broker and firm, principal, and manager, if any,
10 are subject to the penalties provided under AS 21.27.440.

11 Sec. 21.27.810. SURPLUS LINES BROKER RECORDS. In addition to any other records
12 requirements under this chapter, a surplus lines broker shall maintain in organized form a
13 complete record including

14 (1) the amount of insurance and perils insured;

15 (2) a complete description of property insured and the location of the property;

16 (3) gross premium charged;

17 (4) a return premium paid;

18 (5) the rate of premium charged upon the several items of property;

19 (6) the effective date of the contract and the terms of the contract;

20 (7) the name and address of the insured;

21 (8) the name and address of the insurer;

22 (9) the amount of tax and other sums to be collected from the insured;

23 (10) the allocation of taxes by state under AS 21.34.180;

24 (11) evidence of insurance issued in compliance with AS 21.34.100;

25 (12) the identity and license number of the producing broker;

26 (13) any confirming correspondence from the insurer or the representative of the
27 insurer; and

28 (14) the application.

29 Sec. 21.27.820. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF
30 SURPLUS LINES BROKER LICENSE. In addition to other action available under this title, the
31 director may deny issuance of or not renew a license, or may suspend or revoke a license of a

1 surplus lines broker issued under this chapter for any of the following causes:

2 (1) removal of the resident surplus lines broker's office from this state;

3 (2) removal of the resident surplus lines broker's accounts and records from this
4 state during the period within which the accounts and records are required to be maintained under
5 this chapter;

6 (3) removal of the nonresident surplus lines broker's accounts and records
7 required to be maintained under this chapter from the location described in the license without
8 prior approval of the director;

9 (4) closing of the surplus lines broker's office for a period of more than 45
10 calendar days, unless permission is granted by the director;

11 (5) failure to make a required report;

12 (6) failure to transmit a required tax or fee on a surplus line premium to this state
13 or a reciprocal state to which a tax is owing;

14 (7) failure to maintain a required bond.

15 ARTICLE 8. INDEPENDENT ADJUSTERS.

16 Sec. 21.27.830. INDEPENDENT ADJUSTER QUALIFICATIONS. In addition to the
17 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an independent
18 adjuster license, an applicant or licensee shall

19 (1) have at least six months active working experience within the previous two
20 calendar years as either an independent adjuster trainee, an insurance producer, a managing
21 general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, a surplus
22 lines broker, an independent adjuster, or an underwriter or claims adjuster employee of an insurer,
23 and, in the director's opinion, exhibit the ability to competently perform the responsibilities of
24 an independent adjuster; or

25 (2) have been previously licensed in good standing in this state as an independent
26 adjuster within the previous four calendar years and not have had a license suspended or revoked.

27 Sec. 21.27.840. TRAINEE INDEPENDENT ADJUSTERS. (a) An individual resident
28 who does not have the experience with reference to the handling of loss claims but who
29 otherwise meets the requirements of AS 21.27.830, may be employed by a licensed independent
30 adjuster as a trainee independent adjuster, subject to the provisions of this section.

31 (b) Before the individual may handle loss claims, the licensed independent adjuster

1 employing the trainee independent adjuster shall submit to the director the application of the
2 trainee independent adjuster, with the fee set under AS 21.06.250, and receive the trainee
3 independent adjuster license.

4 (c) The director shall revoke a trainee independent adjuster license unless the individual
5 has

6 (1) not later than four months after the effective date of the trainee adjuster
7 license, complied with the independent adjuster licensing requirements of AS 21.27.060
8 concerning the insurance laws and regulations of this state;

9 (2) not later than eight months after the effective date of the trainee adjuster
10 license, complied with the independent adjuster licensing requirements of AS 21.27.060
11 concerning the knowledge and competence of the licensee concerning handling of loss claims and
12 the licensee's duties and responsibilities as a licensee; and

13 (3) within 12 months after the effective date of the trainee adjuster license,
14 complied with all other independent adjuster licensing requirements.

15 (d) A person whose trainee independent adjuster license was revoked for failure to meet
16 a requirement of (c) of this section may submit a new application for a trainee independent
17 adjuster license after the person has successfully passed both tests required under (c) of this
18 section.

19 (e) Upon satisfying the requirements of (c) of this section, a trainee independent adjuster
20 shall apply within 30 days for an independent adjuster license.

21 (f) A trainee independent adjuster shall at all times be working at the direction and under
22 the supervision of the employing licensed independent adjuster, and the file and record
23 documentation shall reflect the direction and supervision. The employing licensed independent
24 adjuster and its firm, manager, and principal, if any, are responsible for all insurance actions of
25 the trainee independent adjuster.

26 (g) A trainee independent adjuster is restricted to participation in a factual investigation
27 and a tentative closing of a loss subject to review and final determination by the employing
28 licensed independent adjuster, and file and record documentation shall reflect compliance with
29 this subsection.

30 (h) A trainee independent adjuster may not participate in a factual investigation and a
31 tentative closing of a loss away from the place of business unless a licensed independent adjuster

1 physically accompanies the trainee.

2 (i) In addition to any other penalty provided by law,

3 (1) a trainee independent adjuster who the director determines has violated the
4 provisions of this section shall have its license terminated; a licensee or other person having
5 possession or custody of the license shall within 30 days surrender the license to the director
6 either personally or by certified mail;

7 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
8 licensed independent adjuster knew of or should have known that a trainee independent adjuster
9 violated this section, the employing licensed independent adjuster and firm, principal and
10 manager, if any, are subject to the penalties provided under AS 21.27.440.

11 Sec. 21.27.850. INSURANCE PRODUCER, MANAGING GENERAL AGENT,
12 REINSURANCE INTERMEDIARY BROKER, REINSURANCE INTERMEDIARY MANAGER,
13 SURPLUS LINES BROKER AS INDEPENDENT ADJUSTER. Without being required by this
14 chapter to be licensed also as an independent ad

15 (1) a licensed insurance producer and a licensed managing general agent,
16 incidental to acting as an insurance producer, may act as an adjuster and investigate, adjust, and
17 report upon claims on behalf of and as authorized by an admitted insurer that has appointed the
18 insurance producer or the managing general agent as its agent under AS 21.27.100;

19 (2) a surplus lines broker may act as an adjuster and investigate, adjust, and report
20 upon claims on behalf of and as authorized by a nonadmitted insurer; and

21 (3) a reinsurance intermediary broker or a reinsurance intermediary manager may
22 act as an adjuster and investigate, adjust, and report upon claims on behalf of and as authorized
23 by an insurer or reinsurer under the contract required by this chapter.

24 Sec. 21.27.860. UNLICENSED NONRESIDENT ADJUSTERS. (a) A nonresident
25 independent adjuster not licensed by this state who is licensed by and in good standing with its
26 resident state may act as an adjuster and adjust a single loss in this state during a calendar year,
27 or may act as an adjuster and adjust losses arising out of a catastrophe as declared by the
28 director, if, within 10 days after the start of an investigation or adjustment under this section, the
29 nonresident independent adjuster has advised the director in writing of the adjustment and
30 provided the following information:

31 (1) the individual and firm name;

- 1 (2) the business mailing address;
 2 (3) the business physical address and phone number;
 3 (4) the licensing state of residence;
 4 (5) the resident license number; and
 5 (6) other facts that the director may require.

6 (b) A nonresident independent adjuster may be sued upon a cause of action arising in this
 7 state arising from an adjustment under this section under the procedure provided in AS 21.33.

8 Sec. 21.27.870. INDEPENDENT ADJUSTER RECORDS. In addition to any other
 9 records requirements under this chapter, an independent adjuster shall maintain in organized form
 10 a complete record of each investigation or adjustment undertaken or consummated, and a
 11 statement of the fee, commission, or other compensation received or to be received by the
 12 adjuster on account of the investigation or adjustment.

13 ARTICLE 9. DEFINITIONS.

14 Sec. 21.27.900. DEFINITIONS. In this chapter,

- 15 (1) "affiliate" or "affiliated" has the meaning given in AS 21.22.200;
 16 (2) "cession" means a unit of insurance, passed to a reinsurer by a primary insurer
 17 that issued the policy to the original insured, that may transfer part or all of a single risk, defined
 18 in the policy, or a defined group of business as agreed to in a contract of reinsurance;
 19 (3) "comparable business" means the same lines or kinds of insurance, the same
 20 classes of risks, similar policy limits, and quality of business;
 21 (4) "control," "controlling," and "controlled by" have the meaning given in
 22 AS 21.22.200;
 23 (5) "controlled insurer" means an admitted insurer that is controlled, directly or
 24 indirectly, by an insurance producer;
 25 (6) "controlling insurance producer" means an insurance producer that, directly
 26 or indirectly, controls an insurer;
 27 (7) "fiduciary account" means an account in which the licensee holds money as
 28 a trustee for the person entitled to the money;
 29 (8) "firm" means an organization of two or more licensees acting in association
 30 with each other, either in a partnership, corporation, or otherwise, or an organization in which
 31 a single licensee has less than 50 percent ownership interest in the organization;

1 (9) "independent qualified actuary" means an actuary who is a member of the
2 American Academy of Actuaries and who is not affiliated with, an employee, principal, the direct
3 owner or indirect owner of, or in any way controlled by the insurer, managing general agent,
4 reinsurance intermediary broker, or reinsurance intermediary manager;

5 (10) "individual" means a natural person required to be licensed under
6 AS 21.27.010 who is not acting in association with two or more licensees, either in partnership,
7 corporation, or otherwise, or an organization in which a single licensee has 50 percent or more
8 ownership interest in the organization;

9 (11) "individual in the firm" means a natural person required to be licensed under
10 AS 21.27.010 who is employed by a firm;

11 (12) "insurance holding company system" has the meaning given in AS 21.22.200;

12 (13) "interim profits" means the excess of income over expenses and claim
13 reserves determined before the expiration of all claim liabilities and contract obligations of the
14 insurer to the insured;

15 (14) "manager" means the individual in the firm who is designated by the firm
16 to be responsible for the firm's operations and the firm's compliance with insurance laws and
17 regulations at the place of business in which the manager principally works;

18 (15) "physical presence or physically present" means contemporaneously available
19 in the licensee's place of business;

20 (16) "principal" means the sole proprietor, partner, or officer of a firm who is
21 licensed as an individual in the firm and who is designated by the firm to be responsible for the
22 firm's operations and the firm's compliance with insurance laws and regulations;

23 (17) "reinsurance" means an insurance transaction by which the assuming insurer
24 agrees to indemnify the ceding insurer in whole or in part against liability or losses that the
25 ceding insurer might incur under a separate contract of insurance with its insured;

26 (18) "resident" means

27 (A) for an individual or an individual in the firm, a natural person who
28 is domiciled in this state, whose principal place of business is in this state, who has a
29 present intent to remain in this state while licensed, and who manifests that intent by
30 establishing an ongoing physical presence in this state;

31 (B) for a firm, a person whose principal place of business is in this state;

1 (19) "retrocession" means a transaction in which a reinsurer cedes to another
2 reinsurer all or part of the risk that the reinsurer has previously assumed;

3 (20) "subagent" means an agent reporting to a managing general agent or
4 reinsurance intermediary manager and not directly to an insurer;

5 (21) "subsidiary" has the meaning given in AS 21.22.200;

6 (22) "underwrite" means the authority to accept or reject risk on behalf of the
7 insurer.

8 * Sec. 95. AS 21.27.620(a)(4)(L) is repealed and reenacted to read:

9 (L) if the insurer is domiciled in this state or the managing general agent
10 has a place of business in this state, a copy of the contract must be filed with and
11 approved by the director at least 30 days before the managing general agent transacts
12 business on behalf of the insurer; if the insurer is not domiciled in this state or the
13 managing general agent transacts business relative to a subject resident, located, or to be
14 performed in this state from a place of business not physically located in this state, a copy
15 of the contract required in this section must be filed with and approved by the director
16 at least 30 days before the managing general agent transacts business on behalf of the
17 insurer in this state or relative to a subject resident, located, or to be performed in this
18 state if the insurer or the managing general agent are domiciled in a state not accredited
19 by the National Association of Insurance Commissioners; and

20 * Sec. 96. AS 21.27.760(b)(15) is repealed and reenacted to read:

21 (15) if the insurer is domiciled in this state or the reinsurance intermediary
22 manager has a place of business in this state, a copy of the contract must be filed with and
23 approved by the director at least 30 days before the reinsurance intermediary manager transacts
24 business on behalf of the reinsurer; if the reinsurer is not domiciled in this state or the
25 reinsurance intermediary manager transacts business relative to a subject resident, located, or to
26 be performed in this state from a place of business not physically located in this state, a copy of
27 the contract required in this section must be filed with and approved by the director at least 30
28 days before the reinsurance intermediary manager transacts business on behalf of the insurer in
29 this state or relative to a subject resident, located, or to be performed in this state if the insurer
30 or the reinsurance intermediary manager are domiciled in a state not accredited by the National
31 Association of Insurance Commissioners; and

1 * Sec. 97. AS 21.33.011 is amended to read:

2 Sec. 21.33.011. PURPOSE. The legislature declares that insurance transactions with
3 nonadmitted insurers are so affected with a public interest as to require regulation, taxation,
4 supervision, and control of the transactions and matters relating to nonadmitted insurance as
5 provided in this chapter in order to

6 (1) protect the insureds and claimants of this state in transactions involving the
7 purchase of insurance from nonadmitted insurers;

8 (2) avoid the obstacle of resorting to distant forums for the purpose of asserting
9 legal rights under policies issued by nonadmitted insurers;

10 (3) provide a method of substituted service of process upon nonadmitted insurers
11 for proceedings before the director and in the courts in this state;

12 (4) provide for the public the ability to self-procure insurance directly from
13 nonadmitted insurers [, TO THE EXTENT THAT INSURANCE IS NOT PROCURABLE
14 FROM ADMITTED INSURERS, OR FROM ELIGIBLE SURPLUS LINES INSURERS
15 THROUGH SURPLUS LINES BROKERS];

16 (5) protect the revenue of the state;

17 (6) protect regulated, admitted insurers from unregulated and unfair competition
18 by nonadmitted insurers;

19 (7) regulate and supervise the effectuation of nonadmitted insurance under [IN
20 ACCORDANCE WITH] the laws of this state and 15 U.S.C. 1011 [P.L. 79-15 (1945)
21 (CHAPTER 20, 1ST SESS., S.340), 59 STAT. 33]; and

22 (8) maintain reliable insurance markets.

23 * Sec. 98. AS 21.33.021(a) is amended to read:

24 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
25 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
26 the person or insurer, the executor, administrator, or personal representative of the person or
27 insurer, or its successor in interest if a corporation, of the director and the successors of the
28 director in office to be the lawful attorney of that person or insurer upon whom may be served
29 all legal process in any action, suit, or proceeding in any court arising out of a transaction of
30 insurance in this state or relative to a subject resident, located, or to be performed in this
31 state by that person or nonadmitted insurer, except in an action, suit, or proceeding by the

1 director or by the state. The transaction of insurance by an unauthorized person or nonadmitted
2 insurer is acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer
3 that legal process so served has [IS OF] the same legal force and validity as personal service of
4 process in this state upon the person or insurer, or upon the executor, administrator, or personal
5 representative of the person or insurer, or its successor in interest if a corporation.

6 * Sec. 99. AS 21.33.025(a) is amended to read:

7 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
8 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
9 the person or insurer, the executor, administrator, or personal representative of the person or
10 insurer, or its successor in interest if a corporation, of the lieutenant governor and the successors
11 in office of the lieutenant governor to be the lawful attorney of that person or insurer upon whom
12 may be served all legal process in any action, suit, or proceeding in any court by the director or
13 by the state and upon whom may be served any notice, order, pleading, or process in any
14 proceeding before the director and which arises out of the transaction of insurance in this state
15 or relative to a subject resident, located, or to be performed in this state by that person or
16 insurer. The transaction of insurance by an unauthorized person or nonadmitted insurer is
17 acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer that legal
18 process in the court action, suit, or proceeding and any notice, order, pleading, or process in an
19 administrative proceeding before the director so served has [IS OF] the same legal force and
20 validity as personal service of process in this state upon the person or insurer, or upon the
21 executor, administrator, or personal representative of that person or insurer, or its successor in
22 interest if a corporation.

23 * Sec. 100. AS 21.33.031(a) is amended to read:

24 (a) Before an unauthorized person or nonadmitted insurer files or causes to be filed a
25 pleading, a court action, suit, or proceeding or a notice, order, pleading, or process in an
26 administrative proceeding before the director instituted against the person or insurer, by service
27 made as provided in AS 21.33.021 or 21.33.025, the person or insurer shall either

28 (1) deposit with the clerk of the court in which the action, suit, or proceeding is
29 pending, or with the director in administrative proceedings before the director, cash or securities
30 or bond with an admitted insurer [GOOD AND SUFFICIENT SURETIES] to be approved by
31 the court, or the director, in an amount to be fixed by the court or the director sufficient to secure

1 the payment of a final judgment that may be rendered in the court proceeding or in the
 2 administrative proceeding before the director; however the court, or the director in administrative
 3 proceedings before the director, may in its or the director's discretion make an order dispensing
 4 with the deposit or bond where the insurer makes a showing satisfactory to the court or the
 5 director that it maintains in a state of the United States funds or securities, in trust or otherwise,
 6 sufficient and available to satisfy a final judgment that may be entered in the court action, suit,
 7 or proceeding or in an administrative proceeding before the director; or

8 (2) obtain admission to transact insurance in this state through a certificate of
 9 authority issued under this title.

10 * Sec. 101. AS 21.33.031(c) is amended to read:

11 (c) Nothing in (a) of this section may be construed to prevent an unauthorized person or
 12 nonadmitted insurer from filing a motion to quash a writ or to set aside service made as provided
 13 in AS 21.33.021 or 21.33.025 on the ground that the unauthorized person or insurer has not
 14 transacted insurance in this state or relative to a subject resident, located, or to be performed
 15 in this state or that the person on whom service was made under AS 21.33.021(d) was not
 16 transacting insurance in this state or relative to a subject resident, located, or to be performed
 17 in this state.

18 * Sec. 102. AS 21.33.037(b) is amended to read:

19 (b) This section does not apply to

- 20 (1) matters authorized to be done by the director;
 21 (2) surplus lines insurance effected and written under AS 21.34;
 22 (3) transactions for which a certificate of authority is not required under this title;
 23 (4) reinsurance;
 24 (5) the property and operations of railroads or aircraft engaged in interstate or
 25 foreign commerce and wet marine and transportation insurance;
 26 (6) life insurance, disability insurance, and annuity contracts when solicited solely
 27 by mail or when not solicited, negotiated, or procured in this state;
 28 (7) transactions subsequent to issuance of a policy not covering a subject
 29 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance[,]
 30 and lawfully solicited, written, or delivered outside this state.

31 * Sec. 103. AS 21.33.037(c) is amended to read:

1 (c) In addition to other penalties under this title, a [A] person who represents or aids
 2 a nonadmitted insurer in violation of this chapter [SECTION] is subject to the penalties provided
 3 in AS 21.33.065. This chapter does [AN INSURANCE CONTRACT ENTERED INTO IN
 4 VIOLATION OF THIS SECTION SHALL] not preclude the insured from enforcing, under
 5 [THE INSURED'S RIGHTS IN ACCORDANCE WITH] the terms and provisions of the contract
 6 and the laws of this state, the insured's rights under a contract entered into in violation of
 7 this chapter.

8 * Sec. 104. AS 21.33.042 is amended to read:

9 Sec. 21.33.042. SUITS BY NONADMITTED INSURERS. A nonadmitted insurer may
 10 not commence or maintain an action in law or equity in this state to enforce a right arising out
 11 of a transaction of insurance in this state except with respect to

12 (1) claims under policies lawfully written in this state;

13 (2) liquidation of assets and liabilities, other than the collection of new premiums,
 14 resulting from its former admitted operations in this state;

15 (3) transactions subsequent to issuance of a policy not covering a subject
 16 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance
 17 [,] and lawfully solicited, written, or delivered outside this state;

18 (4) surplus lines insurance coverage exported under [IN ACCORDANCE WITH]
 19 AS 21.34;

20 (5) reinsurance;

21 (6) the continuation and servicing of life insurance, disability insurance policies,
 22 or annuity contracts remaining in force as to residents of this state where the insurer has
 23 withdrawn from the state and is not transacting new insurance;

24 (7) servicing of policies written by an admitted insurer in a state to which the
 25 insured has moved but in which the insured is not licensed, until the term of the policy expires;

26 (8) claims under policies covering wet marine and transportation insurance,
 27 including vessels of 50 displacement tons or less.

28 * Sec. 105. AS 21.33.045(a) is amended to read:

29 (a) When the director has reason to believe that insurance has been effectuated by or for
 30 a person in this state with a nonadmitted insurer, the director shall in writing order the person
 31 to produce for examination all insurance contracts and other documents evidencing insurance with

1 nonadmitted insurers and to disclose to the director the amount of insurance, name and address
2 of each insurer, gross amount of premium paid [,] or to be paid, [AND] the name and address
3 of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of the
4 insurance, and other information required by the director.

5 * Sec. 106. AS 21.33.055(a) is amended to read:

6 (a) Except as to premiums on lawfully procured surplus lines insurance exported under
7 AS 21.34 and premiums on independently procured insurance on which a tax has been paid under
8 AS 21.33.061, every nonadmitted insurer shall pay to the director on or before March 1
9 [APRIL 1] following the calendar year in which the insurance was so effectuated, continued, or
10 renewed a premium-receipts tax of three percent of gross premiums charged for the insurance
11 other than wet marine and transportation insurance and a premium-receipts tax of three-fourths
12 of one percent of gross premiums charged for the wet marine and transportation insurance on
13 subjects resident, located, or to be performed in this state. The insurance on subjects resident,
14 located, or to be performed in this state procured through negotiations or an application, in whole
15 or in part occurring or made in or from in or out of this state, or for which premiums in whole
16 or in part are remitted directly or indirectly from in or out of this state, shall be considered to
17 be insurance procured or continued or renewed in this state. The term "premium" includes all
18 premiums, membership fees, assessments, dues, and any other consideration for insurance. The
19 tax is in lieu of all taxes and fire department dues. On default of a nonadmitted insurer in the
20 payment of the tax, the insured shall pay the tax within 30 days of written notice from the
21 director of the default by the nonadmitted insurer. If the tax prescribed by this section is not
22 paid by the nonadmitted insurer within the time stated or by the insured within the time
23 stated after notice of default by the nonadmitted insurer, the tax may [SHALL] be increased
24 by

25 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is
26 greater;

27 (2) interest at the rate of one percent a month or part of a month from the
28 date the payment was originally due to the date paid; and

29 (3) a [PENALTY OF 25 PERCENT AND BY THE AMOUNT OF AN
30 ADDITIONAL] penalty not to exceed \$100 a day or 25 percent of the tax due, whichever is
31 greater, from the date the payment was due to the date paid.

1 * **Sec. 107.** AS 21.33.055(b) is repealed and reenacted to read:

2 (b) In determining the amount of premiums taxable in this state, all premiums written,
3 procured, or received in this state shall be considered written on property or a subject located or
4 resident in this state, except premiums that are properly allocated or apportioned and reported as
5 taxable premiums of another state. In determining the amount of gross premiums taxable in this
6 state covering a subject resident, located, or to be performed both inside and outside the state,
7 the tax due shall be computed on that portion of the policy premium that is attributable to the
8 subject resident, located, or to be performed in this state and that relates to the kind of insurance
9 being placed as determined by reference to an allocation schedule as follows:

10 (1) if a policy covers more than one classification,

11 (A) for any portion of the coverage identified by a classification on the
12 allocation schedule, the tax shall be computed by using the allocation schedule for the
13 corresponding portion of the premium;

14 (B) for any portion of the coverage not identified by a classification on
15 the allocation schedule, the tax shall be computed by using an alternative equitable
16 method of allocation for the property or subject;

17 (C) for any portion of the coverage where the premium is indivisible, the
18 tax shall be computed by using the method of allocation that pertains to the classification
19 describing the predominant coverage.

20 (2) if the information provided is insufficient to substantiate the method of
21 allocation used or if the director determines that the method is incorrect, the director shall
22 determine the equitable and appropriate amount of tax due to the state as follows:

23 (A) by use of the allocation schedule where the subject is appropriately
24 identified in the schedule;

25 (B) where the allocation schedule does not identify a classification
26 appropriate to the coverage, the director may give acceptance by significant weight to
27 documented evidence of the underwriting bases and other criteria used by the insurer or
28 may give consideration to other available information to the extent it is sufficient and
29 relevant, including the percentage of the insured's physical assets in this state, the
30 percentage of the insured's es in this state, the percentage of income or resources
31 derived from this state, and the amount of premium tax paid to another jurisdiction for

1 the policy.

2 * **Sec. 108.** AS 21.33.055 is amended by adding a new subsection to read:

3 (c) This section does not apply to insurance of risks of the state, a political subdivision
4 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

5 * **Sec. 109.** AS 21.33.061(a) is amended to read:

6 (a) Every insured who procures or causes to be procured or continues or renews
7 insurance with a nonadmitted insurer, or an insured or self-insurer who so procures or continues
8 excess loss, catastrophe or other insurance, upon a subject of insurance resident, located, or to
9 be performed in this state, other than insurance lawfully procured through a surplus lines broker
10 under AS 21.34 shall, within 30 days after the date the insurance was procured, continued, or
11 renewed, file a report with the director in writing and in a form prescribed [UPON FORMS
12 DESIGNATED] by the director [AND FURNISHED TO THE INSURED UPON REQUEST].
13 The report must show the name and address of the insured, name and address of the insurer, the
14 subject of the insurance, a general description of the coverage, the amount of premium currently
15 charged, and additional pertinent information required [THAT IS REASONABLY
16 REQUESTED] by the director.

17 * **Sec. 110.** AS 21.33.061(c) is amended to read:

18 (c) There is levied upon the obligation, chose in action, or right represented by the
19 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums
20 charged for the insurance other than wet marine and transportation insurance and a premium
21 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and
22 transportation insurance. The term "premium" includes all premiums, membership fees,
23 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and
24 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar
25 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to
26 the director. In event of cancellation and rewriting of the insurance contract the additional
27 premium for premium receipts tax purposes is the premium in excess of the unearned premium
28 of the cancelled insurance contract. If the tax prescribed by this section is not paid within
29 the time stated, the tax may be increased by
30 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is
31 greater;

1 (2) interest at the rate of one percent a month or part of a month from the
2 date the payment was due to the date paid; and

3 (3) a penalty not to exceed \$100 a day or 25 percent of the tax due, whichever
4 is greater, from the date the payment was due to the date paid.

5 * Sec. 111. AS 21.33.051(d) is repealed and reenacted to read:

6 (d) In determining the amount of premiums taxable in this state, all premiums written,
7 procured, or received in this state shall be considered written on property or a subject located or
8 resident in this state, except premiums that are properly allocated or apportioned and reported as
9 taxable premiums of another state. In determining the amount of gross premiums taxable in this
10 state, the tax due shall be computed on that portion of the policy premium that is attributable to
11 a subject resident, located, or to be performed in this state and that relates to the kind of
12 insurance being placed as determined by reference to an allocation schedule as follows:

13 (1) if a policy covers more than one classification,

14 (A) for any portion of the coverage identified by a classification on the
15 allocation schedule, the tax shall be computed by using the allocation schedule for the
16 corresponding portion of the premium;

17 (B) for any portion of the coverage not identified by a classification on
18 the allocation schedule, the tax shall be computed by using an alternative equitable
19 method of allocation for the property or subject;

20 (C) for any portion of the coverage where the premium is indivisible, the
21 tax shall be computed by using the method of allocation that pertains to the classification
22 describing the predominant coverage;

23 (2) if the information provided is insufficient to substantiate the method of
24 allocation used, or if the director determines that the method is incorrect, the director shall
25 determine the equitable and appropriate amount of tax due to this state as follows:

26 (A) by use of the allocation schedule where the subject is appropriately
27 identified in the schedule;

28 (B) where the allocation schedule does not identify a classification
29 appropriate to the coverage, the director may give significant weight to documented
30 evidence of the underwriting bases and other criteria used by the insurer or may give
31 consideration to other available information to the extent sufficient and relevant, including

1 the percentage of the insured's physical assets in this state, the percentage of the insured's
2 sales in this state, the percentage of income or resources derived from this state, and the
3 amount of premium tax paid to another jurisdiction for the policy.

4 * Sec. 112. AS 21.33.061(g) is amended to read:

5 (g) This section does not apply to insurance of risks of the state, a political
6 subdivision of the state, insurance of aircraft regularly engaged in interstate or foreign
7 commerce, to life insurance, [INDIVIDUAL LIFE OR INDIVIDUAL] disability insurance, or
8 annuity contracts.

9 * Sec. 113. AS 21.33.065(a) is amended to read:

10 (a) A person other than an insured, who in this state represents or aids a nonadmitted
11 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than \$50,000
12 [\$5,000] in addition to applicable criminal penalties and other penalties prescribed in this title
13 [CHAPTER].

14 * Sec. 114. AS 21.33.065(b) is amended to read:

15 (b) In addition to any other penalty provided, a person who violates a provision of this
16 chapter is [SHALL BE] subject to a civil penalty of not more than \$10,000 [\$1,000] for the first
17 offense and not more than \$100,000 [\$2,000] for each succeeding violation.

18 * Sec. 115. AS 21.33.900 is amended to read:

19 Sec. 21.33.900. RECORDS OF INSUREDS. In order that the director may effectively
20 administer this chapter, a [EACH] person who has placed insurance with an unauthorized insurer
21 shall, upon the director's order, produce for the examination of the director all policies and other
22 documents evidencing the insurance and shall disclose to the director the amount of premiums
23 paid or agreed to be paid for the insurance and other information required by the director.
24 For each refusal to obey the order, in addition to any other penalties prescribed in this title,
25 the person is subject to a civil penalty of not more than \$25,000 [\$2,500] following an
26 appropriate hearing as provided in AS 21.06.170 - 21.06.230.

27 * Sec. 116. AS 21.33.910 is repealed and reenacted to read:

28 Sec. 21.33.910. DEFINITIONS. In this chapter,

- 29 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;
30 (2) "transaction of insurance" means the solicitation, negotiation, procurement,
31 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;

1 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
2 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
3 insurance and arising out of it;

4 (3) "unauthorized person" means a person not licensed as a surplus lines broker,
5 or not a salaried employee of the insured;

6 (4) "wet marine and transportation insurance" has the meaning given in
7 AS 21.34.900.

8 * Sec. 117. AS 21.34.020 is repealed and reenacted to read:

9 Sec. 21.34.020. PLACEMENT OF SURPLUS LINES INSURANCE. Insurance other
10 than reinsurance, wet marine and transportation insurance, insurance independently procured, life
11 insurance, disability insurance, and annuity contracts may be procured through a surplus lines
12 broker licensed under AS 21.27 from nonadmitted insurers if

13 (1) the insurer is an eligible surplus lines insurer;

14 (2) the full amount, kind, or class of insurance cannot be obtained from insurers
15 who are admitted to do business in this state;

16 (3) the producing broker has conducted and documented a diligent search among
17 insurers who are admitted to transact business in this state and are actually writing the particular
18 kind or class of insurance required by the client in this state;

19 (4) the director authorizes an exception to (2) of this section by regulation or by
20 written authorization for an individual placement upon written request by the broker; and

21 (5) all other requirements of this chapter are met.

22 * Sec. 118. AS 21.34 is amended by adding a new section to read:

23 Sec. 21.34.025. SUBSCRIPTION POLICIES OR JOINT UNDERWRITING IN
24 COMBINATION WITH ADMITTED INSURERS. Subscription policies or joint underwriting
25 of insurance other than reinsurance, wet marine and transportation insurance, insurance
26 independently procured, life insurance, disability insurance, and annuity contracts by a
27 combination of authorized insurers and nonadmitted insurers is a surplus lines insurance
28 placement in its entirety, is subject to this chapter, is not subject to AS 21.39 or AS 21.42.120 -
29 21.42.130, and losses or claims are not covered by AS 21.80 (Alaska Insurance Guaranty
30 Association Act).

31 * Sec. 119. AS 21.34.040(a) is amended to read:

1 (a) Coverage may be placed in a nonadmitted insurer by a surplus lines broker only [,]
2 if

3 (1) at the time of placement, the nonadmitted insurer meets all the requirements
4 of this section; and

5 (2) the surplus lines broker is licensed under AS 21.27.

6 * Sec. 120. AS 21.34.040(c) is amended to read:

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

9 (1) a foreign but nonalien stock insurer may qualify under this subsection if it has
10 the minimum unimpaired basic capital and additional surplus equal to that required in its
11 domiciliary jurisdiction, or maintains [\$5,000,000 AS OF JUNE 20, 1987, \$6,000,000 AS OF
12 DECEMBER 31, 1990,] \$10,000,000 as of December 31, 1991, \$12,500,000 as of December 31,
13 1992, and \$15,000,000 as of December 31, 1993, whichever is greater;

14 (2) a foreign but nonalien mutual insurer, a reciprocal insurer, or a mutual
15 protection and indemnity association may qualify under this subsection if it has the minimum
16 unimpaired basic surplus and additional surplus equal to that required in its domiciliary
17 jurisdiction or maintains [\$6,000,000 AS OF DECEMBER 31, 1990,] \$10,000,000 as of
18 December 31, 1991, \$12,500,000 as of December 31, 1992, and \$15,000,000 as of December 31,
19 1993, whichever is greater;

20 (3) an alien insurer other than an alien mutual protection and indemnity
21 association may qualify under this subsection if it meets the minimum requirements in (1) or
22 (2) of this subsection and maintains in the United States an irrevocable trust fund [IN EITHER
23 A NATIONAL BANK OR A MEMBER OF THE FEDERAL RESERVE SYSTEM,] in an
24 amount not less than \$2,500,000 in a solvent federally insured bank acceptable to the
25 director, as security to the full amount, for the protection of all its policyholders and creditors
26 of each member of the mutual insurer, reciprocal insurer, or mutual protection and indemnity
27 association in the United States; the trust fund must consist of instruments of substantially the
28 same character and quality as those that are eligible investments for the capital and statutory
29 reserves of admitted insurers authorized to write like kinds of insurance in this state or of
30 irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date
31 that at no time is less than five years;

1 (4) a Lloyd's or other similar unincorporated group of alien individual insurers
2 may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to
3 the full amount, for the protection of all its policy holders and creditors of each member of the
4 group in the United States; the trust fund must consist of instruments of substantially the same
5 character and quality as those that are eligible investments for the capital and statutory reserves
6 of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable,
7 clean, and unconditional letters of credit; the trust fund must have an expiration date that at no
8 time is less than five years;

9 (5) an ["] insurance exchange ["] created by the laws of individual states may
10 qualify if it maintains capital and surplus, or the substantial equivalent, of not less than
11 \$50,000,000 in the aggregate; for insurance exchanges that maintain funds for the protection of
12 all insurance exchange policyholders, each individual syndicate shall maintain minimum capital
13 and surplus, or the substantial equivalent, of not less than \$3,000,000; in the event the insurance
14 exchange does not maintain funds for the protection of all its policyholders, each individual
15 syndicate shall meet the minimum requirements of (1) or (2) of this subsection;

16 (6) an alien mutual protection and indemnity association may qualify under
17 this subsection if it has the minimum unimpaired basic capital and additional surplus equal
18 to that required in its domiciliary jurisdiction or \$10,000,000, whichever is greater, and
19 maintains in the United States an irrevocable trust fund in an amount not less than
20 \$1,000,000 in a federally insured bank acceptable to the director, as security to the full
21 amount, for the protection of all its policyholders and creditors or each member of the
22 mutual protection and indemnity association in the United States; the trust fund must
23 consist of instruments of substantially the same character and quality as those that are
24 eligible investments for the capital and statutory reserves of admitted insurers authorized
25 to write wet marine and transportation insurance in this state or of irrevocable, clean, and
26 unconditional letters of credit; the trust fund must have an expiration date that at no time
27 is less than five years.

28 * Sec. 121. AS 21.34.040 is amended by adding a new subsection to read:

29 (e) The capital and surplus requirements of this section shall be calculated based upon
30 generally accepted accounting practices used in the United States of America.

31 * Sec. 122. AS 21.34.060 is amended to read:

1 Sec. 21.34.060. OTHER NONADMITTED INSURERS. Only that portion of a risk
2 eligible for export for which the full amount of coverage is not procurable from eligible surplus
3 lines insurers may be placed with another nonadmitted insurer that does not appear on the list
4 of eligible surplus lines insurers published under AS 21.34.050 but nonetheless meets the
5 requirements of AS 21.34.040 and a regulation adopted under this chapter. The surplus lines
6 broker seeking to provide coverage through an unlisted nonadmitted insurer shall within 30 days
7 after placing the coverage notify the director in writing on a form prescribed by the
8 director [MAKE A FILING SPECIFYING] the amount and percentage of each risk to be placed
9 and naming each nonadmitted insurer with which placements are intended. Within 30 days after
10 placing the coverage, the surplus lines broker shall also send written notice to the insured and
11 [OR] the producing broker that the insurance, or a portion of it, has been placed with the unlisted
12 nonadmitted insurer.

13 * Sec. 123. AS 21.34.070(b) is amended to read:

14 (b) The director may issue an order declaring [DECLARE] a nonadmitted insurer
15 ineligible if at any time the director has reason to believe that the nonadmitted insurer

16 (1) is in unsound financial condition;

17 (2) is no longer eligible under AS 21.34.040;

18 (3) has wilfully violated the laws of this state or another state; or

19 (4) does not reasonably investigate and make [REASONABLY] prompt payment
20 of just losses and claims in this state or another state [ELSEWHERE].

21 * Sec. 124. AS 21.34.080 is repealed and reenacted to read:

22 Sec. 21.34.080. EVIDENCE OF INSURANCE, AFFIDAVITS, DUTY TO FILE. (a)
23 A surplus lines broker shall execute and file with the monthly report required by AS 21.34.170
24 a written report, which shall be kept confidential, regarding each surplus lines insurance
25 transaction occurring in the preceding calendar month. The report must include

26 (1) the name and address of the insured;

27 (2) the identity of each insurer including the National Association of Insurance
28 Commissioners group and company insurer number and the percentage of coverage provided by
29 each;

30 (3) a complete description of the subject and location of the risk;

31 (4) the amount of premium charged for the insurance; and

1 (5) other information required by the director.

2 (b) Instead of the report required in (a) of this section, the director may order that
3 evidence of insurance be filed with the surplus lines association and that the surplus lines
4 association provide periodic reports regarding insurance transactions to the director.

5 (c) A producing broker shall execute and deliver to the surplus lines broker not later than
6 the end of each month on a form prescribed by the director, and a surplus lines broker shall file
7 with the director with the report required by (a) of this section or with the surplus lines
8 association with the evidence of insurance required by (b) of this section, for surplus lines
9 insurance first placed or renewed in the preceding calendar month, an affidavit that shall be open
10 to public inspection, as to the diligent efforts to place the coverage with admitted insurers, and
11 the results of those efforts. The affidavit must contain a statement by the broker that the insured
12 was expressly informed in writing before placement of the surplus lines insurance that the surplus
13 lines insurer with whom the insurance was to be placed is not licensed in this state, is not subject
14 to this state's supervision, and in the event of the insolvency of the surplus lines insurer, losses
15 will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

16 * Sec. 125. AS 21.34.090(a) is amended to read:

17 (a) A surplus lines association of surplus lines brokers may be formed to

18 (1) facilitate and encourage compliance by its members with the laws of this state
19 and the regulations relative to surplus lines insurance;

20 (2) attend National Association of Insurance Commissioners meetings and
21 participate in task forces and work groups [PROVIDE MEANS FOR THE EXAMINATION,
22 WHICH SHALL REMAIN CONFIDENTIAL, OF ALL SURPLUS LINES COVERAGES
23 WRITTEN BY ITS MEMBERS TO DETERMINE WHETHER THE COVERAGES COMPLY
24 WITH THE LAWS AND REGULATIONS OF THIS STATE];

25 (3) communicate with organizations of admitted insurers with respect to the
26 proper use of the surplus lines market;

27 (4) receive and disseminate to its members information relative to surplus lines
28 coverages; and

29 (5) contract with the director to receive reports and affidavits under
30 AS 21.34.080, verify that coverage has been placed with eligible surplus lines insurers, verify
31 the amount of taxes under AS 21.34.180 and fees under AS 21.34.190 for surplus lines

1 insurance for each surplus lines broker, and to prepare periodic reports as required by the
2 director [RECEIVE AND COLLECT ON BEHALF OF THE STATE AND REMIT TO THE
3 STATE PREMIUM RECEIPTS TAX FOR SURPLUS LINES INSURANCE].

4 * Sec. 126. AS 21.34.090(c) is repealed and reenacted to read:

5 (c) A surplus lines association is subject to the same penalties under this title as a surplus
6 lines broker.

7 * Sec. 127. AS 21.34.090 is amended by adding a new subsection to read:

8 (e) The surplus lines association shall maintain its place of business in this state.

9 * Sec. 128. AS 21.34.100(a) is amended to read:

10 (a) When surplus lines insurance is placed, the surplus lines broker shall within 30 days
11 after placing the coverage [PROMPTLY] deliver to the insured or the producing broker the
12 policy, or if the policy is not then available, a certificate, cover note, binder, or other evidence
13 of insurance. The certificate, cover note, binder, or other evidence of insurance shall be executed
14 by the surplus lines broker and must [SHALL] contain a complete record of all policy insuring
15 agreements, conditions, exclusions, clauses, endorsements, other material facts that would
16 regularly be included in the policy, description, and location of the subject of insurance, a general
17 description of the coverages of the insurance, the premium and rate charged and taxes to be
18 collected from the insured, the name and address of the insured, the name of each surplus lines
19 insurer and the percentage of the entire risk assumed by each, the name of the surplus lines
20 broker, and the license number of the surplus lines broker.

21 * Sec. 129. AS 21.34.110 is amended to read:

22 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A
23 contract of insurance placed by a surplus lines broker under this chapter is [SHALL] not [BE]
24 binding upon the insured and a premium charged is [SHALL] not [BE] due and payable until the
25 surplus lines broker has notified the insured in writing, a copy of which shall be maintained by
26 the licensee with the records of the contract, available for examination, that the insurer with
27 which the surplus lines broker places the insurance does not hold a certificate of authority
28 issued [IS NOT LICENSED] by this state and is not subject to its supervision, and in the event
29 of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
30 Insurance Guaranty Association Act) [PAID BY THE STATE INSURANCE GUARANTY
31 FUND]. Nothing in this section shall nullify an agreement by an insurer to provide insurance.

1 * **Sec. 130.** AS 21.34.130 is amended to read:

2 **Sec. 21.34.130. EFFECT OF PAYMENT TO SURPLUS LINES BROKER.** A payment
3 of premium to a surplus lines broker acting for a person other than itself [ONESELF] in
4 negotiating, continuing, or reviewing a policy of insurance under this chapter, is considered to
5 be payment to the insurer, notwithstanding conditions or stipulations in the policy or contract to
6 the contrary.

7 * **Sec. 131.** AS 21.34.150 is amended to read:

8 **Sec. 21.34.150. SURPLUS LINES BROKERS MAY ACCEPT BUSINESS FROM**
9 **OTHER BROKERS.** A surplus lines broker licensed by this state may originate surplus lines
10 insurance or accept surplus lines insurance from another [BROKER OR] surplus lines broker
11 licensed by [IN] this state or a producing broker licensed by this state as to the kind and class
12 of insurance involved. The surplus lines broker may compensate the producing [LICENSED]
13 broker or surplus lines broker for the insurance.

14 * **Sec. 132.** AS 21.34.170 is repealed and reenacted to read:

15 **Sec. 21.34.170. MONTHLY REPORTS, SUMMARY OF EXPORTED BUSINESS.** (a)
16 A surplus lines broker shall file with the director on or before the end of each month, on forms
17 prescribed by the director, a verified report in duplicate of all surplus lines insurance, by type of
18 insurance as required to be reported in the annual statement that must be filed with the director
19 by admitted insurers. The report must include all surplus lines insurance transactions during the
20 preceding calendar month showing the aggregate gross premiums written, the aggregate return
21 premiums, the amount of aggregate tax remitted to this state, and the amount of aggregate tax
22 remitted to each other state for which an allocation is made under AS 21.34.150.

23 (b) Instead of the report required under (a) of this section, the director may order that
24 evidence of insurance be filed with surplus lines association and that the association file periodic
25 reports regarding insurance transactions to the director.

26 * **Sec. 133.** AS 21.34.190 is amended to read:

27 **Sec. 21.34.190. FILING FEE.** The fee for filing the statement under AS 21.34.180(b)
28 is an amount equal to one percent on gross premium charged less any return premiums during
29 the preceding calendar quarter [YEAR]. The surplus lines broker shall pay the fee at the time
30 of filing of the statement.

31 * **Sec. 134.** AS 21.34.190 is amended by adding a new subsection to read:

1 (b) If the filing fee is not paid when due, an additional late payment fee of \$250 plus two
2 percent of the fee due per month, or part of a month, shall become due and payable by the
3 surplus lines broker.

4 * Sec. 135. AS 21.34.200(a) is amended to read:

5 (a) If the tax collectible under AS 21.34.180 or the fee collectible under AS 21.34.190
6 by a surplus lines broker is not paid within the time prescribed, the tax, fee, or both, and late
7 payment fees, along with appropriate penalties may be collected by distraint or by an action in
8 court, against the surplus lines licensee and the surety on the bond filed under AS 21.27.790
9 [AS 21.34.140(b)(4)].

10 * Sec. 136. AS 21.34.230 is repealed and reenacted to read:

11 Sec. 21.34.230. PENALTIES. (a) In addition to any other penalty provided by law, a
12 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
13 of this chapter is subject to

14 (1) a civil penalty equal to the compensation promised, paid or to be paid, directly
15 or indirectly, to a licensee in regard to each violation; and

16 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
17 penalty of not more than \$25,000 for each violation if the director determines that the person
18 wilfully violated the provisions of this chapter.

19 (b) A violation of this chapter is cause for denial, nonrenewal, suspension, or revocation
20 of a license.

21 * Sec. 137. AS 21.34.900 is repealed and reenacted to read:

22 Sec. 21.34.900. DEFINITIONS. In this chapter,

23 (1) "capital" means money paid in for stock or other evidence of ownership;

24 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a
25 surplus lines broker may place surplus lines insurance under AS 21.34.040;

26 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;

27 (4) "kind of insurance" means one of the kinds of insurance defined in
28 AS 21.12.040 - 21.12.110;

29 (5) "producing broker" means the insurance producer or surplus lines broker
30 licensed under AS 21.27 dealing directly with the client seeking insurance;

31 (6) "reciprocal state" means a state that the director has determined has enacted

1 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

2 (7) "surplus," as used in the financial requirements of AS 21.34.040, means
3 money over and above liabilities and capital of the company for the protection of policyholders;

4 (8) "transaction of insurance" means the solicitation, negotiation, procurement,
5 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
6 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
7 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
8 insurance and arising out of it;

9 (9) "wet marine and transportation insurance" means

10 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,
11 except vessels of 50 displacement tons or less;

12 (B) insurance of marine builders risks, marine war risks, and contracts of
13 marine protection and indemnity insurance;

14 (C) insurance of freight and disbursements pertaining to a subject of
15 insurance coming within this paragraph; and

16 (D) insurance of personal property and interests in personal property, in
17 course of exportation from or importation into a country or in the course of coastal or
18 inland water transportation, including transportation by land, water, or air from point of
19 origin to final destination in connection with any and all risks or perils of navigation,
20 transit, or transportation, and while being repaired for and while awaiting shipment, and
21 during any delays, transshipment, or reshipment incident to them.

22 * Sec. 138. AS 21.36.020 is amended to read:

23 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person
24 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject
25 resident, located, or to be performed in this state that is defined in this chapter as, or
26 determined under this chapter to be, an unfair method of competition or an unfair or deceptive
27 act or practice in the business of insurance.

28 * Sec. 139. AS 21.36 is amended by adding a new section to read:

29 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may
30 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,
31 financial counselor, or similar specialist engaged in the business of giving financial planning or

1 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when
2 the person is in fact only engaging in the sale of insurance.

3 (b) A person may not engage in the business of financial planning and solicit the sale
4 of a product or service on the basis that the person is an insurance salesperson or that a
5 commission for the sale of an insurance product will be received in addition to a fee for financial
6 planning without full disclosure to the client before the execution of the agreement required in
7 (c) of this section.

8 (c) A person licensed under this title may not charge a fee other than a commission for
9 financial planning unless the fee is based upon a written agreement signed before the
10 performance of a service under the agreement. The insurance salesperson shall provide the client
11 a copy of the signed agreement at the time of signing. The agreement must specifically state the
12 service for which a fee is to be charged and how the fee will be determined or calculated. The
13 agreement must provide that the client is under no obligation to purchase an insurance product.
14 The licensee shall retain a copy of the agreement for not less than five years after completion of
15 services and the agreement shall be available to the director upon request.

16 * Sec. 140. AS 21.36.150(a) is amended to read:

17 (a) If the director believes that a person engaged in the insurance business is engaging
18 in this state in an unfair method of competition or in an unfair or deceptive act or practice in the
19 conduct of the business that is not defined as being unfair or deceptive under this title
20 [CHAPTER], the director shall hold a hearing on the matter, if the director believes it would be
21 in the public interest to do so after giving notice of the hearing and of the charges. Upon
22 conclusion of the hearing the director shall make a written report of the findings of fact relative
23 to the charges and serve a copy upon the person and any intervenor at the hearing.

24 * Sec. 141. AS 21.36.150(b) is amended to read:

25 (b) If the report charges a violation of this title [CHAPTER] and if the method of
26 competition, act, or practice has not been discontinued, the director may, through the attorney
27 general of this state, at any time after the service of the report, cause an action to be instituted
28 to enjoin and restrain the person from engaging in the method, act, or practice. In the action the
29 court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not
30 be required to give security before the issuance of the order or injunction. If a stenographic
31 [SIENOGRAPH] record of the proceedings in the hearing before the director was made, a

1 certified transcript, including all evidence taken and the report and findings, shall be received in
2 evidence in the action.

3 * Sec. 142. AS 21.36.150 is amended by adding a new subsection to read:

4 (d) In addition to the unfair methods and unfair or deceptive acts or practices expressly
5 defined in this title, the director may adopt regulations to define other methods of competition
6 and other acts and practices in the conduct of the business of insurance found by the director to
7 be unfair or deceptive.

8 * Sec. 143. AS 21.36.220(c) is amended to read:

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

12 (1) an unearned premium shall be returned or credited within 45 [30] days after
13 notice of cancellation is given, if cancellation is for

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

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

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

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

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

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

30 * Sec. 144. AS 21.36.255(a) is amended to read:

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

1 (1) insurer, the insurer shall return or credit any [REFUND THE] unearned
2 premium paid to the agent or broker of record, or directly to the insured or premium finance
3 company, if applicable; or

4 (2) insured, the insurer shall return or credit any unearned premium to the agent
5 or broker of record or directly [PAID] to the insured or premium finance company, if
6 applicable, less a cancellation fee not to exceed 7.5 percent of the unearned premium; a
7 cancellation fee may not be charged unless the fee is clearly stated in the policy; the insurer
8 shall return or credit the unearned premium less a lawful cancellation fee

9 (A) within 45 days of receipt of the request for cancellation or the
10 effective date of cancellation, whichever is later, on a policy not subject to audit; or

11 (B) within 45 days of completion of an audit; the insurer shall perform
12 and complete an audit within 45 days of receipt of the request for cancellation or the
13 effective date of cancellation, whichever is later, unless the audit cannot reasonably
14 be completed using due diligence and the insured is advised in writing of the reason
15 why additional time is necessary to complete the audit and when the audit will be
16 completed.

17 * Sec. 145. AS 21.36.310(1) is amended to read:

18 (1) "business or commercial insurance" means insurance other than personal
19 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title
20 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN
21 AS 21.34.900,] or an annuity contract;

22 * Sec. 146. AS 21.36.320(a) is amended to read:

23 (a) On the complaint of a person or on the motion of the director, the director may
24 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an
25 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

26 * Sec. 147. AS 21.36.320(c) is amended to read:

27 (c) If the director determines that a person violated [ON A FINDING OF A
28 VIOLATION OF] this chapter, the director shall serve upon the person charged an order
29 requiring that person to cease and desist from engaging in the act or practice [STOP THE
30 ACTS OR PRACTICES].

31 * Sec. 148. AS 21.36.320(d) is amended to read:

1 (d) In addition to an order issued under (c) of this section, the director may, after a
2 hearing, order restitution, assess [ALSO ORDER] a penalty of not more than \$1,000 for each
3 violation [ACT] or \$10,000 for engaging in a general business practice in violation of this
4 chapter.

5 * Sec. 149. AS 21.36.320(e) is amended to read:

6 (e) If the director determines after a hearing that the person charged knew or should
7 have known that the person was in violation of this chapter, in addition to the [A] penalty [IN
8 ADDITION TO THAT] prescribed in (d) of this section, a suspension or revocation of the
9 person's license and a penalty of not more than \$25,000 [\$1,000] for each violation [ACT] or
10 \$250,000 [\$25,000] for engaging in the general business practice in violation of this chapter [,
11 OR SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also
12 be ordered by the director.

13 * Sec. 150. AS 21.36.320(f) is amended to read:

14 (f) If the director believes that a person has violated a cease and desist [STOP] order
15 issued under (c) of this section, the director may certify the relevant facts to the superior court
16 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and
17 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist
18 [STOP] order has been violated, may order the violator to comply with the order, pay an
19 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may
20 revoke or suspend the violator's license, and may bar the violator from transacting the
21 business of insurance in the future [OR BOTH].

22 * Sec. 151. AS 21.36.320 is amended by adding a new section to read:

23 (g) In determining the penalty imposed under (d) and (e) of this section, the director shall
24 consider the amount of loss caused by the violation and the amount of benefit derived by the
25 person by reason of the violation.

26 * Sec. 152. AS 21.36.350 is amended to read:

27 Sec. 21.36.350. ENFORCEMENT. The director may [OF INSURANCE SHALL] adopt
28 regulations to implement, define, and enforce this chapter [AS 21.36.125].

29 * Sec. 153. AS 21.36.370 is amended to read:

30 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING
31 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

1 (1)] the charging and collection by surplus line brokers licensed under AS 21.27
 2 [AS 21.33] of the amount of applicable state and federal taxes and filing fees under AS 21.34
 3 is not considered a premium or charge for insurance [AS 21.34.180 - 21.34.190;

4 (2) THE CHARGING AND COLLECTION BY A LIFE INSURER OF
 5 AMOUNTS ACTUALLY TO BE EXPENDED FOR MEDICAL EXAMINATION OF AN
 6 APPLICANT FOR LIFE INSURANCE OR FOR REINSTATEMENT OF A LIFE INSURANCE
 7 POLICY].

8 * Sec. 154. AS 21.42 is amended by adding a new section to read:

9 AS 21.42.025. INSTITUTIONAL BENEFICIARY INSTEAD OF INSURABLE
 10 INTEREST. (a) Except as provided under (e) of this section, a life insurance contract may be
 11 entered into in which a charitable organization is designated as the beneficiary or in which the
 12 person or organization paying the premium for the insurance has no insurable interest in the life
 13 of the individual insured.

14 (b) To enter into a contract of life insurance described in (a) of this section

15 (1) the person or organization paying the premium shall make and sign the
 16 application for life insurance as owner and irrevocably designate a charitable organization as the
 17 beneficiary of the life insurance contract; and

18 (2) the application shall be signed by the individual whose life is to be insured.

19 (c) This section does not prohibit any combination of the insured, applicant, premium
 20 payer, owner, and beneficiary from being the same person or the insured from modifying the
 21 contract.

22 (d) A contract of life insurance described in (a) of this section that is not for the benefit
 23 of a charitable organization described in (e) of this section is valid and binding among the parties
 24 in the absence of an insurable interest described in AS 21.42.020.

25 (e) A contract of life insurance may not be entered into by a charitable organization

26 (1) that

27 (A) loans to a controlling person a part of its income or corpus without
 28 the receipt of adequate security and a reasonable rate of interest;

29 (B) pays to a controlling person compensation in excess of a reasonable
 30 allowance for salaries or other compensation for personal services actually rendered;

31 (C) makes a part of its services available on a preferential basis to a

1 controlling person;

2 (D) makes a substantial purchase of securities or other property for more
3 than adequate consideration in money or money's worth from a controlling person;

4 (E) sells a substantial part of its securities or other property for less than
5 an adequate consideration in money or money's worth to a controlling person; or

6 (F) engages in another transaction that results in a substantial diversion
7 of its income or corpus to a controlling person;

8 (2) if a substantial part of its activities consists of providing commercial type of
9 insurance;

10 (3) that is chartered by or is an instrumentality of the federal government; or

11 (4) if the charter, bylaws, or other governing instrument or a written policy
12 statement contains a provision that provides for discrimination against a person on the basis of
13 race, color, or religion.

14 (f) Paragraph (e)(4) of this section does not apply to

15 (1) an auxiliary or feeder organization of a fraternal beneficiary society if the
16 society is described in 26 U.S.C. 501(c)(8), is exempt from tax under 26 U.S.C. 501(a), and
17 limits its membership to the members of a particular religion; or

18 (2) a club or feeder organization exempt from tax under 26 U.S.C. 501(a) that in
19 good faith limits its membership to the members of a particular religion in order to further the
20 teachings or principles of that religion and not to exclude individuals of a particular race or color.

21 (g) In this section,

22 (1) "charitable organization" means a

23 (A) charitable organization described in 26 U.S.C. 170(b)(1)(A), 26 U.S.C.
24 170(c)(2) - (5), and 42 U.S.C. 701(c);

25 (B) feeder organization; or

26 (C) organization providing child care;

27 (2) "commercial type of insurance" means all other insurance except

28 (A) insurance provided at substantially below cost to a class of charitable
29 recipients; or

30 (B) incidental health insurance provided by a health maintenance
31 organization of a kind customarily provided by the organization;

1 (3) "controlling person" means the creator of a charitable organization, if a trust;
2 a person who has made a substantial contribution to a charitable organization; a member of the
3 family, or a successor of an individual who is the creator of the trust or who has made a
4 substantial contribution to the charitable organization; or a corporation controlled by the creator
5 or person through ownership, directly or indirectly, of 50 percent or more of the total combined
6 voting power of all classes of stock entitled to vote or 50 percent or more of the total value of
7 shares of all classes of stock of the corporation;

8 (4) "feeder organization" means an organization operated on a for profit basis, 95
9 percent or more of whose profits are donated to one or more charitable organizations;

10 (5) "member of the family" has the meaning given in 26 U.S.C. 267(c)(4);

11 (6) "organization providing child care" means a charitable organization providing
12 for care of children away from their homes if

13 (A) substantially all of the care provided by the organization is for
14 purposes of enabling individuals to be gainfully employed; and

15 (B) the services provided by the organization are available to the general
16 public.

17 * Sec. 155. AS 21.66.010(a) is amended to read:

18 (a) Before a domestic or foreign title insurance company is entitled to a certificate of
19 authority to transact a title insurance business in this state it shall have basic capital, additional
20 surplus when first authorized, and additional maintained surplus as required by
21 AS 21.09.070 including a deposit as required in AS 21.09.090 [A PAID-UP UNIMPAIRED
22 CASH CAPITAL EQUAL TO NOT LESS THAN \$250,000, \$100,000 OF WHICH SHALL BE
23 DEPOSITED WITH THE DIRECTOR OF INSURANCE AS A GUARANTY FUND FOR THE
24 PROTECTION OF THE INSURED UNDER POLICIES OF TITLE INSURANCE ISSUED BY
25 THE COMPANY].

26 * Sec. 156. AS 21.66.010(b) is amended to read:

27 (b) A domestic or foreign title insurance company shall have on deposit with the director
28 or insurance commissioner of the state of its domicile, before the issuance of any policy of title
29 insurance in this state, the amount required by AS 21.09.090 for the purpose described in that
30 section [SUM OF \$100,000 AS A GUARANTEE FUND FOR THE SECURITY AND
31 PROTECTION OF ITS POLICYHOLDERS OR THEIR BENEFICIARIES WHEREVER

1 SITUATED]. The amount of this deposit shall be increased by the sum of \$50,000 for each state
2 or territorial subdivision of the United States or the District of Columbia, other than the state of
3 its domicile, in which it becomes qualified to engage in the business of title insurance, less the
4 amount required by and deposited in the other states or territorial subdivisions, provided [
5 HOWEVER,] the deposits shall be for the security and protection of its policyholders or their
6 beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states
7 or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further
8 deposit is required of the title insurance company as a condition of engaging in the business of
9 title insurance in this state.

10 * Sec. 157. AS 21.66.020 is amended to read:

11 Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of
12 each annual statement the title insurance company shall deposit with the director a sum equal to
13 10 percent of the premiums received by it during the preceding year covering property in this
14 state, as shown by the annual statement, until the accumulated deposits, added to the sums
15 originally deposited with the director, as provided in this chapter, total \$750,000 [\$100,000] but
16 [IN NO EVENT MAY] the title insurance company may not be required to deposit more than
17 \$50,000 [\$10,000] in any one year.

18 * Sec. 158. AS 21.66.060 is amended to read:

19 Sec. 21.66.060. DIVIDENDS. A title insurance company may not pay dividends except
20 from net profits remaining on hand after retaining unimpaired

21 (1) the subscribed capital stock;

22 (2) the amount required to be set aside as unearned premium reserve fund under

23 AS 21.18.073:

24 (3) a sum sufficient to pay current liabilities for operating expenses and taxes, and
25 losses established or in process of settlement, without impairment of the unearned premium
26 reserve fund required under AS 21.18.073.

27 * Sec. 159. AS 21.66.080(a) is amended to read:

28 (a) Every [TITLE INSURANCE] company, on or before March 1 of each year, shall
29 furnish the director a sworn statement of assets and liabilities, and of all title premiums received
30 by it during the preceding calendar year, setting out among other things the amounts that
31 [THREE PERCENT OF ALL GROSS PREMIUMS ON TITLE INSURANCE POLICIES

1 ISSUED BY IT DURING THE YEAR, COVERING PROPERTY IN THIS STATE,] have been
2 set aside and held by it in an account required under AS 21.18.073 [KNOWN AS THE TITLE
3 INSURANCE UNEARNED PREMIUM RESERVE FUND, AS PROVIDED IN THIS
4 CHAPTER]. The reporting format for a given year is the most recently approved National
5 Association of Insurance Commissioners [COMMISSIONERS'] Annual Financial Statement
6 blank form and instructions, supplemented for additional information as required by the director.
7 The director may require the statement to be filed on electronic media. The statement must also
8 show all unpaid losses and claims upon title insurance policies of which the title insurance
9 company has received due notice in writing from or on behalf of the insured. With the filing of
10 the statement the title insurance company shall pay a filing fee set under AS 21.06.250.

11 * **Sec. 160.** AS 21.66.090(a) is amended to read:

12 (a) Every company, before engaging in a title insurance business in this state, shall apply
13 to the director for a certificate of authority to transact business under AS 21.09. [THE
14 COMPANY SHALL SUBMIT WITH THE APPLICATION A STATEMENT SWORN TO BY
15 THE PROPER OFFICERS OF THE COMPANY SHOWING ITS ASSETS AND LIABILITIES
16 AND THAT IT HAS COMPLIED WITH THE CAPITAL REQUIREMENTS AND INITIAL
17 GUARANTEE FUND DEPOSIT PRESCRIBED BY THIS CHAPTER.]

18 * **Sec. 161.** AS 21.66.110 is amended to read:

19 Sec. 21.66.110. ANNUAL TAX ON TITLE INSURANCE PREMIUMS. Annually each
20 title insurance company shall pay on or before March 1 [APRIL 1], a tax of one percent of the
21 amount of gross title insurance premiums received by it including as premium income received
22 from guaranteed certificates of title and other guarantees of title during the preceding calendar
23 year covering property in this state, as shown by its annual statement to the director.

24 * **Sec. 162.** AS 21.66.170(a) is amended to read:

25 (a) A policy or contract of title insurance may not be written until the title insurance
26 company conducts or has conducted a reasonable search and examination of the title and has
27 made a determination of insurability of title in accordance with its established underwriting
28 practices. Evidence of the determination shall be preserved and retained in the files of the title
29 insurance company or its agent for a period of not less than 15 years after the policy or contract
30 of title insurance has been issued. In lieu of retaining the original evidence, the title insurance
31 company or the title insurance limited producer [AGENT], may, in the regular course of

1 business, establish a system by which all or part of these writings are recorded, copied, or
2 reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or
3 other process that accurately reproduces or forms a durable medium for reproducing the original.

4 * Sec. 163. AS 21.66.180 is amended to read:

5 Sec. 21.66.180. GENERAL POWERS. A title insurance company may

6 (1) do business as defined in AS 21.66.480;

7 (2) do any act, directly or through a title insurance limited producer [AGENT],
8 incidental to making a contract or policy of title insurance, including, but not limited to,
9 conducting or holding an escrow, settlement, or closing of a transaction; and,

10 (3) provide other services relative or incidental to the sale and transfer of real or
11 personal property.

12 * Sec. 164. AS 21.66.210(a) is amended to read:

13 (a) Two or more title insurance companies or two or more title insurance limited
14 producers, or a combination of title insurance companies and title insurance limited
15 producers [AND ONE OR MORE TITLE INSURANCE AGENTS] may apply to the director
16 of insurance to form an association, corporation, or other legal entity, for the purpose of engaging
17 in the business of preparing abstracts of title searches from public records or from records to be
18 owned by the entity, upon the basis of which a title insurance limited producer [AGENT] or a
19 title insurance company will issue title policies. The owners or participants are considered to be
20 in compliance with the provisions of this section if the title plant of the association, corporation,
21 or other legal entity complies with the provisions of this section. The application must contain

22 (1) a copy of the proposed articles of incorporation or association and the bylaws
23 or agreement governing the operation of the entity;

24 (2) a list of the owners or participants;

25 (3) the names and addresses of the persons who will operate the entity, with a
26 description of their experience and qualifications;

27 (4) the conditions under which ownership or participation in the entity may be
28 sold or acquired;

29 (5) a statement of whether or not title information will be compiled and sold to
30 persons other than owners of or participants in the entity;

31 (6) a pro forma balance sheet and other financial information to indicate the

1 sufficiency of financing the entity.

2 * Sec. 165. AS 21.66.270 is amended to read:

3 Sec. 21.66.270. TITLE INSURANCE LIMITED PRODUCERS [AGENTS] TO BE
4 LICENSED. A title [TITLE] insurance limited producer [AGENTS] shall be licensed in the
5 manner provided for [AGENTS OF INSURANCE COMPANIES] in AS 21.27. A title
6 insurance limited producer may not be licensed to sell insurance other than title insurance.

7 * Sec. 166. AS 21.66.280 is amended to read:

8 Sec. 21.66.280. TITLE INSURANCE LIMITED PRODUCERS [AGENTS], BOOKS,
9 AND RECORDS. (a) In addition to any other requirement of this title, a [EACH] title
10 insurance limited producer licensee [AGENT] shall maintain books of accounts and records and
11 vouchers pertaining to the business of title insurance in a manner that the director, or an
12 authorized representative, may readily ascertain whether the licensee [AGENT] has complied with
13 the provisions of this chapter.

14 (b) A title insurance limited producer licensee [AGENT] may engage in the business
15 of handling escrows, settlements, and closings in connection with the business of title insurance;
16 however,

17 (1) the licensee [AGENT] shall maintain a separate record of all receipts and
18 disbursements of escrow funds and may not commingle the funds with personal funds or with
19 funds held by the licensee [AGENT] in any other capacity;

20 (2) the licensee [AGENT] shall comply with the standards of solvency that the
21 director requires; and

22 (3) the licensee [AGENT] shall submit financial statements that the director
23 requires.

24 (c) In addition to any other penalty provided by law, if [IF] the director determines
25 that a title insurance limited producer licensee [AN AGENT] has failed to comply with a
26 provision of this section, the director may, after a hearing, revoke the limited producer license
27 [OF THE AGENT].

28 * Sec. 167. AS 21.66.290 is amended to read:

29 Sec. 21.66.290. TITLE INSURANCE LIMITED PRODUCER [AGENT] REPLIES
30 TO DIRECTOR INQUIRIES. A [EACH] title insurance limited producer [AGENT] shall reply
31 in writing promptly, with a copy of the reply mailed to each title insurance company for which

1 the licensee [AGENT] is acting, to an inquiry of the director relating to the licensee's
2 [AGENT'S] acts as a title insurance limited producer [AGENT]. In addition to any other
3 penalty provided by law, failure [FAILURE] to reply is a ground for revocation of the
4 [AGENT'S] license. A [IN ADDITION, A] copy of the inquiry shall be sent by the director to
5 each title insurance company for which the licensee [AGENT] is acting.

6 * Sec. 168. AS 21.66.300 is amended to read:

7 Sec. 21.66.300. CERTAIN [AGENCY] NAMES PROHIBITED. A title insurance
8 limited producer [AFTER AUGUST 14, 1974, AN AGENT] for a title insurance company may
9 not adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee",
10 unless the words are followed by the words "agent" or "agency" in the same size and type as the
11 words preceding them. This section does not apply to a title insurance company acting as an
12 agent for another title insurance company.

13 * Sec. 169. AS 21.66.310(a) is amended to read:

14 (a) A title insurer, or officer, employee, attorney, or title insurance limited producer
15 [AGENT, OR SOLICITOR] of a title insurer, may not pay, allow, or give or offer to pay, allow,
16 or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate,
17 reduction, or abatement of a rate or charge made incident to the issuance of the title insurance,
18 a special favor or advantage, money consideration, or other inducement. A charge made incident
19 to the issuance of the insurance is construed to include, without limitation, escrow, settlement,
20 and closing charges.

21 * Sec. 170. AS 21.66.310(c) is amended to read:

22 (c) Nothing in this section prohibits

23 (1) the payment of fees for services actually rendered as a result of a title
24 insurance transaction; or

25 (2) the payment of a commission to a legally appointed title insurance limited
26 producer [AGENT] who issues the policy of title insurance.

27 * Sec. 171. AS 21.66.330 is amended to read:

28 Sec. 21.66.330. EXAMINATION OF RECORDS. If the director has reason to believe
29 that a title insurance limited producer [AGENT] has violated or is in violation of AS 21.66.310,
30 the director shall immediately examine the title insurance limited producer's [AGENT'S] books
31 of account and record and vouchers pertaining to the business of title insurance. The title

1 insurance limited producer [AGENT] shall pay to the director the cost of an examination
2 conducted under this section.

3 * Sec. 172. AS 21.66.350 is amended to read:

4 Sec. 21.66.350. DIVISION OF RATES. Nothing in this chapter prohibits the division
5 of rates and charges between or among a title insurance company and its agent, two or more title
6 insurance companies, one or more title insurance companies and one or more title insurance
7 limited producers [AGENTS], or two or more title insurance limited producers [AGENTS,]
8 if the division of rates and charges does not constitute an unlawful rebate and is not in payment
9 of a forwarding fee or finder's fee.

10 * Sec. 173. AS 21.66.370(a) is amended to read:

11 (a) A title insurance company shall file with the director its schedules of rates, manuals
12 of classifications, rules and plans relating to schedules of rates or manuals of classification, and
13 every modification of the schedules or manuals that it proposes to use in this state. A filing
14 under this section must contain the effective dates of the documents filed, and indicate the
15 character and extent of the coverage contemplated. [A TITLE INSURANCE COMPANY MAY
16 SATISFY ITS OBLIGATIONS TO MAKE THESE FILINGS BY BECOMING A MEMBER OF,
17 OR A SUBSCRIBER TO, A LICENSED TITLE INSURANCE RATING ORGANIZATION
18 THAT MAKES SUCH FILINGS, AND BY AUTHORIZING THE COMMISSIONER TO
19 ACCEPT THE FILINGS ON ITS BEHALF.]

20 * Sec. 174. AS 21.66.370(c) is amended to read:

21 (c) Subject to the provisions of (e) of this section, a [EACH] filing shall be on file for
22 a period of 30 days before it becomes effective. The director may, upon written notice given
23 within the 30-day period to the person making the filing, extend the waiting period for an
24 additional period, not to exceed 30 days, in order to complete the review of the filing. Additional
25 extensions of the waiting period may also be made with the consent of the title insurance
26 company [OR RATING ORGANIZATION]. Upon written application by the title insurance
27 company [OR RATING ORGANIZATION], the director, after review of the application, may
28 authorize a filing or any part of it to become effective upon the expiration of the waiting period
29 or its extension.

30 * Sec. 175. AS 21.66.370(f) is amended to read:

31 (f) A title insurance company or title insurance limited producer [AGENT OF A

1 TITLE INSURANCE COMPANY] may not charge a rate for a policy or contract of title
2 insurance except in accordance with filings or rates that are in effect for the title insurance
3 company as provided in this chapter.

4 * Sec. 176. AS 21.66.380(a) is amended to read:

5 (a) A rate filing shall be accompanied by a statement of the title insurance company [OR
6 TITLE INSURANCE RATING ORGANIZATION] making the filing, setting out the basis on
7 which the rate was determined, with the rates computed. A filing of rates may be justified by

8 (1) the experience or judgment of the title insurance company [OR TITLE
9 INSURANCE RATING ORGANIZATION] making the filing;

10 (2) its interpretation of any statistical data relied upon;

11 (3) the experience of other title insurance companies [OR TITLE INSURANCE
12 RATING ORGANIZATIONS] making the filings; or

13 (4) any other factors that the title insurance company [OR TITLE INSURANCE
14 RATING ORGANIZATION] considers relevant.

15 * Sec. 177. AS 21.66.390 is amended to read:

16 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company [THAT MAKES
17 ITS OWN RATES AND EACH TITLE INSURANCE RATING ORGANIZATION] shall make
18 rates that are not excessive or inadequate and that do not unfairly discriminate between risks in
19 this state that involve essentially the same exposure to loss and expense elements, and that give
20 due consideration to

21 (1) the desirability for stability of rate structures;

22 (2) the necessity of assuring the financial solvency of title insurance companies
23 in periods of economic depression by encouraging growth in assets of title insurance companies
24 in periods of high business activity; and

25 (3) the necessity for assuring a reasonable margin of underwriting and operating
26 profit.

27 (b) A title insurance company [THAT MAKES ITS OWN RATES AND EACH TITLE
28 INSURANCE RATING ORGANIZATION] shall adopt basic classifications of policies or
29 contracts of title insurance that [WHICH] shall be used as the basis for rate-making.

30 * Sec. 178. AS 21.66.400(a) is amended to read:

31 (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that

1 a filing does not meet the requirements of this chapter, the director shall send to the title
2 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made the filing,
3 written notice of disapproval of the filing specifying in what respects the director finds the filing
4 fails to meet the requirements of this chapter and stating that the filing may not become effective.

5 * **Sec. 179.** AS 21.66.400(b) is amended to read:

6 (b) If at any time after the applicable review period provided for in AS 21.66.370(c) the
7 director finds that a filing does not meet the requirements of this chapter, the director shall,
8 before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice,
9 specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall
10 be given to each title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
11 that made the filing, and if, after the hearing, the director finds that the filing or a part of the
12 filing does not meet the requirements of this chapter, the director shall issue an order specifying
13 how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is
14 considered no longer effective. A title insurance company [OR TITLE INSURANCE RATING
15 ORGANIZATION] has the right to withdraw a filing or a part of a filing. Copies of the order
16 issued under this section shall be sent to every title insurance company [AND TITLE
17 INSURANCE RATING ORGANIZATION] affected. The order does not affect a contract or
18 policy made or issued before the expiration of the period set out in the order.

19 * **Sec. 180.** AS 21.66.400(c) is amended to read:

20 (c) A person or organization aggrieved with respect to a filing that is in effect may make
21 a written application to the director for a hearing on the filing. The title insurance company [OR
22 TITLE INSURANCE RATING ORGANIZATION] that made the filing may not proceed under
23 this subsection. The application shall specify in reasonable detail the grounds to be relied on by
24 the applicant. If the director finds that the application is made in good faith, that the applicant
25 would be aggrieved if the applicant's grounds are established, and that the applicant's grounds
26 otherwise justify holding a hearing, the director shall, within 60 days after receipt of the
27 application, hold a hearing upon not less than 10 days written notice to the applicant and to each
28 title insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made such
29 a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the
30 requirements of this chapter, the director shall issue an order specifying how the filing or a part
31 of it fails to meet the requirements of this chapter, stating when, within a reasonable period after

1 the order is issued, the filing or a part of it is considered no longer effective. Copies of the order
2 shall be sent to the applicant and to every affected title insurance company [OR TITLE
3 INSURANCE RATING ORGANIZATION]. The order does not affect a contract or policy made
4 or issued before the expiration of the period set out in the order.

5 * Sec. 181. AS 21.66.400(d) is amended to read:

6 (d) A title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
7 to which the director has issued an order made without a hearing may, within 30 days after notice
8 to it of the order, make a written request to the director for a hearing. The director shall hear
9 the party or parties within 60 days after receipt of the request and shall give not less than 10 days
10 written notice of the time and place of the hearing. Within 15 days after the hearing the director
11 shall affirm, reverse, or modify the previous action, specifying the reasons. Pending the hearing
12 and decision the director may suspend or postpone the effective date of the previous action.

13 * Sec. 182. AS 21.66.410(c) is amended to read:

14 (c) In order to more uniformly administer rate regulations, the director and each title
15 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] may exchange
16 information and experience data with insurance supervisory officials, title insurance companies,
17 and title insurance rating organizations in other states, and may consult with them and with each
18 other with respect to rate making and the application of rating systems.

19 * Sec. 183. AS 21.66.420 is amended to read:

20 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. A title insurance company
21 or title insurance limited producer [AGENT] may not wilfully withhold information from, or
22 knowingly give false or misleading information to the director [OR TO ANY TITLE
23 INSURANCE RATING ORGANIZATION OF WHICH THE TITLE INSURANCE COMPANY
24 IS A MEMBER OR SUBSCRIBER] that will affect the rates chargeable under this chapter.

25 * Sec. 184. AS 21.66.480(4) is amended to read:

26 (4) "rate" means a charge for title insurance risk, abstracting, searching,
27 examination or determination of insurability, and every other activity, exclusive of escrow,
28 settlement, or closing charges, whether denominated premium or otherwise, made by a title
29 insurance company or an agent of a title insurance company to an insured or to an applicant for
30 insurance, for a policy or contract of title insurance; however, "rate" does not include charges
31 paid to and retained by an attorney at law, abstractor, surveyor, tax service, or any other person

1 acting in a capacity other than as a title insurance limited producer [AGENT] and on behalf of
2 a client other than a title insurance company, or charges made for special services, even though
3 performed in connection with a title insurance policy or contract;

4 * Sec. 185. AS 21.66.480(7) is amended to read:

5 (7) "title insurance limited producer [AGENT]" means a person, firm,
6 association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized
7 in writing by a title insurance company to solicit title insurance, collect premiums, determine
8 insurability in accordance with the underwriting rules and standards prescribed by the title
9 insurance company that the licensee [AGENT] represents, and issue policies in its behalf;
10 however, the term "title insurance limited producer [AGENT]" does not include officers and
11 salaried employees of a title insurance company;

12 * Sec. 186. AS 21.66.480(8) is amended to read:

13 (8) "title insurance company" means a domestic company organized under the
14 provisions of this title for the purpose of carrying on the business of title insurance, or any
15 foreign title insurance company issued a certificate of authority to transact a title insurance
16 business in this state and any title insurance company having the power and authority to transact
17 a title insurance business within this state [AS OF AUGUST 14, 1974].

18 * Sec. 187. AS 21.69.390 is amended by adding a new subsection to read:

19 (d) To meet the requirements of (a) of this section, a domestic insurer shall keep at its
20 principal place of business in the state the following records of assets, transactions, and affairs:

21 (1) a general ledger;

22 (2) copies of reports prepared to comply with AS 21.09.200 - 21.09.210;

23 (3) if prepared in the normal course of business, financial statements prepared
24 under general accepted accounting principals on which a licensed certified public accountant has
25 expressed an opinion;

26 (4) filings made by a domestic insurer or affiliates of the domestic insurer with
27 a government agency with which a domestic insurer or affiliates of the domestic insurer's
28 securities may be registered;

29 (5) a state certificate of authority;

30 (6) filings made under AS 21.21;

31 (7) original policy and claim files for insurance of property or a risk resident or

1 located in the state;

2 (8) a corporate minutes book;

3 (9) articles of incorporation;

4 (10) corporate bylaws;

5 (11) contracts; and

6 (12) other records required by the director by regulation.

7 * Sec. 188. AS 21.72.120(c) is amended to read:

8 (c) A copy of the annual statement certified by the director must be filed on or before
9 the first day of March [APRIL] each year by the association in the office of the magistrate in
10 the judicial district in which the business office of the association is located.

11 * Sec. 189. AS 21.75.040(b) is amended to read:

12 (b) The attorney-in-fact [ATTORNEY] of a foreign or alien reciprocal insurer, that [,
13 WHICH INSURER] is authorized to transact insurance in this state, may not, by virtue of
14 discharge of its duties as the attorney-in-fact [ATTORNEY] with respect to the insurer's
15 transactions in this state, be considered to be doing business in this state within the meaning of
16 a law of this state applying to foreign firms or corporations.

17 * Sec. 190. AS 21.75 is amended by adding a new section to read:

18 Sec. 21.75.045. LICENSING OF ATTORNEYS-IN-FACT. (a) A person may not act
19 in the capacity of attorney-in-fact for a subscriber regarding a subject that is resident, located,
20 or to be performed in this state or for a reciprocal insurer licensed to do business in this state
21 unless the person is licensed under this chapter. The director may adopt regulations that establish
22 qualifications for being licensed as an attorney-in-fact. The attorney-in-fact for a domestic
23 reciprocal insurer transacting all of its insurance activities on a subject resident, located, and to
24 be performed in this state is exempt from licensing under this title if the attorney-in-fact

25 (1) is a wholly-owned subsidiary of the reciprocal; and

26 (2) does not act as attorney-in-fact for another unaffiliated reciprocal insurer.

27 (b) The director may not issue or renew a license under this chapter to a person, or to
28 be exercised by a person, found by the director to be untrustworthy, incompetent, financially
29 irresponsible, or who has not established to the satisfaction of the director that the person is
30 qualified under this chapter.

31 (c) To qualify for issuance or renewal of a license under this chapter, an applicant or

1 licensee shall comply with this title and

2 (1) be a trustworthy person;

3 (2) have active working experience in administrative functions that, in the

4 director's opinion, exhibits the ability to competently perform the administrative functions of an

5 attorney-in-fact;

6 (3) not have committed an act that is a cause for denial, nonrenewal, suspension,

7 or revocation of a license in this state or another jurisdiction;

8 (4) have and maintain a lawfully established place of business physically

9 accessible to the public where the attorney-in-fact principally conducts transactions under the

10 license in this state, or if for a foreign reciprocal, in the state of domicile;

11 (5) disclose to the director all officers, directors, partners, principals, or managers

12 and whether or not they are licensed in this state or another jurisdiction;

13 (6) designate an officer, partner, or principal responsible for the firm's compliance

14 with the insurance statutes and regulations of this state;

15 (7) provide certified financial statements for the prior two years prepared by an

16 independent certified public accountant that establish that the applicant is solvent, that the

17 applicant's system of accounting, internal control, and procedure is operating effectively to

18 provide reasonable assurance that money is promptly accounted for and paid to the person

19 entitled to the money, and any other information that the director may require to review the

20 current financial condition of the applicant;

21 (8) provide to the director documents necessary to verify statements contained in

22 or in connection with the application; and

23 (9) notify the director within 30 days in writing by certified mail of a change in

24 officer, director, partner, principal, or manager; place of business; mailing address; telephone

25 number; suspension or revocation of an insurance license by another state or jurisdiction; or a

26 conviction of a misdemeanor or felony of the attorney-in-fact, its officers, directors, partners,

27 owners, or employees.

28 (d) The director may adopt regulations establishing education requirements, experience

29 requirements, or examination requirements for applicants or licensees under this chapter.

30 (e) The director may require that an attorney-in-fact maintain an errors and omissions

31 insurance policy acceptable to the director.

1 (f) If the director finds that the applicant or licensee is qualified and that application,
2 license, or renewal fees set under AS 21.06.250 have been paid, the director may issue or renew
3 the license.

4 (g) A license issued under this chapter shall be renewed each year by the attorney-in-fact
5 when the annual statement is filed under AS 21.75.130.

6 (h) An attorney-in-fact shall be subject to hearings and orders on violations; denial,
7 nonrenewal, suspension, or revocation of license; penalties; and surrender of a license under the
8 procedures of AS 21.27.405 - 21.27.460.

9 * Sec. 191. AS 21.75.060(b) is amended to read:

10 (b) The proposed attorney-in-fact [ATTORNEY] shall fulfill the requirements of and
11 shall execute and file with the director when applying for a certificate of authority, a declaration
12 setting out

13 (1) the name of the insurer;

14 (2) the location of the insurer's principal office, which shall be the same as that
15 of the attorney-in-fact [ATTORNEY] and shall be maintained in this state;

16 (3) the kinds of insurance proposed to be transacted;

17 (4) the names and addresses of the original subscribers;

18 (5) the designation and appointment of the proposed attorney-in-fact
19 [ATTORNEY] and a copy of the power of attorney;

20 (6) the names and addresses of the officers and directors of the attorney-in-fact
21 [ATTORNEY], if a corporation, or its members, if a firm;

22 (7) the powers of the subscribers' advisory committee, and the names and terms
23 of office of the members;

24 (8) that all money paid to the reciprocal insurer shall, after deducting any sum
25 payable to the attorney-in-fact [ATTORNEY], be held in the name of the insurer and for
26 the purposes specified in the subscribers' agreement;

27 (9) a copy of the subscribers' agreement;

28 (10) a statement that each of the original subscribers has in good faith applied for
29 insurance of a kind proposed to be transacted, and that the insurer has received from each
30 subscriber the full premium or premium deposit required for the policy applied for, for
31 a term of not less than six months at an adequate rate filed with and approved by the

1 director;

2 (11) a statement of the financial condition of the insurer, a schedule of its assets,
3 and a statement that the surplus as required by AS 21.75.050 is on hand;

4 (12) a copy of each policy, endorsement, and application form it then proposes
5 to issue or use.

6 * Sec. 192. AS 21.75.060(c) is amended to read:

7 (c) The declaration shall be acknowledged by the attorney-in-fact [ATTORNEY] in the
8 manner required for the acknowledgment of deeds.

9 * Sec. 193. AS 21.75.080 is repealed and reenacted to read:

10 Sec. 21.75.080. AUTHORITY OF ATTORNEY-IN-FACT. (a) A subscriber's agreement
11 providing for an advisory committee consistent with AS 21.75.170 shall be executed by each
12 subscriber and shall grant authority to the attorney-in-fact to manage the affairs of the reciprocal
13 insurer.

14 (b) The duties of the attorney-in-fact shall be specified in the subscriber's agreement.
15 The agreement shall be approved by the director and amendments shall be approved by the
16 director and the advisory committee. The agreement must, at a minimum, provide that

17 (1) the attorney-in-fact shall provide written notice of and make the necessary
18 arrangements for the election, in person or by proxy, of the members of the advisory committee;
19 the cost of notice, ballot, or proxy for a meeting and the cost of a meeting that may be called for
20 an election shall be paid by the reciprocal insurer;

21 (2) the attorney-in-fact shall provide written notice to the members of the advisory
22 committee of not less than 10 business days for a regular meeting or a special meeting called
23 under AS 21.75.170(e); the cost of notice shall be paid by the reciprocal insurer;

24 (3) the advisory committee may, upon majority vote of its members at a regular
25 or special meeting and upon written notice of the vote to the director and the attorney-in-fact,
26 recommend termination of the attorney-in-fact for a stated cause and the appointment of a new
27 attorney-in-fact;

28 (4) termination of the attorney-in-fact shall require the approval of a two-thirds
29 majority of the subscribers present in person or by proxy at a meeting called for that purpose;
30 the attorney-in-fact shall provide written notice to all subscribers by certified mail not less than
31 30 days before the meeting; the notice must include the recommendation of termination and

1 replacement drafted by the advisory committee and other appropriate documents drafted by the
2 attorney-in-fact; a copy of all documents mailed and certification of mailing to all subscribers
3 must be provided to all members of the advisory committee; the cost of notice and proxy for the
4 meeting shall be paid by the reciprocal insurer; at least 25 percent of all subscribers shall
5 constitute a quorum for reciprocal insurers with less than 10,000 subscribers; 2,500 subscribers
6 or five percent of all subscribers, whichever is greater, shall constitute a quorum for all other
7 reciprocals;

8 (5) the assets of the reciprocal insurer and its subscribers shall be invested under
9 AS 21.21; investment guidelines shall be approved by the advisory committee and shall be
10 properly accounted for on the financial records of the reciprocal insurer as being held for or on
11 behalf of the subscribers; the cash assets of the reciprocal insurer and its subscribers not
12 otherwise invested in short-term securities, covering policy obligations arising out of policies
13 issued, or issued for delivery in the United States shall be held in one or more appropriately
14 identified accounts in banks that are members of the Federal Reserve System; these accounts
15 shall be drawn on by the attorney-in-fact or by employees or representatives of the reciprocal
16 insurer authorized by the attorney-in-fact for payments on behalf of the reciprocal insurer;

17 (6) if the attorney-in-fact is acting for more than one reciprocal insurer, separate
18 records and accounts shall be maintained for each reciprocal;

19 (7) the attorney-in-fact may not assign responsibilities detailed in the subscriber's
20 agreement in whole or in part without prior approval of the advisory committee and the director;

21 (8) the attorney-in-fact shall

22 (A) establish and maintain underwriting procedures and manuals that state
23 the rates and conditions for the acceptance or rejection of risks;

24 (B) make a report to the advisory committee at each regular meeting of
25 the committee on the financial condition of the reciprocal insurer and all material
26 transactions entered into during the period since the last meeting;

27 (C) annually provide to each member of the advisory committee

28 (i) on or before March 2, a copy of the reciprocal insurer's annual
29 statement and the accompanying statement of actuarial opinion filed with the
30 director under AS 21.75.130; and

31 (ii) on or before June 1, a copy of a statement prepared by an

1 independent certified public accountant addressing the financial condition and
2 solvency of the attorney-in-fact;

3 (D) maintain a financially solvent condition;

4 (9) the forms, amounts, and formulas of compensation the attorney-in-fact will
5 receive for services rendered are specified;

6 (10) the books, accounts, and records of the reciprocal insurer, its subscribers, and
7 the attorney-in-fact are maintained to clearly and accurately disclose the nature and details of
8 each transaction, including all notes, workpapers, documents, and similar material in sufficient
9 detail that relevant events, dates, and persons participating can be identified and information
10 necessary to determine that the compensation received by or owing to the attorney-in-fact
11 conforms to the subscriber's agreement; the books, accounts, and records of the reciprocal insurer
12 are the sole property of the reciprocal insurer;

13 (11) if the subscriber's agreement provides that any of the attorney-in-fact's
14 compensation is contingent upon the reciprocal insurer's profits, that compensation may not be
15 determined and paid until at least five years after the premiums on casualty insurance are earned,
16 at least one year after the premiums are earned on any other kind of insurance, and not until the
17 adequacy of loss reserves on the remaining claims, known and unknown, have been verified
18 under (8) of this subsection; and

19 (12) the attorney-in-fact shall conduct the affairs of the reciprocal insurer as
20 required under this title.

21 (c) Unless subject to AS 21.22, a material transaction between the reciprocal insurer, its
22 subscribers, the attorney-in-fact, and an affiliate of the attorney-in-fact may not be entered into
23 unless it has been filed with the director of the reciprocal insurer's state of domicile, if accredited
24 by the National Association of Insurance Commissioners, or with the director of this state, if not
25 accredited, at least 30 days before its effective date and the director of the accredited state has
26 not disapproved it; however, a transaction involving five percent or more of admitted assets is
27 subject to prior approval of the director of the reciprocal insurer's state of domicile and the
28 transaction must meet the following standards:

29 (1) the terms shall be fair and equitable;

30 (2) charges or fees for services performed shall be reasonable;

31 (3) expenses incurred and payments received shall be allocated to the reciprocal

1 insurer on an equitable basis in conformity with statutory insurance accounting practices being
2 consistently applied; and

3 (4) the books, accounts, and records of each party shall be maintained to disclose
4 clearly and accurately the precise nature and details of the transaction, including accounting
5 information that is necessary to support the reasonableness of the charges or fees to the respective
6 parties.

7 (d) A subscriber's agreement containing the duties of the attorney-in-fact shall be
8 provided by the attorney-in-fact to all subscribers. Renewing subscribers shall be informed that
9 their failure to return a signed rejection of the subscriber's agreement within 30 days after the
10 renewal date will be considered acceptance of the subscriber's agreement.

11 * Sec. 194. AS 21.75.090 is amended to read:

12 Sec. 21.75.090. MODIFICATIONS. Modifications of the terms of the subscribers'
13 agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by
14 the attorney-in-fact [ATTORNEY] and the subscribers' advisory committee. A modification
15 may not be effective retroactively, or apply to an insurance contract issued before the
16 modification.

17 * Sec. 195. AS 21.75.100(a) is amended to read:

18 (a) Concurrently with the filing of the declaration provided in AS 21.75.060, the
19 attorney-in-fact [ATTORNEY] of a domestic reciprocal insurer shall file with the director a
20 bond in favor of this state for the benefit of all persons damaged as a result of a breach by the
21 attorney-in-fact [ATTORNEY] of the conditions of the bond as set out in (b) of this section.
22 The bond shall be executed by the attorney-in-fact [ATTORNEY] and by an authorized
23 corporate surety, shall meet the requirements established under AS 21.27.190 and shall be
24 subject to the director's approval.

25 * Sec. 196. AS 21.75.100(b) is amended to read:

26 (b) The bond shall be in the [PENAL] sum of \$100,000 [\$25,000], aggregate in form,
27 conditioned that the attorney-in-fact [ATTORNEY] will faithfully account for all money and
28 other property of the insurer coming into the hands of the attorney-in-fact [ATTORNEY] and
29 that the attorney-in-fact [ATTORNEY] will not withdraw or appropriate to personal use from
30 the funds of the insurer, money or property to which the attorney-in-fact [ATTORNEY] is not
31 entitled under the subscriber's agreement [POWER OF ATTORNEY].

1 * **Sec. 197.** AS 21.75.100 is amended by adding a new subsection to read:

2 (d) The director may require the attorney-in-fact, unless wholly owned by the reciprocal
3 insurer, to maintain an errors and omissions policy issued by an admitted insurer acceptable to
4 the director providing coverage in an amount and issued by an insurer approved by the director.
5 This requirement is satisfied if the attorney-in-fact maintains an errors and omissions policy to
6 satisfy the laws of another state in an amount approved by the director.

7 * **Sec. 198.** AS 21.75.110 is amended to read:

8 Sec. 21.75.110. ACTION ON BOND. Action on the attorney-in-fact's [ATTORNEY'S]
9 bond or to recover against a deposit made in lieu of the bond [THEREOF] may be brought at
10 any time by one or more subscribers suffering loss through a violation of its conditions, or by
11 a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and
12 become part of the insurer's funds. The total aggregate liability of the surety shall be limited to
13 the amount of the penalty of the bond.

14 * **Sec. 199.** AS 21.75 is amended by adding a new section to read:

15 Sec. 21.75.115. EXAMINATION OF AN ATTORNEY-IN-FACT. An attorney-in-fact
16 of a reciprocal insurer is subject to examination by order of the director under AS 21.06.120 and
17 21.06.140 - 21.06.160 for the purpose of determining compliance with this title relating to the
18 operations of the reciprocal insurer or its attorney-in-fact that the director determines cannot be
19 obtained by examination of the reciprocal insurer. The cost of the examination shall be paid by
20 the attorney-in-fact.

21 * **Sec. 200.** AS 21.75.120(a) is amended to read:

22 (a) Legal process shall be served upon a domestic reciprocal insurer by serving the
23 insurer's attorney-in-fact [ATTORNEY] at the principal offices of the attorney-in-fact
24 [ATTORNEY] or by serving the director as the insurer's process agent under AS 21.09.180 and
25 21.09.190.

26 * **Sec. 201.** AS 21.75.130(a) is amended to read:

27 (a) The annual statement of a reciprocal insurer shall be made by its attorney-in-fact
28 [ATTORNEY] and filed with the director, as provided in AS 21.09.200.

29 * **Sec. 202.** AS 21.75.140 is amended to read:

30 Sec. 21.75.140. CONTRIBUTIONS TO INSURER. The attorney-in-fact [ATTORNEY]
31 or other parties may advance to a domestic reciprocal insurer upon reasonable terms the funds

1 it may require from time to time in its operations. Sums advanced may not be treated as a
2 liability of the insurer, and, except upon liquidation of the insurer, may not be withdrawn or
3 repaid except out of the insurer's realized earned surplus in excess of its minimum required
4 surplus. A withdrawal or repayment may not be made without the advance approval of the
5 director. This section does not apply to bank loans or to loans for which security is given.

6 * Sec. 203. AS 21.75.150 is amended to read:

7 Sec. 21.75.150. DETERMINATION OF FINANCIAL CONDITION. In determining
8 the financial condition of a reciprocal insurer the director shall apply the following rules:

9 (1) the same reserves as are required of incorporated insurers issuing
10 nonassessable policies on a reserve basis shall be charged as liabilities;

11 (2) the surplus deposits of subscribers shall be allowed as assets, except the
12 premium deposits delinquent for 90 days shall first be charged against the surplus deposit;

13 (3) the surplus deposits of subscribers may [SHALL] not be charged as a liability;

14 (4) all premium deposits delinquent less than 90 days shall be allowed as assets;

15 (5) an assessment levied upon subscribers, and not collected, may not be allowed
16 as an asset;

17 (6) the contingent liability of subscribers may not be allowed as an asset;

18 (7) the computation of reserves shall be based upon premium deposits other than
19 membership fees and without deductions for expenses and the compensation of the attorney-in-
20 fact [ATTORNEY].

21 * Sec. 204. AS 21.75.170 is repealed and reenacted to read:

22 Sec. 21.75.170. SUBSCRIBER'S ADVISORY COMMITTEE. (a) The subscriber's
23 advisory committee shall meet at least annually and shall consist of not less than nine individuals
24 elected by the subscribers, at least two-thirds of whom are subscribers or officers or directors of
25 subscriber corporations and, except for a reciprocal insurer that wholly owns its attorney-in-fact,
26 not more than one-third of whom may be

27 (1) the attorney-in-fact or an employee, officer, director, affiliate, or a person
28 having a financial interest in the attorney-in-fact; or

29 (2) a person representing the attorney-in-fact or an employee, officer, director,
30 affiliate, or other person having a financial interest in the attorney-in-fact; a person shall be
31 treated as having a financial interest in the attorney-in-fact if the person

1 (A) owns, directly or indirectly, more than one percent of the outstanding
2 stock in the attorney-in-fact;

3 (B) has an outstanding loan from the attorney-in-fact; or

4 (C) earns a commission or other compensation as a producer for the
5 reciprocal insurer.

6 (b) A member of the subscriber's advisory committee may be elected to a term of office
7 of not less than one year nor more than four years. A member may be reelected for an unlimited
8 number of terms. Terms of office may be staggered to provide for continuity.

9 (c) The chair of the committee shall be elected by the members of the committee and the
10 committee shall adopt rules consistent with the purposes of the committee.

11 (d) The attorney-in-fact shall appoint a secretary.

12 (e) Special meetings of the committee may be called by the attorney-in-fact, the chair
13 of the committee, three members of the committee, or a signed petition of at least one percent
14 of the subscribers as of the most recent annual report of the reciprocal insurer.

15 (f) The committee shall

16 (1) supervise the finances of the reciprocal insurer;

17 (2) supervise the reciprocal insurer's operations to assure conformity with the
18 subscriber's agreement;

19 (3) procure the audit of the accounts and records of the reciprocal insurer and of
20 the attorney-in-fact at the expense of the reciprocal insurer; and

21 (4) have additional powers and functions that may be conferred by the
22 subscriber's agreement.

23 * Sec. 205. AS 21.75.200(a) is amended to read:

24 (a) Assessments may from time to time be levied upon subscribers of a domestic
25 reciprocal insurer liable [THEREFOR] under the terms of their policies by the attorney-in-fact
26 [ATTORNEY] upon approval in advance by the subscribers' advisory committee and the director,
27 or by the director in liquidation of the insurer.

28 * Sec. 206. AS 21.75.210 is amended to read:

29 Sec. 21.75.210. TIME LIMIT FOR ASSESSMENTS. A [EACH] subscriber of a
30 domestic reciprocal insurer having contingent liability is liable for and shall pay the subscriber's
31 share of any assessment, as computed and limited under [IN ACCORDANCE WITH] this

1 chapter, if

2 (1) while the subscriber's policy is in force or within one year after its
3 termination, the subscriber is notified by either the attorney-in-fact [ATTORNEY] or the director
4 of an intention to levy the assessment; [,] or

5 (2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator
6 of the insurer should not be appointed is issued while the subscriber's policy is in force or within
7 one year after its termination.

8 * Sec. 207. AS 21.75.230(a) is amended to read:

9 (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the
10 minimum capital and surplus required of a domestic stock insurer authorized to transact like
11 kinds of insurance, upon application of the attorney-in-fact [ATTORNEY] and as approved by
12 the subscribers' advisory committee, the director shall issue a certificate authorizing the insurer
13 to extinguish the contingent liability of subscribers under its policies then in force in this state,
14 and to omit provisions imposing contingent liability in all policies delivered or issued for delivery
15 in this state for as long as all the surplus remains unimpaired.

16 * Sec. 208. AS 21.75.250 is amended to read:

17 Sec. 21.75.250. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a
18 domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy
19 obligations, the return of contributions of the attorney-in-fact [ATTORNEY] or other persons
20 to its surplus made as provided in AS 21.75.140, and the return of an unused premium, savings,
21 or credits then standing on subscribers' account, shall be distributed to its subscribers who were
22 subscribers within the 12 months before the last termination of its certificate of authority,
23 according to a reasonable formula that the director may approve.

24 * Sec. 209. AS 21.75.270 is amended to read:

25 Sec. 21.75.270. FINANCIAL IMPAIRMENT; DETERMINATION OF
26 INSOLVENCY [IMPAIRED RECIPROCALLS]. (a) If the assets of a reciprocal insurer are at
27 any time insufficient to discharge its liabilities, other than a liability on account of funds
28 contributed by the attorney-in-fact [ATTORNEY] or others, and to maintain the required
29 surplus, its attorney-in-fact [ATTORNEY] shall immediately make up the deficiency or levy an
30 assessment upon the subscribers for the amount needed to make up the deficiency; but subject
31 to the limitation set out in the subscriber's agreement [POWER OF ATTORNEY OR POLICY].

1 (b) If the attorney-in-fact [ATTORNEY] fails to make up the deficiency or to make the
2 assessment within 30 days after the director orders the attorney-in-fact [ATTORNEY] to do so,
3 or if the deficiency is not fully made up within 60 days after the date the assessment was made,
4 the insurer shall be considered insolvent and shall be proceeded against as authorized by this title.

5 (c) If liquidation of an insurer is ordered, an assessment shall be levied upon the
6 subscriber for an amount, subject to limits as provided by this chapter, that the director
7 determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds
8 contributed by the attorney-in-fact [ATTORNEY] or other persons, but including the reasonable
9 cost of the liquidation.

10 * **Sec. 210.** AS 21.75.270 is amended by adding a new subsection to read:

11 (d) If liquidation of a domestic reciprocal insurer is ordered, the receiver appointed under
12 the order has a right to recover on behalf of the reciprocal insurer a payment in the form of a
13 bonus, termination settlement, or extraordinary lump-sum compensation adjustment made by the
14 reciprocal insurer or its subscribers to the attorney-in-fact if the distribution or payment is made
15 during the 12 months preceding the order of liquidation, unless it can be shown that the payment
16 was lawful and reasonable and that the reciprocal insurer did not know and, using due diligence,
17 could not have known that the distribution might adversely affect the ability of the reciprocal
18 insurer to fulfill its subscriber's contractual obligation.

19 * **Sec. 211.** AS 21.75 is amended by adding a new section to read:

20 Sec. 21.75.345. DEFINITION. In this chapter, a "material transaction" means a
21 transaction, other than a claim payment, involving more than one-half of one percent of the
22 reciprocal insurer's admitted assets as of December 31 of the prior year.

23 * **Sec. 212.** AS 21.78 is amended by adding a new section to read:

24 Sec. 21.78.325. RECOVERY FROM AFFILIATES. (a) If an order for liquidation or
25 rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has
26 a right to recover on behalf of the insurer (1) from a parent corporation or holding company or
27 person or affiliate who otherwise controlled the insurer, the amount of distributions, other than
28 a distribution of shares of the same class of stock, paid by the insurer on the insurer's capital
29 stock; or (2) a payment in the form of a bonus, termination settlement, or extraordinary lump sum
30 salary adjustment made by the insurer or the insurer's subsidiary to a director, officer, or
31 employee. If the distribution or payment is made during the 12 months preceding the petition

1 for liquidation, conservation, or rehabilitation, the distribution or payment is subject to the
2 limitations of (b) - (d) of this section.

3 (b) A distribution may not be recovered if the parent or affiliate shows that when paid
4 the distribution was lawful and reasonable and that the insurer did not know and could not
5 reasonably have known that the distribution might adversely affect the ability of the insurer to
6 fulfill its contractual obligations.

7 (c) A person who was a parent corporation or holding company or a person who
8 otherwise controlled the insurer or affiliate at the time the distribution was paid is liable up to
9 the amount of the distribution or payment that the person received. If two or more persons are
10 liable with respect to the same distribution, the persons are jointly and severally liable.

11 (d) The maximum amount recoverable under this section is the amount needed in excess
12 of all other available assets of the impaired or insolvent insurer to pay the contractual obligations
13 of the impaired or insolvent insurer and to reimburse any guaranty funds that expended funds or
14 incurred expenses or may expend funds or may incur expenses in connection with the impaired
15 or insolvent insurer.

16 (e) To the extent that a person liable under (c) of this section is insolvent or otherwise
17 fails to pay a claim due under (c) of this section, the person's parent corporation or holding
18 company or person who otherwise controlled the parent corporation or holding company at the
19 time the distribution was paid is jointly and severally liable for the resulting deficiency in the
20 amount recovered from the parent corporation or holding company or the person who otherwise
21 controlled the parent corporation or holding company.

22 * Sec. 213. AS 21.84.010 is amended to read:

23 Sec. 21.84.010. CHAPTER EXCLUSIVE. Except as otherwise provided, societies shall
24 be governed by this chapter and shall be exempt from all other provisions of the insurance laws
25 of this state, not only in governmental relations with the state, but for every other purpose. [A
26 LAW ENACTED AFTER JULY 1, 1966, MAY NOT APPLY TO SOCIETIES UNLESS THEY
27 ARE EXPRESSLY DESIGNATED IN THE LAW.]

28 * Sec. 214. AS 21.84.350(a) is amended to read:

29 (a) As a part of the annual statement required under AS 21.84.340, each society shall,
30 before the second day of March, file with the director a valuation of its certificates in force on
31 the preceding December 31, provided, the director may, for cause shown, extend the time for

1 filing the valuation for not more than two calendar months. The report of valuation must
2 include an opinion of a qualified actuary as to whether the reserves and related actuarial
3 items held in support of the certificates in force are computed appropriately, are based on
4 assumptions that satisfy contractual provisions, are consistent with prior reported amounts,
5 and comply with applicable laws of this state. The report of valuation shall show, as reserve
6 liabilities, the difference between the present mid-year value of the promised benefits provided
7 in the certificates of the society in force and the present mid-year value of the future net
8 premiums as the same are in practice actually collected, not including any value for the right to
9 make extra assessments and not including any amount by which the present mid-year value of
10 future net premiums exceeds the present mid-year value of promised benefits on individual
11 certificates. At the option of a society, in lieu of the above, the valuation may show the net
12 tabular value. The net tabular value on certificates issued before July 1, 1967, shall be
13 determined under [IN ACCORDANCE WITH] the law applicable before July 1, 1966, and on
14 certificates issued on or after July 1, 1967, may not be less than the reserves determined
15 according to the Commissioner's Reserve Valuation Method as defined in this section. If the
16 premium charged is less than the tabular net premium according to the basis of valuation used,
17 an additional reserve equal to the present value of the deficiency in the premiums shall be set up
18 and maintained as a liability. The reserve liabilities shall be properly adjusted if the mid-year
19 or tabular values are not appropriate.

20 * Sec. 215. AS 21.84.480(b) is amended to read:

21 (b) A society, by itself or any other party, and a fraternal benefit society limited
22 producer [AN AGENT OR SOLICITOR], personally or by any other party, may not offer,
23 promise, allow, give, set off, or pay, directly or indirectly, a valuable consideration or inducement
24 to or for insurance on a risk authorized to be taken by the society that [, WHICH] is not
25 specified in the certificate. A member may not receive or accept, directly or indirectly, a rebate
26 of premium or part of a premium, or a fraternal benefit society limited producer's [AGENT'S
27 OR SOLICITOR'S] commission payable on a certificate, or receive or accept a favor or
28 advantage or share in the dividends or other benefits to accrue on, or any valuable consideration
29 or inducement not specified in the contract of insurance.

30 * Sec. 216. AS 21.84.590 is amended to read:

31 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions

1 contained in this chapter, the following provisions of this title apply to fraternal benefit societies
 2 to the extent applicable and not in conflict with the express provisions of this chapter and the
 3 reasonable implications of this chapter:

4 (1) AS 21.03

5 (2) AS 21.06

6 (3) AS 21.09.050 and 21.09.100

7 (4) AS 21.09.200 and 21.09.205

8 (5) AS 21.18

9 (6) AS 21.21

10 (7) AS 21.27

11 (8) AS 21.33

12 (9) [(5)] AS 21.36

13 (10) [(6)] AS 21.42.290 and 21.42.355

14 (11) [(7)] AS 21.53

15 (12) [(8)] AS 21.69.370 and 21.69.640

16 (13) [(9)] AS 21.78

17 (14) [(10)] AS 21.89.060.

18 * Sec. 217. AS 21.84 is amended by adding a new section to read:

19 Sec. 21.84.900. DEFINITIONS. In this chapter,

20 (1) "fraternal benefit society" means an incorporated society, order, or supreme
 21 lodge, without capital stock, including one exempted under AS 21.84.020(a), whether
 22 incorporated or not, conducted solely for the benefit of its members and their beneficiaries and
 23 not for profit, operated on a lodge system with ritualistic form of work, having a representative
 24 form of government, and that makes provision for the payment of benefits under this chapter;

25 (2) "lodge system" means a society having a supreme legislative or governing
 26 body and subordinate lodges or branches by whatever name known, into which members are
 27 elected, initiated, or admitted under its constitution, laws, ritual, and rules; subordinate lodges or
 28 branches are required by law of the society to hold regular meetings at least once in each month;

29 (3) "premiums" means rates or other required contribution by whatever name
 30 known;

31 (4) "representative form of government" means a society in which

1 (A) there is provision in its constitution or laws for a supreme legislative
2 or governing body, composed of representatives elected either by the members or by
3 delegates elected directly or indirectly by the members, together with other members of
4 the body prescribed by the society's constitution and laws;

5 (B) the representatives elected constitute a majority in number and have
6 not less than two-thirds of the votes or less than the votes required to amend its
7 constitution and laws;

8 (C) the meetings of the supreme legislative or governing body and the
9 election of officers, representatives, or delegates are held as often as once in four calendar
10 years;

11 (D) the society has a board of directors charged with the responsibility for
12 managing its affairs in the interim between meetings of its supreme legislative or
13 governing body, subject to control by the body and having powers and duties delegated
14 to it in the constitution or laws of the society;

15 (E) the board of directors is elected by the supreme legislative or
16 governing body, except in case of filling a vacancy in the interim between meetings of
17 the body;

18 (F) the officers are elected either by the supreme legislative or governing
19 body or by the board of directors; and

20 (G) the members, officers, representatives, or delegates may not vote by
21 proxy;

22 (5) "society" unless otherwise indicated, means fraternal benefit society.

23 * Sec. 218. AS 21.89.025(a) is amended to read:

24 (a) An insurer shall provide an appropriate reduction in the premium charged for a
25 personal automobile [MOTOR VEHICLE CASUALTY] insurance policy when the principal
26 operator of the motor vehicle covered by the insurance policy

27 (1) is 55 years of age or older;

28 (2) at renewal requests the insurer to provide the reduction;

29 (3) has had no chargeable accidents as set by established underwriting
30 guidelines in use by the insurer or moving motor vehicle citations within three years
31 preceding the request for the discount;

1 (4) provides the insurer with proof satisfactory to the director that the operator
2 has within the three years before requesting the reduction taken and successfully completed a
3 motor vehicle accident prevention course approved by the Department of Public Safety under
4 AS 28.05.035; and

5 (5) [(4)] did not take and complete the accident prevention course described in
6 (4) [(3)] of this subsection as a result of an order or sentence imposed by a court.

7 * **Sec. 219.** AS 21.89.025(c) is amended to read:

8 (c) The reduced rate provided for an operator under (a) of this section may not extend
9 beyond three years after the last day of the operator's most recently successfully completed motor
10 vehicle accident prevention course described in (a)(4) [(a)(3)] of this section.

11 * **Sec. 220.** AS 21.89.025 is amended by adding a new subsection to read:

12 (d) The director may establish by regulation the manner in which insurers inform
13 applicants and insureds of the rate reduction available under this section.

14 * **Sec. 221.** AS 21.89 is amended by adding a new section to read:

15 Sec. 21.89.035. **MANDATORY APPRAISAL.** A motor vehicle or similar policy, a
16 policy providing property coverage, or any other policy providing first party property, casualty,
17 or inland marine coverage, issued or delivered in this state, must include an appraisal clause
18 providing a contractual means to resolve a dispute between the insured and the insurer over the
19 value of a covered first party loss for real property, personal property, business property, or
20 similar risks. If the insured and the insurer fail to agree on the amount of a covered first party
21 loss, either may make written demand upon the other to submit the dispute for appraisal. Within
22 10 days of the written demand, the insured and insurer must notify the other of the competent
23 appraiser each has selected. The two appraisers will promptly choose a competent and impartial
24 umpire. Not later than 15 days after the umpire has been chosen, unless the time period is
25 extended by the umpire, each appraiser will separately state in writing the amount of the loss.
26 If the appraisers submit a written report of agreement on the amount of the loss, the agreed
27 amount will be binding upon the insured and insurer. If the appraisers fail to agree, the
28 appraisers will promptly submit their differences to the umpire. A decision agreed to by one of
29 the appraisers and the umpire will be binding upon the insured and insurer. All expenses and
30 fees, not including counsel or adjuster fees, incurred because of the appraisal shall be paid as
31 determined by the umpire. Except as specifically provided, nothing in this section is intended

1 to or shall in any manner limit or restrict the rights of insureds or insurers or confer any rights
2 to an insured or insurer.

3 * Sec. 222. AS 21.90.900 is amended to read:

4 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires
5 otherwise,

6 (1) "admitted insurer" means an authorized insurer ["ADJUSTER" MEANS
7 A PERSON WHO, FOR COMPENSATION AS AN INDEPENDENT CONTRACTOR OR
8 AS AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, OR FOR FEE OR
9 COMMISSION, INVESTIGATES AND ADJUSTS CLAIMS ARISING UNDER INSURANCE
10 CONTRACTS ON BEHALF OF THE INSURER, BUT DOES NOT INCLUDE AN ATTORNEY
11 AT LAW WHO ADJUSTS INSURANCE LOSSES FROM TIME TO TIME INCIDENTAL TO
12 THE PRACTICE OF LAW OR A SALARIED EMPLOYEE OF AN INSURER];

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

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

19 (4) "attorney-in-fact" means a person designated and appointed by the
20 subscribers of a reciprocal insurer to act for and bind the subscribers in transactions
21 relating to or arising out of the operations of a reciprocal insurer, subject to the limitations
22 that may be lawfully provided;

23 (5) "authorized insurer" means an insurer authorized by a certificate of authority
24 issued by the director to transact insurance in this state;

25 (6) [(5)] "broker" means a person who is not an agent of the insurer and who, on
26 behalf of the insured, for compensation as an independent contractor by commission or fee,
27 solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance of
28 insurance or reinsurance; or in any manner aids in the solicitation, negotiation, procurement,
29 renewal, or continuance of insurance or reinsurance, for insureds or prospective insureds not
30 including the broker;

31 (7) [(6)] "commissioner" means the commissioner of commerce and economic

1 development;

2 (8) [(7)] "court" means superior court;

3 (9) [(8)] "director" means the director of the division of insurance;

4 (10) [(9)] "division" means the division of insurance, Department of Commerce
5 and Economic Development;

6 (11) [(10)] "domestic insurer" means an insurer formed under the laws of this
7 state;

8 (12) "evergreen clause" means a contract clause that provides that the
9 contract is automatically renewed unless notice to the contrary is given by one of the parties
10 to the contract;

11 (13) "examiner" means an individual or firm that has been authorized by the
12 director to conduct an examination under this title;

13 (14) "facultative reinsurance" means a contract of reinsurance for individual
14 risks where the insurer retains the ability to accept or reject each risk offered by the ceding
15 company;

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

19 (16) [(12)] "foreign insurer" means an insurer formed under the laws of a
20 jurisdiction other than this state and includes an alien insurer;

21 (17) [(13)] "GENERAL AGENT" MEANS A PERSON, FIRM, OR
22 CORPORATION THAT

23 (A) HAS AUTHORITY TO EXERCISE GENERAL SUPERVISION
24 OVER THE BUSINESS, OR ANY PART OF THE BUSINESS, OF ONE OR MORE
25 AUTHORIZED INSURERS IN THIS STATE, WITH THE AUTHORITY TO APPOINT
26 AGENTS FOR THE INSURER AND TO TERMINATE THE APPOINTMENT; AND

27 (B) FOR COMPENSATION FROM AN AUTHORIZED INSURER
28 PERFORMS ADMINISTRATIVE FUNCTIONS NORMALLY PERFORMED BY THE
29 INSURER INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,
30 MARKETING ADMINISTRATION, AGENT APPOINTMENT, PREMIUM
31 ACCOUNTING, PREMIUM BILLING, COVERAGE VERIFICATION, FINAL

1 UNDERWRITING AUTHORITY, AND CERTIFICATE ISSUANCE; "GENERAL
2 AGENT" INCLUDES A THIRD-PARTY ADMINISTRATOR;

3 (14) "impaired" or "impairment" means that

4 (A) an insurer's policyholder surplus is greater than zero but less than that
5 required by AS 21.09.070 for the authority to transact the kinds of insurance being
6 transacted; or

7 (B) an insurer is being operated in a manner that has caused or might
8 cause irreparable loss and injury to the insurer or to the public;

9 (18) [(15)] "independent adjuster" means a person who, for compensation as an
10 independent contractor or as an employee of an independent contractor, for fee or
11 commission, investigates and adjusts losses or claims arising under insurance contracts on
12 behalf of an insurer;

13 (19) "independently procured insurance" means insurance procured directly
14 from a nonadmitted insurer directly by an insured, but does not include insurance lawfully
15 procured through a surplus lines broker under AS 21.34 [AN ADJUSTER REPRESENTING
16 THE INTERESTS OF THE INSURER];

17 (20) [(16)] "industrial life insurance" means that form of life insurance written
18 under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted
19 on the face as part of the descriptive matter, and under which premiums are payable monthly or
20 more often;

21 (21) [(17)] "insolvent" or "insolvency" means that an insurer's policyholder surplus
22 is less than or equal to zero;

23 (22) [(18)] "insurance" means a contract whereby one undertakes to indemnify
24 another or pay or provide a specified or determinable amount or benefit upon determinable
25 contingencies;

26 (23) "insurance producer" means a person who solicits, negotiates, effects,
27 procures, or delivers a policy of insurance, or to the extent authorized by the insurer,
28 renews, continues, or binds a policy of insurance;

29 (24) [(19)] "insurer" includes a person engaged as indemnitor, surety, or contractor
30 in the business of entering into contracts of insurance or of annuity;

31 (25) [(20)] "licensee" means a person or firm licensed as provided in AS 21.27

1 [OR AS 21.34];

2 (26) "managing general agent" means a person, firm, or corporation that

3 (A) has authority to exercise general supervision over the business, or
4 any part of the business, of one or more admitted insurers; and

5 (B) performs administrative functions normally performed by the
6 insurer including claims administration and payment, marketing administration,
7 agent appointment, premium accounting, premium billing, coverage verification, final
8 underwriting authority, and certificate issuance;

9 (27) "nonadmitted insurer" means an unauthorized insurer;

10 (28) [(21)] "person" has the meaning given in AS 01.10.060 and includes an
11 insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in
12 AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged
13 in the business of transacting insurance, including agents, brokers, and claims adjusters;

14 (29) [(22)] "policy" means the written contract of or written agreement for or
15 effecting insurance, by whatever name called, and includes all clauses, riders, endorsements, and
16 papers attached to it and a part of it;

17 (30) [(23)] "policyholder surplus" means

18 (A) for a stock insurer, the sum of its capital, as represented by the
19 aggregate par value to its outstanding capital stock, and its surplus, if any;

20 (B) for a mutual insurer, its surplus, both basic guaranteed and additional,
21 if any;

22 (C) for an insurer other than a stock or mutual insurer, the net worth of
23 the insurer, calculated as its recorded assets less its liabilities, as determined by the
24 accounting criteria set out in this title;

25 (31) [(24)] "premium" means the consideration for insurance, by whatever name
26 called, and by whatever method paid or collected, including an assessment, or membership,
27 policy, survey, inspection, service or similar fee or charge made in consideration for an insurance
28 contract;

29 (32) "reinsurance intermediary" means a person who acts as a producer in
30 soliciting, negotiating, or procuring the making of a reinsurance contract or binder on
31 behalf of a ceding admitted insurer or acts as a producer in accepting a reinsurance

1 contract or binder on behalf of an assuming admitted insurer:

2 (33) "reinsurance intermediary broker" means a person who solicits,
3 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding admitted
4 insurer without the authority or power to bind reinsurance on behalf of the insurer:

5 (34) "reinsurance intermediary manager" means a person including an
6 insurer who has authority to bind or manage all or part of the assumed reinsurance
7 business of an admitted reinsurer, including the management of a separate division,
8 department, or underwriting office, and who acts as an agent for the reinsurer [(25)

9 "SOLICITOR" MEANS AN INDIVIDUAL AUTHORIZED BY AN AGENT OR BROKER TO
10 SOLICIT APPLICATIONS FOR INSURANCE AS A REPRESENTATIVE OF THE AGENT
11 OR BROKER AND TO COLLECT PREMIUMS IN CONNECTION WITH THE INSURANCE];

12 (35) [(26)] "state" means a state, District of Columbia, territory, commonwealth,
13 or possession of the United States of America;

14 (36) "surplus lines broker" means a person licensed under AS 21.27 to place
15 insurance in this state or relative to a subject resident, located, or to be performed in this
16 state with eligible surplus lines insurers under AS 21.34;

17 (37) "surplus lines insurance" means any insurance in this state or relative
18 to a subject resident, located, or to be performed in this state that is permitted under
19 AS 21.34 to be placed through a surplus lines broker licensed under AS 21.27 with
20 nonadmitted insurers eligible to accept insurance other than reinsurance, wet marine and
21 transportation insurance, insurance independently procured, life insurance, and an annuity
22 contract;

23 (38) "third-party administrator" means a person who for residents of this
24 state, or for residents of another jurisdiction from a place of business in this state, performs
25 administrative functions including claims administration and payment, marketing
26 administrative functions, premium accounting, premium billing, coverage verification,
27 underwriting authority, or certificate issuance in regard to life insurance, disability
28 insurance, or annuities;

29 (39) [(27)] "transact" with respect to insurance includes

30 (A) solicitation and inducement;

31 (B) preliminary negotiations;

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

4 (40) [(28)] "unauthorized insurer" means an insurer not authorized to transact
5 insurance in this state.

6 * Sec. 223. AS 28.05.035 is amended to read:

7 Sec. 28.05.035. APPROVAL OF ACCIDENT PREVENTION COURSES. For the
8 purposes of AS 21.89.025(a)(4) [AS 21.89.025(a)(3)], the commissioner may approve driver
9 education courses intended to prevent motor vehicle accidents and promote safe driving practices.

10 * Sec. 224. AS 21.06.130(b); AS 21.27.050, 21.27.070, 21.27.090, 21.27.095, 21.27.120, 21.27.200,
11 21.27.210, 21.27.240, 21.27.250, 21.27.260, 21.27.280, 21.27.310, 21.27.320, 21.27.360(g), 21.27.400,
12 21.27.450; AS 21.33.061(e), 21.33.061(i), 21.33.065(c); AS 21.34.140, 21.34.160, 21.34.200(b),
13 21.34.210; AS 21.66.030, 21.66.040, 21.66.050, 21.66.100, 21.66.120(b), 21.66.130, 21.66.140,
14 21.66.160, 21.66.260, 21.66.401, 21.66.402, 21.66.403, 21.66.430, 21.66.440; AS 21.75.040(a),
15 21.75.100(c); AS 21.84.290, 21.84.410, 21.84.420, 21.84.430, 21.84.440, 21.84.450, 21.84.460,
16 21.84.560, 21.84.570, 21.84.580; and AS 21.90.910 are repealed.

17 * Sec. 225. APPLICABILITY OF AS 21.18.110(m). The actuarial opinion required under
18 AS 21.18.110(m), as enacted by sec. 24 of this Act, shall be submitted with the annual statement
19 beginning with the year ending December 31, 1993.

20 * Sec. 226. Sections 2, 20, 25, 61, 62, 95, 96, and 190 of this Act take effect January 1, 1994.

21 * Sec. 227. Except as provided in sec. 226 of this Act, this Act takes effect July 1, 1992.