

**HB**

**179**

# Alaska State Legislature



House of Representatives  
House Judiciary Committee

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

## MEMORANDUM

**Date:** March 5, 1997  
**To:** Committee Members  
**From:** Joe Green, House Judiciary Committee Chairman  
**Re:** Fraternal Benefit Societies Bill

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The House Judiciary Committee has been asked to introduce the attached bill. It is based on the Model Fraternal Code and designed to eliminate some of the problems associated with the existing Alaska statutes that govern fraternal benefit societies in the Alaska Insurance Code, Title 21, Chapter 84. Many of the changes are designed to eliminate conflicts with other laws such as the Internal Revenue Code and regulations of the Securities Exchange Commission.

Please let me know immediately if you have any objection to the introduction of this bill by the House Judiciary committee. Please note that introduction of the bill by the committee does not imply that committee or its individual members endorse the bill.

Because it is desirable to read this bill across the floor tomorrow, I request your response no later than 3:30 p.m. this afternoon.

0-LS0671VA  
Crawford  
2/27/97

**SENATE BILL NO.**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE SENATE LABOR AND COMMERCE COMMITTEE**

**Introduced:  
Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to fraternal benefit societies; and providing for an effective  
2 date."

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

4 \* Section 1. AS 21.84 is amended by adding new sections to read:

5 **Article 1. Structure and Purpose.**

6 **Sec. 21.84.005. Representative form of government.** (a) A society has a  
7 representative form of government if

8 (1) the society has a supreme governing body constituted as described  
9 in (b) or (c) of this section;

10 (2) officers of the society are elected either by the supreme governing  
11 body or by the board of directors;

12 (3) only benefit members are eligible for election to the supreme  
13 governing body or to the board of directors; and

14 (4) a voting member has one vote, and a vote may not be cast by proxy.

1 (b) The supreme governing body may be constituted in an assembly. The  
2 assembly is composed of delegates elected directly by the members or at intermediate  
3 assemblies or conventions of members or their representatives, together with other  
4 delegates prescribed in the society's laws. A society may provide for election of  
5 delegates by mail. The elected delegates shall constitute a majority of the delegates  
6 entitled to vote, and they shall have neither less than two-thirds of the total votes cast,  
7 nor less than the number of votes required to amend the society's laws. The assembly  
8 shall be elected, shall meet at least once every four years, and shall elect a board of  
9 directors to conduct the business of the society between meetings of the assembly.  
10 Vacancies on the board of directors between elections may be filled in the manner  
11 prescribed by the society's laws.

12 (c) The supreme governing body may be constituted in a board. The board  
13 is composed of persons elected by the members, either directly or by their  
14 representatives in intermediate assemblies, together with other persons prescribed in  
15 the society's laws. A society may provide for election of the board by mail. A term  
16 of a board member may not exceed four years. Vacancies on the board between  
17 elections may be filled in the manner prescribed by the society's laws. The elected  
18 board members shall constitute a majority of the number of directors entitled to vote,  
19 and they shall have not less than the number of votes required to amend the society's  
20 laws. A person filling the unexpired term of an elected board member shall be  
21 considered to be an elected member. The board shall meet at least quarterly to  
22 conduct the business of the society.

23 **Sec. 21.84.015. Purposes and powers.** (a) A society shall operate for the  
24 benefit of members and their beneficiaries by (1) providing benefits as specified in  
25 AS 21.84.201, and (2) operating for a social, intellectual, educational, charitable,  
26 benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its  
27 members, which benefits may also be extended to others. A purpose may be carried  
28 out directly by the society or indirectly through subsidiary corporations or affiliated  
29 organizations.

30 (b) A society may adopt and amend laws and rules for the government of the  
31 society, the admission of its members, and the management of its affairs and may have

1 other powers necessary to carrying into effect the objects and purposes of the society.

2 \* **Sec. 2.** AS 21.84 is amended by adding a new section to read:

3 **Article 2. Membership.**

4 **Sec. 21.84.025. Qualifications for membership.** (a) A society shall specify  
5 in its laws or rules

6 (1) eligibility standards for each class of membership, but, if benefits  
7 are provided on the lives of children, the minimum age for adult membership shall be  
8 set at not less than 15 years of age and not more than 21 years of age;

9 (2) the process for admission to membership for each membership  
10 class; and

11 (3) the rights and privileges of each membership class; however, only  
12 benefit members may vote on the management of the insurance affairs of the society.

13 (b) A society may also admit social members, but the social members may not  
14 have a voice or vote in the management of the insurance affairs of the society.

15 (c) A society may organize and operate lodges for children under the minimum  
16 age for adult membership. Membership and initiation in local lodges may not be  
17 required of children, nor may children have a voice or vote in the management of the  
18 society.

19 (d) Membership rights in the society are personal to the member and are not  
20 assignable.

21 \* **Sec. 3.** AS 21.84 is amended by adding a new section to read:

22 **Sec. 21.84.035. Location of office; meetings; communications to members;**  
23 **grievance procedures.** (a) The principal office of a domestic society must be located  
24 in this state. The meetings of the supreme governing body of a society may be held  
25 in a state, district, province, or territory in which the society has at least one  
26 subordinate lodge or in another location as determined by the supreme governing body.  
27 All business transacted at the meetings is as valid in all respects as if the meetings  
28 were held in this state. The minutes of the proceedings of the supreme governing  
29 body and of the board of directors must conform to language requirements for  
30 documents filed under AS 21.84.070.

31 (b) A society may provide in its laws for an official publication in which any

1 notice, report, or statement required by law to be given to members, including notice  
2 of election, may be published. If published in the official publication, required reports,  
3 notices, and statements shall be printed conspicuously. If the records of a society  
4 show that two or more members have the same mailing address, an official publication  
5 mailed to one member is considered to be mailed to all members at the same address  
6 unless a member requests a separate copy.

7 (c) A synopsis of the society's annual statement providing an explanation of  
8 the facts concerning the condition of the society shall be printed not later than June  
9 1 of each year and mailed to each benefit member of the society or published in the  
10 society's official publication.

11 (d) A society may provide in its laws or rules for grievance or complaint  
12 procedures for members.

13 \* **Sec. 4.** AS 21.84 is amended by adding a new section to read:

14 **Sec. 21.84.045. No personal liability; indemnity.** (a) The officers and  
15 members of the supreme governing body or a subordinate body of a society are not  
16 personally liable for benefits provided by a society.

17 (b) A society shall indemnify and reimburse a person for expenses reasonably  
18 incurred by, and liabilities imposed upon, that person in connection with an action,  
19 suit, or proceeding, or threat of an action, suit, or proceeding, whether civil, criminal,  
20 administrative, or investigative, in which the person is involved by reason of the fact  
21 of service in the capacity of a director, officer, employee, or agent of the society or  
22 service in any capacity in a firm, corporation, or organization at the request of the  
23 society. However, a society may not indemnify or reimburse a person in connection  
24 with a matter in an action, suit, or proceeding, or threat of an action, suit, or  
25 proceeding, that has been made the subject of a compromise settlement, or in which  
26 the person is adjudged to be guilty of breach of a duty as a director, officer, employee,  
27 or agent of the society, unless the person acted in good faith for a purpose the person  
28 reasonably believed to be in or not opposed to the best interests of the society, and,  
29 in a criminal action or proceeding, in addition, had no reasonable cause to believe that  
30 the person's conduct constituted a violation of a criminal law of this state or another  
31 jurisdiction. The determination of whether the conduct of the person meets the

1 standard required to justify indemnification and reimbursement may be made by the  
2 supreme governing body or the board of directors through a majority vote of a quorum  
3 consisting of persons who were not parties to the action, suit, or proceeding or by a  
4 court of competent jurisdiction. The termination of an action, suit, or proceeding by  
5 judgment, order, settlement, conviction, or plea of no contest as to the person does not  
6 in itself create a conclusive presumption that the person did not meet the standard of  
7 conduct required to justify indemnification and reimbursement. The right of  
8 indemnification and reimbursement is not exclusive of other rights to which a person  
9 may be entitled as a matter of law and inures to the benefit of the person's heirs,  
10 executors, and administrators.

11 (c) A society may purchase and maintain insurance on behalf of a person who  
12 is or was a director, officer, employee, or agent of the society, or who is or was  
13 serving at the request of the society as a director, officer, employee, or agent of a firm,  
14 corporation, or organization, against a liability asserted against the person and incurred  
15 by the person arising out of that capacity, whether or not the society would have the  
16 power to indemnify the person against that liability under this section.

17 (d) A director, officer, employee, member, or volunteer of a society serving  
18 without compensation is not liable, and no cause of action may be brought against the  
19 person for damages resulting from the exercise of judgment or discretion in connection  
20 with the duties or responsibilities of the person for the society unless the act or  
21 omission involved reckless or intentional misconduct.

22 \* **Sec. 5.** AS 21.84.055 is amended by adding new sections to read:

23 **Sec. 21.84.055. Waiver.** The laws of the society may provide that a  
24 subordinate body or its subordinate officers or members may not waive any provision  
25 of the laws of the society. The provision is binding on the society and every member  
26 and beneficiary of a member.

27 **Article 3. Governance.**

28 **Sec. 21.84.059. Amendments to laws.** (a) A domestic society may amend  
29 its laws in accordance with its provisions by action of its supreme governing body at  
30 a regular or special meeting or, if its laws provide, by referendum. The referendum  
31 may be held in accordance with the provisions of its laws by the vote of the voting

1 members of the society, by the vote of delegates or representatives of voting members.  
2 or by the vote of local lodges. A society may provide for voting by mail. An  
3 amendment submitted for adoption by referendum may not be adopted unless, within  
4 six months from the date of submission of the amendment, at least two-thirds of the  
5 members voting signify consent to the amendment by one of the methods specified  
6 under this subsection.

7 (b) An amendment to the laws of a domestic society may not take effect unless  
8 approved by the director. The director shall approve the amendment if the director  
9 finds that it has been legally adopted and is not inconsistent with the requirements of  
10 the laws of this state or with the character, objects, and purposes of the society.  
11 Unless the director disapproves the amendment within 60 days after it is filed, the  
12 amendment is considered approved. The approval or disapproval of the director shall  
13 be in writing and mailed to the secretary or corresponding officer of the society at its  
14 principal office. If the director disapproves the amendment, the reason for the  
15 disapproval shall be stated in the written notice.

16 (c) Within 90 days from the approval of the amendments by the director, all  
17 amendments, or a synopsis of them, shall be furnished to all members of the society,  
18 either by mail or by publication in full in the official publication of the society. The  
19 affidavit of an officer of the society or of a person authorized by the society to mail  
20 amendments, or a synopsis of them, stating facts that show that the amendments have  
21 been addressed and mailed, is prima facie evidence that the amendments, or a synopsis  
22 of them, have been furnished to the addressee.

23 (d) A foreign or alien society authorized to do business in this state shall file  
24 with the director a certified copy of all amendments of, or additions to, its laws within  
25 90 days after the enactment of them.

26 (e) Printed copies of the laws, as amended, certified by the secretary or  
27 corresponding officer of the society are prima facie evidence of the legal adoption of  
28 those laws.

29 \* Sec. 6. AS 21.84.060 is amended to read:

30 **Sec. 21.84.060. Organization.** The organization of a domestic society  
31 organized on or after the effective date of this Act shall be formed [GOVERNED]

1 as follows: Seven or more citizens of the United States, a majority of whom are  
2 citizens of this state, who desire to form a fraternal benefit society, may make, sign,  
3 and acknowledge before some officer, competent to take acknowledgment of deeds,  
4 articles of incorporation, in which shall be stated

5 (1) the proposed corporate name of the society, which may not so  
6 closely resemble the name of any society or insurance company as to be misleading  
7 or confusing;

8 (2) the purposes for which it is being formed and the mode in which  
9 its corporate powers are to be exercised; the purposes may not include more liberal  
10 powers than are granted by this chapter [, PROVIDED THAT ANY LAWFUL  
11 SOCIAL, INTELLECTUAL, EDUCATIONAL, CHARITABLE, BENEVOLENT,  
12 MORAL, FRATERNAL, OR RELIGIOUS ADVANTAGES MAY BE SET OUT  
13 AMONG THE PURPOSES OF THE SOCIETY];

14 (3) the names and residences of the incorporators and the names,  
15 residences, and official titles of all the officers, trustees, directors, or other persons  
16 who are to have and exercise the general control of the management of the affairs and  
17 funds of the society for the first year or until the ensuing election at which all the  
18 officers shall be elected by the supreme [LEGISLATIVE OR] governing body, which  
19 election shall be held no later than one year from the date of the issuance of the  
20 permanent certificate of authority.

21 \* Sec. 7. AS 21.84.070 is amended to read:

22 Sec. 21.84.070. **Filing articles and documents.** The articles of incorporation,  
23 certified copies of the domestic society's [CONSTITUTION,] laws and rules, copies  
24 of all proposed forms of certificates, applications, and circulars to be issued by the  
25 society, and a bond conditioned upon the return to applicants of the advanced  
26 payments if the organization is not completed within one year, shall be filed with the  
27 director, who may require further information considered necessary. The bond with  
28 sureties approved by the director shall be in an amount, not less than \$300,000  
29 [~~\$5,000~~] or more than \$1,500,000 [~~\$25,000~~], required by the director. All documents  
30 filed are to be in the English language. If the purposes of the society conform to the  
31 requirements of this chapter and all provisions of the law have been complied with,

1 the director shall so certify, retain, and file the articles of incorporation [,] and furnish  
2 the incorporators a preliminary certificate of authority authorizing the society to solicit  
3 members as hereinafter provided.

4 \* Sec. 8. AS 21.84.080 is amended to read:

5 **Sec. 21.84.080. Time for completing organization.** A preliminary certificate  
6 of authority [GRANTED UNDER THIS SECTION] is not valid after one year from  
7 its date or after such further period, not exceeding one year, as may be authorized by  
8 the director upon cause shown, unless the 500 applicants hereinafter required have  
9 been secured and the organization has been completed as herein provided. The articles  
10 of incorporation and all other proceedings thereunder shall become null and void in  
11 one year from the date of the preliminary certificate of authority, or at the expiration  
12 of the extended period, unless the domestic society has completed its organization and  
13 received a certificate of authority to do business as hereinafter provided.

14 \* Sec. 9. AS 21.84.090 is amended to read:

15 **Sec. 21.84.090. Initial solicitations and qualifications.** Upon receipt of a  
16 preliminary certificate of authority from the director, the domestic society may solicit  
17 members for the purpose of completing its organization, shall collect from each  
18 applicant the amount of not less than one regular monthly premium in accordance with  
19 its table of rates [AS PROVIDED BY ITS CONSTITUTION AND LAWS], and shall  
20 issue to each applicant a receipt for the amount collected. A domestic society may  
21 not incur any liability other than for the return of the advance premium, or issue any  
22 certificate, or pay, allow, or offer or promise to pay or allow, a death or health care  
23 benefit to any person until

24 (1) actual bona fide applications for [DEATH] benefits have been  
25 secured on 500 applicants and any necessary evidence of insurability has been  
26 furnished to and approved by the society [AGGREGATING AT LEAST \$500,000  
27 ON AT LEAST 500 LIVES;

28 (2) ALL APPLICANTS FOR DEATH BENEFITS HAVE  
29 FURNISHED EVIDENCE OF INSURABILITY SATISFACTORY TO THE  
30 SOCIETY];

31 (2) [(3)] certificates of examinations or acceptable declarations of

1 insurability have been filed and approved by the chief medical examiner of the society;

2 (3) [(4)] 10 subordinate lodges or branches have been established into  
3 which the 500 applicants have been admitted;

4 (4) [(5)] there has been submitted to the director, under oath of the  
5 president or secretary, or corresponding officer of the society, a list of the applicants,  
6 giving their names, addresses, date each was admitted, name and number of the  
7 subordinate branch of which each applicant is a member, amount of benefits to be  
8 granted, and premiums for them;

9 (5) [(6)] it has been shown to the director, by sworn statement of the  
10 treasurer, or corresponding officer of the society, that at least 500 applicants have each  
11 paid in cash at least one regular monthly premium, which premiums in the aggregate  
12 shall amount to at least \$150,000 [\$2,500, ALL OF WHICH SHALL BE CREDITED  
13 TO THE FUND OR FUNDS FROM WHICH BENEFITS ARE TO BE PAID AND  
14 NO PART OF WHICH MAY BE USED FOR EXPENSES]; the advance premiums  
15 shall be held in trust during the period of organization, and, if the society has not  
16 qualified for a certificate of authority within one year, the premiums shall be returned  
17 to the applicants.

18 \* Sec. 10. AS 21.84.100 is amended to read:

19 Sec. 21.84.100. Certificate of authority [COMPLIANCE]. The director may  
20 make the examination and require further information the director considers advisable.  
21 Upon presentation of satisfactory evidence that the domestic society has complied with  
22 all the provisions of law, the director shall issue to the society a certificate of  
23 authority to that effect and that the society is authorized to transact business under  
24 this chapter. The certificate of authority shall be prima facie evidence of the  
25 existence of the society at the date of the certificate. The director shall cause a record  
26 of the certificate of authority to be made. A certified copy of the record may be  
27 given in evidence with like effect as the original certificate of authority.

28 \* Sec. 11. AS 21.84.120 is amended to read:

29 Sec. 21.84.120. Corporate powers retained. An incorporated society  
30 authorized to transact business in this state on the effective date of this Act [JULY 1,  
31 1966, MAY THEREAFTER EXERCISE ALL THE RIGHTS, POWERS, AND

1 PRIVILEGES PRESCRIBED IN THIS CHAPTER AND IN ITS CHARTER OR  
2 ARTICLES OF INCORPORATION NOT INCONSISTENT WITH THIS CHAPTER.  
3 A DOMESTIC SOCIETY] may not be required to reincorporate.

4 \* Sec. 12. AS 21.84.170(a) is amended to read:

5 (a) It is lawful for a society to create, maintain, and operate organizations to  
6 operate not for profit institutions to further the purposes permitted by  
7 AS 21.84.015(a)(2). The institutions may provide services free or at a reasonable  
8 charge. Real or personal [CHARITABLE, BENEVOLENT, OR EDUCATIONAL  
9 INSTITUTIONS FOR THE BENEFIT OF ITS MEMBERS AND THEIR FAMILIES  
10 AND DEPENDENTS AND FOR THE BENEFIT OF CHILDREN INSURED BY THE  
11 SOCIETY. FOR THAT PURPOSE IT MAY OWN, HOLD, OR LEASE PERSONAL  
12 PROPERTY OR REAL PROPERTY LOCATED INSIDE OR OUTSIDE THIS  
13 STATE, WITH NECESSARY BUILDINGS THEREON. THE] property owned, held,  
14 or leased by the society for this purpose shall be reported in every annual statement  
15 but may not be allowed as an admitted asset of the society.

16 \* Sec. 13. AS 21.84 is amended by adding a new section to read:

17 Sec. 21.84.175. Reinsurance. (a) A domestic society may, by a reinsurance  
18 agreement, cede an individual risk or risks in whole or in part to an insurer, other than  
19 another fraternal benefit society, that has the power to make reinsurance and that is  
20 authorized to do business in this state or, if not authorized, that is approved by the  
21 director. However, a society may not reinsure substantially all of its insurance in force  
22 without the written permission of the director. A society may take credit for the  
23 reserves on the ceded risks to the extent reinsured, but a credit may not be allowed as  
24 an admitted asset or a deduction from liability to a ceding society for reinsurance  
25 made, ceded, renewed, or otherwise becoming effective after the effective date of this  
26 Act unless the reinsurance is payable by the assuming insurer on the basis of the  
27 liability of the ceding society under the contract or contracts reinsured without  
28 diminution because of the insolvency of the ceding society.

29 (b) Notwithstanding the limitation in (a) of this section, a society may reinsure  
30 the risks of another society in a consolidation or merger approved by the director under  
31 AS 21.84.185.

1 \* Sec. 14. AS 21.84 is amended by adding a new section to read:

2           **Sec. 21.84.185. Consolidations and mergers.** (a) A domestic society may  
3 consolidate or merge with another society by complying with the provisions of this  
4 section. It shall file with the director

5                   (1) a certified copy of the written contract containing in full the terms  
6 and conditions of the consolidation or merger;

7                   (2) a sworn statement by the president and secretary or corresponding  
8 officers of each society showing the financial condition of the society on a date fixed  
9 by the director but not earlier than December 31 immediately preceding the date of the  
10 contract;

11                   (3) a certificate of the president and secretary or corresponding officers  
12 of each society, verified by their respective oaths, that the consolidation or merger has  
13 been approved by a two-thirds vote of the supreme governing body of each society,  
14 the vote being conducted at a regular or special meeting of each body or, if the  
15 society's laws so permit, by mail; and

16                   (4) evidence that, at least 60 days prior to the action of the supreme  
17 governing body of each society, the text of the contract has been furnished to all  
18 members of each society either by mail or by publication in full in the official  
19 publication of each society.

20           (b) If the director finds that the contract is in conformity with the provisions  
21 of this section, that the financial statements are correct, and that the consolidation or  
22 merger is just and equitable to the members of each society, the director shall approve  
23 the contract and issue a certificate to that effect. On approval, the contract is in full  
24 force and effect unless a society that is a party to the contract is incorporated under  
25 the laws of another state or territory. In that event, the consolidation or merger may  
26 not become effective unless it has been approved as provided by the laws of that state  
27 or territory and a certificate of that approval has been filed with the director. If the  
28 laws of that state or territory contain no such provision, the consolidation or merger  
29 may not become effective unless it has been approved by the director of that state or  
30 territory and a certificate of that approval has been filed with the director.

31           (c) When the consolidation or merger becomes effective under this section, all

1 the rights, franchises, interests, and things in action of the consolidated or merged  
2 societies in every type of property, real, personal, or mixed, belonging to the  
3 consolidated or merged societies are vested in the society resulting from or remaining  
4 after the consolidation or merger without another instrument, except that conveyances  
5 of real property may be evidenced by proper deeds, and the title to any real estate or  
6 interest in it, vested under the laws of this state in any of the societies consolidated or  
7 merged, shall not revert or be in any way impaired by reason of the consolidation or  
8 merger, but shall vest absolutely in the society resulting from or remaining after the  
9 consolidation or merger.

10 (d) The affidavit of an officer of the society or of a person authorized by the  
11 society to mail a notice or document stating that a notice or document has been  
12 addressed and mailed is prima facie evidence that such notice or document has been  
13 furnished to the addressees.

14 \* Sec. 15. AS 21.84 is amended by adding a new section to read:

15 **Sec. 21.84.195. Conversion to a mutual life insurance company.** A  
16 domestic fraternal benefit society may be converted and licensed as a mutual life  
17 insurance company by compliance with the applicable requirements of AS 21.69 if the  
18 plan of conversion has been approved by the director. A plan of conversion shall be  
19 prepared in writing by the board of directors setting out the terms and conditions of  
20 conversion. The affirmative vote of two-thirds of the members of the supreme  
21 governing body at a regular or special meeting is necessary for approval of the plan.  
22 A conversion may not take effect unless and until approved by the director, who may  
23 give the approval if the director finds that the proposed change is in conformity with  
24 the requirements of law and not prejudicial to the certificate holders of the society.

25 \* Sec. 16. AS 21.84 is amended by adding a new section to read:

26 **Article 4. Contractual Benefits.**

27 **Sec. 21.84.201. Benefits.** (a) A society may provide the following contractual  
28 benefits in any form:

- 29 (1) death benefits;  
30 (2) endowment benefits;  
31 (3) annuity benefits;

- 1 (4) temporary or permanent health care benefits;  
2 (5) hospital, medical, or nursing benefits;  
3 (6) monument or tombstone benefits to the memory of deceased  
4 members; and  
5 (7) other benefits authorized for life and health insurers that are not  
6 inconsistent with this chapter.

7 (b) A society shall specify in its rules those persons who may be issued, or  
8 covered by, the contractual benefits described in (a) of this section consistent with  
9 providing benefits to members and the members' dependents. A society may provide  
10 benefits on the lives of children under the minimum age for adult membership upon  
11 application of an adult person.

12 \* Sec. 17. AS 21.84.230(a) is amended to read:

13 (a) The owner of a benefit contract [MEMBER] shall have the right at all  
14 times to change the beneficiary or beneficiaries in accordance with the  
15 [CONSTITUTION,] laws [,] or rules of the society unless the owner waives this  
16 right by specifically requesting in writing that the beneficiary designation be  
17 irrevocable. A [. EVERY] society, by [ITS CONSTITUTION,] laws [,] or rules, may  
18 limit the scope of beneficiaries and shall provide that a beneficiary may not have or  
19 obtain a vested interest in the proceeds of a certificate until the certificate has become  
20 due and payable in conformity with the provisions of the benefit [INSURANCE]  
21 contract.

22 \* Sec. 18. AS 21.84.230(c) is amended to read:

23 (c) If, at the death of a person insured under a benefit contract [MEMBER],  
24 there is no lawful beneficiary to whom the proceeds [INSURANCE BENEFITS] are  
25 payable, the amount of the benefits, except to the extent that funeral benefits may be  
26 paid as provided in (b) of this section, shall be payable to the estate of the deceased  
27 insured the same as other property not exempt, but, if the owner of the certificate  
28 is not the insured, the amount of the benefits shall be payable to the owner  
29 [PERSONAL REPRESENTATIVE OF THE DECEASED MEMBER].

30 \* Sec. 19. AS 21.84 is amended by adding a new section to read:

31 Sec. 21.84.255. The benefit contract. (a) A society authorized to do business

1 in this state shall issue to each owner of a benefit contract a certificate specifying the  
2 amount of benefits provided under the contract. The certificate, together with any  
3 riders or endorsements attached to it, the laws of the society, the application for  
4 membership, the application for insurance, and the declaration of insurability, if any,  
5 signed by the applicant, and all amendments to each constitute the benefit contract, as  
6 of the date of issuance, between the society and the owner, and the certificate must so  
7 state. A copy of the application for insurance and declaration of insurability, if any,  
8 shall be endorsed upon or attached to the certificate. All statements on the application  
9 shall be representations and not warranties. A waiver of this provision is void.

10 (b) Except as provided in AS 21.84.320(d)(3), changes, additions, or  
11 amendments to the laws of the society enacted subsequent to the issuance of the  
12 certificate shall bind the owner and the beneficiaries and shall govern and control the  
13 benefit contract in all respects as though the changes, additions, or amendments were  
14 made before and were in force at the time of the application for insurance, except that  
15 a change, addition, or amendment may not destroy or diminish benefits that the society  
16 contracted to give the owner as of the date of issuance.

17 (c) A person upon whose life a benefit contract is issued before the person  
18 attains the age of majority is bound by the terms of the application and certificate and  
19 by all the laws and rules of the society to the same extent as though the age of  
20 majority were attained at the time of application.

21 (d) Except as provided in AS 21.84.320(d)(3), a society shall provide in its  
22 laws that if the society's reserves as to a class of certificates become impaired, the  
23 society's board of directors or corresponding body may require that the owner shall  
24 pay to the society the amount of the owner's equitable proportion of the deficiency as  
25 determined by its board and that, if the payment is not made, (1) the amount shall  
26 stand as an indebtedness against the certificate and shall draw interest not to exceed  
27 the rate specified for certificate loans under the certificates, or (2) in place of or in  
28 combination with the provisions of (1) this subsection, the owner may accept a  
29 proportionate reduction in benefits under the certificate. The society may specify the  
30 manner of the election and the alternative that is to be presumed if no election is  
31 made.

1 (e) Copies of the documents mentioned in this section, certified by the  
2 secretary or corresponding officer of the society, shall be received in evidence of the  
3 terms and conditions of the document.

4 (f) A certificate may not be delivered or issued for delivery in this state unless  
5 a copy of the form has been filed with the director in the manner provided for similar  
6 policies issued by life and health insurers in this state. A filing is considered approved  
7 unless disapproved within 60 days after the date of filing. A life, accident, health, or  
8 disability insurance certificate and an annuity certificate issued on or after one year  
9 after the effective date of this Act must meet the standard contract provision  
10 requirements not inconsistent with this chapter for similar policies issued by life and  
11 health insurers in this state, except that a society may provide in a certificate for a  
12 grace period for payment of premiums of one full month. The certificate must also  
13 contain a provision stating the amount of premiums that are payable under the  
14 certificate and a provision reciting or setting out the substance of sections of the  
15 society's laws or rules in force at the time of issuance of the certificate that, if  
16 violated, will result in the termination or reduction of benefits payable under the  
17 certificate. If the laws of the society provide for expulsion or suspension of a member,  
18 the certificate must also contain a provision that any member expelled or suspended,  
19 except for nonpayment of a premium or within the contestable period for material  
20 misrepresentation in the application for membership or insurance, is entitled to  
21 maintain the certificate in force by continuing payment of the required premium.

22 (g) A benefit contract issued on the life of a person below the society's  
23 minimum age for adult membership may provide for transfer of control of ownership  
24 to the insured at an age specified in the certificate. A society may require approval  
25 of an application for membership in order to effect this transfer and may provide in  
26 all other respects for the regulation, government, and control of those certificates and  
27 all rights, obligations, and liabilities incident to and connected with those certificates.  
28 Ownership rights before transfer shall be specified in the certificate.

29 (h) A society may specify the terms and conditions on which benefit contracts  
30 may be assigned.

31 \* Sec. 20. AS 21.84 is amended by adding a new section to read:



1 and operate one or more separate accounts and issue contracts on a variable basis,  
2 subject to laws regulating life and health insurers establishing those accounts and  
3 issuing those contracts. To the extent the society considers it necessary in order to  
4 comply with applicable federal or state law, or any rule made under applicable federal  
5 or state law, the society may

6 (1) adopt special procedures for the conduct of the business and affairs  
7 of a separate account;

8 (2) for persons having beneficial interests in the account, provide  
9 special voting and other rights, including special rights and procedures relating to  
10 investment policy, investment advisory services, selection of certified public  
11 accountants, and selection of a committee to manage the business and affairs of the  
12 account; and

13 (3) issue contracts on a variable basis to which AS 21.84.255(b) and  
14 (d) do not apply.

15 \* **Sec. 24.** AS 21.84 is amended by adding a new section to read:

16 **Sec. 21.84.335. Applicability of other code provisions.** (a) Except as  
17 provided in this section, societies are governed by this chapter and are exempt from  
18 all other provisions of the insurance laws of this state for all purposes, including  
19 governmental relations with the state.

20 (b) In addition to the provisions of this chapter, the following provisions of  
21 this title apply to fraternal benefit societies to the extent applicable and not in conflict  
22 with the express provisions of this chapter and the reasonable implications of this  
23 chapter:

24 (1) AS 21.03;

25 (2) AS 21.06;

26 (3) AS 21.09.050;

27 (4) AS 21.09.100;

28 (5) AS 21.09.200;

29 (6) AS 21.09.205;

30 (7) AS 21.18;

31 (8) AS 21.21;

- 1 (9) AS 21.27;  
2 (10) AS 21.33;  
3 (11) AS 21.36;  
4 (12) AS 21.42.290;  
5 (13) AS 21.42.355;  
6 (14) AS 21.53;  
7 (15) AS 21.69.370;  
8 (16) AS 21.69.640;  
9 (17) AS 21.78; and  
10 (18) AS 21.89.060.

11 \* Sec. 25. AS 21.84 is amended by adding a new section to read:

12 **Article 6. Regulation.**

13 **Sec. 21.84.455. Valuation.** (a) Standards of valuation for certificates issued  
14 before one year after the effective date of this Act shall be those provided by the laws  
15 applicable immediately before the effective date of this Act.

16 (b) The minimum standards of valuation for certificates issued on or after one  
17 year after the effective date of this Act shall be based on the following tables, which  
18 shall be under valuation methods and standards, including interest assumptions, in  
19 accordance with the laws of this state applicable to life and health insurers issuing  
20 policies containing similar benefits:

21 (1) for certificates of life insurance, the Commissioner's 1941 Standard  
22 Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality  
23 Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the  
24 Commissioner's 1980 Standard Ordinary Mortality Table, or a more recent table made  
25 applicable to life insurers;

26 (2) for annuity and pure endowment certificates, for total and  
27 permanent disability benefits, for accidental death benefits, and for noncancellable  
28 accident and health benefits, the tables authorized for use by life and health insurers  
29 in this state.

30 (c) The director may, in the director's discretion, accept other standards for  
31 valuation if the director finds that the reserves produced under those standards will not

1 be less in the aggregate than reserves computed in accordance with the minimum  
2 valuation standard presented in this section. The director may, in the director's  
3 discretion, vary the standards of mortality applicable to benefit contracts on  
4 substandard lives or other extrahazardous lives by any society authorized to do  
5 business in this state.

6 (d) A society, with the consent of the insurance supervisory official of the state  
7 of domicile of the society and under conditions that the director may impose, may  
8 establish and maintain reserves on its certificates in excess of the reserves required, but  
9 the contractual rights of any benefit member shall not be affected.

10 \* Sec. 26. AS 21.84 is amended by adding a new section to read:

11 **Sec. 21.84.465. Reports.** (a) Reports shall be filed in accordance with the  
12 provisions of this section.

13 (b) A society transacting business in this state shall annually, on or before  
14 March 2, unless the time has been extended by the director for cause shown, file with  
15 the director a true statement of the society's financial conditions, transactions, and  
16 affairs for the preceding calendar year and pay the applicable fee under AS 21.06.250.  
17 The statement shall be in the general form and content approved by the National  
18 Association of Insurance Commissioners for fraternal benefit societies and  
19 supplemented by additional information required by the director.

20 (c) As a part of the annual statement required by this section, each society  
21 shall, on or before March 1, file with the director a valuation of the society's  
22 certificates in force on the preceding December 31, but the director may, in the  
23 director's discretion, for cause shown, extend the time for filing the valuation for not  
24 more than two calendar months. The valuation shall be done in accordance with the  
25 standards specified in AS 21.84.455. The valuation and underlying data shall be  
26 certified by a qualified actuary or, at the expense of the society, verified by the actuary  
27 of the insurance regulatory agency of the state of domicile of the society.

28 (d) If a society fails to file the annual statement in the form and within the  
29 time provided by this section, the society shall forfeit \$100 for each day that the  
30 neglect continues, and, upon notice by the director to that effect, the society's authority  
31 to do business in this state shall cease while the default continues.

1 (e) A synopsis of its annual statement providing an explanation of the facts  
2 concerning the condition of the society shall be either printed and mailed to each  
3 benefit member of the society not later than June 1 of each year or published in the  
4 society's official publication.

5 (f) The director may require a society to file quarterly financial statements.  
6 If quarterly financial statements are required, the statements must follow for a given  
7 quarter the reporting specified in the quarterly financial statement blank form and  
8 instructions most recently approved by the National Association of Insurance  
9 Commissioners.

10 \* Sec. 27. AS 21.84 is amended by adding a new section to read:

11 **Sec. 21.84.475. License.** Societies that are authorized to transact business in  
12 this state on the effective date of this Act, and societies licensed after the effective date  
13 of this Act and before July 1 immediately following the effective date of this Act, may  
14 continue the business through June 30 immediately following the effective date of this  
15 Act. The authority of those societies and all other societies licensed after the effective  
16 date of this Act may be renewed annually, but, in all cases, terminates on the first day  
17 of the succeeding July. However, a license issued continues in full force and effect  
18 until the new license is issued or specifically refused. For each license or renewal, the  
19 society shall pay a fee set under AS 21.06.250. A certified copy or duplicate of the  
20 license shall be prima facie evidence that the licensee is a fraternal benefit society  
21 under this chapter.

22 \* Sec. 28. AS 21.84 is amended by adding a new section to read:

23 **Sec. 21.84.485. Examination of societies.** The director may examine a society  
24 in the manner authorized for an insurer under AS 21.06.120 - 21.06.230. The  
25 requirements, procedures, authorization, and process for examinations authorized under  
26 this section shall be the same as for an insurer.

27 \* Sec. 29. AS 21.84 is amended by adding a new section to read:

28 **Sec. 21.84.495. Foreign or alien society; admission.** A foreign or alien  
29 society may not transact business in this state without a license issued by the director.  
30 A foreign or alien society desiring admission to this state shall comply with the  
31 requirements and limitations of this chapter applicable to domestic societies. The

- 1 society may be licensed to transact business in this state upon filing with the director
- 2 (1) a certified copy of its articles of incorporation;
- 3 (2) a copy of its bylaws, certified by its secretary or corresponding
- 4 officer;
- 5 (3) a power of attorney to the director as prescribed in AS 21.84.625;
- 6 (4) a statement of its business under oath of its president and secretary
- 7 or corresponding officers in a form prescribed by the director, verified by an
- 8 examination made by the supervising insurance official of its home state or other state.
- 9 territory, province, or country, satisfactory to the director;
- 10 (5) certification from the proper official of its home state, territory,
- 11 province, or country that the society is legally incorporated and licensed to transact
- 12 business therein;
- 13 (6) copies of its certificate forms;
- 14 (7) information showing that its assets are invested in accordance with
- 15 the provisions of this chapter; and
- 16 (8) other information the director may consider necessary.

17 \* **Sec. 30.** AS 21.84 is amended by adding a new section to read:

18 **Sec. 21.84.535. Suspension, revocation, or refusal of license of foreign or**

19 **alien society.** (a) When the director, upon investigation, finds that a foreign or alien

20 society transacting or applying to transact business in this state (1) has exceeded its

21 powers, (2) has failed to comply with a provision of this chapter, (3) is not fulfilling

22 its contracts in good faith, or (4) is conducting its business fraudulently or in a manner

23 hazardous to its members or creditors or the public, the director shall notify the society

24 in writing of the deficiency or deficiencies and state in writing the reasons for the

25 director's dissatisfaction. The director shall immediately issue a written order to the

26 society requiring that the deficiency or deficiencies be corrected. After receipt of the

27 order, the society shall have 30 days to comply with the director's order for correction.

28 If the society fails to comply, the director shall notify the society of the findings of

29 noncompliance and require the society to show cause on a date to be named why its

30 license should not be suspended, revoked, or refused. If, on that date, the society does

31 not present good and sufficient reason why its authority to do business in this state

1 should not be suspended, revoked, or refused, the director may suspend or refuse the  
2 license of the society to do business in this state until satisfactory evidence is furnished  
3 to the director that the suspension or refusal should be withdrawn, or the director may  
4 revoke the authority of the society to do business in this state.

5 (b) Nothing in this section shall be construed to prevent the society from  
6 continuing in good faith all contracts made in this state during the time the society was  
7 legally authorized to transact business in this state.

8 \* **Sec. 31.** AS 21.84 is amended by adding a new section to read:

9 **Sec. 21.84.565. Licensing of agents.** (a) Agents of societies shall be licensed  
10 in accordance with the provisions of AS 21.27.

11 (b) An examination or license may not be required of a regular salaried officer,  
12 employee, or member of a licensed society who devotes substantially all the person's  
13 services to activities other than the solicitation of fraternal insurance contracts from the  
14 public and who receives for the solicitation of fraternal insurance contracts no  
15 commission or other compensation directly dependent upon the amount of business  
16 obtained.

17 \* **Sec. 32.** AS 21.84 is amended by adding a new section to read:

18 **Sec. 21.84.575. Unfair methods of competition and unfair and deceptive**  
19 **acts and practices.** A society and an agent authorized to do business in this state are  
20 subject to the provisions of AS 21.36; however, nothing in those provisions shall be  
21 construed as applying to or affecting

22 (1) the right of a society to determine its eligibility requirements for  
23 membership; or

24 (2) the offering of benefits exclusively to members or persons eligible  
25 for membership in the society by a subsidiary corporation or affiliated organization of  
26 the society.

27 \* **Sec. 33.** AS 21.84 is amended by adding new sections to read:

28 **Article 7. Miscellaneous.**

29 **Sec. 21.84.625. Service of process.** (a) A society authorized to do business  
30 in this state shall appoint in writing the director and the director's successors in office  
31 to be its true and lawful attorney upon whom all lawful process in an action or

1 proceeding against it shall be served. The society shall agree in writing that any  
2 lawful process against it that is served on the appointed attorney is of the same legal  
3 force and validity as if served on the society and that the authority continues in force  
4 so long as any liability remains outstanding in this state. Copies of the appointment,  
5 certified by the director, are sufficient evidence of the appointment and shall be  
6 admitted in evidence with the same force and effect as the original.

7 (b) Service may only be made on the director or, if the director is absent, upon  
8 the person in charge of the director's office. Service shall be made in duplicate and  
9 shall constitute sufficient service on the society. When legal process against a society  
10 is served on the director, the director shall immediately forward one of the duplicate  
11 copies by registered mail, prepaid, to the secretary or corresponding officer. Legal  
12 process shall not be served on a society except in the manner provided in this section.  
13 At the time of serving a process on the director, the plaintiff or complainant in the  
14 action shall pay to the director a fee set under AS 21.06.250.

15 (c) A society shall respond to the service of process as provided in the Alaska  
16 Rules of Civil Procedure.

17 **Sec. 21.84.650. Penalties.** (a) A person who knowingly makes a false or  
18 fraudulent statement or representation in or with reference to an application for  
19 membership, or for the purpose of obtaining money from or a benefit in a society, is  
20 guilty of a misdemeanor and is punishable by a fine of not more than \$2,500 and is  
21 liable for a civil penalty of three times the amount received by the violator as  
22 compensation or commission. A civil penalty may be sued for and recovered by the  
23 aggrieved person or society for the person's or society's own use and benefit.

24 (b) A person who makes a false sworn statement in a report or declaration  
25 required or authorized by this chapter or in a statement concerning the death or  
26 disability of an insured for the purpose of obtaining payment of a benefit named in the  
27 certificate and who does not believe the statement to be true is guilty of perjury and,  
28 upon conviction, is subject to the penalties prescribed by law for perjury under  
29 AS 11.56.200.

30 (c) A person who solicits membership for, or in any manner assists in  
31 procuring membership in, a society not licensed to do business in this state is guilty

1 of a violation and, upon conviction, is punishable by a fine of not less than \$50 or  
2 more than \$200.

3 (d) A person who knowingly engages in conduct that constitutes a violation  
4 of the provisions of this chapter for which a penalty is not otherwise prescribed is  
5 guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than  
6 \$2,500.

7 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

8 **Sec. 21.84.675. Review.** Decisions and findings of the director made under  
9 the provisions of this chapter are subject to review by proceedings in a court of  
10 competent jurisdiction in this state.

11 **Sec. 21.84.700. Exemption of certain societies.** (a) Nothing contained in this  
12 chapter shall be construed to affect or apply to

13 (1) grand or subordinate lodges of societies, orders, or associations  
14 doing business in this state that provide benefits exclusively through local or  
15 subordinate lodges;

16 (2) societies, orders, or associations that admit to membership only  
17 persons engaged in one or more crafts or hazardous occupations, in the same or similar  
18 lines of business, and that insure only members and families of the society, order, or  
19 association, and the ladies' societies or ladies' auxiliaries of the societies, orders, or  
20 associations;

21 (3) domestic societies that limit their membership to employees of a  
22 particular city or town, designated firm, business house, or corporation and that  
23 provide for death benefits of not more than \$400 or health care benefits of not more  
24 than \$350 to a person in one year, or both; or

25 (4) domestic societies or associations of a purely religious, charitable,  
26 or benevolent description that provide for death benefits of not more than \$350 or  
27 health care benefits of not more than \$350 to a person in one year, or both.

28 (b) A society or association described in (a)(3) or (4) of this section that  
29 provides for death or health care benefits for which benefit certificates are issued and  
30 a society or association described in (a)(4) of this section that has more than 1,000  
31 members are not exempt from the provisions of this chapter but shall comply with the

1 requirements of this chapter.

2 (c) A society that, by the provisions of this section, is exempt from the  
3 requirements of this chapter, except a society described in (a)(2) of this section, may  
4 not give or allow or promise to give or allow to a person compensation for procuring  
5 new members.

6 (d) A society that provides benefits for health care or death resulting solely  
7 from accident and that does not obligate itself to pay natural death or health care  
8 benefits has all of the privileges and is subject to all the applicable provisions and  
9 regulations of this chapter, except that the provisions of this chapter relating to medical  
10 examination, evaluations of benefit certificates, and incontestability do not apply to the  
11 society.

12 (e) The director may require a society or association to provide, by  
13 examination or otherwise, information that will enable the director to determine  
14 whether the society or association is exempt from the provisions of this chapter.

15 (f) Societies that are exempt from the provisions of this chapter under the  
16 provisions of this section shall also be exempt from all other provisions of the  
17 insurance laws of this state.

18 \* Sec. 34. AS 21.84.900 is amended to read:

19 Sec. 21.84.900. **Definitions.** In this chapter,

20 (1) "fraternal benefit society" means an incorporated society, order, or  
21 supreme lodge, without capital stock, including one exempted under  
22 AS 21.84.700(a)(2) [AS 21.84.020(a)], whether incorporated or not, that is conducted  
23 solely for the benefit of its members and their beneficiaries and not for profit, that is  
24 operated on a lodge system with ritualistic form of work, that has [HAVING] a  
25 representative form of government, and that makes provision for the payment of  
26 benefits under this chapter;

27 (2) "lodge system" means a society having a supreme [LEGISLATIVE  
28 OR] governing body and subordinate lodges [OR BRANCHES BY WHATEVER  
29 NAME KNOWN.] into which members are elected, initiated, or admitted under its  
30 [CONSTITUTION.] laws, ritual, and rules; subordinate lodges [OR BRANCHES] are  
31 required by the laws [LAW] of the society to hold regular meetings at least once in

1 each month in furtherance of the purposes of the society:

2 (3) "premiums" means rates, dues, or other required contribution by  
3 whatever name known that are payable under the certificate:

4 (4) ["REPRESENTATIVE FORM OF GOVERNMENT" MEANS A  
5 SOCIETY IN WHICH

6 (A) THERE IS PROVISION IN ITS CONSTITUTION OR  
7 LAWS FOR A SUPREME LEGISLATIVE OR GOVERNING BODY,  
8 COMPOSED OF REPRESENTATIVES ELECTED EITHER BY THE  
9 MEMBERS OR BY DELEGATES ELECTED DIRECTLY OR INDIRECTLY  
10 BY THE MEMBERS, TOGETHER WITH OTHER MEMBERS OF THE  
11 BODY PRESCRIBED BY THE SOCIETY'S CONSTITUTION AND LAWS;

12 (B) THE REPRESENTATIVES ELECTED CONSTITUTE A  
13 MAJORITY IN NUMBER AND HAVE NOT LESS THAN TWO-THIRDS OF  
14 THE VOTES OR LESS THAN THE VOTES REQUIRED TO AMEND ITS  
15 CONSTITUTION AND LAWS;

16 (C) THE MEETINGS OF THE SUPREME LEGISLATIVE OR  
17 GOVERNING BODY AND THE ELECTION OF OFFICERS,  
18 REPRESENTATIVES, OR DELEGATES ARE HELD AS OFTEN AS ONCE  
19 IN FOUR CALENDAR YEARS;

20 (D) THE SOCIETY HAS A BOARD OF DIRECTORS  
21 CHARGED WITH THE RESPONSIBILITY FOR MANAGING ITS AFFAIRS  
22 IN THE INTERIM BETWEEN MEETINGS OF ITS SUPREME  
23 LEGISLATIVE OR GOVERNING BODY, SUBJECT TO CONTROL BY  
24 THE BODY AND HAVING POWERS AND DUTIES DELEGATED TO IT  
25 IN THE CONSTITUTION OR LAWS OF THE SOCIETY;

26 (E) THE BOARD OF DIRECTORS IS ELECTED BY THE  
27 SUPREME LEGISLATIVE OR GOVERNING BODY, EXCEPT IN CASE OF  
28 FILLING A VACANCY IN THE INTERIM BETWEEN MEETINGS OF THE  
29 BODY;

30 (F) THE OFFICERS ARE ELECTED EITHER BY THE  
31 SUPREME LEGISLATIVE OR GOVERNING BODY OR BY THE BOARD

1 OF DIRECTORS; AND

2 (G) THE MEMBERS, OFFICERS, REPRESENTATIVES, OR  
3 DELEGATES MAY NOT VOTE BY PROXY;

4 (5)] "society," unless otherwise indicated, means a fraternal benefit  
5 society;

6 \* Sec. 35. AS 21.84.900 is amended by adding new paragraphs to read:

7 (5) "alien society" means a society formed under the laws other than  
8 those of the United States of America, its states, territories, or the District of  
9 Columbia;

10 (6) "benefit contract" means the agreement for provision of benefits  
11 authorized by AS 21.84.201, as that agreement is described in AS 21.84.255(a);

12 (7) "benefit member" means an adult member who is designated by the  
13 laws or rules of the society to be a benefit member under a benefit contract;

14 (8) "certificate" means the document issued as written evidence of the  
15 benefit contract;

16 (9) "domestic society" means a society formed under the laws of this  
17 state;

18 (10) "foreign society" means a society formed under the laws of  
19 another state, a territory belonging to the United States of America, or the District of  
20 Columbia;

21 (11) "laws" means the society's articles of incorporation, constitution,  
22 and bylaws, however designated;

23 (12) "lodge" means subordinate member units of the society known as  
24 camps, courts, councils, branches, or another designation;

25 (13) "rules" means all rules, regulations, or resolutions adopted by the  
26 supreme governing body or board of directors that are intended to have general  
27 application to the members of the society.

28 \* Sec. 36. AS 21.84.010, 21.84.020, 21.84.030, 21.84.040, 21.84.050, 21.84.110,  
29 21.84.130(b), 21.84.130(c), 21.84.140, 21.84.150, 21.84.160, 21.84.170(b), 21.84.180,  
30 21.84.190, 21.84.200, 21.84.210, 21.84.220, 21.84.250, 21.84.260, 21.84.270, 21.84.280,  
31 21.84.300, 21.84.310, 21.84.320(c), 21.84.330, 21.84.340, 21.84.350, 21.84.360, 21.84.370,

- 1 21.84.380, 21.84.390, 21.84.470, 21.84.480, 21.84.490, 21.84.500, 21.84.510, 21.84.520,  
2 21.84.550, and 21.84.590 are repealed.  
3 \* Sec. 37. This Act takes effect January 1, 1998.

**Comparison of Sections in the Alaska Bill Amending  
 AS 21:84 with Corresponding Sections in the  
 NFCA Model Fraternal Code**

<u>Alaska Draft</u>	<u>MFC Section</u>	<u>MFC Counterpart</u>
new 21.84.005	3	Representative form of government
21.84.025	6	Membership
21.84.035	7	Location of office
21.84.045	8	No personal liability - indemnity
21.84.055	9	Waiver
21.84.059	11	Amendments to laws
21.84.060	10	Articles of Incorporation
21.84.070	10	Filing Arts; bond increased - OK
21.84.080	10	Completing organization - 1 year
21.84.090	10	Solicitations - \$150,000 premium - OK
21.84.110	10	Certificate of compliance
21.84.120	10	Corporate powers retained
21.84.170(a)	11	Institutions
21.84.175	13	Reinsurance
21.84.185	14	Consolidations and mergers
21.84.195	15	Conversion to mutual insurer
21.84.201	16	Benefits
21.84.230(a)	17	Beneficiaries - owner; irrevocable beneficiary
21.84.230(c)	17	Payable to owner - OK
21.84.255	19	Benefit contract; MFC 19(f) included - OK
21.84.265	20	Nonforfeitures - MFC - OK
21.84.275	21	Investments - OK
21.84.320(a)	22(a)	Funds - MFC
21.84.320(d)	22(c)	Separate accounts - MFC
21.84.335	23	Exemptions - other applicable provisions (same as present law 21.84.010 and 21.84.590)
21.84.455	25	Valuation - MFC - OK
21.84.465	26	Reports - annual statement
21.84.475	27	License
21.84.485	28	Examinations - MFC - OK
21.84.495	29	Foreign/alien society
21.84.535	31	Suspension of foreign/alien society
21.84.565	33	Agents - (c) contains older MFC part-time exemptions
21.84.575	34	Trade practices
21.84.625	35	Service of process - MFC
21.84.650	37	Penalties
21.84.700	38	Exempt societies
21.84.900	4	Definitions
(1)	1	"fraternal benefit society"
(2)	2	"lodge system"
(3)	4	"premiums"
(4)	3	"representative form of government"
(5)	1	"society"
6 et seq.	4	include MFC 4 definitions

These sections of existing Alaska law remain in force intact:

- 21.84.130(a) - "After July 1, 1967, an unincorporated or voluntary association may not be permitted to transact business in this state as a fraternal benefit society."
- 21.84.230(b) - (MFC 17(b)) - Funeral benefit limited to \$500
- 21.84.240 - (MFC 18) - Immunity of benefits from attachment
- 21.84.400 - (MFC 24) - Tax exemption
- 21.84.530 - (MFC 30) - Injunction or liquidation [domestic society]
- 21.84.540 - (MFC 32) - Petition for injunction

A PROPOSAL FOR ENACTMENT OF THE MODEL FRATERNAL CODE  
 OF THE NATIONAL FRATERNAL CONGRESS OF AMERICA  
 IN LIEU OF CHAPTER 84 OF THE ALASKA INSURANCE CODE

A. The legislative history of the antecedents to Chapter 84 of the Alaska Insurance Code.

Alaska enacted a new comprehensive Insurance Code in 1966 as Title 21 of the Statute Law of Alaska (Chapter 120, SLA 1966). Chapter 84 of Title 21, Sections 21.84.010 to 21.84.590 and 21.84.900, govern fraternal benefit societies. The provisions in Chapter 84 as enacted in 1966 were nearly identical to the text of the Uniform Fraternal Code of 1962 that had been drafted and approved by the National Fraternal Congress of America (NFCA) and the National Association of Insurance Commissioners. Twenty-four other states and Puerto Rico also adopted the Uniform Fraternal Code.

Present Chapter 84 has been amended several times since 1966:

<u>Section</u>	<u>Caption</u>	<u>Amendment Date</u>
21.84.010	Scope	Sec. 211, C. 67, 1992
21.84.030	License	Sec. 21, C. 26, 1985
21.84.210	Children	Sec. 22, C. 21, 1985
21.84.220	Nonforfeiture	Secs. 4,5, C. 28, 1984
21.84.290	(repealed)	Sec. 223, C. 67, 1992
21.84.340	Statement	Sec. 22, C. 26, 1985
21.84.350	Valuation	Sec. 6, C. 28, 1984 Sec. 212, C. 67, 1992
21.84.410 to		
21.84.460	(repealed)	Sec. 223, C. 67, 1992
21.84.470	Misrepresentation	Sec. 19, C. 149, 1984
21.84.480	Discrimination	Sec. 213, C. 67, 1992
21.84.490	Process	Sec. 24, C. 26, 1985
21.84.560 to		
21.84.580	(repealed)	Sec. 223, C. 67, 1992
21.84.590	Applicability of Code	Sec. 2, C. 40, 1981 Sec. 2, C. 45, 1981 Sec. 20, C. 149, 1984 Sec. 25, C. 26, 1985

		Sec. 36, C. 50, 1989
		Sec. 3, C. 106, 1990
		Sec. 214, C. 67, 1992
21.84.900	Definitions(added)	Sec. 215, C. 67, 1992

Senate Bill S. 319. Laws of 1996 also amended various sections non-substantively in Chapter 84 [S. 319, Secs. 98 to 102].

In 1980, the NFCA undertook a project to revise and update the 1962 Uniform Code. The 1983 Model Fraternal Code draft was the result, adopted by the NFCA at its Annual Convention in Denver, Colorado, in October 1983.

Since then, the 1983 Model Fraternal Code (MFC), with some drafting changes to accommodate requests of the particular Insurance Department, has been enacted in thirty-one states:

Arizona	Illinois	Minnesota	North Dakota	Virginia
Arkansas	Indiana	Missouri	Oklahoma	Washington
Colorado	Iowa	Montana	Oregon	Wyoming
Florida	Kansas	Nebraska	Pennsylvania	
Georgia	Kentucky	Nevada	Rhode Island	
Hawaii	Louisiana	New Mexico	South Dakota	
Idaho	Michigan	North Carolina	Tennessee	

Fifteen of those states, like Alaska, had previously enacted the Uniform Code. California, Utah and Wisconsin also have modern fraternal benefit societies laws containing the essential features of the NFCA 1983 Model Code. MFC legislation is currently being considered in the District of Columbia, Maryland and New York. An MFC bill in Ohio, HB-468, has already passed the House and is pending in the Senate.

**B. Why does Alaska need a new fraternal benefit society law?**

Today's environment of rapid changes in the insurance industry demands that there also be major changes in the laws regulating insurers.

While one particular fraternal benefit society may be affected by current changes to a greater or lesser degree than would another society, no society is entirely immune from the environment in which it operates. When changes in the environment occur, each society must carefully evaluate the nature of the changes. Implicit

in this consideration is that each society has options from which to choose alternate courses of action. It is one thing to choose not to exercise an option and quite another to have no options from which to choose.

The 1983 Model Fraternal Code of the NFCA meets the challenges of the present and future in the following ways. The most sweeping additions to the revised code would give fraternal clear authority to own subsidiary corporations and to establish the separate accounts necessary for offering variable life insurance and variable annuities. Another addition would assure that the benefit authority of fraternal would be able to keep pace with any new authorities granted to commercial life insurers in the future.

In addition to these major changes, the revised code:

- Improves the presentation of fraternal purposes and characteristics through rewriting and reorganization.
- Maintains key fraternal characteristics--lodge system, representative form of government, membership--and traditional elements such as ritual.
- Improves provisions regarding juvenile contracts, designation of irrevocable beneficiaries, assignment of contracts and use of contracts for third-party insurance situations--to make contracts more useful to members in their personal, financial and tax planning.
- Integrates some regulatory provisions with commercial insurance standards to assure up-to-date regulation, while maintaining specific exceptions for unique fraternal practices.
- Uses updated language, uniform definitions, gender-neutral references, and consistent terminology.

C. The following is a section by section comparison of the MFC bill draft of new section numbers in Chapter 84 with corresponding sections in present Chapter 84:

<u>MFC</u>	<u>Ch. 84</u>	
<u>Section</u>	<u>Section</u>	<u>Caption and Commentary</u>
21.84.1010	21.84.900(1)	Fraternal Benefit Society description is substantially the same as present law.
21.84.1020	21.84.900(2)	Lodge System description is substantially the same as present law. Subsection (b) is essentially the same as present Section 21.84.210(a) relating to branches for children.

21.84.1030	21.84.900(4)	<p>Representative Form of Government - is similar to present law. Subsection (a) clearly recognizes two types of supreme governing bodies: (1) an assembly consisting of delegates elected by the members, and (2) a board elected directly by the members. Voting by mail has been authorized. At least one foreign society licensed in Alaska has the latter form of government.</p>
21.84.1040	21.84.900	<p>Terms Used -- Defines terms commonly used in the chapter. This section includes the definition of "premiums" and "society" in present Section 21.84.900 (3) and (5). The other definitions in that section are found in MFC Sections 21.84.1010, 21.84.1020 and 21.84.1030.</p>
21.84.1050	21.84.060(2)	<p>Purposes and Powers -- contains a listing of named purposes for which a society may be organized and states that these purposes may be carried out directly by the society, or indirectly through subsidiaries or affiliated organizations. The named purposes in subsection (a)(2) are the same as recited in present Section 21.84.060(2) with "patriotic" added. Owning subsidiary corporations which engage in activities beyond the stated purposes would be permitted only in accordance with the investment laws of the state of domicile of a society and whatever subsidiary authority can be derived therefrom. MFC Section 21.84.1210 covers investments generally, specifically authorizing societies to invest their funds in investments authorized for life insurers. The organization requirements are contained in MFC Section 21.84.1100.</p>
21.84.1060	21.84.180	<p>Membership -- emphasizes the importance of fraternal as membership organizations, and gives societies authority to set eligibility standards and the rights and privileges of each membership class. This section stresses the society's right and duty to set membership qualifications. A conscious effort has been made to divorce concepts of membership from concepts of insurance, the latter taken up in MFC Section 21.84.1160 - Benefits, and Section 21.84.1190 - The Benefit Contract.</p>

21.84.1070	21.84.160; .340(c)	Location of Office, Meetings, Communications--Subsection (a) is similar to present law, except that a society may hold a meeting where it has only one branch (instead of five). Subsection (b)(1) permits notices, etc. to be distributed to members through the society's official publication. Subsection (b)(2) is similar to present section 21.84.340(c) (requiring the mailing of a synopsis of the annual statement to a society's members). Subsection (c) contains statutory authorization for grievance procedures.
21.84.1080	21.84.250	No Personal Liability-Subsection (a) is similar to present law. Subsections (b) and (c) provide authorization for indemnification of directors, officers, etc. and for the purchase of directors and officers liability insurance. Subsection (d) provides immunity from liability for directors, officers and employees serving without compensation.
21.84.1090	21.84.150	Waiver - provides that no subordinate body, officers or members may waive any provisions of the laws of the society, similar to present law.
21.84.1100	21.84.-060 to 21.84.100	Organization - This section includes all organizational requirements of present law, and increases the bond requirement to not less than \$300,000 nor more than \$1,500,000 as required by the Director. The amount of initial premiums required has been raised to \$150,000. The purpose of these changes is to bring the organizational requirements more in line with contemporary economic realities. However, to our knowledge no domestic society has ever been organized in Alaska.
21.84.1110	21.84.140	Amendments to Laws - provides for submission and approval of amendments to the laws of a domestic society, and the filing of any such amendments by licensed foreign or alien societies, the same as present law.
21.84.1120	21.84.170	Institutions -- permits societies to operate and maintain organizations relevant to their society's purposes, similar to present law. Subsection (b) is the same as present Section 21.84.170(c)

providing that a society may not own or operate funeral homes or undertaking establishments.

21.84.1130      21.84.130      Reinsurance - is substantially the same as present law, but provides that a society may not reinsure the business of another society other than in a consolidation or merger.

21.84.1140      21.84.500; .510      Consolidations and mergers - is substantively the same as present law.

21.84.1150      21.84.520      Conversion of Fraternal Benefit Society into Mutual Life Insurance Company - is similar to present law.

21.84.1160      21.84.200; .210      Benefits -- lists authorized benefits the same as present law, but without the \$300 limit on tombstone benefits, and includes benefits for children and adults instead of providing for them in separate sections. The words "health care" are used in subsection (a)(4) to reflect the amendment enacted by section 102 of S. 316, Laws of 1996. Subsection (a)(7) provides that a society may issue benefits as authorized for life insurers, and which are not inconsistent with the fundamental characteristics of fraternal benefit societies. The question of contractual benefits is addressed in subsection (b).

21.84.1170      21.84.230      Beneficiaries -- places control of beneficiary designations in the hands of each society. This section covers the various matters contained in present law, subsection (c) also providing that if the owner of the certificate is other than the insured, the proceeds shall be paid to the owner.

21.84.1180      21.84.240      Benefits Not Attachable - is the same as present law.

21.84.1190      21.84.260 to 21.84.300 and 21.84.190

The Benefit Contract -- subsections (a) and (b) preserve the "open contract" concept of fraternal certificates contained in present Section 21.84.260(a) and (c). Likewise, the traditional "maintenance of solvency" provision in present Section 21.84.190 is preserved in subsection (d). Subsection (f) requires all fraternal certificates to be filed with the Director. the same as present law, and all certificates

issued after one year from the effective date of the Model Code must conform to the requirements for like policies issued by commercial life and health insurers. The provision in present Section 21.84.300(c) that a filing of a health certificate shall be considered approved unless disapproved within 60 days has been inserted in subsection (f) and made applicable also to a filing of a life certificate.

Subsection (f) makes unnecessary the inclusion of the text of present Sections 21.84.270 to .300 (standard and prohibited provisions) because fraternal certificates will be subject to the same general requirements for commercial life and health insurance company policies.

Subsections (g) and (h) pertain to control over juvenile contracts, and the conditions under which benefit contracts may be assigned.

21.84.1200            21.84.220; 21.84.350 & 21.84.1250

Nonforfeiture Benefits (Section 21.84.1200), and Valuation (Section 21.84.1250) - The thrust of these two sections is essentially the same as present law relating to calculation of nonforfeiture benefits and valuation of reserves. They provide that existing law shall apply to outstanding certificates, but that for certificates issued on or after one year from the effective date of the Model Code, societies must use at least the Commissioner's 1941 CSO Table. These two sections incorporate the authorization in present Section 21.84.220(d) and 21.84.350(j) that a society may calculate nonforfeiture benefits and value reserves of newly issued policies on any more recent mortality table authorized for use by commercial life insurance companies.

21.84.1210            21.84.330

Investments- This section is the same as present law.

21.84.1220            21.84.320

Funds - Subsections (a) and (b) are the same as in present law. Subsection (c) gives societies specific authority to create separate accounts. This authority is new. It will give fraternal the ability to offer members variable benefits. If variable benefits are subject to federal securities laws, the supreme governing body is authorized to exclude these forms of benefits from the "open contract" and

"maintenance of solvency" requirements in subsections (b) and (d) of MFC Section 21.84.1190. The supreme governing body is also empowered to authorize that separate, independent control be set up over such accounts should that be necessary or desirable. The text of present Section 21.84.320(c) would be obsolete and unnecessary because of the reserve valuation requirements in MFC Section 21.84.1250.

21.84.1230      21.84.010 and 21.84.590 - Applicability of other code provisions.

Subsection (a) is the same as present Section 21.84.010. Subsection (b) is the same as 21.84.590 with explanatory captions added for clarity.

21.84.1240      21.84.400      Taxation - is the same as present law.

21.84.1250      21.84.350      Valuation - See comment under MFC Section 21.84.1200. The text of present Section 21.84.350 would be obsolete and unnecessary because of the modern valuation requirements in MFC Section 21.84.1250.

21.84.1260      21.84.340; .350; .360

Reports - Subsection (a) is the same as present Section 21.84.340(h). Subsection (b) requires the filing of valuation reports similar to the requirement in present Section 21.84.350, but the valuation standards are set forth in MFC Section 21.84.1250. Subsection (c) provides a penalty for late filing of an annual statement, the same as in present Section 21.84.360.

21.84.1270      21.84.030      Annual License - is essentially the same as present law.

21.84.1280      21.84.370; .380; .390

Examination of Societies; No Adverse Publications - This section covers both domestic, foreign and alien societies. The confidentiality requirement of present Section 21.84.390 is preserved. Insurance Department examination of fraternal would be on the same basis as for commercial life and health insurers.

21.84.1290	21.84.040	Foreign or Alien society - Admission - Is essentially the same as present law.
21.84.1300	21.84.530	Injunction - Liquidation - Receivership of Domestic Society - This section is essentially the same as present law.
21.84.1310	21.84.050	Suspension, Revocation or Refusal of License of Foreign or Alien Society - is substantially the same as present law.
21.84.1320	21.84.540	Injunction - This section provides that only the Director of Insurance may bring an injunction proceeding against a society, not private litigants.
21.84.1330	21.84.590(7); AS 21-27	

Licensing of Agents - Subsection (a) provides that full-time fraternal agents will be required to meet the same licensing and regulatory standards applicable to commercial life insurance agents under AS 21.27, the same as present law. AS 21.27.060(d)(1) provides that an applicant for a limited license under AS 21.27.150(5) [a fraternal benefit society limited producer license to a person whose sole purpose is to be appointed by and to act on behalf of a fraternal benefit society] shall not be required to take an examination.

Subsection (b) provides that no examination or license shall be required of salaried persons who devote substantially all of their services to other than solicitation of insurance and who receive no commission or compensation dependent upon the amount of business obtained.

Subsection (c) provides an exemption from licensing of persons who devote only part-time to the solicitation of insurance and who in one year write no more than \$50,000 of life insurance or other insurance on a maximum number of 25 persons.

The Alaska Producers Act, AS 21.27, does not have the exemptions provided in subsections (b) and (c).

21.84.1340	21.84.470; .480; .590(9); AS 26-36	
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Unfair Methods of Competition - This section makes it clear that fraternal organizations are subject to the unfair trade practices and frauds laws of Alaska contained in AS 26-36, the same as provided in present Section 21.84.590(9). This section also makes it clear that unfair trade practices laws are not to be interpreted to interfere with membership practices of fraternal organizations. The application of AS 26-36 to fraternal organizations makes obsolete and unnecessary retention of the text of present Sections 21.84.470 and 21.84.480.

21.84.1350	21.84.490	Service of Process - Is essentially the same as present law.
21.84.1360	(None)	Penalties - This section provides specific penalties for certain violations in addition to the penalties specified in other sections. Subsection (a) contains the penalty for misrepresentation in present Section 21.84.470(b). Subsection (d) is a general catch-all penalty for a violation for which a specific penalty is not provided.
21.84.1370	21.84.550	Review - is essentially the same as present law.
21.84.1380	21.84.020	Exemption of Certain Societies -- Is the same as present law. The words "health care" are used in subsections (a)(3), (a)(4), (b) and (d) to reflect the amendments enacted by sections 98, 99 and 100 of S. 319, Laws of 1996.
21.84.1390	(None)	Severability - This section creates a rule of construction for courts ruling on a provision or provisions of this chapter that may not affect other sections.

D. Why not further amend the existing Chapter 84 rather than enact a whole new fraternal code?

A review of the changes made by the NFCA 1983 Model Fraternal Code indicates that the improvements are so numerous that a piece-meal amendment process to Chapter 84, as has been done frequently in the past, would not produce the same effect.

Uniformity of regulations is important to multi-state operations. When a statute on a certain subject is different than the one in another state, it makes varying interpretations more likely. That produces the need for different forms, different member benefits, complicated operations, and frustrated management.

What amendments would be given what priority? How many times would amendments be needed? This new Code provides a means to keep pace with things without constantly seeking law changes. Also, the Model Code would be a more readily understandable statute than present law, and would give the Alaska Director of Insurance more regulatory authority over fraternal benefit societies than does present law.

The NFCA Model Fraternal Code is the product of professional deliberation and scholarship which accounted for all aspects of fraternal operations. Its enactment in Alaska would produce far better legislation than could piece-meal amendments to solve a problem here and a problem there.

#### E. Summary.

Enactment of the MFC in Alaska would in no way affect the rights of existing society members and certificate holders.

The MFC would, though, affect the future conduct of business of fraternal societies in Alaska. The MFC gives societies certain additional authority under Sections 21.84.1050, .160(a)(7) and .220(c). The MFC would also strengthen regulatory control over societies by the Insurance Director: particularly, (1) under Section 21.84.1100 by increasing the organizational financial requirements for new societies; (2) under Section 21.84.1190 (f), requiring that all new certificates filed after one year from the effective date of the code shall conform to the same policy requirements as established for the same kinds of policies issued by commercial life and health insurers; and (3) under Sections 21.84.1200 and 21.84.1250, requiring the calculation of nonforfeiture benefits and the valuation of certificate reserves on new business on at least the 1941 CSO Table of Mortality.

The provision of MFC Section 21.84.1160(a)(7) that a fraternal benefit society may provide such other benefits as authorized for life and health insurers (which are not inconsistent with the concepts and fundamental nature of fraternal as expressed in the MFC) should be a major benefit to present members and future members of societies. Under that provision, the Director of Insurance can approve new forms of insurance for fraternal that have likewise been approved for commercial life and health insurers, without having to wait for the Legislature to enact an otherwise necessary amendment to the fraternal chapter.

MFC Section 21.84.1170(a) authorizes a society to provide that the owner of a benefit contract may designate an irrevocable beneficiary, and Section 21.84.1190(h) would authorize assignment of a benefit contract to a third party.

In summary, it is believed that the MFC would provide a clearer and more comprehensive statute regulating fraternal benefit societies than present Chapter 84 and would give the Director of Insurance more authority and control over their operations. The MFC provisions would be more beneficial and provide more protection to the people in Alaska who are or may choose to become members of and insured by a fraternal

benefit society licensed in Alaska. In addition, several sections clarify the law by specifically providing for the particular regulatory authority under Chapter 84, with particular references to other applicable chapters and sections.

There are no domestic fraternal benefit societies in Alaska of which we are aware, but there are six member-societies of the National Fraternal Congress of America from other states licensed in Alaska.

These societies have nearly 7,600 life insurance certificates and over 280 health insurance certificates on their members residing in Alaska. It is desirable that these societies be able to offer to their members in Alaska the benefits afforded by this new Model Fraternal Code.

Therefore, on their behalf the NFCA urges the introduction and enactment of the Model Fraternal Code bill in the 1997 session of the Alaska Legislature.

A legislative bill draft in the Alaska format and style is submitted with this Proposal.

Attached are two cross-reference charts showing corresponding sections of the Model Fraternal Code bill with the sections in present Chapter 84, and vice versa.

Respectfully submitted,

National Fraternal Congress of America  
1280 Iroquois Drive, Suite 300  
P.O. Box 3087  
Naperville, Illinois 60566-7087  
(630) 355-6633  
October 1996

**MEMORANDUM****State of Alaska**

TO: Marianne Burke  
Director  
Division of Insurance

DATE: February 11, 1997

FILE NO.:

THRU:

TELEPHONE NO.: (907) 465-2577

SUBJECT: Fraternal Benefit Legislation

FROM: Don Koch  
Chief of Market Surveillance  
Division of Insurance  
Department of Commerce  
and Economic Development

The National Fraternal Congress of America (NFCA) has asked the Alaska Division of Insurance to support adoption by the legislature of the most recent Model Fraternal Code (MFC). I have met with their lobbyist, Mr. Charlie Miller, on several occasions to resolve any concerns that we may have. Gloria Glover, and I have reviewed the proposed bill in its entirety. Katie Campbell has reviewed Section 20 of the Bill and Linda Brunette has reviewed Section 31. The following is a list of areas where concerns have arisen and where resolution has been reached or suggestion for resolution made. With these changes, I recommend that the Division support the legislation.

NFCA is hopeful that the bill will be introduced by the end of this week. I have agreed to fax this list to Mr. Miller so that the changes can be incorporated in the proposal. Changes to the draft are noted below:

1. Page 1, Line 14.  
Language is missing. Paragraph (4) is an incomplete sentence. A review of the existing statute suggests that the word "proxy" is missing. We suggest repair by adding "proxy." at end of Line 14.
2. Page 2, Lines 5-7.  
James P. Crawford, Assistant Revisor of Statutes suggested in Item #2 of his review memorandum that clarification of language in Sec. 21.84.005(b) was needed. NFCA has responded with proposed language. Replace the sentence starting on line 5 and ending on line 7 with: "*The elected delegates shall constitute a majority of the delegates entitled to vote, and they shall have not less than two-thirds of the total votes cast, nor less than the number of votes required to amend the society's laws.*" We have no problem with this language.
3. Page 2, Lines 5-7.  
James P. Crawford, Assistant Revisor of Statutes suggested in Item #2 of his review memorandum that clarification of language in Sec. 21.84.005(c) was needed. NFCA has responded with proposed language. Replace the sentence starting on line 16 and ending on line 18 with: "*The elected board members shall constitute a majority of the number of directors entitled to vote, and they shall have not*

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*less than the number of votes required to amend the society's laws.*" We have no problem with this language.

## 4. Page 3, Line 5.

The MFC intends that if a society is providing benefits on the lives of children, it must also set the minimum age for adult membership. It also establishes the range of ages within which that minimum age must be selected. The current language appears to miss that point. We suggest repair by inserting the words "*shall be set at not*" in place of the words "*may not be*" on Lines 5-6, and by inserting the words "*and not*" in place of the word "*or*" on Line 6.

## 5. Page 5, Lines 15-19.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #3 of his review memorandum that the standard "*willful or wanton*" be changed to "*reckless*" and "*intentional*." This was included in the draft. NFCA has responded that it has no problem with the change, nor do we. No revision to the draft is necessary since the suggestion was already incorporated.

## 6. Page 7, Line 21.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 070 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 21 before the word "*society's*".

## 7. Page 8, Line 10.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 080 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 10 before the word "*society*".

## 8. Page 8, Line 14.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 090 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 14 before the word "*society*".

## 9. Page 8, Line 18.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 090 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 18 before the word "*society*".

## 10. Page 9, Line 17.

Sec. 100 deals with the certificate of authority. The title of the section refers to certificate of compliance. We suggest repair by changing the section title to read "*Certificate of Authority*".

## 11. Page 9, Line 19.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 100 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 19 before the word "*society*".

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12. Page 19, Line 17.

AS 21.84.340(c) & (d) were omitted with the redrafted bill. Sec. (d) was added to the law in 1995. We suggest that these paragraphs need to be added back in the new Sec. 21.84.465 as follows:

*"(c) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or published in the society's official publication."*

*"(d) The director may require a society to file quarterly financial statements. If quarterly financial statements are required, the statements must follow for a given quarter the reporting specified in the quarterly financial statement blank form and instructions most recently approved by the National Association of Insurance Commissioners."*

13. Page 20, Line 12-30.

This section replaces and is substantially similar to AS 21.84.380-390. In 1990 and 1992 there were a number of changes made to the examination statutes in AS 21.06.120-230 to meet the states needs in response to NAIC accreditation efforts. These statutes were intended to apply to all insuring entities. The process described in AS 21.06.120-230 describes not only the examination function but the process that follows the examination as well. We suggest that a clarification of the applicability of the entire process be confirmed with this change. We suggest that the proposed Sec. 21.84.485 be replaced with the following:

*"The director may examine a society in the manner as authorized for an insurer in AS 21.06.120-230. The requirements, procedures, authorizations, and process shall be the same as for an insurer."*

14. Page 22, Lines 13-30.

In 1992, the license provisions of the Alaska Insurance Statutes were rewritten and consolidated in AS 21.27. In particular, exception language similar to that in the new Sec. 21.84.565(c) was removed. Similar language existed in the statutes prior to 1992. New Sec. 21.84.565(b) substantially duplicates AS 21.27.010(e). We suggest that subsections (b) and (c) be removed.

15. Page 23, Lines 29-31.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #4 of his review memorandum that Sec. 21.84.625(c) be modified to avoid changing a court rule. NFCA has responded with proposed language. Replace (c) on lines 29-30 with: *"(c) A society shall respond to the service of process as provided in Rule 12, Alaska Rules of Procedure."* We have no problem with this language.

16. Page 24, Lines 1-21.

James P. Crawford, Assistant Revisor of Statutes noted in Item #5 of his review memorandum that Sec. 21.84.650 had been modified to comport with other Alaska Statutes dealing with perjury. NFCA has agreed to the modification. We likewise have no problem with this modification.

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17. Page 26, Lines 17-18.

This section revises the definition of premiums. It is not clear why the word "dues" has been added as a premium feature and therefor taxable. It also appears that the added language "that are payable under the certificate" does not add anything to the definition and if fact may make the definition less clear. We suggest that the repair to this section is to remove the changes made. Remove ", dues," on line 17 and "that are payable under the certificate" on line 18.

18. Page 26, Lines 19-20.

NFCA has noted that AS 21.84.900(4) is not needed. We agree. Remove AS 21.84.900(4).

19. Page 28, Line 3.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #1 of his review memorandum that the requester might wish to consider defining the terms "domestic society," "foreign society" and "alien society." I am not sure that this is needed but have no objection. NFCA has provided the following definitions and they are OK.

"(¶) 'domestic society' means a society formed under the laws of this state:"

"(¶) 'foreign society' means a society formed under the laws of another state, the District of Columbia, and territories or commonwealths belonging to the United States of America;"

"(¶) 'alien society' means a society formed under the laws of a country other than the United States of America, its states, District of Columbia, territories and commonwealths;"

20.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #6 of his review memorandum that a severability clause was not needed and explained why. NFCA has responded with agreement. We likewise concur.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
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
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

January 9, 1997

**SUBJECT:** Fraternal benefit societies (Work Order No. 20-LS0251\A)

**TO:** Representative Carl Moses  
Attn: Tim Benintendi

**FROM:** James P. Crawford   
Assistant Revisor of Statutes

In addition to making numbering, stylistic, and organization changes to the material submitted by your office, I have made additional changes that I want to bring to your attention, along with other issues for you to consider.

1. The draft uses the terms "domestic society" and "foreign or alien society" in various places without defining them anywhere. Consider whether you want these terms defined, and, if you do, how you want them defined. AS 21.90.900, which defines "alien insurer," "domestic insurer," and "foreign insurer," may provide some ideas.
2. AS 21.84.005(b) and (c), added by bill section 1, provide that persons elected to the assembly or to the board of a supreme governing body "shall constitute a majority and shall have not less than two-thirds of the votes and not less than the number of votes required to amend the society's laws." This quoted language is also found in existing law at AS 21.84.900(4). I must confess that I do not understand what this language means or is intended to mean in either location. Consider whether you would like to clarify the meaning, and, if you do, how you want it clarified.
3. AS 21.84.045(d), added by bill section 4, originally exempted directors and certain other individuals in societies from liability unless an "act or omission involved willful or wanton misconduct" in AS 21.84.1080 in the material supplied by your office. Alaska courts have not always been consistent in interpreting the phrase "willful or wanton." On occasion, the Alaska Supreme Court has equated the phrase with gross negligence; on other occasions, the court has equated it with recklessness, which represents a greater deviation than gross negligence from the standard of care exercised by a reasonably prudent person. Because of the phrase's ambiguity, I have substituted "reckless" as the standard. Additionally, if one is creating an exception to the liability exemption for "reckless misconduct," it seems logical that one would also want the same result for "intentional" misconduct. For this reason, I

Representative Carl Moses

January 9, 1997

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have included "intentional" in the standard as well. If you prefer the original language, please let me know, and I will make the necessary changes.

4. AS 21.84.625, added by bill section 33, relates to service of process. Because its provisions effectively amend Rule 12, Alaska Rules of Civil Procedure, I have made changes to the draft to reflect the court rule change. However, you may wish merely to delete the sentence in issue, found in subsection (c). The subsection reads as follows: "The service may not require a society to file an answer, pleading, or defense in fewer than 30 days from the date of mailing the copy of the service to a society." If you do decide you want to delete the sentence, thereby avoiding the consequences attending a court rule change, Civil Rule 12(a) will control. It provides that a "non-governmental party shall serve an answer to the complaint . . . within 40 days after service upon an officer or agency of the state appointed, authorized or designated as agent to receive service for such party pursuant to statute."

5. AS 21.84.650(a), added by bill section 33, originally described a perjury penalty in AS 21.84.1360(a) in the material supplied by your office. I have modified the subsection to more closely approximate the description of the offense of perjury currently found in our criminal code at AS 11.56.200. AS 21.84.650(d), also added by bill section 33, originally applied to individuals "guilty of a willful violation of, or neglect or refusal to comply with" provisions of the chapter in AS 21.84.1360(d) in the material supplied by your office. As this describes a criminal offense, I replaced the original language with more current language now used in our criminal code and employed in criminal bills that I thought most closely captured your intent. If you prefer different language with respect to these modification, please let me know, and I will make the necessary changes.

6. The material supplied by your office included a section containing a severability clause. AS 01.10.030 provides that a law enacted by the legislature that "lacks a severability clause shall be construed as though it contained the clause in the following language. 'If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.'" Thus, by law, all acts have a severability clause built in unless they state otherwise. Because AS 01.10.030 makes inclusion of an additional severability clause redundant and unnecessary, I have left that section out of this draft. Again, if you prefer the severability section to be included in this draft, please let me know, and I will make the necessary changes.

JPC:glc

97-003.glc

0-LS0251VA  
Crawford  
1/9/97

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MOSES

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fraternal benefit societies; amending Rule 12, Alaska Rules  
2 of Civil Procedure; and providing for an effective date."

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

4 \* Section 1. AS 21.84 is amended by adding new sections to read:

5 Article 1. Structure and Purpose.

6 Sec. 21.84.005. Representative form of government. (a) A society has a  
7 representative form of government if

8 (1) the society has a supreme governing body constituted as described  
9 in (b) or (c) of this section;

10 (2) officers of the society are elected either by the supreme governing  
11 body or by the board of directors;

12 (3) only benefit members are eligible for election to the supreme  
13 governing body and to the board of directors; and

14 (4) a voting member has one vote, and a vote may not be cast by

*proxy*

1 (b) The supreme governing body may be constituted in an assembly. The  
2 assembly is composed of delegates elected directly by the members or at intermediate  
3 assemblies or conventions of members or their representatives, together with other  
4 delegates prescribed in the society's laws. A society may provide for election of  
5 delegates by mail. The elected delegates shall constitute a majority in number and  
6 shall have not less than two-thirds of the votes and not less than the number of votes  
7 required to amend the society's laws. The assembly shall be elected, shall meet at  
8 least once every four years, and shall elect a board of directors to conduct the business  
9 of the society between meetings of the assembly. Vacancies on the board of directors  
10 between elections may be filled in the manner prescribed by the society's laws.

11 (c) The supreme governing body may be constituted in a board. The board  
12 is composed of persons elected by the members, either directly or by their  
13 representatives in intermediate assemblies, together with other persons prescribed in  
14 the society's laws. A society may provide for election of the board by mail. A term  
15 of a board member may not exceed four years. Vacancies on the board between  
16 elections may be filled in the manner prescribed by the society's laws. Those persons  
17 elected to the board shall constitute a majority in number and not less than the number  
18 of votes required to amend the society's laws. A person filling the unexpired term of  
19 an elected board member shall be considered to be an elected member. The board  
20 shall meet at least quarterly to conduct the business of the society.

21 **Sec. 21.84.015. Purposes and powers.** (a) A society shall operate for the benefit  
22 of members and their beneficiaries by (1) providing benefits as specified in  
23 AS 21.84.201, and (2) operating for a social, intellectual, educational, charitable,  
24 benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its  
25 members, which benefits may also be extended to others. A purpose may be carried  
26 out directly by the society or indirectly through subsidiary corporations or affiliated  
27 organizations.

28 (b) A society may adopt and amend laws and rules for the government of the  
29 society, the admission of its members, and the management of its affairs and may have  
30 other powers necessary to carrying into effect the objects and purposes of the society.

31 \* Sec. 2. AS 21.84 is amended by adding a new section to read:

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**Article 2. Membership.**

**Sec. 21.84.025. Qualifications for membership.** (a) A society shall specify in its laws or rules

(1) eligibility standards for each class of membership, but, if benefits are provided on the lives of children, the minimum age for adult membership may be less than 15 years of age or greater than 21 years of age;

(2) the process for admission to membership for each membership class; and

(3) the rights and privileges of each membership class; however, only benefit members may vote on the management of the insurance affairs of the society.

(b) A society may also admit social members, but the social members may not have a voice or vote in the management of the insurance affairs of the society.

(c) A society may organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges may not be required of children, nor may children have a voice or vote in the management of the society.

(d) Membership rights in the society are personal to the member and are not assignable.

\* Sec. 3. AS 21.84 is amended by adding a new section to read:

**Sec. 21.84.075. Location of office; meetings; communications to members; grievance procedures.** (a) The principal office of a domestic society must be located in this state. The meetings of the supreme governing body of a society may be held in a state, district, province, or territory in which the society has at least one subordinate lodge or in another location as determined by the supreme governing body. All business transacted at the meetings is as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors must conform to language requirements for documents filed under AS 21.84.070.

(b) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. If published in the official publication, required reports,

1 notices, and statements shall be printed conspicuously. If the records of a society  
2 show that two or more members have the same mailing address, an official publication  
3 mailed to one member is considered to be mailed to all members at the same address  
4 unless a member requests a separate copy.

5 (c) A synopsis of the society's annual statement providing an explanation of  
6 the facts concerning the condition of the society shall be printed not later than June  
7 1 of each year and mailed to each benefit member of the society or published in the  
8 society's official publication.

9 (d) A society may provide in its laws or rules for grievance or complaint  
10 procedures for members.

11 \* Sec. 4. AS 21.84 is amended by adding a new section to read:

12 **Sec. 21.84.045. No personal liability; indemnity.** (a) The officers and  
13 members of the supreme governing body or a subordinate body of a society are not  
14 personally liable for benefits provided by a society.

15 (b) A society shall indemnify and reimburse a person for expenses reasonably  
16 incurred by, and liabilities imposed upon, that person in connection with an action,  
17 suit, or proceeding, or threat of an action, suit, or proceeding, whether civil, criminal,  
18 administrative, or investigative, in which the person is involved by reason of the fact  
19 of service in the capacity of a director, officer, employee, or agent of the society or  
20 service in any capacity in a firm, corporation, or organization at the request of the  
21 society. However, a society may not indemnify or reimburse a person in connection  
22 with a matter in an action, suit, or proceeding, or threat of an action, suit, or  
23 proceeding, that has been made the subject of a compromise settlement, or in which  
24 the person is adjudged to be guilty of breach of a duty as a director, officer, employee,  
25 or agent of the society, unless the person acted in good faith for a purpose the person  
26 reasonably believed to be in or not opposed to the best interests of the society, and,  
27 in a criminal action or proceeding, in addition, had no reasonable cause to believe that  
28 the person's conduct constituted a violation of a criminal law of this state or another  
29 jurisdiction. The determination of whether the conduct of the person meets the  
30 standard required to justify indemnification and reimbursement may be made by the  
31 supreme governing body or the board of directors through a majority vote of a quorum

1 consisting of persons who were not parties to the action, suit, or proceeding or by a  
2 court of competent jurisdiction. The termination of an action, suit, or proceeding by  
3 judgment, order, settlement, conviction, or plea of no contest as to the person does not  
4 in itself create a conclusive presumption that the person did not meet the standard of  
5 conduct required to justify indemnification and reimbursement. The right of  
6 indemnification and reimbursement is not exclusive of other rights to which a person  
7 may be entitled as a matter of law and inures to the benefit of the person's heirs,  
8 executors, and administrators.

9 (c) A society may purchase and maintain insurance on behalf of a person who  
10 is or was a director, officer, employee, or agent of the society, or who is or was  
11 serving at the request of the society as a director, officer, employee, or agent of a firm,  
12 corporation, or organization, against a liability asserted against the person and incurred  
13 by the person arising out of that capacity, whether or not the society would have the  
14 power to indemnify the person against that liability under this section.

15 (d) A director, officer, employee, member, or volunteer of a society serving  
16 without compensation is not liable, and no cause of action may be brought against the  
17 person for damages resulting from the exercise of judgment or discretion in connection  
18 with the duties or responsibilities of the person for the society unless the act or  
19 omission involved reckless or intentional misconduct.

20 \* Sec. 5. AS 21.84.055 is amended by adding new sections to read:

21 Sec. 21.84.055. Waiver. The laws of the society may provide that a  
22 subordinate body or its subordinate officers or members may not waive any provision  
23 of the laws of the society. The provision is binding on the society and every member  
24 and beneficiary of a member.

### 25 Article 3. Governance.

26 Sec. 21.84.059. Amendments to laws. (a) A domestic society may amend  
27 its laws in accordance with its provisions by action of its supreme governing body at  
28 a regular or special meeting or, if its laws provide, by referendum. The referendum  
29 may be held in accordance with the provisions of its laws by the vote of the voting  
30 members of the society, by the vote of delegates or representatives of voting members,  
31 or by the vote of local lodges. A society may provide for voting by mail. An

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amendment submitted for adoption by referendum may not be adopted unless, within six months from the date of submission of the amendment, at least two-thirds of the members voting signify consent to the amendment by one of the methods specified under this subsection.

(b) An amendment to the laws of a domestic society may not take effect unless approved by the director. The director shall approve the amendment if the director finds that it has been legally adopted and is not inconsistent with the requirements of the laws of this state or with the character, objects, and purposes of the society. Unless the director disapproves the amendment within 60 days after it is filed, the amendment is considered approved. The approval or disapproval of the director shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the director disapproves the amendment, the reason for the disapproval shall be stated in the written notice.

(c) Within 90 days from the approval of the amendments by the director, all amendments, or a synopsis of them, shall be furnished to all members of the society, either by mail or by publication in full in the official publication of the society. The affidavit of an officer of the society or of a person authorized by the society to mail amendments, or a synopsis of them, stating facts that show that the amendments have been addressed and mailed, is prima facie evidence that the amendments, or a synopsis of them, have been furnished to the addressee.

(d) A foreign or alien society authorized to do business in this state shall file with the director a certified copy of all amendments of, or additions to, its laws within 90 days after the enactment of them.

(e) Printed copies of the laws, as amended, certified by the secretary or corresponding officer of the society are prima facie evidence of the legal adoption of those laws.

\* Sec. 6. AS 21.84.060 is amended to read:

**Sec. 21.84.060. Organization.** The organization of a domestic society organized on or after the effective date of this Act shall be formed [GOVERNED] as follows: Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign,

1 and acknowledge before some officer, competent to take acknowledgment of deeds,  
2 articles of incorporation, in which shall be stated

3 (1) the proposed corporate name of the society, which may not so  
4 closely resemble the name of any society or insurance company as to be misleading  
5 or confusing;

6 (2) the purposes for which it is being formed and the mode in which  
7 its corporate powers are to be exercised; the purposes may not include more liberal  
8 powers than are granted by this chapter [, PROVIDED THAT ANY LAWFUL  
9 SOCIAL, INTELLECTUAL, EDUCATIONAL, CHARITABLE, BENEVOLENT,  
10 MORAL, FRATERNAL, OR RELIGIOUS ADVANTAGES MAY BE SET OUT  
11 AMONG THE PURPOSES OF THE SOCIETY];

12 (3) the names and residences of the incorporators and the names,  
13 residences, and official titles of all the officers, trustees, directors, or other persons  
14 who are to have and exercise the general control of the management of the affairs and  
15 funds of the society for the first year or until the ensuing election at which all the  
16 officers shall be elected by the supreme [LEGISLATIVE OR] governing body, which  
17 election shall be held no later than one year from the date of the issuance of the  
18 permanent certificate of authority.

19 \* Sec. 7. AS 21.84.070 is amended to read:

20 Sec. 21.84.070. Filing articles and documents. The articles of incorporation,  
21 certified copies of the society's [CONSTITUTION,] laws and rules, copies of all  
22 proposed forms of certificates, applications, and circulars to be issued by the society,  
23 and a bond conditioned upon the return to applicants of the advanced payments if the  
24 organization is not completed within one year, shall be filed with the director, who  
25 may require further information considered necessary. The bond with sureties  
26 approved by the director shall be in an amount, not less than \$300,000 [\$5,000] or  
27 more than \$1,500,000 [\$25,000], required by the director. All documents filed are to  
28 be in the English language. If the purposes of the society conform to the requirements  
29 of this chapter and all provisions of the law have been complied with, the director  
30 shall so certify, retain, and file the articles of incorporation [,] and furnish the  
31 incorporators a preliminary certificate of authority authorizing the society to solicit

1 members as hereinafter provided.

2 \* Sec. 8. AS 21.84.080 is amended to read:

3 Sec. 21.84.080. Time for completing organization. A preliminary certificate  
4 of authority [GRANTED UNDER THIS SECTION] is not valid after one year from  
5 its date or after such further period, not exceeding one year, as may be authorized by  
6 the director upon cause shown, unless the 500 applicants hereinafter required have  
7 been secured and the organization has been completed as herein provided. The articles  
8 of incorporation and all other proceedings thereunder shall become null and void in  
9 one year from the date of the preliminary certificate of authority, or at the expiration  
10 of the extended period, unless the society has completed its organization and received  
11 a certificate of authority to do business as hereinafter provided.

12 \* Sec. 9. AS 21.84.090 is amended to read:

13 Sec. 21.84.090. Initial solicitations and qualifications. Upon receipt of a  
14 preliminary certificate of authority from the director, the society may solicit members  
15 for the purpose of completing its organization, shall collect from each applicant the  
16 amount of not less than one regular monthly premium in accordance with its table of  
17 rates [AS PROVIDED BY ITS CONSTITUTION AND LAWS], and shall issue to  
18 each applicant a receipt for the amount collected. A society may not incur any  
19 liability other than for the return of the advance premium, or issue any certificate, or  
20 pay, allow, or offer or promise to pay or allow, a death or health care benefit to any  
21 person until

22 (1) actual bona fide applications for [DEATH] benefits have been  
23 secured on 500 applicants and any necessary evidence of insurability has been  
24 furnished to and approved by the society [AGGREGATING AT LEAST \$500,000  
25 ON AT LEAST 500 LIVES;

26 (2) ALL APPLICANTS FOR DEATH BENEFITS HAVE  
27 FURNISHED EVIDENCE OF INSURABILITY SATISFACTORY TO THE  
28 SOCIETY];

29 (2) [(3)] certificates of examinations or acceptable declarations of  
30 insurability have been filed and approved by the chief medical examiner of the society;

31 (3) [(4)] 10 subordinate lodges or branches have been established into

1 which the 500 applicants have been admitted:

2 (4) [(5)] there has been submitted to the director, under oath of the  
3 president or secretary, or corresponding officer of the society, a list of the applicants,  
4 giving their names, addresses, date each was admitted, name and number of the  
5 subordinate branch of which each applicant is a member, amount of benefits to be  
6 granted, and premiums for them;

7 (5) [(6)] it has been shown to the director, by sworn statement of the  
8 treasurer, or corresponding officer of the society, that at least 500 applicants have each  
9 paid in cash at least one regular monthly premium, which premiums in the aggregate  
10 shall amount to at least \$150,000 [\$2,500, ALL OF WHICH SHALL BE CREDITED  
11 TO THE FUND OR FUNDS FROM WHICH BENEFITS ARE TO BE PAID AND  
12 NO PART OF WHICH MAY BE USED FOR EXPENSES]; the advance premiums  
13 shall be held in trust during the period of organization, and, if the society has not  
14 qualified for a certificate of authority within one year, the premiums shall be returned  
15 to the applicants.

16 \* Sec. 10. AS 21.84.100 is amended to read:

17 **Sec. 21.84.100. Certificate of compliance.** The director may make the  
18 examination and require further information the director considers advisable. Upon  
19 presentation of satisfactory evidence that the society has complied with all the  
20 provisions of law, the director shall issue to the society a certificate of authority to  
21 that effect and that the society is authorized to transact business under this chapter.  
22 The certificate of authority shall be prima facie evidence of the existence of the  
23 society at the date of the certificate. The director shall cause a record of the certificate  
24 of authority to be made. A certified copy of the record may be given in evidence  
25 with like effect as the original certificate of authority.

26 \* Sec. 11. AS 21.84.120 is amended to read:

27 **Sec. 21.84.120. Corporate powers retained.** An incorporated society  
28 authorized to transact business in this state on the effective date of this Act [JULY 1,  
29 1966, MAY THEREAFTER EXERCISE ALL THE RIGHTS, POWERS, AND  
30 PRIVILEGES PRESCRIBED IN THIS CHAPTER AND IN ITS CHARTER OR  
31 ARTICLES OF INCORPORATION NOT INCONSISTENT WITH THIS CHAPTER.

1 A DOMESTIC SOCIETY] may not be required to reincorporate.

2 \* Sec. 12. AS 21.84.170(a) is amended to read:

3 (a) It is lawful for a society to create, maintain, and operate organizations to  
4 operate not for profit institutions to further the purposes permitted by  
5 AS 21.84.015(a)(2). The institutions may provide services free or at a reasonable  
6 charge. Real or personal [CHARITABLE, BENEVOLENT, OR EDUCATIONAL  
7 INSTITUTIONS FOR THE BENEFIT OF ITS MEMBERS AND THEIR FAMILIES  
8 AND DEPENDENTS AND FOR THE BENEFIT OF CHILDREN INSURED BY THE  
9 SOCIETY. FOR THAT PURPOSE IT MAY OWN, HOLD, OR LEASE PERSONAL  
10 PROPERTY OR REAL PROPERTY LOCATED INSIDE OR OUTSIDE THIS  
11 STATE, WITH NECESSARY BUILDINGS THEREON. THE] property owned, held,  
12 or leased by the society for this purpose shall be reported in every annual statement  
13 but may not be allowed as an admitted asset of the society.

14 \* Sec. 13. AS 21.84 is amended by adding a new section to read:

15 **Sec. 21.84.175. Reinsurance.** (a) A domestic society may, by a reinsurance  
16 agreement, cede an individual risk or risks in whole or in part to an insurer, other than  
17 another fraternal benefit society, that has the power to make reinsurance and that is  
18 authorized to do business in this state or, if not authorized, that is approved by the  
19 director. However, a society may not reinsure substantially all of its insurance in force  
20 without the written permission of the director. A society may take credit for the  
21 reserves on the ceded risks to the extent reinsured, but a credit may not be allowed as  
22 an admitted asset or a deduction from liability to a ceding society for reinsurance  
23 made, ceded, renewed, or otherwise becoming effective after the effective date of this  
24 Act unless the reinsurance is payable by the assuming insurer on the basis of the  
25 liability of the ceding society under the contract or contracts reinsured without  
26 diminution because of the insolvency of the ceding society.

27 (b) Notwithstanding the limitation in (a) of this section, a society may reinsure  
28 the risks of another society in a consolidation or merger approved by the director under  
29 AS 21.84.185.

30 \* Sec. 14. AS 21.84 is amended by adding a new section to read:

31 **Sec. 21.84.185. Consolidations and mergers.** (a) A domestic society may

1 consolidate or merge with another society by complying with the provisions of this  
2 section. It shall file with the director

3 (1) a certified copy of the written contract containing in full the terms  
4 and conditions of the consolidation or merger;

5 (2) a sworn statement by the president and secretary or corresponding  
6 officers of each society showing the financial condition of the society on a date fixed  
7 by the director but not earlier than December 31 immediately preceding the date of the  
8 contract;

9 (3) a certificate of the president and secretary or corresponding officers  
10 of each society, verified by their respective oaths, that the consolidation or merger has  
11 been approved by a two-thirds vote of the supreme governing body of each society,  
12 the vote being conducted at a regular or special meeting of each body or, if the  
13 society's laws so permit, by mail; and

14 (4) evidence that, at least 60 days prior to the action of the supreme  
15 governing body of each society, the text of the contract has been furnished to all  
16 members of each society either by mail or by publication in full in the official  
17 publication of each society.

18 (b) If the director finds that the contract is in conformity with the provisions  
19 of this section, that the financial statements are correct, and that the consolidation or  
20 merger is just and equitable to the members of each society, the director shall approve  
21 the contract and issue a certificate to that effect. On approval, the contract is in full  
22 force and effect unless a society that is a party to the contract is incorporated under  
23 the laws of another state or territory. In that event, the consolidation or merger may  
24 not become effective unless it has been approved as provided by the laws of that state  
25 or territory and a certificate of that approval has been filed with the director. If the  
26 laws of that state or territory contain no such provision, the consolidation or merger  
27 may not become effective unless it has been approved by the director of that state or  
28 territory and a certificate of that approval has been filed with the director.

29 (c) When the consolidation or merger becomes effective under this section, all  
30 the rights, franchises, interests, and things in action of the consolidated or merged  
31 societies in every type of property, real, personal, or mixed, belonging to the

1 consolidated or merged societies are vested in the society resulting from or remaining  
2 after the consolidation or merger without another instrument, except that conveyances  
3 of real property may be evidenced by proper deeds, and the title to any real estate or  
4 interest in it, vested under the laws of this state in any of the societies consolidated or  
5 merged, shall not revert or be in any way impaired by reason of the consolidation or  
6 merger, but shall vest absolutely in the society resulting from or remaining after the  
7 consolidation or merger.

8 (d) The affidavit of an officer of the society or of a person authorized by the  
9 society to mail a notice or document stating that a notice or document has been  
10 addressed and mailed is prima facie evidence that such notice or document has been  
11 furnished to the addressees.

12 \* Sec. 15. AS 21.84 is amended by adding a new section to read:

13 **Sec. 21.84.195. Conversion to a mutual life insurance company.** A  
14 domestic fraternal benefit society may be converted and licensed as a mutual life  
15 insurance company by compliance with the applicable requirements of AS 21.69 if the  
16 plan of conversion has been approved by the director. A plan of conversion shall be  
17 prepared in writing by the board of directors setting out the terms and conditions of  
18 conversion. The affirmative vote of two-thirds of the members of the supreme  
19 governing body at a regular or special meeting is necessary for approval of the plan.  
20 A conversion may not take effect unless and until approved by the director, who may  
21 give the approval if the director finds that the proposed change is in conformity with  
22 the requirements of law and not prejudicial to the certificate holders of the society.

23 \* Sec. 16. AS 21.84 is amended by adding a new section to read:

24 **Article 4. Contractual Benefits.**

25 **Sec. 21.84.201. Benefits.** (a) A society may provide the following contractual  
26 benefits in any form:

- 27 (1) death benefits;  
28 (2) endowment benefits;  
29 (3) annuity benefits;  
30 (4) temporary or permanent health care benefits;  
31 (5) hospital, medical, or nursing benefits;

1 (6) monument or tombstone benefits to the memory of deceased  
2 members; and

3 (7) other benefits authorized for life and health insurers that are not  
4 inconsistent with this chapter.

5 (b) A society shall specify in its rules those persons who may be issued, or  
6 covered by, the contractual benefits described in (a) of this section consistent with  
7 providing benefits to members and the members' dependents. A society may provide  
8 benefits on the lives of children under the minimum age for adult membership upon  
9 application of an adult person.

10 \* Sec. 17. AS 21.84.230(a) is amended to read:

11 (a) The owner of a benefit contract [MEMBER] shall have the right at all  
12 times to change the beneficiary or beneficiaries in accordance with the  
13 [CONSTITUTION,] laws [,] or rules of the society unless the owner waives this  
14 right by specifically requesting in writing that the beneficiary designation be  
15 irrevocable. A [. EVERY] society, by [ITS CONSTITUTION,] laws [,] or rules, may  
16 limit the scope of beneficiaries and shall provide that a beneficiary may not have or  
17 obtain a vested interest in the proceeds of a certificate until the certificate has become  
18 due and payable in conformity with the provisions of the benefit [INSURANCE]  
19 contract.

20 \* Sec. 18. AS 21.84.230(c) is amended to read:

21 (c) If, at the death of a person insured under a benefit contract [MEMBER],  
22 there is no lawful beneficiary to whom the proceeds [INSURANCE BENEFITS] are  
23 payable, the amount of the benefits, except to the extent that funeral benefits may be  
24 paid as provided in (b) of this section, shall be payable to the estate of the deceased  
25 insured the same as other property not exempt, but, if the owner of the certificate  
26 is not the insured, the amount of the benefits shall be payable to the owner  
27 [PERSONAL REPRESENTATIVE OF THE DECEASED MEMBER].

28 \* Sec. 19. AS 21.84 is amended by adding a new section to read:

29 Sec. 21.84.255. The benefit contract. (a) A society authorized to do business  
30 in this state shall issue to each owner of a benefit contract a certificate specifying the  
31 amount of benefits provided under the contract. The certificate, together with any

1 riders or endorsements attached to it, the laws of the society, the application for  
2 membership, the application for insurance, and the declaration of insurability, if any,  
3 signed by the applicant, and all amendments to each constitute the benefit contract, as  
4 of the date of issuance, between the society and the owner, and the certificate must so  
5 state. A copy of the application for insurance and declaration of insurability, if any,  
6 shall be endorsed upon or attached to the certificate. All statements on the application  
7 shall be representations and not warranties. A waiver of this provision is void.

8 (b) Except as provided in AS 21.84.320(d)(3), changes, additions, or  
9 amendments to the laws of the society enacted subsequent to the issuance of the  
10 certificate shall bind the owner and the beneficiaries and shall govern and control the  
11 benefit contract in all respects as though the changes, additions, or amendments were  
12 made before and were in force at the time of the application for insurance, except that  
13 a change, addition, or amendment may not destroy or diminish benefits that the society  
14 contracted to give the owner as of the date of issuance.

15 (c) A person upon whose life a benefit contract is issued before the person  
16 attains the age of majority is bound by the terms of the application and certificate and  
17 by all the laws and rules of the society to the same extent as though the age of  
18 majority were attained at the time of application.

19 (d) Except as provided in AS 21.84.320(d)(3), a society shall provide in its  
20 laws that if the society's reserves as to a class of certificates become impaired, the  
21 society's board of directors or corresponding body may require that the owner shall pay  
22 to the society the amount of the owner's equitable proportion of the deficiency as  
23 determined by its board and that, if the payment is not made, (1) the amount shall  
24 stand as an indebtedness against the certificate and shall draw interest not to exceed  
25 the rate specified for certificate loans under the certificates, or (2) in place of or in  
26 combination with the provisions of (1) this subsection. the owner may accept a  
27 proportionate reduction in benefits under the certificate. The society may specify the  
28 manner of the election and the alternative that is to be presumed if no election is  
29 made.

30 (e) Copies of the documents mentioned in this section. certified by the  
31 secretary or corresponding officer of the society, shall be received in evidence of the

1 terms and conditions of the document.

2 (f) A certificate may not be delivered or issued for delivery in this state unless  
3 a copy of the form has been filed with the director in the manner provided for similar  
4 policies issued by life and health insurers in this state. A filing is considered approved  
5 unless disapproved within 60 days after the date of filing. A life, accident, health, or  
6 disability insurance certificate and an annuity certificate issued on or after one year  
7 after the effective date of this Act must meet the standard contract provision  
8 requirements not inconsistent with this chapter for similar policies issued by life and  
9 health insurers in this state, except that a society may provide in a certificate for a  
10 grace period for payment of premiums of one full month. The certificate must also  
11 contain a provision stating the amount of premiums that are payable under the  
12 certificate and a provision reciting or setting out the substance of sections of the  
13 society's laws or rules in force at the time of issuance of the certificate that, if violated,  
14 will result in the termination or reduction of benefits payable under the certificate. If  
15 the laws of the society provide for expulsion or suspension of a member, the certificate  
16 must also contain a provision that any member expelled or suspended, except for  
17 nonpayment of a premium or within the contestable period for material  
18 misrepresentation in the application for membership or insurance, is entitled to  
19 maintain the certificate in force by continuing payment of the required premium.

20 (g) A benefit contract issued on the life of a person below the society's  
21 minimum age for adult membership may provide for transfer of control of ownership  
22 to the insured at an age specified in the certificate. A society may require approval  
23 of an application for membership in order to effect this transfer and may provide in  
24 all other respects for the regulation, government, and control of those certificates and  
25 all rights, obligations, and liabilities incident to and connected with those certificates.  
26 Ownership rights before transfer shall be specified in the certificate.

27 (h) A society may specify the terms and conditions on which benefit contracts  
28 may be assigned.

29 \* Sec. 20. AS 21.84 is amended by adding a new section to read:

30 **Sec. 21.84.265. Nonforfeiture benefits, cash surrender values, certificate**  
31 **loans, and other options.** (a) For certificates issued before one year after the

1 effective date of this Act, the value of a paid-up nonforfeiture benefit and the amount  
2 of a cash surrender value, loan, or other option granted shall comply with the  
3 provisions of law applicable on the day before the effective date of this Act.

4 (b) For certificates issued on or after one year after the effective date of this  
5 Act for which reserves are computed on the Commissioner's 1941 Standard Ordinary  
6 Mortality Table, the Commissioner's 1941 Standard Industrial Table, the  
7 Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980  
8 Standard Mortality Table, or a more recent table made applicable to life insurers, a  
9 paid-up nonforfeiture benefit and the amount of a cash surrender value, loan, or other  
10 option granted may not be less than the corresponding amount based on the interest  
11 rate and mortality tables authorized by the laws of this state for the calculation of those  
12 benefits by life and health insurers issuing policies containing similar benefits based  
13 upon these tables.

14 \* Sec. 21. AS 21.84 is amended by adding a new section to read:

15 **Article 5. Financial.**

16 **Sec. 21.81.275. Investments.** A society shall invest its funds only in  
17 investments authorized by the laws of this state for the investment of assets of life  
18 insurers and subject to the limitations on the investment of assets of life insurers. A  
19 foreign or alien society permitted or seeking to do business in this state that invests  
20 its funds in accordance with the laws of the state, district, territory, country, or  
21 province in which it is incorporated shall meet the requirements of this section for the  
22 investment of funds.

23 \* Sec. 22. AS 21.84.320(a) is amended to read:

24 (a) All assets shall be held, invested, and disbursed for the use and benefit of  
25 the society, and a member or beneficiary may not have or acquire individual rights or  
26 become entitled to an apportionment or the surrender of a part of the assets, except as  
27 provided in the benefit contract.

28 \* Sec. 23. AS 21.84.320 is amended by adding a new subsection to read:

29 (d) A society may, under a resolution of its supreme governing body, establish  
30 and operate one or more separate accounts and issue contracts on a variable basis,  
31 subject to laws regulating life and health insurers establishing those accounts and

1 issuing those contracts. To the extent the society considers it necessary in order to  
2 comply with applicable federal or state law, or any rule made under applicable federal  
3 or state law, the society may

4 (1) adopt special procedures for the conduct of the business and affairs  
5 of a separate account;

6 (2) for persons having beneficial interests in the account, provide  
7 special voting and other rights, including special rights and procedures relating to  
8 investment policy, investment advisory services, selection of certified public  
9 accountants, and selection of a committee to manage the business and affairs of the  
10 account; and

11 (3) issue contracts on a variable basis to which AS 21.84.255(b) and  
12 (d) do not apply.

13 \* Sec. 24. AS 21.84 is amended by adding a new section to read:

14 **Sec. 21.84.335. Applicability of other code provisions.** (a) Except as  
15 provided in this section, societies are governed by this chapter and are exempt from  
16 all other provisions of the insurance laws of this state for all purposes, including  
17 governmental relations with the state.

18 (b) In addition to the provisions of this chapter, the following provisions of  
19 this title apply to fraternal benefit societies to the extent applicable and not in conflict  
20 with the express provisions of this chapter and the reasonable implications of this  
21 chapter:

- 22 (1) AS 21.03;  
23 (2) AS 21.06;  
24 (3) AS 21.09.050;  
25 (4) AS 21.09.100;  
26 (5) AS 21.09.200;  
27 (6) AS 21.09.205;  
28 (7) AS 21.18;  
29 (8) AS 21.21;  
30 (9) AS 21.27;  
31 (10) AS 21.33;

- 1 (11) AS 21.36;  
2 (12) AS 21.42.290;  
3 (13) AS 21.42.355;  
4 (14) AS 21.53;  
5 (15) AS 21.69.370;  
6 (16) AS 21.69.640;  
7 (17) AS 21.78; and  
8 (18) AS 21.89.060.

9 \* Sec. 25. AS 21.84 is amended by adding a new section to read:

10 **Article 6. Regulation.**

11 **Sec. 21.84.455. Valuation.** (a) Standards of valuation for certificates issued  
12 before one year after the effective date of this Act shall be those provided by the laws  
13 applicable immediately before the effective date of this Act.

14 (b) The minimum standards of valuation for certificates issued on or after one  
15 year after the effective date of this Act shall be based on the following tables, which  
16 shall be under valuation methods and standards, including interest assumptions, in  
17 accordance with the laws of this state applicable to life and health insurers issuing  
18 policies containing similar benefits:

19 (1) for certificates of life insurance, the Commissioner's 1941 Standard  
20 Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality  
21 Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the  
22 Commissioner's 1980 Standard Ordinary Mortality Table, or a more recent table made  
23 applicable to life insurers;

24 (2) for annuity and pure endowment certificates, for total and  
25 permanent disability benefits, for accidental death benefits, and for noncancellable  
26 accident and health benefits, the tables authorized for use by life and health insurers  
27 in this state.

28 (c) The director may, in the director's discretion, accept other standards for  
29 valuation if the director finds that the reserves produced under those standards will not  
30 be less in the aggregate than reserves computed in accordance with the minimum  
31 valuation standard presented in this section. The director may, in the director's

1 discretion, vary the standards of mortality applicable to benefit contracts on  
2 substandard lives or other extrahazardous lives by any society authorized to do  
3 business in this state.

4 (d) A society, with the consent of the insurance supervisory official of the state  
5 of domicile of the society and under conditions that the director may impose, may  
6 establish and maintain reserves on its certificates in excess of the reserves required, but  
7 the contractual rights of any benefit member shall not be affected.

8 \* Sec. 26. AS 21.84 is amended by adding a new section to read:

9 Sec. 21.84.465. Reports. (a) Reports shall be filed in accordance with the  
10 provisions of this section.

11 (b) A society transacting business in this state shall annually, on or before  
12 March 2, unless the time has been extended by the director for cause shown, file with  
13 the director a true statement of the society's financial conditions, transactions, and  
14 affairs for the preceding calendar year and pay the applicable fee under AS 21.06.250.  
15 The statement shall be in the general form and content approved by the National  
16 Association of Insurance Commissioners for fraternal benefit societies and  
17 supplemented by additional information required by the director.

18 (c) As a part of the annual statement required by this section, each society  
19 shall, on or before March 1, file with the director a valuation of the society's  
20 certificates in force on the preceding December 31, but the director may, in the  
21 director's discretion, for cause shown, extend the time for filing the valuation for not  
22 more than two calendar months. The valuation shall be done in accordance with the  
23 standards specified in AS 21.84.455. The valuation and underlying data shall be  
24 certified by a qualified actuary or, at the expense of the society, verified by the actuary  
25 of the insurance regulatory agency of the state of domicile of the society.

26 (d) If a society fails to file the annual statement in the form and within the  
27 time provided by this section, the society shall forfeit \$100 for each day that the  
28 neglect continues, and, upon notice by the director to that effect, the society's authority  
29 to do business in this state shall cease while the default continues.

30 \* Sec. 27. AS 21.84 is amended by adding a new section to read:

31 Sec. 21.84.475. License. Societies that are authorized to transact business in

1 this state on the effective date of this Act, and societies licensed after the effective date  
2 of this Act and before July 1 immediately following the effective date of this Act, may  
3 continue the business through June 30 immediately following the effective date of this  
4 Act. The authority of those societies and all other societies licensed after the effective  
5 date of this Act may be renewed annually, but, in all cases, terminates on the first day  
6 of the succeeding July. However, a license issued continues in full force and effect  
7 until the new license is issued or specifically refused. For each license or renewal, the  
8 society shall pay a fee set under AS 21.06.250. A certified copy or duplicate of the  
9 license shall be prima facie evidence that the licensee is a fraternal benefit society  
10 under this chapter.

11 \* Sec. 28. AS 21.84 is amended by adding a new section to read:

12 Sec. 21.84.485. Examination of societies; no adverse publications. (a) The  
13 director, or a person appointed by the director, may examine a domestic, foreign, or  
14 alien society transacting or applying for admission to transact business in this state in  
15 the same manner as authorized for examination of domestic, foreign, or alien insurers.  
16 Requirements of notice and an opportunity to respond before findings are made public  
17 as provided in the laws regulating insurers are applicable to the examination of  
18 societies.

19 (b) The expense of an examination and a valuation, including compensation  
20 and actual expenses of examiners, shall be paid by the society examined or whose  
21 certificates are valued, upon statements furnished by the director.

22 (c) A summary of the report of the director and of the recommendations or  
23 statements of the director that accompany the report shall be read at the first meeting  
24 of the board of directors or corresponding body of the society following the receipt of  
25 the report and recommendations or statements that accompany the report and, if  
26 ordered by the director, shall also be read at the first meeting of the supreme  
27 governing body of the society following the receipt of the report and recommendations  
28 or statements that accompany the report. A copy of the report and recommendations  
29 or statements of the director shall be furnished by the society to each member of the  
30 board of directors or corresponding body of the society.

31 \* Sec. 29. AS 21.84 is amended by adding a new section to read:

1           **Sec. 21.84.495. Foreign or alien society; admission.** A foreign or alien  
2 society may not transact business in this state without a license issued by the director.  
3 A foreign or alien society desiring admission to this state shall comply with the  
4 requirements and limitations of this chapter applicable to domestic societies. The  
5 society may be licensed to transact business in this state upon filing with the director

6           (1) a certified copy of its articles of incorporation;

7           (2) a copy of its bylaws, certified by its secretary or corresponding  
8 officer:

9           (3) a power of attorney to the director as prescribed in AS 21.84.625;

10           (4) a statement of its business under oath of its president and secretary  
11 or corresponding officers in a form prescribed by the director, verified by an  
12 examination made by the supervising insurance official of its home state or other state,  
13 territory, province, or country, satisfactory to the director:

14           (5) certification from the proper official of its home state, territory,  
15 province, or country that the society is legally incorporated and licensed to transact  
16 business therein;

17           (6) copies of its certificate forms;

18           (7) information showing that its assets are invested in accordance with  
19 the provisions of this chapter; and

20           (8) other information the director may consider necessary.

21 \* **Sec. 30.** AS 21.84 is amended by adding a new section to read:

22           **Sec. 21.84.535. Suspension, revocation, or refusal of license of foreign or**  
23 **alien society.** (a) When the director, upon investigation, finds that a foreign or alien  
24 society transacting or applying to transact business in this state (1) has exceeded its  
25 powers, (2) has failed to comply with a provision of this chapter, (3) is not fulfilling  
26 its contracts in good faith, or (4) is conducting its business fraudulently or in a manner  
27 hazardous to its members or creditors or the public, the director shall notify the society  
28 in writing of the deficiency or deficiencies and state in writing the reasons for the  
29 director's dissatisfaction. The director shall immediately issue a written order to the  
30 society requiring that the deficiency or deficiencies be corrected. After receipt of the  
31 order, the society shall have 30 days to comply with the director's order for correction.

1 If the society fails to comply, the director shall notify the society of the findings of  
2 noncompliance and require the society to show cause on a date to be named why its  
3 license should not be suspended, revoked, or refused. If, on that date, the society does  
4 not present good and sufficient reason why its authority to do business in this state  
5 should not be suspended, revoked, or refused, the director may suspend or refuse the  
6 license of the society to do business in this state until satisfactory evidence is furnished  
7 to the director that the suspension or refusal should be withdrawn, or the director may  
8 revoke the authority of the society to do business in this state.

9 (b) Nothing in this section shall be construed to prevent the society from  
10 continuing in good faith all contracts made in this state during the time the society was  
11 legally authorized to transact business in this state.

12 \* Sec. 31. AS 21.84 is amended by adding a new section to read:

13 Sec. 21.84.565. Licensing of agents (a) Agents of societies shall be licensed  
14 in accordance with the provisions of AS 21.27.

15 (b) An examination or license may not be required of a regular salaried officer,  
16 employee, or member of a licensed society who devotes substantially all the person's  
17 services to activities other than the solicitation of fraternal insurance contracts from the  
18 public and who receives for the solicitation of fraternal insurance contracts no  
19 commission or other compensation directly dependent upon the amount of business  
20 obtained.

21 (c) An agent, a representative, or a member of a society who devotes, or  
22 intends to devote, less than 50 percent of the person's time to the solicitation and  
23 procurement of insurance contracts for the society is exempt from the requirements of  
24 (a) of this section. A person who, in the preceding calendar year, solicited and  
25 procured life insurance contracts on behalf of a society in an amount of insurance in  
26 excess of \$50,000 or, in the case of other kinds of insurance that the society might  
27 write, on the persons of more than 25 individuals, and who received or will receive a  
28 commission or other compensation for those activities, is presumed to be devoting, or  
29 intending to devote, 50 percent of the agent's, representative's, or member's time to  
30 the solicitation or procurement of insurance contracts for the society.

31 \* Sec. 32. AS 21.84 is amended by adding a new section to read:

1           **Sec. 21.84.575. Unfair methods of competition and unfair and deceptive**  
2 **acts and practices.** A society and an agent authorized to do business in this state are  
3 subject to the provisions of AS 21.36; however, nothing in those provisions shall be  
4 construed as applying to or affecting

5                   (1) the right of a society to determine its eligibility requirements for  
6 membership; or

7                   (2) the offering of benefits exclusively to members or persons eligible  
8 for membership in the society by a subsidiary corporation or affiliated organization of  
9 the society.

10 \* **Sec. 33.** AS 21.84 is amended by adding new sections to read:

11                                   **Article 7. Miscellaneous.**

12           **Sec. 21.84.625. Service of process.** (a) A society authorized to do business  
13 in this state shall appoint in writing the director and the director's successors in office  
14 to be its true and lawful attorney upon whom all lawful process in an action or  
15 proceeding against it shall be served. The society shall agree in writing that any  
16 lawful process against it that is served on the appointed attorney is of the same legal  
17 force and validity as if served on the society and that the authority continues in force  
18 so long as any liability remains outstanding in this state. Copies of the appointment,  
19 certified by the director, are sufficient evidence of the appointment and shall be  
20 admitted in evidence with the same force and effect as the original.

21                   (b) Service may only be made on the director or, if the director is absent, upon  
22 the person in charge of the director's office. Service shall be made in duplicate and  
23 shall constitute sufficient service on the society. When legal process against a society  
24 is served on the director, the director shall immediately forward one of the duplicate  
25 copies by registered mail, prepaid, to the secretary or corresponding officer. Legal  
26 process shall not be served on a society except in the manner provided in this section.  
27 At the time of serving a process on the director, the plaintiff or complainant in the  
28 action shall pay to the director a fee set under AS 21.06.250.

29                   (c) The service may not require a society to file an answer, pleading, or  
30 defense in fewer than 30 days from the date of mailing the copy of the service to a  
31 society.

1           **Sec. 21.84.650. Penalties.** (a) A person who knowingly makes a false or  
2 fraudulent statement or representation in or with reference to an application for  
3 membership, or for the purpose of obtaining money from or a benefit in a society, is  
4 guilty of a misdemeanor and is punishable by a fine of not more than \$2,500 and is  
5 liable for a civil penalty of three times the amount received by the violator as  
6 compensation or commission. A civil penalty may be sued for and recovered by the  
7 aggrieved person or society for the person's or society's own use and benefit.

8           (b) A person who makes a false sworn statement in a report or declaration  
9 required or authorized by this chapter or in a statement concerning the death or  
10 disability of an insured for the purpose of obtaining payment of a benefit named in the  
11 certificate and who does not believe the statement to be true is guilty of perjury and,  
12 upon conviction, is subject to the penalties prescribed by law for perjury under  
13 AS 11.56.200.

14           (c) A person who solicits membership for, or in any manner assists in  
15 procuring membership in, a society not licensed to do business in this state is guilty  
16 of a violation and, upon conviction, is punishable by a fine of not less than \$50 or  
17 more than \$200.

18           (d) A person who knowingly engages in conduct that constitutes a violation  
19 of the provisions of this chapter for which a penalty is not otherwise prescribed is  
20 guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than  
21 \$2,500.

22           (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

23           **Sec. 21.84.675. Review.** Decisions and findings of the director made under  
24 the provisions of this chapter are subject to review by proceedings in a court of  
25 competent jurisdiction in this state.

26           **Sec. 21.84.700. Exemption of certain societies.** (a) Nothing contained in this  
27 chapter shall be construed to affect or apply to

28           (1) grand or subordinate lodges of societies, orders, or associations  
29 doing business in this state that provide benefits exclusively through local or  
30 subordinate lodges;

31           (2) societies, orders, or associations that admit to membership only

1 persons engaged in one or more crafts or hazardous occupations, in the same or similar  
2 lines of business, and that insure only members and families of the society, order, or  
3 association, and the ladies' societies or ladies' auxiliaries of the societies, orders, or  
4 associations;

5 (3) domestic societies that limit their membership to employees of a  
6 particular city or town, designated firm, business house, or corporation and that  
7 provide for death benefits of not more than \$400 or health care benefits of not more  
8 than \$350 to a person in one year, or both; or

9 (4) domestic societies or associations of a purely religious, charitable,  
10 or benevolent description that provide for death benefits of not more than \$350 or  
11 health care benefits of not more than \$350 to a person in one year, or both.

12 (b) A society or association described in (a)(3) or (4) of this section that  
13 provides for death or health care benefits for which benefit certificates are issued and  
14 a society or association described in (a)(4) of this section that has more than 1,000  
15 members are not exempt from the provisions of this chapter but shall comply with the  
16 requirements of this chapter.

17 (c) A society that, by the provisions of this section, is exempt from the  
18 requirements of this chapter, except a society described in (a)(2) of this section, may  
19 not give or allow or promise to give or allow to a person compensation for procuring  
20 new members.

21 (d) A society that provides benefits for health care or death resulting solely  
22 from accident and that does not obligate itself to pay natural death or health care  
23 benefits has all of the privileges and is subject to all the applicable provisions and  
24 regulations of this chapter, except that the provisions of this chapter relating to medical  
25 examination, evaluations of benefit certificates, and incontestability do not apply to the  
26 society.

27 (e) The director may require a society or association to provide, by  
28 examination or otherwise, information that will enable the director to determine  
29 whether the society or association is exempt from the provisions of this chapter.

30 (f) Societies that are exempt from the provisions of this chapter under the  
31 provisions of this section shall also be exempt from all other provisions of the

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insurance laws of this state.

\* Sec. 34. AS 21.84.900 is amended to read:

Sec. 21.84.900. Definitions. In this chapter,

(1) "fraternal benefit society" means an incorporated society, order, or supreme lodge, without capital stock, including one exempted under AS 21.84.700(a)(2) [AS 21.84.020(a)], whether incorporated or not, that is conducted solely for the benefit of its members and their beneficiaries and not for profit, that is operated on a lodge system with ritualistic form of work, that has [HAVING] a representative form of government, and that makes provision for the payment of benefits under this chapter;

(2) "lodge system" means a society having a supreme [LEGISLATIVE OR] governing body and subordinate lodges [OR BRANCHES BY WHATEVER NAME KNOWN,] into which members are elected, initiated, or admitted under its [CONSTITUTION,] laws, ritual, and rules; subordinate lodges [OR BRANCHES] are required by the laws [LAW] of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society;

(3) "premiums" means rates, dues, or other required contribution by whatever name known that are payable under the certificate;

(4) "representative form of government" means a society described under AS 21.84.005 [IN WHICH

(A) THERE IS PROVISION IN ITS CONSTITUTION OR LAWS FOR A SUPREME LEGISLATIVE OR GOVERNING BODY, COMPOSED OF REPRESENTATIVES ELECTED EITHER BY THE MEMBERS OR BY DELEGATES ELECTED DIRECTLY OR INDIRECTLY BY THE MEMBERS, TOGETHER WITH OTHER MEMBERS OF THE BODY PRESCRIBED BY THE SOCIETY'S CONSTITUTION AND LAWS;

(B) THE REPRESENTATIVES ELECTED CONSTITUTE A MAJORITY IN NUMBER AND HAVE NOT LESS THAN TWO-THIRDS OF THE VOTES OR LESS THAN THE VOTES REQUIRED TO AMEND ITS CONSTITUTION AND LAWS;

(C) THE MEETINGS OF THE SUPREME LEGISLATIVE OR

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premium*

1 GOVERNING BODY AND THE ELECTION OF OFFICERS,  
2 REPRESENTATIVES, OR DELEGATES ARE HELD AS OFTEN AS ONCE  
3 IN FOUR CALENDAR YEARS;

4 (D) THE SOCIETY HAS A BOARD OF DIRECTORS  
5 CHARGED WITH THE RESPONSIBILITY FOR MANAGING ITS AFFAIRS  
6 IN THE INTERIM BETWEEN MEETINGS OF ITS SUPREME  
7 LEGISLATIVE OR GOVERNING BODY, SUBJECT TO CONTROL BY  
8 THE BODY AND HAVING POWERS AND DUTIES DELEGATED TO IT  
9 IN THE CONSTITUTION OR LAWS OF THE SOCIETY;

10 (E) THE BOARD OF DIRECTORS IS ELECTED BY THE  
11 SUPREME LEGISLATIVE OR GOVERNING BODY, EXCEPT IN CASE OF  
12 FILLING A VACANCY IN THE INTERIM BETWEEN MEETINGS OF THE  
13 BODY;

14 (F) THE OFFICERS ARE ELECTED EITHER BY THE  
15 SUPREME LEGISLATIVE OR GOVERNING BODY OR BY THE BOARD  
16 OF DIRECTORS; AND

17 (G) THE MEMBERS, OFFICERS, REPRESENTATIVES, OR  
18 DELEGATES MAY NOT VOTE BY PROXY];

19 (5) "society," unless otherwise indicated, means a fraternal benefit  
20 society;

21 \* Sec. 35. AS 21.84.900 is amended by adding new paragraphs to read:

22 (6) "benefit contract" means the agreement for provision of benefits  
23 authorized by AS 21.84.201, as that agreement is described in AS 21.84.255(a);

24 (7) "benefit member" means an adult member who is designated by the  
25 laws or rules of the society to be a benefit member under a benefit contract;

26 (8) "certificate" means the document issued as written evidence of the  
27 benefit contract;

28 (9) "laws" means the society's articles of incorporation, constitution,  
29 and bylaws, however designated;

30 (10) "lodge" means subordinate member units of the society known as  
31 camps, courts, councils, branches, or another designation;

1 (11) "rules" means all rules, regulations, or resolutions adopted by the  
2 supreme governing body or board of directors that are intended to have general  
3 application to the members of the society.

4 \* Sec. 36. AS 21.84.010, 21.84.020, 21.84.030, 21.84.040, 21.84.050, 21.84.110,  
5 21.84.130(b), 21.84.130(c), 21.84.140, 21.84.150, 21.84.160, 21.84.170(b), 21.84.180,  
6 21.84.190, 21.84.200, 21.84.210, 21.84.220, 21.84.250, 21.84.260, 21.84.270, 21.84.280,  
7 21.84.300, 21.84.310, 21.84.320(c), 21.84.330, 21.84.340, 21.84.350, 21.84.360, 21.84.370,  
8 21.84.380, 21.84.390, 21.84.470, 21.84.480, 21.84.490, 21.84.500, 21.84.510, 21.84.520,  
9 21.84.550, and 21.84.590 are repealed.

10 \* Sec. 37. AS 21.84.625(c), added by sec. 33 of this Act, has the effect of amending Rule  
11 12(a), Alaska Rules of Civil Procedure, by varying the time in which certain parties are  
12 required to serve an answer to a complaint.

13 \* Sec. 38. AS 21.84.625(c), added by sec. 33 of this Act, takes effect only if sec. 37 of this  
14 Act receives the two-thirds majority vote required by art. IV, sec. 15, Constitution of the State  
15 of Alaska.

16 \* Sec. 39. This Act takes effect January 1, 1998.