

HB

184

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 26, 2001

FURTHER REFERRALS:

Date of Committee Action: 4.28.01

The JUDICIARY Committee considered:

HB 184

HOUSE BILL NO. 184

INSURANCE CODE AMENDMENTS

"An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

Recommends it be replaced with CS HB 184 ~~(JUD)~~ Same Title New Title
 For Senate Bills with new title: Technical Title New Title: HCR _____

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev. For Depts.:
- ADM
 - CED
 - COR
 - CRT
 - EED
 - DEC
 - DFG
 - GOV
 - HSS
 - LAA
 - LAW
 - LWF
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
FN# *	List by Dept(s):	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN #	Fiscal	Indet.	Zero
LED				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Perkozitz				✓
	Meyer				✓
	JAMES	✓			
	Cahill				✓
	Ryan				✓
Chair:	Rodehorst	✓			
Chair:	Rodehorst				

Amendment ^{#1} to HB 184 (L & C)
(Conceptual)

Adopted

Sec. 21.36.162 Nondisclosure of personal information. The director shall adopt regulations regarding the release of financial and health information regarding an individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes. The regulations must be no less restrictive than the model regulations adopted by the National Association of Insurance Commissioners (NCOIL) Financial Information Privacy Protection Model Act, adopted by the NCOIL Executive Committee on November 17, 2000 and amended on March 2, 2001.

Insurance
Legislators

Conference of

Replaces page 43, line 15 through
page 45, line 27.

Amendment #2 to CS HB 184 (LTC)
(Conceptual)

Adopted

*Sec. X AS 21.18. is amended by adding a new section to read:

Sec. 21.18.160. Valuation of investments. For the purposes of this chapter, the value or amount of an investment acquired, held, or invested in or an investment practice engaged in under this title, unless otherwise specified in this title, must be the value at which assets of an insurer are required to be reported for accounting purposes under this title and as required under procedures prescribed in published accounting and valuation standards of the National Association of Insurance Commissioners, including the purposes and procedures manual of the securities valuation office, the valuation of securities manual, the accounting practices and procedures manual, and the annual statement instructions or valuation procedures officially adopted by the National Association of Insurance Commissioners.

*Sec. X AS 21.21.010 is repealed and reenacted to read:

Sec. 21.21.010. Scope. This chapter applies only to an investment and investment practice of a domestic insurer and a United States branch of an alien insurer entered through this state. Except as provided in AS 21.42.370(c), this chapter does not apply to separate accounts of a life insurer.

*Sec. X AS 21.21.020 (d) is amended to read:

(d) An investment limitation based upon the amount of the insurer's assets or particular funds shall relate to the assets or funds shown by the insurer's annual statement most recently required to be [AS OF THE PRECEDING DECEMBER 31, DATE OF ACQUISITION OF THE INVESTMENT BY THE INSURER, OR SHOWN BY A CURRENT FINANCIAL STATEMENT] filed with the director.

*Sec. X AS 21.21.020 is amended by adding a new section to read:

(e) Determination of compliance with limitations under this chapter shall use admitted asset values.

*Sec. X AS 21.21.255 is amended to read:

As provided under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984), securities that are purchased, held or invested in by an insurer shall be regulated under AS 21.18.160 [AS 21.18.150], AS 21.21 [AS 21.21.050, 21.21.260, 21.21.270], and other applicable provisions of this title.

*Sec. X AS 21.21 is amended by adding a new section to read:

Sec. 21.21.420. Regulations. The director shall adopt regulations regarding insurance company investments that are consistent with the defined limits standards for investments of the National Association of Insurance Commissioners, as amended from time to time."

*Sec. XX. AS 21.24.030(a) is amended to read:

(a) All deposits required under AS 21.09.090 for authority to transact insurance in this state shall consist of certificates of deposit [,] or any combination of rated credit instruments of the United States, Canada, or state of the United States[SECURITIES OF THE KINDS DESCRIBED IN AS 21.21.060, 21.21.080, AND 21.21.090].

* Sec. XX AS 21.87.220(b) is amended to read:

(b) AS 21.21 shall[THE FOLLOWING SECTIONS] apply to the investments of service corporations, to the extent applicable, and, for the purposes of the application, a service

corporation shall be considered to be an insurer.[: AS 21.21.020 - 21.21.050, 21.21.290, AND 21.21.300].

* Sec. XX AS 21.18.120, 21.18.130, 21.18.140, 21.18.150; 21.21.030, 21.21.040, 21.21.050, 21.21.060, 21.21.070, 21.21.080, 21.21.090, 21.21.100, 21.21.110, 21.21.120, 21.21.130, 21.21.140, 21.21.150, 21.21.160, 21.21.170, 21.21.180, 21.21.190, 21.21.200, 21.21.210, 21.21.220, 21.21.225, 21.21.230, 21.21.240, 21.21.245, 21.21.250, 21.21.260, 21.21.270, 21.21.280, 21.21.290, 21.21.300, 21.21.310, 21.21.321, 21.21.330, 21.21.350, 21.21.355, 21.21.360, 21.21.370, 21.21.380, 21.21.390, 21.21.400, 21.21.600; AS 21.87.340(7), and 21.87.340(8) are repealed.

* Sec. XX The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The director of insurance may immediately proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory change.

* Sec. XX Sections XX - XX of this Act take effect January 1, 2002.

Adopted

Conceptual Amendment #3

Sunset on AS 21.36.162 (roughly three years)

This statute shall sunset on the 90th day of the next regular session two years after the effective date of the regulation

Adopted

Amendment #4 (Conceptual)

Relates back to Amendment #2

APR 28 2001

* Sec. __. The uncodified law of the State of Alaska is amended by adding a new section to read:

CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant governor shall certify to the revisor of statutes the effective date of the regulations initially adopted by the Director of the Division of Insurance under AS 21.21.420, to implement the provisions of sections __, __, and __ regarding investments by insurers.

* Sec. __. Sections __, __, and __ take effect 30 days after the revisor of statutes receives notice from the lieutenant governor under sec. __ of this Act.

Conceptual
AMENDMENT #5

Offered by
Coghills
Withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: HB 184

1 Page 43, line 15, after "personal information."

2 Insert: "(a)"

3

4 Page 43, line ____, after "March 2, 2001"

5 Delete: "."

6 Insert: ","

7

8 Page 43, line ____

9 Insert:

10 ~~(b) unless required by federal or state law or federal regulation, disclosure of a person's~~

11 ~~personal financial or personal health information under (a) of this section must be~~

12 ~~authorized in writing by the individual whose personal information is sought to be~~

13 ~~disclosed:~~

14

15 ~~(b)~~ ^{3rd party} the person receiving disclosed information agrees in writing not to disclose or use the

16 information other than to carry out the purposes for which the ~~person~~ ^{second person} disclosed the

17 information.

18

delete

Moved
by Belkowitz
FALLS

SEC. ENFORCEMENT.

Division of Insurance

(a) STATE ENFORCEMENT- This title shall be enforced by the [redacted] and the State Attorney General with respect to financial institutions and other persons subject to their jurisdiction under applicable law, and shall make compliance with this title a part of their company examinations.

(b) STATE ACTION FOR VIOLATIONS-

(1) STATE AUTHORITY - In addition to such other remedies as are provided under State law, if the [redacted] ^{Director or the} Attorney General has reason to believe that any person has violated or is violating this title, the State--

(A) may bring an action to enjoin such violation in any court of competent jurisdiction; and

(B) may bring an action on behalf of the residents of the State to enforce compliance with such rule, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(2) INVESTIGATORY POWERS- For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the [redacted] ^{Director or the} State Attorney General from exercising the powers conferred such officials by the laws of this State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(c) PRIVATE RIGHT OF ACTION-

(1) Civil Remedies. When an ^{insurance} institution fails to comply with any provision of this title, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the ^{insurance} institution in any court of competent jurisdiction.

(2) In any suit brought under the provisions of subsection (c)(1) of this section, the court may order the financial institution to take such action as is necessary to remedy violations of this Act, including but, not limited to:

(A) Amending the individual's record in accordance with his request or in such other way as the court may direct;

(B) Enjoining the ^{insurance} institution from withholding the complainants records and order the production to the complainant of any financial institution records improperly withheld from him. In such a case the Court may examine the contents of any financial institution records in camera to determine whether the records or any portion thereof may be withheld and,

(C) Enjoining the ^{insurance} institution from transferring to any affiliate or nonaffiliated third party financial information.

(3) In any suit brought under the provisions of subsection (c)(1) of this section in which the court determines that the financial institution violated this Title, the ^{insurance} institution shall be liable to the individual in an amount equal to the sum of -

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of [redacted] 10,000 [redacted]; and

(B) The court may assess against the ^{insurance} institution reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph related to those claims on which the complainant has substantially prevailed.

(5) An action to enforce any liability created under this section may be brought in any court of competent jurisdiction, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where a financial institution has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the financial institution to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

(6) Rights of Legal Guardians. - For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(e) DEFINITIONS- The terms used in subsection (a) that are not defined in this subtitle or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the meaning given to them in section 1(b) of the International Banking Act of 1978.

SEC. 4. EFFECT ON FAIR CREDIT REPORTING ACT.

Nothing in this title shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of this title regarding whether information is transaction or experience information under section 603 of such Act.

SEC. 5. RELATION TO OTHER STATE LAWS.

This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in this State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
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COPIES

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HB 184

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 2001

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

I am transmitting this bill to implement needed financial service reforms in our insurance code in compliance with the federal Gramm-Leach-Bliley Act (GLBA). These changes will assist the State in maintaining its regulatory authority over the business of insurance in Alaska. The GLBA repealed depression-era restrictions on the insurance, banking, and securities industries and, more notably, removed some of the barriers that limited banks from engaging in the business of insurance.

Under the GLBA, specific standards are established with respect to consumer privacy, consumer protection, insurance producer licensing, and insurance sales. It requires states to streamline and coordinate their regulatory systems to make them faster, less burdensome, and more effective. This bill reforms our laws to conform to the GLBA and to continue the process of streamlining and coordinating insurance regulation.

Under the bill, the GLBA reforms would focus on three key areas:

- Establishing reciprocity for licensing nonresident insurance producers;
- Implementing the GLBA consumer privacy standards regarding sharing of personal information with affiliates and nonaffiliates; and
- Implementing GLBA consumer protection measures related to the sale of insurance by financial institutions.

These reforms are based on models adopted by the National Association of Insurance Commissioners (NAIC).

A significant portion of the bill would amend AS 21.27, the licensing chapter of the insurance code, to provide for reciprocity in the licensing of nonresident producers. In this context, reciprocity means that a nonresident producer would receive a license to transact insurance in this state to the same extent that the producer is licensed in the producer's home state, without

The Honorable Brian Porter
March 9, 2001
Page 2

having to satisfy any additional requirements. Licensing in this state would be accomplished by submitting an application, providing proof of licensing and good standing from the home state, and paying the license fees. Reciprocity also would allow resident producers to obtain licensing in other states without meeting state-specific requirements. All insurance producers, however, would still be subject to state-specific requirements related to unfair trade practices or consumer protection. The bill requires use of uniform applications in an electronic format to speed up insurance licensing.


The GLBA requires that at least 29 states adopt either reciprocity or uniformity in insurance producer licensing by November 2002, in order to maintain the authority to license nonresident insurance producers. Otherwise, a national organization authorized under the GLBA would assume that role. Enacting this bill into law in Alaska would achieve reciprocity and thereby help ensure the state retains the authority to license nonresident producers.

Another time-sensitive issue under the GLBA relates to consumer privacy. The federal law sets a minimum privacy standard that states must adopt and enforce by July 1, 2001, or risk losing the authority to enforce state consumer protection standards with respect to financial institution insurance sales. This bill expressly requires those regulated under our insurance statutes to comply with the GLBA privacy standards and authorizes the state director of insurance to adopt corresponding regulations on consumer privacy.

In addition to the GLBA-related reforms, the bill addresses other important issues to facilitate state insurance regulation and to conform to federal law. This includes the ability to obtain national criminal history record checks for persons who want to engage in the business of insurance. It also requires a person with a felony conviction involving dishonesty or breach of trust to obtain the express written consent of the director of insurance before engaging in the business of insurance. Without this consent, federal law prohibits such persons from working in the business of insurance. The amendment under this bill would assist the director of insurance in ensuring that prohibited persons comply with the law.

I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

**Sectional Analysis
HB 184**

~~Section 2~~ addresses three major sections of GLBA relating to insurance; producer licensing, consumer privacy and consumer protections in bank sales of insurance.

1. Sections 2-43 contain the needed amendments to AS 21.27 in order to achieve reciprocity in producer licensing. Title III, Subsection 321 of GLBA provides for multi-state licensing reform and directs a majority of states (a minimum of 29 jurisdictions) to achieve either uniformity or reciprocity within three years from the date of enactment of GLBA. In October 2000, the National Association of Insurance Commissioners (NAIC) adopted the Producer License Model Act (PLMA) for states to use as a guideline for developing legislation to meet the required elements of GLBA in order to achieve reciprocity.
2. Section 44 contains the provision addressing consumer privacy. Title V of GLBA establishes minimum privacy protections for consumer personal information. In September 2000, the NAIC adopted the Privacy of Consumer Financial and Health Information Regulation for states to use as a guideline in establishing privacy protections for insurance consumers.
3. Sections 44-47 and 49-50 contain the provisions addressing consumer protections in bank sales of insurance. Two sections in GLBA address consumer protections in sales of insurance by banks. Section 104 contains 13 safe harbor provisions for regulating bank sales of insurance that a state may not go beyond without risking federal preemption. However, Section 305 establishes additional consumer protections that dovetail with the 13 safe harbor provisions.

Sec. 2.

AS 21.27.010(e). License required

Narrows the license exemption for company employees who respond to requests from existing policyholders on existing policies provided the person does not sell, solicit, or negotiate insurance and their compensation is not directly related to the volume of premiums that may result from those services.

Sec. 3.

AS 21.27.010(j). License required

Expands the functions and duties a person may perform without holding an insurance license consistent with NAIC Model Law. Inserted those provisions in Section 4 of PLMA to achieve GLBA reciprocity requirements and for consistency with other states.

Sec. 4.

Sec. 21.27.020(b). Qualifications for license

Changes the minimum age and education requirements consistent with nonresident requirements that prohibit a state from requiring any additional requirements that are not required in home state to achieve GLBA reciprocity. The minimum age would be 18 and no High School or GED Diploma Equivalency would be required.

Sec. 5.

Sec. 21.27.020(c). Qualifications for license

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA and removes the separate subsection (2) applicable only to firms that are corporations or partnerships, thereby making some requirements applicable to all firms.

Sec. 6.

Sec. 21.27.020(f). Qualifications for license

Removes the requirement for a nonresident to meet Alaska's continuing education requirement consistent with Section 321 (c)(2) of GLBA that prohibits a state from requiring any additional requirements that are not required in home state.

Sec. 7.

Sec. 21.27.025(a) Required notice by licensee

Clarifies what actions must be reported as well as information that must be filed within an established time period for reciprocity requirements. Inserted language from Section 17 of the PLMA.

Sec. 8.

Sec. 21.27.025(b) Required notice by licensee

Replaces principal or manager with compliance officer consistent with the information required on the NAIC's Uniform Business entity application and Section 6 (B)(2) in the PLMA for reciprocity requirements.

Sec. 9.

Sec. 21.21.27.040(a). Application for license

Removes the notary requirement for consistency with the NAIC Uniform Application that does not require a notarized signature consistent with Section 321 (c)(1) of GLBA that prohibits a state from requiring any additional requirements that are not required in home state. Retains the authority to suspend or revoke a license for misrepresentation in an application.

Sec. 10.

Sec. 21.21.27.040(c). Application for license

Added to require any applicant for licensure to submit a fingerprint card for a national criminal background history check.

Sec. 11.

Sec. 21.27.060(a). Examination of Applicants; exceptions

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA for reciprocity requirements.

Sec. 12.

Sec. 21.27.060(c). Examination of Applicants and licensees

Removes the pre-licensing and examination requirements to be consistent with Section 321, (c)(1) of GLBA. Also allows for automated confirmation of a nonresident's license status seeking licensure in this state.

Sec. 13.

Sec. 21.27.060(d). Examination of Applicants and licensees

Changes the examination exceptions in order to be consistent with AS 21.27.150 and changes the requirement to submit passing test results for an inactive license from two years to one, consistent with Section 7(C) of PLMA.

Sec. 14.

Sec. 21.27.100. Appointment of agents of general agents

Added to allow multiple insurers within the insurer's holding company system or group to file a single appointment request to reduce paper filings, consistent with Section 14 (B) of PLMA. Also clarifies that acts of the appointed agent are acts on behalf of the appointing insurer.

Sec. 15.

Sec. 21.27.110. Term of appointment

Changes the time period from 10 to 30 days for an insurer to notify the director of termination without cause of a company appointment and from 10 to 15 days if the termination is for cause. Retains the immunity and confidentiality provisions for information received for terminations for cause. Allows the terminated person to submit written comments about the termination that will become a part of the director's file. These changes are consistent with Section 15 in PLMA and essential for uniformity.

Sec. 16.

Sec. 21.27.115. Lines of Authority

Added the definitions for major lines of authority to achieve GLBA reciprocity. Incorporated Section 7 of PLMA.

Sec. 17.

Sec. 21.27.130. Form and content of licenses

Removes listing the name of the principal or compliance officer on the license, allowing for movement into an electronic environment and giving the licensee or a third party the ability to print a license. This change is consistent with the concept of Sections 6 (B)(2) and 7 (G) in PLMA.

Sec. 18.

Sec. 21.27.130. Form and content of licenses

Added to identify the license authority issued by the director, consistent with the definition of license in Section 2 (F) in PLMA

Sec. 19.

Sec. 21.27.140(b). License to firms and corporations

Replaces principal or manager with compliance officer for reciprocity and consistency with Section 6 (B)(2) in the PLMA.

Sec. 20.

Sec. 21.27.140(c). License to firms and corporations

Replaces principal or manager with compliance officer for reciprocity and consistency with Section 6 (B)(2) in the PLMA.

Sec. 21.

Sec. 21.27.150(a). Limited licenses

Removes the residency requirements that are inconsistent with GLBA, eliminates the limited lines retired and health licenses as well as the provision that permits the director to waive the bond requirement (since AS 21.27.530(5) is repealed). Added new limited license categories that allows the director to issue a limited lines producer license to a nonresident for the same authority issued in the home state. Added credit insurance and a miscellaneous licenses that restrict authority to less than the total authority for a defined line of authority. These changes are consistent with Section 321(c) of GLBA.

Sec. 22.

Sec. 21.27.270. Licensing of nonresidents

Incorporates the principal GLBA reciprocity requirements to allow for issuance of nonresident licenses as required under Section 321(c) in GLBA. Ongoing statutory requirements, such as fiduciary account requirements for nonresidents are retained.

Additionally, the retaliatory provisions are removed in order prohibit a state from requiring a nonresident to comply with additional requirements that are not required in home state in compliance with Section 321(c) of GLBA.

Sec. 23.

Sec. 21.27.275. Alien licenses

Added to allow Canadians and other foreign residents to obtain licensure in this state.

Sec. 24.

Sec. 21.27.330. Place of business

Removes the requirements for each branch location transacting business in this state to obtain separate licenses. Separate fees for each location of the same firm will still be required. These changes comply with Section 321(c) of GLBA that prohibits a state from requiring any additional requirements that are not required in home state.

Sec. 25.

Sec. 21.27.350(c). Maintenance of records; form and content

Replaces principal or manager with compliance officer to meet reciprocity and make consistent with Section 6 (B)(2) in the PLMA.

Sec. 26.

Sec. 21.27.370. Sharing Compensation

Allows an unlicensed person to receive renewal or deferred commissions if at the time of sale, solicitation or negotiation, the person was appropriately licensed. Changes made are consistent with consumer protection (13 safe harbor) requirements and consistent with Sections 13(C) and (D) of PLMA.

Sec. 27.

Sec. 21.27.390(a). Temporary license

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 28.

Sec. 21.27.410(b). Disqualifications for license

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 29.

Sec. 21.27.460(c). Surrender of license

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 30.

Sec. 21.27.540(g). Trainee Producers

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 31.

Sec. 21.27.560(a). Appointment of Brokers

Clarifies that the fee compensation a broker receives is from the client.

Sec. 32.

Sec. 21.27.600(g). Trainee managing general agents

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 33.

Sec. 21.27.620(l). Agency contracts

Added to clarify that the definition in 21.90.900 is applicable to insurers transacting business with a managing general agent in this state.

Sec. 34.

Sec. 21.27.640(b). Qualifications

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA and removes the separate subsection (4) applicable only to firms that are corporations or partnerships, making some requirements applicable to all firms.

Sec. 35.

Sec. 21.27.650(p). Requirements to transact business

Added to clarify that the definition in 21.90.900 is applicable to insurers transacting business with a third party administrator in this state.

Sec. 36.

Sec. 21.27.680(g). Trainee reinsurance brokers

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 37.

Sec. 21.27.690(g). Requirements to transact business

Added to clarify that the definition in 21.90.900 is applicable to insurers transacting business with a reinsurance intermediary broker in this state.

Sec. 38.

Sec. 21.27.760(l). Contracts with reinsurance managers

Added to clarify that the definition in 21.90.900 is applicable to insurers transacting business with a reinsurance intermediary manager in this state.

Sec. 39.

Sec. 21.27.800(g). Trainee surplus lines brokers

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 40.

Sec. 21.27.840(f). Trainee independent adjusters

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 41.

Sec. 21.27.840(i). Trainee independent adjusters

Replaces principal or manager with compliance officer consistent with Section 6 (B)(2) in the PLMA.

Sec. 42.

Sec. 21.27.900. Definitions

Removes the requirement that an individual may not represent a firm or work in association with another licensee without having to obtain a firm license or individual working in a firm license. This is necessary to meet the reciprocity requirements in Section 321 (c) of GLBA.

Sec. 43.

Sec. 21.27.900. Definitions

Adds new definitions for compliance officer, home state, license, limited lines credit insurance, limited lines insurance, negotiate, sells, solicit, transact, Uniform application and Uniform Business Entity Application for GLBA reciprocity requirements under Section 321 of GLBA and consistent with Section 2 of PLMA.

Sec. 44.

Sec. 21.36.162. Nondisclosure of personal information

Adds new provisions to AS 21.36 to give the director authority to adopt regulations in Alaska consistent with but no less restrictive than the NAIC "Privacy of Consumer Financial and Health Insurance Regulation" which was adopted by the NAIC on September 26, 2000. This NAIC model establishes separate standards for financial information and health information as follows:

Financial information

Insurers and licensees are required to provide notices to consumers describing their financial information privacy policies and to provide consumers with an opportunity to prohibit the sharing of their personal financial information, which means that if a consumer does not affirmatively say they do not want the information disclosed, insurers and licensees may disclose the information (called an opt-out requirement). Information sharing among affiliates is not restricted.

Health information

Protected health information can not be disclosed without the prior consent of the consumer, which means an insurer or licensee must get explicit permission from the consumer before they can disclose the protected health information (called an opt-in requirement). However, several specific exceptions to this requirement are allowed in order for insurers to be able to perform their day to day operations. Unlike the financial information privacy requirements, insurers are not required to provide notices to consumers describing their health information privacy policies and the model provisions do not apply to insurers who are in compliance with the DHHS privacy regulations under HIPAA, which will become effective in late 2002. Sharing of health information among both affiliates and non-affiliates is restricted. Unlike for financial information, sharing among affiliates is restricted because of the expected sharing of information among banks, securities firms and insurers that are now allowed to affiliate with each other.

Enhanced protection of health information is essential due to the greater sensitivity of health information and the much larger volume of health information compared with financial information collected by insurers and licensees.

Sec. 21.36.164. Licensing of persons in a financial institution

Implements GLBA Section 305, Sec 47 (d)(2)(C), which prohibits a financial institution from allowing a person to sell or offer an insurance product in the office of the institution if the person is not properly licensed.

Sec. 45.

Sec. 21.36.165. Anticoercion and antitying.

Amended to be consistent with and incorporate additional provisions relating to GLBA Section 104 safe harbor provisions 1-2, 6-8, 11-13 as well as GLBA Section 305, Sec 47 (b) antitying and anticoercion provisions.

Modifies existing statutory provision regarding confidentiality of information to allow sharing of consumer information with an unaffiliated party only with consent of consumer and establishes certain specified exceptions to this rule.

Sec. 46.

Adds provisions to AS 21.36.165 to require that a person use separate documents for transacting insurance, to prohibit a person from including insurance premiums in the credit transaction without consent, and to require that separate records relating to insurance be maintained.

Sec. 47.

Sec. 21.36.167. Misrepresentation in financial institution sales

21.36.167(1), (3), (4) implement 14.30(b)(1)-(3) of the federal regulations implementing Section 305, Sec 47(a). These provisions prohibit a person from using an advertisement or engaging in any practice that would lead a customer to believe that

- (1) the insurance is backed by, or a return on the insurance is guaranteed by, the person responsible for the advertisement or practice, state or federal government, or the FDIC
 - (2) the insurance does not contain investment risk, that principal may not be lost, or value may not decline, if in fact the insurance does contain investment risk
 - (3) lending of money, extending credit or renewing a loan is conditioned on the customer purchasing insurance from the person or that insurance may not be purchased elsewhere
- 21.36.167(2) implements Section 104, safe harbor 3, which prohibits a person from using an advertisement or engaging in any practice that would lead a customer to believe that state or federal government will pay a claim under the insurance contract, is responsible for insurance sales activity of the person, or guarantees the credit of the person.

Sec. 21.36.168. Disclosures required in financial institution sales

Implements GLBA Section 305, Sec 47 (c) and Section 104 safe harbors 9 and 10, which require certain disclosures be provided in a meaningful form to consumers at or before the initial purchase of an insurance product. The disclosures must be provided both orally and in writing and may be provided electronically. A person transacting insurance must disclose to the consumer that:

- (1) the insurance is not a deposit or other obligation of the person
- (2) the insurance is not guaranteed by the person or the person soliciting the insurance
- (3) the insurance is not insured by the FDIC, another government agency, the financial institution or the person
- (4) the insurance contains investment risk and may lose value, if the insurance does contain investment risk
- (5) the consumer is not required to purchase insurance through a particular insurer as a condition to the extension of credit

Sec. 21.36.169. Definitions

"Consumer" is defined in the federal regulations 14.20(c)

"Financial institution" is defined to be consistent with the definition in IIAA model, which expands applicability of the consumer protections beyond depository institutions.

Sec. 48.

Sec. 21.36.355. Felony convictions involving dishonesty or breach of trust.

Adds a provision that a person with a felony conviction involving dishonesty or breach of trust may not transact insurance without receiving prior written consent by the director as is currently required under federal law.

Sec. 49. and 50.

Sec. 21.36.430. Insurance for domestic violence victims; records

Expands existing provision to be consistent with GLBA Section 305(e) including a definition of domestic violence.

Sec. 51.

Sec. 21.89.080. Electronic submissions.

Adds a provision to remove barriers to electronic submissions of information and electronic confirmation of submissions.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 184
 (H) Publish Date: 3/14/01

Revision Date/Time (Note if correction): 02/21/2001 12:10p.m. Dept. Affected: DCED
 Title: Gram-Leach-Bliley Act & Other Insurance BRU: Insurance Operations
 Component: Insurance Operations
 Sponsor: Rules Committee
 Requester: Governor Component Number: 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on this component. It is covered by funds currently appropriated to the division in the operating budget.

Prepared by: Robert A. Lohr, Director Phone 907-269-7900
 Division: Insurance Date/Time 02/21/2001 12:10p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 2/21/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

Privacy Standards

The privacy provisions in both insurance bills (SB 138 and CS SB 138 (L&C) Work Draft) establish minimum privacy standards for insurance companies and would allow the director to adopt standards that provide greater privacy protections for consumers. This is consistent with the federal Gramm-Leach-Bliley Act (GLBA) privacy standards, which explicitly allows states to adopt privacy standards that provide greater protection to consumers' privacy. The privacy provisions in both banking bills (SB 66 and CS SB 66 (L&C)) directly set privacy standards for other financial institutions.

The following compares insurance and banking privacy provisions in the originally introduced bills and in the current version of the bills:

	<u>Financial</u>	<u>Health</u>
<u>Current Bills</u>		
Banking - CS SB 66 (L&C)	Opt-out	Opt-out
Insurance - CS SB 138 (L&C)	Opt-out	Opt-out
<u>Bills Originally Introduced</u>		
Banking - SB 66	Opt-in	None
Insurance - SB 138	Opt-out	Opt-in

Current banking law sets an opt-in standard for sharing financial information. Current insurance law does not restrict sharing of consumer information.¹

Explanation of Terms

Opt-Out: means your information may be shared with others unless you state otherwise.

Opt-In: means your information may not be shared with others unless you give written permission.

Insurance Financial Information: Examples include how much premium you pay, value of your home, your name, address, phone number, birth date, occupation, income, credit information, claims made against your policy, driving history, vehicle identification and features, vehicle citations, amounts of coverage.

Insurance Health Information: Examples include medical and mental health records, payment records that indicate what type of doctors you see, types of medications you take, types of treatments you receive, your height and weight, whether you use tobacco.

Banking Financial Information: Examples include income, details on all your assets and liabilities, credit information, where and on what you spend money.

¹However, HB211 was adopted last year and will become effective 7/1/2001. It restricts sharing of financial and health information, but only for health insurers who sell managed care plans in the state. HB 211 disallows any sharing of financial information and sets an opt-in standard for sharing health information.

Alaska

Department of Community and Economic Development

Division of Insurance

P.O. Box 110805, Juneau, AK 99811-0805

Telephone: (907) 465-2515 • Fax: (907) 465-3422 • Text Telephone: (907) 465-5437

Email: Insurance@dced.state.ak.us • Website: www.dced.state.ak.us/insurance/

March 14, 2001

The Honorable Lisa Murkowski
Chair
House Labor & Commerce Committee
State Capitol, Room 408
Juneau, AK 99801-1182

Dear Madam Chair:

RE: HB 184 "An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

On March 13, 2001, HB 184 was introduced by the Rules Committee at the request of Governor Knowles. It has been referred to your committee with a zero fiscal note.

Under this bill, significant changes would be made to the insurance code, AS 21, to accomplish insurance reforms necessitated by the federal Gramm-Leach-Bliley Act (GLBA) enacted in 1999. Under GLBA, specific standards are established for producer licensing, consumer privacy, consumer protections, and insurance sales. State authority to regulate insurance is affirmed by this new federal law. However, federal law may preempt that authority if states fail to regulate insurance in a manner that is at least consistent with GLBA, or if the states regulate in a manner that prevents or significantly interferes with the ability of a bank or bank affiliate to engage in insurance sales. GLBA requires states to streamline and coordinate their regulatory systems to make them faster, less burdensome and more effective. Enacting this bill into law will accomplish reforms consistent with GLBA and will continue the process of streamlining and coordinating insurance regulation.

One important goal of this bill is to amend AS 21.27, the licensing chapter of the insurance code, to provide for reciprocity in the licensing of nonresidents. This will avoid the forced creation of a national licensing organization authorized under GLBA that would take over licensing authority from the

states. It also addresses time-sensitive issues relating to consumer privacy and financial institution sales of insurance. GLBA establishes minimum privacy standard that a state must adopt. If a state fails to adopt minimum privacy standards consistent with the GLBA standards, the state risks losing their authority to enforce state consumer protection standards with respect to financial institution insurance sales.

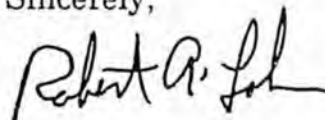
In addition to addressing the federal GLBA requirements, the bill also makes changes necessary to conform with federal laws and provides some regulatory simplifications.

Examples include provisions to:

- enable the division to obtain national criminal history record checks for any person who wants to engage in the business of insurance;
- require a person with a felony conviction involving dishonesty and breach of trust to obtain the express written consent of the director of insurance before engaging in the business of insurance, as required by and consistent with 18 U.S.C. 1033 and 1034 (Violent Crime Control and Law Enforcement Act of 1994);
- removes the current statutory requirement that an insurance firm with many branch offices license each branch office separately;
- allows multiple insurers within the insurer's holding company system or group to file a single company appointment request;
- give authority to the director to provide for the electronic submission of information and for electronic confirmation of a requested submission.

I respectfully request you to schedule HB 184 for hearing in your committee, and urge your favorable action on this bill. The Division of Insurance would be happy to meet with you and other members of the committee to brief you on the bill, and to provide any other information you may require. Thank you for considering this request.

Sincerely,



Robert A. Lohr
Director

*Dept. of Community & Economic
Development
Alaska Division of Insurance*

HB 184

**Deborah Sedwick,
Commissioner**

**Robert A. Lohr,
Director**



Mission

The Alaska Division of Insurance:

- Protects and serves the state by regulating all aspects of insurance in Alaska
- Protects and educates the consumer and enhances the insurance business environment

Gramm-Leach-Bliley Financial Services Modernization Act (GLBA)

- The Act breaks down barriers among banking, insurance and securities industries by repealing the Glass-Steagall Act, re-writing federal banking laws, and establishing a framework covering the responsibilities of federal and state regulators
- State insurance regulators' primary goal is to protect insurance consumers by taking a proactive and flexible approach to regulation

Gramm-Leach-Bliley Financial Services Modernization Act (GLBA)

- State regulators must streamline processes and become more efficient in the highly competitive world economic environment
- State regulators must work cooperatively with other state officials, federal officials, consumers and interested parties
- Simplify producer licensing, protect the privacy of consumers information and protect consumers who purchase insurance through banks

Producer Licensing

National Association of Registered Agents and Brokers (NARAB) will be enacted by November 2002, if at least 29 states do not achieve either uniformity or reciprocity for nonresident agents and brokers.

NAIC Producer Licensing Model

In October 2000, the National Association of Insurance Commissioners (NAIC) adopted the Producer License Model Act (PLMA) for states to use as a guideline for developing legislation to meet the reciprocity elements of GLBA and move toward uniformity.

Alaska Licensees

- Over 10,700 licensees
 - 2,900 residents
 - 7,800 nonresidents

• Since 1998, the Division has seen a 38% increase in the number of nonresident licensees while the trend for resident licensees has remained constant.

Producer Licensing Provisions

- Based on the NAIC Model with goal of achieving reciprocity and moving towards Uniformity
- Give licenses on a reciprocal basis, which means a nonresident applicant may receive a license upon request for licensure and payment of fee, if producer is licensed and in good standing in home state
- Issue a nonresident license for the same authority granted in the home state
- Accept home state's continuing education requirement

Producer Licensing ProvisionsContinued

- Eliminate any retaliatory provisions
- Remove all discriminatory requirements based on place of residency or operations
- Accept the National Uniform License Application

Benefits of Enacting the Producer Licensing Provisions

- Streamlined license process and elimination of duplicative requirements for licensure
- Greater efficiency and cost savings
- No retaliatory fee requirements
- Level playing field
- Collaborative effort to identify rogue agents

Alaska's Constitutional Right to Privacy

Article I, Section 22 states “The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.”

Consumer Privacy Provisions

Confirms the Director of Insurance's authority to adopt privacy standards that are consistent with, but no less restrictive, than the NAIC model regulation.

Summary of NAIC Privacy Model

- Protected information is: personally identifiable financial or health information
- Standards for protected financial information are consistent with GLBA (Opt-out)
- Enhanced standards for protected health information (Opt-in)

Protected Financial Information Standards

- “Opt-out” standard which means insurers may share protected financial information unless the consumer affirmatively says they do not want the information shared
- Insurers must provide notices to consumers describing their privacy policies
- Protected financial information may be shared among affiliates without restriction

Protected Health Information Standards

- “Opt-in” standard means insurers may not share protected health information without explicit permission from the consumer
- Exceptions to this standard allow insurers to perform day-to-day operations
- Unlike the financial standards, insurers are not required to provide notices describing their privacy policies

Protected Health Information Standards...continued

- Standards do not apply to insurers who are in compliance with the U.S. DHHS regulations implementing HIPAA (effective 2002)
- Sharing among both affiliates and non-affiliates is restricted

Why have stronger privacy standards for health information?

- GLBA standard is geared toward banks and securities firms not the insurance industry
- Much larger volume of health information
- Greater sensitivity of health information compared to financial information
- Greater sharing of information among banks, securities firms and insurers who are now, with passage of GLBA, allowed to affiliate

Why adopt the NAIC Privacy Model?

- Preserves insurance industry's ability to transact insurance while protecting consumers
- Broad support from industry, consumer groups and others
- Makes a strong statement that state regulation of insurance can work effectively to protect consumers while allowing the insurance industry to remain competitive in a changing financial services marketplace

Consumer Protections in Financial Institution Sales of Insurance

- Establishes consumer protection standards consistent with Section 104 (often referred to as the “13 safe harbors”) and 305 of GLBA
- Expands applicability beyond depository institutions as provided in GLBA to all financial institutions that may transact insurance in Alaska
- Four major areas of protection relating to licensing, misrepresentations, disclosure, anti-tying and anti-coercion

Why adopt consumer protections in financial institution sales of insurance?

- Provides important protections to Alaskans that may purchase insurance through a financial institution
- Avoids possible federal preemption and enforcement of these protections in Alaska
- Makes a strong statement that state regulation of insurance can work effectively to protect consumers, while allowing the insurance industry to remain competitive in a changing financial services marketplace

Two Other GLBA-Related Provisions

- Requires that a person with a felony conviction involving dishonesty or breach of trust obtain consent of director before transacting insurance as required by Federal Law (1033 and 1034)
- Removes barriers in current law to allow for electronic submissions

APR 26 2001

Subject: HB 184

Date: Thu, 26 Apr 2001 11:19:47 -0700

From: akpirg <akpirg@akpirg.org>

To: Representative_Norman_Rokeberg@legis.state.ak.us

RE: HB 184

Dear Representative Rokeberg:

The House Judiciary is considering HB 184 today and AkPIRG is concerned about the implications of this legislation in its relation to consumers. AkPIRG has consistently advocated for an "opt-in" provision rather than the "opt-out" mechanism that insurance and financial institutions are using to share personal information about consumers with other institutions.

This bill was amended to apply such an "opt-in" standard but it is now only a watered-down version of opt-in and isn't an opt-in at all. Information, particularly financial information, can be still be shared and consumer rights are not being protected.

In addition, this bill needs to include a private right of action. This private right of action would empower consumers to move as individual policy holders to file grievances against insurance companies.

Consumers are facing an increasingly complex and consolidated line-up of financial and related services. They need strong protection to ensure that their rights are safe-guarded.

Thank you for your time.
Sincerely,

Steve Cleary
AkPIRG - Alaska Public Interest Research Group