

HB

157

<TARGET><BILL>HB 157</BILL><SUBJECT>HB
157</SUBJECT><COMM>HL&C30</COMM></TARGET>



30th Alaska State Legislature

House Labor and Commerce Committee

Chairman:
Rep. Sam Kito
State Capitol 403
907-465-4766

Vice Chairman:
Rep. Adam Wool

Members:
Rep. Chris Birch
Rep. Andy Josephson
Rep. Gary Knopp
Rep. Louise Stutes
Rep. Colleen Sullivan-
Leonard

Committee Aide:
Tally Teal
State Capitol 403
907-465-4875

Committee Contact:
hlac@akleg.gov
907-465-4954

DATE: 7 March 2017
TO: Representative Sam Kito
Chair, House Labor & Commerce Committee
FROM: Representative Sam Kito
RE: HB157 – LIFE & HEALTH INSURANCE GUARANTY ASSN.

We respectfully request that the House Labor & Commerce Committee schedule House Bill 157 – Life & Health Insurance Guaranty Association for a hearing.

Please find attached:

- House Bill 114 version D
- Sponsor Statement HB157
- Sectional Analysis HB157

Sponsor Statement and sectional analysis forthcoming.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me or my staff Bianca Carpeneti at 465-4767.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sam Kito III".

Rep. Sam Kito III



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Sponsor Statement

House Bill 157

An Act relating to the Alaska Life and Health Insurance Guaranty Association.

House Bill 157 updates the Alaska Life and Health Insurance Guaranty Act (Act) to conform to the National Association of Insurance Commissioners Life and Health Guaranty Model Act. These changes update the Act and improve uniformity nationwide in the administration of life and health guarantee associations.

The Alaska Life and Health Insurance Guarantee Association (Association) is composed of insurers who transact life insurance, health insurance, or annuities in Alaska. The purpose of the Association is to guarantee that residents and certain nonresidents will continue to receive benefits in the event one of the members becomes impaired or insolvent. In order to accomplish this, the Act directs the insurers to form a board and collect assessments from members to pay for the operations of the Association and obligations of insolvent or impaired members.

House Bill 157 amends terms for consistency with the model act, raises payment limits, adds language clarifying what products are included and excluded from the protections under the Act, and adds language clarifying that medical and hospital service corporations and their products are subject to the provisions of the Act. House Bill 157 amends the powers and duties section for the Association to follow the model act, authorizes the board to increase assessments, grants the Association the ability to develop procedures to remove an Association governor for cause, and adds new definitions.

Thank you for your prompt and favorable action on this measure.



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Sectional Analysis

House Bill 157

An Act relating to the Alaska Life and Health Insurance Guaranty Association.

Sec. 1 AS 21.79.020(a) is amended to clarify that the chapter applies to a nonresident who is not eligible for coverage by a guaranty association in another state due to the fact that the insurer was not licensed at the time specified in the guaranty association law of that state.

Sec. 2 AS 21.79.020(b) is amended to have AS 21.79 apply to a subscriber's contract issued by a hospital or medical service corporation authorized under AS 21.87. The amendment also defines the terms "annuity policy or contract" and "certificate under a direct group life health, annuity, or supplemental policy or contract".

Sec. 3 AS 21.79.020(c) is amended to make AS 21.79 inapplicable to:

1. a policy or contract providing a hospital, medical, prescription drug, or other health care benefit in accordance with 42 U.S.C. 1395w-21 – 1395w-154 or federal regulations adopted under those sections; (Medicare Choice Program and Voluntary Prescription Drug Benefit Program)
 2. a person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective.
 3. structured settlement annuity benefits to which a payee or beneficiary has transferred the payee or beneficiary's rights in a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after 26 U.S.C. 5891(c)(3)(A) became effective.
- Subsection (c) is also amended to add clarifying language consistent with the National Association of Insurance Commissioners (NAIC) *Life and Health Insurance Guaranty Association Model Act* (MDL 520) (NAIC Model).

Sec. 4 AS 21.79.020(d) Non-substantive changes are made for either consistency with the NAIC Model or drafting conventions.

Sec. 5 AS 21.79.020(e) Non-substantive changes made are for either consistency with the NAIC Model or drafting conventions, and a citation correction is made in paragraph (9).

Sec. 6 AS 21.79.025(a)

- AS 21.79.025(a)(2)(B)(ii) is amended to clarify that the benefits for which the association may become liable may not exceed \$300,000 for long-term care insurance as defined under AS 21.53.200.
- AS 21.79.025(a)(3) is amended to change "contract holder" to "contract owner" to be consistent with the NAIC Model, to clarify that the contract refers to an unallocated annuity contract issued to or in conjunction with a government lottery if the owner is a resident, and to clarify that the association is not liable to cover more than \$5 million in benefits regardless of the number of policies and contracts held by the owner.
- AS 21.79.025(a)(4) is amended to increase the coverage limit for net cash surrender and net cash withdrawal values of annuities from \$100,000 to \$250,000 for individuals participating in a governmental retirement benefit plans established under 26 U.S.C. 401, 26 U.S.C. 403(b) or 26 U.S.C. 457 and covered by an unallocated annuity contract
- AS 21.79.025(a)(5) is amended to increase the coverage limit for net cash surrender and net cash withdrawal values, if any, from \$100,000 to \$250,000 to each payee of a structured settlement annuity, or beneficiary of the payee if the payee is deceased, in the aggregate.

Sec. 7 AS 21.79.025(d)(2) is amended to correct a typographical error.

Sec. 8 AS 21.79.060(a)(2) is amended to allow the association to provide loans to assure payment of the contractual obligations of the impaired insurer until those obligations are guaranteed, reinsured, or assumed.

Sec. 9 AS 21.79.060(d) AS 21.79.060(d)(1) is amended to better track the NAIC Model organization and language by combining existing paragraphs 1 – 3 under AS 21.79.060(d). Tracking NAIC models and language promotes national uniformity and state-based regulation, and ease of interpretation, compliance, administration, enforcement, and amendment.

- AS 21.79.060(d)(1), consistent with the addition of loans under AS 21.79.060(a)(2) under Section 8 of the bill above, is amended to authorize the association to utilize loans necessary to discharge the association's duties under AS 21.79.060.
- AS 21.79.060(d)(2) is amended to better track the NAIC Model organization and language by placing existing subsections (e) – (j) in this paragraph.

Sec. 10 AS 21.79.060(l) is amended to require the association to provide a report to the liquidator regarding the premium collected by the association if requested by the liquidator of an insolvent insurer.

Sec. 11 AS 21.79.060(n) is amended to authorize the association to impose a permanent policy or contract lien under a guarantee, assumption, or reinsurance agreement if the policy or contract lien is approved by a court and the association finds that the amount that may be assessed under AS 21.79 is less than the amount needed to assure full and prompt performance of the association's duties under the chapter.

Sec. 12 AS 21.79.060(o) is amended to use updated language consistent with the NAIC Model and to change a subsection citation to conform to amendments being made to the section.

Sec. 13 AS 21.79.060(p) is amended to change a subsection citation to conform to amendments being made to the section.

Sec. 14 AS 21.79.060(t) is amended to use updated language consistent with the NAIC Model.

Sec. 15 AS 21.79.060(aa) AS 21.79.060 is amended to add a new subsection (aa) to better track the NAIC Model language and organization by incorporating into the new section the provisions in existing AS 21.79.060(u) – (x).

Sec. 16 AS 21.79.070(a) is amended to require that any assessment of association members by the association board must be adopted by a resolution of the board.

Sec. 17 AS 21.79.070(c) amended to increase the amount of a non pro rata assessment of members by the association board from \$250 per calendar year to \$500 per calendar year.

Sec. 18 AS 21.79.080(c) is amended to require the association board to adopt a plan of operation that includes (1) procedures for removing a member of the board for cause, including procedures for removing a member of the board who becomes an impair or insolvent insurer, and (2) policies and procedures for addressing conflicts of interest.

Sec. 19 AS 21.79.090(c) is amended to (1) clarify that only a final action of the board may be appealed to the director of the division of insurance, and (2) increase the time by which an appeal may be taken from 30 days to 60 days after the date the notice of the board's action is mailed.

Sec. 20 AS 21.79.090(d) is amended to clarify that the liquidator, rehabilitator, or conservator of an insolvent insurer may notify all interested persons of the effect of AS 21.79.

Sec. 21 AS 21.79.110(b) is amended to remove the requirement that records of meetings of the association may only be made public after an insurer is no longer impaired or insolvent.

Sec. 22 AS 21.79.140 is amended to (1) clarify that a cause of action may not arise for an action or omission of the association and its agents and employees, members of the Board of Governors, member insurers, and agents and employees of member insurers, and the director of the division of insurance and the director's representatives in performing their duties under AS 21.79, and (2) extend the immunity to such entities' participation in an organization of one or more state associations of similar purposes and to that organization and its agents or employees.

Sec. 23 AS 21.79.150 is amended to extend the time a proceeding involving an insolvent insurer may be stayed from 60 days to 180 days after the date of a final order of liquidation, rehabilitation, or conservation in order to allow the association additional time to exercise a power or duty authorized under AS 21.79.

Sec. 24 AS 21.79.900(5) amends the term "called" to (1) mean a notice has been mailed (formerly issued) by the association to member insurers requiring that an authorized assessment be paid within the time set out in the notice, and (2) include in the definition of "called" that an authorized assessment becomes called when notice is mailed by the association to member insurers.

Sec. 25 AS 21.79.900(6) amends the term "contractual obligation" to clarify that the term only applies to an obligation under a policy, contract, or certificate under a group policy or contract, or portion of one for which coverage is provided under AS 21.79.020(a), (b), (d), and (e).

Sec. 26 AS 21.79.900(7) amends the term "covered policy" to mean a policy or contract or a portion of a policy or contract for which coverage is provided under AS 21.79.020(a), (b), (d) and (e).

Sec. 27 AS 21.79.900(10) amends the term "member insurer" to include a hospital or medical service corporation licensed under AS 21.87.

Sec. 28 AS 21.79.900(13) amends the term "plan sponsor" to clarify that the term applies to groups of representatives of parties **similar** to two or more employers or jointly by one or more employers and one or more employee organizations, an association, committee, or joint board of trustees who establish or maintain the benefit plan.

Sec. 29 AS 21.79.900(14) amends the term "premium" to clarify that assessable premium may not be reduced on account of AS 21.79.020(c)(4) relating to interest limitations and AS 21.79.025(a)(2) – (5), (b), and (d) relating to limitations with respect to one individual, one participant, and one contract owner. The term "premium" does not include (1) premiums in excess of \$5 million on an unallocated annuity contract not issued under a government retirement benefit plan or its trustee established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457; or (2) with respect to multiple nongroup policies of life insurance owned by one owner, whether the policy holder is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of \$5 million with respect to those policies or contracts, regardless of the number of policies or contracts held by the owner.

Sec. 30 AS 21.79.900(16) amends the term "resident" to delete language considered unnecessary under state drafting conventions.

Sec. 31 AS 21.79.900(19) amends the term "supplemental contract" to mean a written agreement entered into for the distribution of proceeds under life, health, or annuity policy or contract benefits.

Sec. 32 AS 21.79.900 is amended to add new paragraphs to define the terms "benefit plan", "election date", and "extra contractual claim". The section is also amended to define "published monthly average", a term previously defined under AS 21.79.020(f).

Sec. 33 AS 21.87.340 is amended to add AS 21.79 to the list of statutory provisions which apply to hospital and medical service corporations.

Sec. 34 Repeals the following provisions

- AS 21.79.020(f) defining "published monthly average" as the term definition is placed under AS 21.79.900.
- AS 21.060(c) is repealed as the provision no longer is in the NAIC Model.
- AS 21.79.060(e) – (j) are repealed as these provisions have been relocated to AS 21.79.060(d).
- AS 21.79.060(u) – (x) are repealed as these provisions have been relocated to AS 21.79.060(aa).
- AS 21.79.110(e) is repealed as unnecessary because the state has adopted Section 602 of the NAIC *Insurers Receivership Model Act* (MDL 555)(AS 21.78.325).

Sec. 35 Provides for an uncodified new section outlining the timing of when the director may adopt regulations.

Sec. 36 Provides that section 36 of the Act takes effect immediately under AS 01.10.070(c).

Sec. 37 Provides that except as provided in section 37 of the Act, the Act takes effect July 1, 2017.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 157
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB157-DCCED-DOI-03-10-17
Title: LIFE & HEALTH INSURANCE GUARANTY ASSN.
Sponsor: LABOR & COMMERCE
Requester: (H) Labor & Commerce

Department: Department of Commerce, Community and
Economic Development
Appropriation: Insurance Operations
Allocation: Insurance Operations
OMB Component Number: 354

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Lori Wing-Heier Phone: (907)465-2515
Division: Division of Insurance Date: 03/10/2017 05:00 PM
Approved By: Catherine Reardon, Director Date: 03/10/17
Agency: Division of Administrative Services, DCCED

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 157

Analysis

HB 157 updates the current Alaska Life and Health Insurance Guaranty Association under AS 21.79 to comply with National Association of Insurance Commissioners model law updates. The only substantive change is inclusion of hospital or medical service corporations as defined in AS 21.87.

The Division of Insurance does not anticipate fiscal impact as a result of this legislation.