

ALASKA LEGISLATURE
HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994 1084

1 covered person.

2 * Sec. 63. AS 21.57.010 is amended to read:

3 Sec. 21.57.010. PURPOSE. The purpose of this chapter is to promote the
4 public welfare by regulating consumer credit [LIFE INSURANCE AND CREDIT
5 DISABILITY] insurance. Nothing in this chapter is intended to prohibit or discourage
6 reasonable competition. The provisions of this chapter shall be liberally construed.

7 * Sec. 64. AS 21.57.020 is repealed and reenacted to read:

8 Sec. 21.57.020. APPLICABILITY. Consumer credit insurance transacted in
9 connection with a credit transaction for a personal, household, or family purpose is
10 subject to the provisions of this chapter except

11 (1) insurance written in connection with a credit transaction that is

12 (A) secured by a first mortgage or first deed of trust; and

13 (B) made to finance the purchase of real property, the
14 construction of a dwelling, or to refinance a prior credit transaction made for
15 that purpose;

16 (2) an isolated insurance transaction by the insurer not related to an
17 agreement or a plan for insuring debtors of the creditor; or

18 (3) insurance for which no identifiable charge is made to the debtor.

19 * Sec. 65. AS 21.57.030 is repealed and reenacted to read:

20 Sec. 21.57.030. AUTHORIZED TYPES OF CONSUMER CREDIT
21 INSURANCE. A type of consumer credit insurance defined in AS 21.57.160 may be
22 written separately or in combination with other types of consumer credit insurance on
23 an individual or group basis.

24 * Sec. 66. AS 21.57.040 is repealed and reenacted to read:

25 Sec. 21.57.040. AMOUNT OF CONSUMER CREDIT INSURANCE. (a) The
26 amount of coverage for credit life insurance payable at the time of loss

27 (1) may not exceed the greater of the actual net debt or the scheduled
28 net debt, except insurance on an

29 (A) agricultural credit transaction commitment, not exceeding
30 one year in duration, may be written up to the amount of the loan commitment
31 on a nondecreasing or level term plan; and

1 (B) educational credit transaction commitment may be written
2 for the net outstanding balance plus any unused commitment;

3 (2) may not be less than the actual net debt less any payments more
4 than two months overdue if the coverage is written on the actual outstanding net debt;

5 (3) may not exceed the following if the coverage is written on the
6 scheduled outstanding net debt:

7 (A) the scheduled net debt if the actual net debt is less than or
8 equal to the scheduled net debt;

9 (B) the actual net debt if the actual net debt is greater than the
10 scheduled net debt but less than or equal to the scheduled net debt plus two
11 months of payments; or

12 (C) the scheduled net debt plus two months of payments if the
13 actual net debt is greater than the scheduled net debt plus two months of
14 payments;

15 (4) must equal the actual net debt on the date of death if a premium is
16 assessed to the debtor on a monthly basis and is based on the actual net debt; and

17 (5) may be less than the net debt when the partial coverage is
18 calculated using one of the following:

19 (A) the amount of insurance is the lesser of a stated amount and
20 the amount is determined by (2) of this subsection;

21 (B) the amount of insurance is the lesser of a stated amount and
22 the amount is determined by (3) of this subsection;

23 (C) the amount of insurance is a constant percentage of the
24 amount determined by (2) or (3) of this subsection; or

25 (D) in the absence of any preexisting condition exclusion, the
26 amount of insurance payable in the event of death due to natural causes is
27 limited to the balance as it existed six months before the date of death if

28 (i) there has been at least one increase in the outstanding
29 balance during that six-month period, other than an increase due to the
30 accrual of interest or late charges; and

31 (ii) evidence of individual insurability has not been

1 required during that six-month period.

2 (b) The director may provide for other patterns of insurance consistent with
3 (a) of this section by regulation.

4 (c) The total amount of periodic indemnity payable in the event of disability
5 or unemployment, as defined in the policy, may not exceed the sum of the periodic
6 scheduled unpaid installments of the gross debt. The amount of a periodic indemnity
7 payment may not exceed the original gross debt divided by the number of periodic
8 installments.

9 (d) If credit disability insurance or credit unemployment insurance is written
10 in connection with an open-end consumer credit agreement, the amount of insurance
11 may not exceed the gross debt that would accrue on the amount using the creditor's
12 minimum repayment schedule. The periodic indemnity need not relate to the creditor's
13 minimum repayment schedule.

14 * Sec. 67. AS 21.57.050 is repealed and reenacted to read:

15 Sec. 21.57.050. DURATION OF COVERAGE. (a) The effective date of
16 coverage for

17 (1) consumer credit insurance that is elected by the debtor before or
18 contemporaneous with a credit transaction is the date when the debtor becomes
19 obligated to the creditor, except that when evidence of individual insurability is
20 required and the evidence is furnished more than 30 days after the date when the
21 debtor becomes obligated to the creditor, the effective date may be the date on which
22 the insurance company determines the evidence to be satisfactory;

23 (2) insurance coverage that is elected by the debtor on a date
24 subsequent to the date of the credit transaction is, subject to acceptance by the insurer,
25 a date not earlier than the date the election is made by the debtor or later than 30 days
26 following the date on which the insurer accepts the risk for coverage; an insurer shall
27 determine if a risk is acceptable by an objective method, including one related to a
28 particular date within a billing or repayment cycle or a calendar month; and

29 (3) a group policy that provides coverage with respect to a debt existing
30 on the policy effective date, must be on or after the effective date of the group policy.

31 (b) A charge for insurance may not be made to the debtor and retained by the

1 creditor or insurer for a time before commencement of the consumer credit insurance
2 to which the charge is related.

3 (c) The duration of coverage for consumer credit insurance may not extend

4 (1) beyond the termination date specified in the policy; the termination
5 date of insurance may precede, coincide with, or follow the scheduled maturity date
6 of the debt to which it relates, subject to any other requirements and restrictions of this
7 chapter, and

8 (2) more than 15 days beyond the scheduled maturity date of the debt
9 except when extended

10 (A) without additional cost to the debtor; or

11 (B) under a written agreement signed by the debtor, in
12 connection with a variable interest rate credit transaction or a deferral, renewal,
13 refinancing, or consolidation of debt.

14 (d) If the debt is discharged due to renewal, refinancing, or consolidation
15 before the scheduled termination date of the insurance, insurance in force must be
16 terminated before new insurance may be written in connection with the renewed,
17 refinanced, or consolidated debt.

18 (e) If insurance coverage terminates before the scheduled termination of the
19 insurance, the insurer shall make an appropriate refund or credit to the debtor. The
20 refund or credit must consist of the unearned insurance charge paid by the debtor for
21 insurance after the date of the termination, except that a refund is not required of a
22 charge made for insurance if the insurance is terminated by performance of the
23 insurer's obligation with respect to the insurance.

24 (f) An insured debtor may terminate consumer credit insurance at any time by
25 providing advance notice to the insurer. The individual policy or group certificate may
26 require that the notice be in writing or that the debtor surrender the individual policy
27 or group certificate, or both. The debtor's right to terminate coverage may also be
28 subject to the terms of the credit transaction contract.

29 * **Sec. 68.** AS 21.57 is amended by adding a new section to read:

30 **Sec. 21.57.055. DISCLOSURE TO DEBTORS.** (a) Before a debtor elects to
31 purchase consumer credit insurance in connection with a credit transaction, the insurer

- 1 shall disclose the following in writing to the debtor:
- 2 (1) the purchase of consumer credit insurance is optional and not a
- 3 condition of obtaining credit approval;
- 4 (2) if more than one kind of consumer credit insurance is being made
- 5 available to the debtor, whether the debtor can purchase the insurance separately or the
- 6 multiple coverage only as a package;
- 7 (3) the conditions of eligibility;
- 8 (4) if the debtor has other insurance that covers the risk, the debtor may
- 9 not want or need credit insurance;
- 10 (5) if the creditor requires consumer credit insurance as additional
- 11 security for a debt, the debtor has the option of furnishing the required amount of
- 12 insurance through existing policies owned or procured by the debtor or of procuring
- 13 and furnishing the required insurance through an insurer authorized to transact
- 14 insurance business in this state;
- 15 (6) the effective date of the coverage;
- 16 (7) the debtor may cancel the coverage within the first 30 days after
- 17 receiving the individual policy or group certificate and have a premium paid by the
- 18 debtor refunded or credited; thereafter, the debtor may cancel the policy at any time
- 19 during the term of the loan and receive a refund of unearned premium;
- 20 (8) a brief description of the coverage, including
- 21 (A) the amount;
- 22 (B) the term;
- 23 (C) any exceptions, limitations, or exclusions;
- 24 (D) the insured event;
- 25 (E) any waiting or elimination period;
- 26 (F) any deductible;
- 27 (G) any applicable waiver of premium provision;
- 28 (H) to whom the benefits would be paid; and
- 29 (I) the premium rate for a coverage or for multiple coverage in
- 30 a package;
- 31 (9) if the premium or insurance charge is financed, it is subject to

1 finance charges at the rate applicable to the credit transaction or at another specified
2 rate; and

3 (10) whether or not the benefits provided are sufficient to pay off the
4 debt in full, including finance charges unearned at the time of the claim.

5 (b) The disclosure required in (a) of this section shall be provided in the
6 following manner:

7 (1) in connection with consumer credit insurance offered
8 contemporaneously with the extension of credit or offered through direct mail
9 advertisements, the disclosure shall be presented to the consumer in a clear and
10 conspicuous manner; or

11 (2) in conjunction with the offer of credit insurance subsequent to the
12 extension of credit by other than direct mail advertisements, the initial disclosure may
13 be provided orally as long as written disclosure is provided to the debtor not later than
14 10 days after the offer or the date any other written material is provided to the debtor,
15 whichever occurs first.

16 (c) If the debtor elects to purchase coverage, the delivery of the disclosure
17 required in (b) of this section shall be acknowledged by the debtor at the time of
18 delivery, and the insurer shall maintain the debtor's written acknowledgement for at
19 least five years.

20 * Sec. 69. AS 21.57.060 is repealed and reenacted to read:

21 Sec. 21.57.060. PROVISIONS OF POLICIES AND CERTIFICATES OF
22 INSURANCE. (a) Consumer credit insurance shall be evidenced by an individual
23 policy or a group certificate of insurance.

24 (b) The individual policy or group certificate must, in addition to other
25 requirements of law, set out

26 (1) the name and home office address of the insurer;

27 (2) the name of the debtor;

28 (3) the premium to be paid by the debtor disclosed separately for each
29 kind of coverage or for all coverage in a package, except that for open-ended loans,
30 the premium rate and the basis of premium calculation must be specified;

31 (4) a full description of the coverage including the amount, the term,

1 and any exceptions, limitations, or exclusions;

2 (5) a statement that the benefits shall be paid to the creditor to reduce
3 or extinguish the unpaid debt and that, whenever the amount of insurance benefit
4 exceeds the unpaid debt, the excess is payable to the debtor, a beneficiary other than
5 the creditor named by the debtor, or the debtor's estate;

6 (6) an explanation of how refunds are calculated in the event of policy
7 termination; and

8 (7) if the benefit is not adequate to completely pay off the debt existing
9 on the date of death or disability, a statement to that effect on the face of the
10 individual policy or group certificate in not smaller than 10 point, bold face type.

11 * Sec. 70. AS 21.57.070 is repealed and reenacted to read:

12 Sec. 21.57.070. REQUIREMENTS FOR EVIDENCE OF INSURANCE. (a)
13 Unless the individual policy or group certificate of insurance is delivered to the debtor
14 at the time the debt is incurred or when the debtor elects to purchase coverage, a copy
15 of the application for the policy or a notice of proposed insurance, signed by the
16 debtor and setting out (1) the name and home office address of the insurer, (2) the
17 name of the debtor, (3) the premium rate to be paid by the debtor for the insurance,
18 and (4) the amount, term, and a brief description of the coverage provided, shall be
19 delivered to the debtor at the time the debt is incurred or the election to purchase
20 coverage is made. The copy of the application for or notice of proposed insurance
21 must refer exclusively to insurance coverage and must be separate and apart from the
22 loan, sale, other credit statement of account, instrument, or agreement, unless the
23 information required by this subsection is prominently set out in it. Upon acceptance
24 of the insurance by the insurer and within 30 days of the date upon which the debt is
25 incurred or the election to purchase coverage is made, the insurer shall deliver the
26 individual policy or group certificate of insurance to the debtor. The application or
27 notice of proposed insurance must state that upon acceptance by the insurer, the
28 insurance shall become effective as provided in AS 21.57.050(a).

29 (b) The application or notice of proposed insurance may be used to fulfill all
30 of the requirements of AS 21.57.055(a) and 21.57.060(b) if it contains all of the
31 information required by those subsections.

1 (c) A debtor has 30 days from the date the debtor receives the individual
2 policy or the group certificate to review the coverage purchased. At any time within
3 the 30-day period, the debtor may contact the creditor or insurer issuing the policy or
4 certificate and request that the coverage be cancelled. An individual policy or group
5 certificate may require the request be in writing, that the policy or certificate be
6 returned to the insurer, or both. If a policy is cancelled, the insurer shall return a full
7 refund or credit of all premiums or insurance charges to the debtor within 30 days.

8 (d) If the named insurer does not accept the risk, the debtor shall receive a
9 policy or certificate of insurance listing the name and home office address of the
10 substituted insurer and the amount of the premium to be charged. If the amount of
11 premium is less than the amount in the notice of proposed insurance, the insurer shall
12 issue an appropriate refund within 30 days. If the risk is not accepted by an insurer,
13 a premium paid by the debtor shall be refunded or credited to the debtor within 30
14 days of the date of application.

15 (e) For the purposes of (a) of this section, an individual policy or group
16 certificate delivered in conjunction with an open-end consumer credit agreement or
17 consumer credit insurance requested by the debtor after the date of the debt is
18 considered to be delivered at the time the debt is incurred or election to purchase
19 coverage is made if the delivery occurs within 30 days of the date the insurance is
20 effective.

21 (f) An individual policy or group certificate delivered in conjunction with an
22 open-end consumer credit agreement shall continue from its effective date through the
23 term of the agreement unless the individual policy or group certificate is terminated
24 under its terms at an earlier date.

25 * Sec. 71. AS 21.57.080 is repealed and reenacted to read:

26 Sec. 21.57.080. FILING OF FORMS AND RATES. (a) An insurance policy,
27 certificate of insurance, notice of proposed insurance, insurance disclosure notice,
28 insurance advertisement, application for insurance, endorsement, and rider delivered
29 or issued for delivery in this state, and the applicable schedules of premium rates shall
30 be filed with the director before being used.

31 (b) A document required to be filed under (a) of this section must be on file

1 for a waiting period of 30 days before it is used or becomes effective, unless the
2 director gives prior written approval. This period may be extended for an additional
3 30 days if the director gives written notice within the waiting period to the insurer
4 making the filing. The director shall disapprove a filing if the premium rate charged
5 is not reasonable in relation to benefits or if it contains provisions that are unjust,
6 unfair, inequitable, misleading, deceptive, encourage misrepresentation of the policy,
7 or are contrary to a provision of this title or a regulation adopted under this title. A
8 filing is considered to be approved unless it is disapproved by the director within the
9 waiting period.

10 (c) If the director notifies the insurer that a document required to be filed
11 under (a) of this section is disapproved, the insurer may not issue or use any part of
12 the document. In providing notice of disapproval to the insurer, the director shall
13 specify the reason for disapproval and indicate that the insurer is entitled to a hearing.

14 (d) The director may, at any time after a hearing, withdraw approval of a filing
15 on the grounds specified under (b) of this section. The director shall provide the
16 insurer at least 20 days' prior written notice of a hearing scheduled by the director, and
17 the notice of the hearing must state the reason for the proposed withdrawal.

18 (e) An insurer may not issue or use a document required to be filed under (a)
19 of this section after the effective date of a withdrawal of approval under (d) of this
20 section.

21 (f) If a group policy of consumer credit insurance (1) has been delivered in
22 this state before July 1, 1994, or (2) has been or is delivered in another state before
23 or after July 1, 1994, the insurer shall be required to file only the group certificate and
24 notice of proposed insurance delivered or issued for delivery in this state as specified
25 in AS 21.57.060(b) and 21.57.070(a).

26 (g) Consumer credit insurance forms used for insurance described under (f) of
27 this section shall be approved by the director if they conform with the requirements
28 specified in this section and if the schedules of premium rates applicable to the
29 insurance evidenced by the certificate or notice are in accordance with the insurer's
30 schedules of premium rates filed with the director. An item required to be filed under
31 (a) of this section shall also be filed as specified in this chapter unless the item relates

1 to a group policy that is delivered in another state and the director has determined that
2 the other state has substantially similar statutes or regulations to this chapter. Upon
3 this determination, the items required to be filed under (a) of this section shall be filed
4 for informational purposes. If the director subsequently determines that the
5 informational filing is not in compliance with the requirements of this chapter, the
6 insurer may not use the insurance policy, form, certificate, notice of proposed
7 insurance, disclosure notice, advertisement, application for insurance, endorsement, or
8 rider.

9 * Sec. 72. AS 21.57.090 is amended to read:

10 Sec. 21.57.090. PREMIUMS AND REFUNDS. (a) An insurer may revise its
11 schedules of premium rates from time to time, and file the revised schedules with the
12 director. An insurer may not issue a consumer credit [LIFE INSURANCE POLICY
13 OR CREDIT DISABILITY] insurance policy for which the premium rate differs from
14 [EXCEEDS] that determined by the schedules of the insurer then approved by [ON
15 FILE WITH] the director.

16 (b) An [EACH] individual policy or group certificate must provide for a
17 refund in the event of termination of [THAT IF] the insurance [IS TERMINATED]
18 before the scheduled maturity date of the insurance and upon notice to the insurer.
19 The [INDEBTEDNESS, ANY] refund of an amount paid by the debtor for insurance
20 shall be paid or credited promptly to the person entitled to it; provided, however, that
21 the director shall prescribe a minimum refund and a [NO] refund that would be less
22 than the minimum need not be made. A refund formula that an insurer desires to
23 use must provide refunds that are at least as favorable to the debtor as refunds
24 based on the rule of anticipation. The formula to be used in computing refunds shall
25 be filed with and approved by the director.

26 (c) If a creditor requires a debtor to make a payment for consumer credit
27 [LIFE INSURANCE OR CREDIT DISABILITY] insurance and an individual policy
28 or group certificate of insurance is not issued, the creditor shall immediately give
29 written notice to the debtor and shall promptly make an appropriate credit to the
30 account or issue a refund.

31 (d) The amount charged to a debtor for consumer credit [LIFE OR CREDIT

1 DISABILITY] insurance may not exceed the premium charged by the insurer, as
2 computed at the time the charge to the debtor is determined.

3 * **Sec. 73.** AS 21.57.090 is amended by adding a new subsection to read:

4 (e) Nothing in this chapter may be construed to authorize a payment for
5 insurance prohibited under other provisions of law governing credit transactions.

6 * **Sec. 74.** AS 21.57.120 is amended to read:

7 Sec. 21.57.120. SELECTION RIGHTS OF INSURED [EXISTING
8 INSURANCE]. When consumer credit [LIFE INSURANCE OR CREDIT
9 DISABILITY] insurance is required as additional security for a debt [AN
10 INDEBTEDNESS], the debtor shall, upon request to the creditor, have the option of
11 furnishing the required amount of insurance through existing policies of insurance
12 owned or controlled by the debtor or of procuring and furnishing the required coverage
13 through an insurer authorized to transact an insurance business in this state.

14 * **Sec. 75.** AS 21.57 is amended by adding a new section to read:

15 Sec. 21.57.125. DUTIES OF AN INSURER. Except as otherwise prohibited
16 by law, duties imposed upon an insurer by this chapter may be carried out by a
17 creditor if the creditor is licensed under AS 21.27 as an insurance producer, a
18 managing general agent, or a third-party administrator, and transacts business within
19 the scope of its license on behalf of the insurer.

20 * **Sec. 76.** AS 21.57.150 is repealed and reenacted to read:

21 Sec. 21.57.150. PENALTIES. (a) In addition to any other penalty provided
22 by law, a person licensed under AS 21.27 that the director determines under
23 AS 21.06.170 - 21.06.240 has violated the provisions of this chapter is subject to

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

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

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

30 (b) In addition to any other penalty provided by law, an insurer that the
31 director determines under AS 21.06.170 - 21.06.240 has violated the provisions of this

1 chapter is subject to

2 (1) a civil penalty equal to the premium earned, directly or indirectly,
3 by the insurer in regard to a violation;

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

7 (3) denial, suspension, or revocation of a certificate of authority.

8 (c) In addition to any other penalty provided by law, any person that the
9 director determines under AS 21.06.170 - 21.06.240 has violated the provisions of this
10 chapter is subject to

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

14 (2) denial of a license.

15 * Sec. 77. AS 21.57.160 is repealed and reenacted to read:

16 Sec. 21.57.160. DEFINITIONS. In this chapter,

17 (1) "agriculture credit transaction commitment" means a binding
18 agreement to loan money up to a fixed amount as needed for agricultural purposes;

19 (2) "compensation" means commissions, dividends, retrospective rate
20 credits, service fees, expense allowances or reimbursements, gifts, furnishing
21 equipment, facilities, goods, or services, or any other form of remuneration resulting
22 directly from the sale of consumer credit insurance;

23 (3) "consumer credit insurance" means credit life insurance, credit
24 disability insurance, or credit unemployment insurance;

25 (4) "credit disability insurance" means insurance on a debtor to provide
26 indemnity for payments or debt becoming due on a specific loan or other credit
27 transaction while the debtor is disabled;

28 (5) "credit life insurance" means insurance on the life of a debtor under
29 or in connection with all or a part of a specific loan or other credit transaction;

30 (6) "credit unemployment insurance" means insurance on a debtor to
31 provide indemnity for payments or debt becoming due on a specific loan or other

1 credit transaction while the debtor is involuntarily unemployed;

2 (7) "credit transaction" means a transaction by which the repayment for
3 money loaned or a loan commitment made or payment for goods, services, or
4 properties sold or leased is made at a future date;

5 (8) "creditor" means a person who lends money or who sells or leases
6 goods, services, property, rights, or privileges, for which payment is arranged through
7 a credit transaction, and includes a person who is a successor to the right, title, or
8 interest of the lender, seller, or lessor;

9 (9) "debtor" means a person who borrows money, or purchases or
10 leases goods, services, property, rights, or privileges for which payment is arranged
11 through a credit transaction;

12 (10) "educational credit transaction commitment" means a binding
13 agreement to loan money up to a fixed amount as needed for educational purposes;

14 (11) "gross debt" means the total of the remaining payments owed to
15 the creditor by the debtor;

16 (12) "identifiable charge" means a charge for consumer credit insurance
17 that is made to a debtor having the benefit of the insurance, including a charge for
18 insurance that is disclosed in the consumer credit agreement or other instrument
19 furnished to the debtor, and any difference in the finance, interest, service, or other
20 similar charge made to a debtor in a like circumstance, except for their insured or
21 noninsured status;

22 (13) "net debt" means the amount necessary to liquidate the remaining
23 debt in a single lump sum payment, excluding all unearned finance charges;

24 (14) "open-end consumer credit" means consumer credit extended by
25 a creditor under an agreement in which

26 (A) the creditor reasonably contemplates repeated transactions;

27 (B) the creditor imposes a periodic finance charge on an
28 outstanding unpaid balance; and

29 (C) the amount of consumer credit that may be extended to the
30 debtor during the term of the agreement, up to any limit set by the creditor, is
31 generally made available to the extent that any outstanding balance is repaid;

1 (15) "rule of anticipation" means a refund method that results in
2 refunds equal to the premium cost of scheduled benefits subsequent to the date of
3 cancellation or termination, computed at the schedule of premium rates in effect on the
4 date of issue.

5 * Sec. 78. AS 21.69 is amended by adding new sections to read:

6 Sec. 21.69.645. REDOMESTICATION. (a) An insurer organized under the
7 laws of another state and admitted to do business in this state may become a domestic
8 insurer of this state by complying with the requirements of this title relative to the
9 organization and licensing of a domestic insurer and by designating its principal place
10 of business at a place in this state.

11 (b) A domestic insurer may, upon approval of the director, transfer its domicile
12 to another state in which it is admitted to transact the business of insurance. Upon a
13 transfer as described in this subsection, the insurer shall cease to be a domestic insurer
14 of this state, but shall be considered admitted to this state. The insurer shall meet the
15 qualifications to remain admitted to this state for a period of three years or, if ordered
16 by the director, a longer period. The director may approve a proposed transfer unless
17 the transfer is not in the interest of the policyholders of the insurer or the insurance
18 marketplace of this state.

19 (c) Upon transfer of domestic status to or from this state, the certificate of
20 authority, appointments under AS 21.27.100, rates, and other items that the director
21 allows, and that are in existence at the time the insurer is licensed to transact the
22 business of insurance in this state, shall continue in full force and effect and the
23 insurer shall remain duly qualified to transact the business of insurance in this state.
24 Outstanding policies of a transferring insurer shall remain in full force and effect and
25 shall be endorsed with the new name of the company, its new location, and any other
26 information the director may require. A transferring insurer shall notify the director
27 of the details of the proposed transfer 30 days before the effective date of the transfer
28 and shall promptly file any resulting amendments to corporate documents filed or
29 required to be filed with the director.

30 (d) A transfer of domestic status by merger, consolidation, or any other lawful
31 method of combination must meet the requirements of AS 21.69.590 or 21.69.600.

1 The certificate of authority, appointments under AS 21.27.100, rates, and other items
2 that the director allows, and that are in existence at the time the insurer is licensed to
3 transact the business of insurance in this state, shall continue in full force and effect
4 and the insurer shall remain duly qualified to transact the business of insurance in this
5 state. Outstanding policies of a domestic insurer being merged, consolidated, or
6 otherwise combined shall remain in full force and effect and shall be endorsed with
7 the new name of the company, its new location, and any other information the director
8 may require.

9 (e) An insurer that is transferring its domicile to this state shall file its revised
10 policy forms for approval under AS 21.42.

11 (f) A domestic insurer that is transferring its domicile to another state is not
12 required to file policy forms at the time of transfer if the forms have already been
13 approved under AS 21.42.

14 Sec. 21.69.648. VOLUNTARY SURRENDER OF CERTIFICATE OF
15 AUTHORITY. To voluntarily surrender the certificate of authority of a domestic
16 insurer, a request shall be made to the director to extinguish the certificate of authority
17 six months before the planned effective date of the extinguishment of the charter.
18 Before the request is granted, the director shall conduct an examination under
19 AS 21.06.120. The examination shall be completed within 12 months before the
20 effective date of an extinguishment and all issues contained in the examination report
21 must be resolved to the satisfaction of the director. Insurance business of the domestic
22 insurer shall be cancelled or reinsured as required under AS 21.69.610 or 21.69.620.

23 * Sec. 79. AS 21.72 is amended by adding a new section to read:

24 Sec. 21.72.125. QUARTERLY STATEMENTS. The director may require a
25 benevolent association to file quarterly financial statements as provided in
26 AS 21.09.205. The statements must exhibit the items and facts required under
27 AS 21.72.120(a).

28 * Sec. 80. AS 21.75 is amended by adding a new section to read:

29 Sec. 21.75.135. QUARTERLY STATEMENTS. (a) The director may require
30 a reciprocal insurer's attorney-in-fact to file a quarterly financial statement as provided
31 in AS 21.09.205.

1 (b) A statement required under (a) of this section shall be supplemented by
2 information that may be required by the director relative to the affairs and transactions
3 of the attorney-in-fact that relate to the reciprocal insurer.

4 * Sec. 81. AS 21.75.170(e) is amended to read:

5 (e) Special meetings of the committee may be called by the attorney-in-fact,
6 the chair of the committee, three members of the committee, or a signed petition of
7 at least one percent of the subscribers or three individual subscribers, whichever is
8 greater, as of the most recent annual report of the reciprocal insurer.

9 * Sec. 82. AS 21.75.170 is amended by adding a new subsection to read:

10 (g) Notwithstanding (a) of this section, a domestic reciprocal insurer
11 transacting all of its insurance activities on a subject resident, located, and to be
12 performed in this state may, with the prior written approval of the director, have a
13 subscriber's advisory committee that consists of not less than five individuals who are
14 elected by the subscribers, and who otherwise meet the requirements of (a) of this
15 section.

16 * Sec. 83. AS 21.79.900(6) is amended to read:

17 (6) "member insurer" means an insurer licensed to transact insurance
18 in the state that issues a policy described in AS 21.79.020(a) and (b), or a subscriber
19 contract providing benefits described in AS 21.87.120(a)(2) - (4) or 21.87.130(a)(2)
20 and (3), and includes an insurer whose license or certificate of authority in this state
21 may have been suspended, revoked, not renewed, or voluntarily withdrawn; "member
22 insurer" does not include

23 (A) a health maintenance organization licensed under

24 AS 21.86;

25 (B) a fraternal benefit society licensed under AS 21.84;

26 (C) a mandatory state pooling plan;

27 (D) a mutual assessment company or an entity that operates on
28 an assessment basis;

29 (E) an insurance exchange licensed under AS 21.75; or

30 (F) a nonprofit hospital or medical service organization
31 licensed under AS 21.87;

1 * **Sec. 84.** AS 21.80.020 is amended by adding a new subsection to read:

2 (b) This chapter does not apply to a risk retention group formed under 15
3 U.S.C. 3901 - 3906 (Liability Risk Retention Act).

4 * **Sec. 85.** AS 21.84.340 is amended by adding a new subsection to read:

5 (d) 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. 86.** AS 21.86.080 is amended by adding new subsections to read:

11 (b) The director may require a health maintenance organization to file quarterly
12 financial statements. If quarterly financial statements are required, the statements must
13 follow for a given quarter the reporting specified in the quarterly financial statement
14 blank form and instructions most recently approved by the National Association of
15 Insurance Commissioners.

16 (c) A filing under this section is subject to AS 21.09.200 and 21.09.205.

17 * **Sec. 87.** AS 21.87 is amended by adding a new section to read:

18 **Sec. 21.87.135. PREFERRED PROVIDER PROGRAMS.** A hospital or
19 medical service corporation may offer a preferred provider service agreement to a
20 provider or hospital licensed in this state. A provider or hospital willing to meet the
21 terms and conditions of the preferred provider service agreement may not be excluded
22 from treatment as a preferred provider. A subscriber's contract containing a preferred
23 provider program must provide for payment for a service provided by a nonpreferred
24 provider or hospital.

25 * **Sec. 88.** AS 21.89.030 is amended to read:

26 **Sec. 21.89.030. PAYMENT.** An insurance company doing business in this
27 state may not pay a judgment or settlement of a claim in this state for a loss incurred
28 in this state with an instrument other than a negotiable bank check payable on demand
29 and bearing even date with the date of writing or by electronic funds transfer.

30 * **Sec. 89.** AS 21.89 is amended by adding new sections to read:

31 **Sec. 21.89.070. ELECTRONIC DATA TRANSFER.** The director may adopt

1 regulations to facilitate electronic data transfer. Electronic data transferred under
2 regulations may, at the discretion of the director, be in place of another method of
3 filing or communication otherwise required under this title.

4 **Sec. 21.89.080. RISK RETENTION GROUPS AND PURCHASING GROUPS.**

5 (a) A risk retention group or a purchasing group formed under and in compliance with
6 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) shall register with the director
7 and shall at all times transact business in compliance with federal law and the laws of
8 this state.

9 (b) A risk retention group or a purchasing group shall apply for initial
10 registration on forms prescribed by the director. Payment of a registration fee
11 established under AS 21.06.250 shall be submitted with the application.

12 (c) A risk retention group or a purchasing group may continue its registration
13 if it is in compliance with federal law and the laws of this state. Payment of an annual
14 continuation fee established under AS 21.06.250 shall be submitted with the
15 continuation application.

16 (d) A risk retention group holding a valid certificate of authority as a domestic
17 insurer or a purchasing group duly licensed under AS 21.27 as a resident license is not
18 required to be additionally registered under this section.

19 (e) A risk retention group or purchasing group that is not in compliance with
20 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) is not eligible for registration or
21 annual continuation of its registration.

22 (f) Failure to comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention
23 Act) is a violation of this title.

24 (g) In addition to any other penalty provided by law, a person that the director
25 determines under AS 21.06.170 - 21.06.240 has violated a provision of this title
26 relative to a risk retention group or a purchasing group is subject to

27 (1) a civil penalty of not more than \$10,000 for a violation or, if the
28 director determines that the person wilfully violated a provision of this title, a civil
29 penalty of not more than \$25,000 for a violation; and

30 (2) denial, noncontinuation, or revocation of a registration.

31 (h) The director may adopt regulations on the operation and reporting

1 requirements of a risk retention group that are not in conflict with 15 U.S.C 3901 -
2 3906 (Liability Risk Retention Act).

3 Sec. 21.89.090. APPOINTMENT OF INDEPENDENT COUNSEL;
4 CONFLICTS OF INTEREST. (a) If an insurer has a duty to defend an insured under
5 a policy of insurance and a conflict of interest arises that imposes a duty on the insurer
6 to provide independent counsel to the insured, the insurer shall provide independent
7 counsel to the insured unless the insured in writing waives the right to independent
8 counsel. An insurance policy may contain a provision that provides a method of
9 selecting independent counsel if the provision complies with this section.

10 (b) For purposes of this section, the following do not constitute a conflict of
11 interest:

12 (1) a claim of punitive damages;
13 (2) a claim of damages in excess of the policy limits;
14 (3) claims or facts in a civil action for which the insurer denies
15 coverage; however, this paragraph does not apply if the insurer reserves the insurer's
16 rights on the issue for which coverage is denied and the outcome of that coverage
17 issue can be controlled by counsel initially retained by the insurer for the defense of
18 the claim.

19 (c) If the insured selects independent counsel at the insurer's expense, the
20 insurer may require that the independent counsel have at least five years of experience
21 in civil litigation, including substantial defense experience in the subject at issue in the
22 civil action, and malpractice insurance. Unless otherwise provided in the insurance
23 policy, the obligation of the insurer to pay the fee charged by the independent counsel
24 is limited to the rate that would actually be paid by the insurer to an attorney in the
25 ordinary course of business in the defense of a similar civil action in the community
26 in which the claim arose or is being defended. A dispute between the insurer and
27 insured regarding attorney fees that is not resolved by the insurance policy or this
28 section shall be resolved by arbitration under AS 09.43.

29 (d) If the insured selects independent counsel at the insurer's expense, the
30 independent counsel and the insured shall consult with the insurer on all matters
31 relating to the civil action and shall disclose to the insurer in a timely manner all

1 information relevant to the civil action, except information that is privileged and
2 relevant to disputed coverage. A claim of privilege is subject to review in the
3 appropriate court. Information disclosed by the independent counsel or the insured
4 does not waive another party's right to assert privilege.

5 (e) An insured may waive the right to select independent counsel by signing
6 a statement that reads substantially as follows:

7 I have been advised of my right to select independent counsel
8 to represent me in this lawsuit. I have considered this matter
9 fully and at this time I am waiving my right to select
10 independent counsel. I have authorized my insurer to select a
11 defense counsel to represent me in this lawsuit.

12 (f) If an insured selects independent counsel under this section, both the
13 counsel representing the insurer and independent counsel representing the insured shall
14 be allowed to participate in all aspects of the civil action. Counsel for the insurer and
15 insured shall cooperate fully in exchanging information that is consistent with ethical
16 and legal obligations to the insured. Nothing in this section relieves the insured of the
17 duty to cooperate fully with the insurer as required by the terms of the insurance
18 policy.

19 * Sec. 90. AS 21.90.900(26) is amended to read:

20 (26) "managing general agent" means a person, firm, or corporation that

21 (A) has authority to exercise general supervision over the
22 business, or any part of the business, of one or more admitted insurers; and

23 (B) performs administrative functions normally performed by
24 the insurer including claims administration and payment, marketing
25 administration, agent appointment, premium accounting, premium billing,
26 coverage verification, final underwriting authority, or [AND] certificate
27 issuance;

28 * Sec. 91. AS 21.27.650(f)(3) and AS 21.36.420 are repealed.

29 * Sec. 92. AS 21.57.110 and 21.57.170 are repealed.

30 * Sec. 93. AS 21.09.300(c), enacted in sec. 13 of this Act, has the effect of amending
31 Alaska Rule of Civil Procedure 45, by providing that certain insurer reports of material

1 transactions are not subject to subpoena.

2 * **Sec. 94. TRANSITION.** This Act applies to a policy of insurance that is entered into
3 or renewed on or after the effective date of the relevant provision of this Act.

4 * **Sec. 95.** Sections 14 and 15 of this Act take effect only if legislation is passed by the
5 Eighteenth Alaska State Legislature and becomes law that establishes risk based capital
6 requirements for insurers.

7 * **Sec. 96.** If secs. 14 and 15 of this Act take effect, they take effect on the effective date
8 of the legislation described in sec. 95 of this Act.

9 * **Sec. 97.** Sections 63 - 77 and 92 of this Act take effect October 1, 1994.

10 * **Sec. 98.** Except as provided in secs. 96 and 97 of this Act, this Act takes effect July 1,
11 1994.

Adopt 1

CS HB 534 (FIN)

Proposed Amendments to ~~6600-040-1000~~ by the Division of Insurance

Page 3, Line 4 (AS 21.06.080(a)):

remove: "respond to the disaster in order to assure the continuity and stability of the insurance market in this state, to protect policyholders and the public, or to prevent aggravation of the disaster, including issuing an emergency order temporarily suspending specific provisions of this title."

replace: "assure that contracts of insurance already issued will be honored in accordance with their terms. Actions that the director may take include emergency orders permitting the immediate licensing of adjusters to facilitate handling of claims, permitting any licensee to open or close any offices, permitting any licensee to move or remove records as made necessary by the existence of the catastrophe or the issuance by a carrier of checks or drafts drawn on out-of-state banks in payment of claims."

Page 9, Line 4 (AS 21.09.300(b)):

delete: "A complete copy of the report, including exhibits or other attachments filed as a part of the report, shall be filed with the National Association of Insurance Commissioners."

Page 9, Line 9 (AS 21.09.300(c)):

delete: "the National Association of Insurance Commissioners,"

Page 9, Line 12 (AS 21.09.300(c)):

add: "or the National Association of Insurance Commissioners with notice sent to the insurer."

after: "another state"

Page 26, Line 19 (AS 21.22.030(a)):

Delete all of Section 23 (Page 26, Line 19 to Page 27, Line 14) No amendments to be made to this statute section. Renumber subsequent sections.

Page 29, Line 26 (AS 21.27.020(f)):

add: " upon due consideration of the availability and accessibility of education and training opportunities in rural

Alaska"

after: "chapter"

Page 33, Line 4 (AS 21.27.620(j)):

add: ", at the request of the insurer, "

after: "The director may"

Page 34, Line 3 (AS 21.27.690(e)):

add: ", at the request of the insurer, "

after: "The director may"

Page 34, Line 21 (AS 21.27.760(j)):

add: ", at the request of the insurer, "

after: "The director may"

Page 40, Line 13 (AS 21.36.360(k)):

reinstate deletion: "This subsection does not apply to the payment of compensation that is not contingent upon volume of business transacted in the form of salaries to the regular employees of the agent, general agent, broker, or solicitor."

Page 42, Line 17 (AS 21.57.020):

delete: "or"

Page 42, Line 18 (AS 21.57.020):

add: ", or

(4) a loan or other credit transaction that exceeds \$30,000."

after: "to the debtor"

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE
January 12, 1994

WALTER J. HICKEL, GOVERNOR

800 EAST DIMOND BLVD.
SUITE 560
ANCHORAGE, ALASKA 99515
PHONE: (907) 349-1230

Enclosed is the 1994 draft legislation for the Division of Insurance. Along with the draft legislation is the Sectional Analysis prepared by Division staff.

This legislation includes language to address new areas of insurance regulation, adopt new accreditation standards added by the National Association of Insurance Commissioners (NAIC), and make corrections to the Alaska insurance statutes for errors found during the last two years. These changes will bring our statute up-to-date with the insurance market and allow us to maintain our national accreditation which was granted by the NAIC in December, 1992.

The bill includes the following:

- regulation of risk retention groups and purchasing groups as allowed by federal law;
- authority to respond to catastrophic situations;
- authority to suspend the certificate of authority of an insurance company that is not renewed;
- provide for voluntary surrender of an Alaska certificate of authority by an insurer domiciled in another state;
- authority to refund or grant credits for overpayment of premium tax by an insurer due to error or misinterpretation;
- require disclosure by an insurer of material transactions of purchase or disposal of assets or reinsurance (NAIC model law and accreditation standard);
- provide requirements for licensing of U.S. branches of non-U.S. insurers to allow non-U.S. insurers to use Alaska as a base of operations for business written throughout the United States (NAIC model law);
- provide authority to require continuing education for licensed insurance producers (agents/brokers);

- require that fiduciary accounts holding insurance premiums received by resident insurance producers (agents/brokers) be located in Alaska;

- provide that a single fiduciary bond can cover multiple producer office locations;

- allow the director to file civil actions for damages caused by violations of statute by Managing General Agents, Reinsurance Intermediary Brokers, and Reinsurance Intermediary Managers (amendment to NAIC model law);

- add incorporated insurers to the definition of a group of unincorporated insurers to reflect recent changes at Lloyd's of London;

- clarify when rate changes may be made to outstanding policies;

- provide that false statements made in regards to a claim may result in prosecution under Alaska law;

- allow the director to specify the format and content of rate and policy form filings to the Division;

- clarify health insurance coverage of newborn and adoptive children;

- provide for updated regulation of consumer credit insurance (NAIC model law);

- provide for redomestication of insurers domiciled in Alaska and moving to another state or requesting to move their domicile from another state to Alaska;

- provide for voluntary surrender of an Alaska certificate of authority by a domestic insurer;

- provide the authority to request quarterly financial statements from all entities regulated by the Division of Insurance;

- allow insurers to pay claims by electronic funds transfer;

Proposed Legislation
January 12, 1994
Page 3

- provide authority to the director to specify requirements for electronic data transfer; and

- otherwise make corrections and clarify statute provisions.

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

Respectfully yours,

David J. Walsh
Director

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

P.O. BOX 110805
JUNEAU, ALASKA 99811-0805
PHONE (907) 465-2515

March 11, 1994

The Honorable Bill Hudson
Alaska House of Representatives
House Labor and Commerce Committee
State Capitol
Juneau, AK 99801-1182

Dear Representative Hudson:

Re: Your March 7, 1994 Letter

Thank you for your March 7, 1994 letter and the enclosure of the memorandum prepared by Mike Ford of the Division of Legal Services.

The Alaska Independent Insurance Agents and Brokers Association has for several years requested that the division implement continuing education requirements to assure that licensees remain qualified and to improve the professionalism of Alaska's insurance producers. The proposed addition of AS 21.27.020(f) is intended to accomplish that purpose.

I believe that both the substantive and procedural limitations already in statute provide appropriate legislative guidance to the director. In particular, the educational requirements under AS 21.27.020 are to effectuate the legislatively established public policy to prevent incompetent persons from being licensed and the affirmative requirement that applicants and licensees are and remain knowledgeable about a licensee's duties and responsibilities as a licensee and remains up-to-date on the laws and regulations in this state. The Legislature, having established this public policy for the protection of the people of this state, allows the director the authority through the regulatory promulgation process to secure public input to assure that the educational requirements conform to the qualifications as established by the Legislature.

As the insurance industry has increasingly sought to upgrade its professional image, and as new and innovative educational programs have become available, many states have adopted continuing education programs. A major complaint of insurance producers nationally has been the lack of consistency among such requirements, and in the administration of such requirements. The National Association of Insurance Commissioners is in the process of coordinating activities by various states to assure the quality of such educational programs and the efficient administration of the programs.

For these reasons, the dynamics of continuing education will continue to reflect evolution, especially as technology radically revises the way regulatory activities in licensure are conducted. Adoption of regulations, and revisions to regulations, provide both due process and a more flexible means of meeting the needs of the insurance industry--all to provide for the protection of the people of this state.

Believing that the Legislature has given clear guidance and established appropriate limits on the authority of the director, I would be concerned that any attempt to be more specific would require the industry and the division to repeatedly return to the Legislature for statutory changes in order to keep up with industry needs.

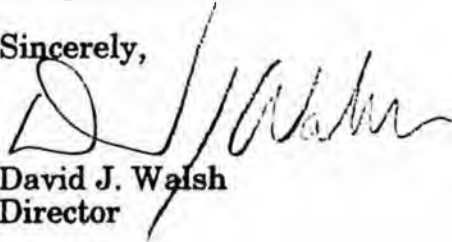
In regard to discretionary testing for persons with limited licenses (issued under AS 21.27.150; or persons licensed by the division within the prior two years or a person moving to Alaska who was previously licensed in another state), I do not believe there has been a delegation of legislative authority. Insurance statutes, regulatory oversight, and licensing requirements vary from state to state. To the extent possible, not all persons should be required to test or retest to secure a license in this state. Since the quality of regulation in a particular state may improve or decline, some of the enumerated applicants should be tested in order to affirm that they are competent as to their duties and responsibilities and in regard to the insurance laws and regulations of this state. The Legislature has established the clear policy for the protection of the people of this state, and are giving flexibility to the director as administrator of that policy.

In addition, some limited licensees under AS 21.27.150 such as a retired insurance producers clearly do not need to be tested. Other professionals with limited licenses were previously subject to examination and members of the industry have advised the division that they feel that testing is important for the professionalism of their limited speciality (title and bail bonds). Other limited licensees may in the future need examinations in order to sustain the professionalism that industry desires.

The division and industry did not intend to request overly-broad grants of administrative discretion to implement the clear public policies already expressed in statute by the Legislature. These two provisions were contained in our 1992 legislation and passed through many committees with wide spread support until, for reasons never made clear, they were removed at the last minute, at a time when neither the division nor the many legislators who had worked so closely with us knew of or had an opportunity to address the change.

I appreciate the opportunity to address the matters brought to your attention by Mike Ford. Should you have any further questions, please contact me.

Sincerely,



David J. Walsh
Director

DW/lvs648t
031094b

INSURANCE LEGISLATION OF 1994

AN ACT RELATING TO THE LICENSING, ACCREDITATION, EXAMINATION, REGULATION, AND SOLVENCY OF PERSONS ENGAGED IN THE INSURANCE BUSINESS, INCLUDING INSURERS, NONADMITTED INSURERS, PURCHASING GROUPS, RISK RETENTION GROUPS, AND UNITED STATES BRANCHES OF NON-U.S. INSURERS; RELATING TO THE MANAGEMENT OF AND FILING OF REPORTS BY PERSONS LICENSED OR OTHERWISE DOING BUSINESS UNDER THE INSURANCE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Sectional Analysis by the
Department of Commerce and Economic Development,
Division of Insurance

SMALL LOANS ACT, CONSUMER CREDIT INSURANCE

Sections 1 and 2 are amendments to coincide with the changes in consumer credit insurance in Sections 63 through 77.

Section 1. AS 06.20.260(a). Small Loans Act, Charges Prohibited, page 1.

Amends this section to use the term "consumer credit insurance" as defined in AS 21.57.160 (Sec. 77 of this bill).

Section 2. AS 06.20.287(a). Small Loans Act, Charges Prohibited, page 1.

Amends this section to use the term "consumer credit insurance". The term is defined in AS 21.57.160 (Sec. 77 of this bill).

DIRECTOR OF INSURANCE

Sections 3 through 12 include regulation of risk retention groups, authority to respond to a catastrophe, procedure on examination reports, procedures on applying for and not continuing a certificate of authority of an insurer, financial statements, and procedures on premium tax refunds and credit. Many of these changes are suggestions from the NAIC Accreditation Team visit in October 1992. Others are to provide authority and procedures in areas where none existed before.

Section 3. AS 21.03.010. Scope of Code, page 2.

Amends this section to explicitly extend the Scope of Code to include risk retention groups and purchasing groups as requested by the NAIC accreditation team.

Section 4. AS 21.06.080(e). General Powers, Duties, page 2.

This new subsection adds to the director's general powers and duties the ability to respond to a catastrophe.

Section 5. AS 21.06.150(g). Examination Reports, page 3.

The amendment to this subsection allows the director to close a hearing on an examination if the director finds that the closure is necessary to protect someone from unwarranted injury or is in the public interest.

Section 6. AS 21.09.110. Application for Certificate of Authority, page 3.

The amendment to this section removes the requirement that insurers applying for their Certificate of Authority (COA) submit specimen copies of their policy forms and rates with their COA application, and instead specifies that these policy forms and rates should be submitted under new sections AS 21.39.040(j) or 21.42.120(g).

Section 7. AS 21.09.110(b). Application for Certificate of Authority, page 4.

The addition of a new subsection requires that policy form and rate filings be submitted for approval under the appropriate statutes in Chapter 39 and 42 and that the filings may not be submitted with the application for certificate of authority.

Section 8. AS 21.09.130(b). Continuance, Termination, Reinstatement, and Amendment of Certificate, page 5.

The amendment to this subsection provides for a suspension of the certificate of authority instead of cancellation if the insurer fails to file the forms or pay the fee to continue the certificate of authority. This change is to prevent insurers from ending regulation by Alaska Division of Insurance when issues regarding insurance operations may still be outstanding. It provides a one year suspension period.

Section 9. AS 21.09.135. Voluntary Surrender of Certificate of Authority, page 5.

This is a new section which provides a process for an insurer to voluntarily surrender their certificate of authority from Alaska. To surrender the insurer must be in compliance with Alaska

Section 10. AS 21.09.200(f). Annual Statement, page 6.

The amendment to this subsection requires the filing of

annual financial statements with the National Association of Insurance Commissioners (NAIC) by all licensed insurers instead of just domestic insurers. Also provides that the filings must be on electronic media acceptable to the NAIC.

Section 11. AS 21.09.205(d). Quarterly Financial Statements, page 6.

This is a new subsection which requires that a licensed insurer file quarterly financial statements with the National Association of Insurance Commissioners (NAIC), on acceptable electronic media, and pay the applicable filing fee. Failure to comply will result in penalties.

Section 12. AS 21.09.210. Premium Tax, page 6.

The following new subsections discuss the procedures for obtaining a refund or credit for overpayment of premium taxes by an insurer.

Subsection (j) allows for the payment of a premium tax refund when an insurer discovers that it has made an overpayment due to an error in calculation, mistake of fact, or misinterpretation of law. It (1) limits the time in which the refund must be discovered to three years; (2) sets the minimum amount of a refund which can be requested at \$250; and (3) gives the director discretion in payment of a monetary refund or a premium tax credit.

Subsection (k) was written to avoid trafficking of the premium tax credit. It prohibits the transfer or carryover of the credit in reinsurance transactions or receiverships.

Subsection (l) defines a premium tax credit.

RISK RETENTION GROUPS, MATERIAL TRANSACTIONS, AND U.S. BRANCHES OF ALIEN INSURERS

Sections 13 through 15 add regulatory authority for three different areas of insurance regulation.

(1) AS 21.09.290 allows a risk retention group to be formed as a domestic insurer in Alaska consistent with the NAIC Model Risk Retention Act.

(2) AS 21.09.300 is being added to statute to require the filing of information on material asset transactions and material changes in ceded reinsurance transactions. Ceded reinsurance is the transfer of risk from an insurer to another insurer by contract, usually resulting in the sharing of claim liability, marketing expenses, etc. Ceded reinsurance contracts are negotiated and can take many forms depending on the need for the

reinsurance. A material change in a ceded reinsurance agreement may have significant financial effects for an insurance company. The basis for this section is the NAIC Disclosure of Material Transactions Model Act which must be adopted to maintain accreditation.

(3) AS 21.09.310 provides authority and procedures for an insurer organized in a country outside of the United States to establish a U.S. branch in Alaska for operating throughout the United States. This new section establishes Alaska as a state of entry for alien insurers who seek to transact insurance in the United States through a U.S. branch by adopting the NAIC State of Entry Model Law.

Section 13. AS 21.09.290. Risk Retention Groups, page 7.

Subsection (a) sets out the requirements for being licensed as a risk retention group in this state.

Subsection (b) lists the items that must be submitted with an application for certificate of authority.

Subsection (c) requires the risk retention group to notify 30 days in advance any material change to its plan of operation and must receive the director's written approval of the change.

Subsection (d) provides definitions of terms used in this section.

AS 21.09.300. Disclosure of Material Transactions, page 8.

Subsection (a) requires disclosure of material acquisition or disposition of assets or material nonrenewal, cancellation, or revision of ceded reinsurance agreements unless the transactions have been submitted pursuant to other provisions of the statute.

Subsection (b) requires the report be filed 15 days after the end of the calendar month in which the transaction occurs.

Subsection (c) requires that a copy of the report also be filed with the National Association of Insurance Commissioners (NAIC). The subsection requires that the report be given confidential treatment by the division, the NAIC, or any other person, except sharing with insurance departments of other states, unless the insurer gives prior written consent or unless the director determines it is in the interest of policyholders, shareholders, or the public to publish the report and gives the insurer notice and an opportunity to be heard.

Subsection (d) gives the requirements for reporting transactions of material acquisition or disposition of assets.

Paragraph (d)(1) requires that only material transactions be reported and defines material.

Paragraph (d)(2) requires that asset acquisition and dispositions be reported other than the development of real property for the insurer or acquisition of material for such development.

Paragraph (d)(3) lists the information required in the disclosure notice to the division: date, manner of acquisition or disposition, description of asset, consideration given or received, purpose, manner of determining amount of consideration, gain or loss recognized or realized, names of persons involved.

Subsection (e) gives the requirements for reporting transactions of material nonrenewal, cancellation or revision of a ceded reinsurance agreement.

Paragraph (e)(1) requires that only material transactions be reported and defines material.

Paragraph (e)(2) requires that the filing must be made regardless of who initiates the transaction in certain circumstances.

Paragraph (e)(3) lists the information required in the disclosure notice to the division: effective date, description of the transaction, initiator of the transaction, purpose or reason, if applicable, the identity of the replacement reinsurer.

Subsection (f) requires that the report be made on a non-consolidated basis unless the insurer is part of a consolidated group which pools substantially all of its insurance losses. The subsection defines "substantially all".

AS 21.09.310. Authorization of United States Branches of Alien Insurers, page 11.

Subsection (a) states what companies to which this section applies and requires that the U.S. branch will be subject to all laws applicable to an Alaska domiciled insurance company.

Subsection (b) sets out the requirements for applying to use this state as a state of entry .

Subsection (d) allows the director to require evidence from the board of directors that the insurer will not violate Alaska law or its charter.

Subsection (e) allows the director to renew a certificate of authority for a U.S. branch if the U.S. branch meets the requirements for renewal.

Subsection (f) lists the conditions of the U.S. branch which if they existed would prohibit the director from issuing or renewing a certificate of authority.

Subsection (g) prohibits the U.S. branch insurer from transacting business outside of Alaska that is not permitted in Alaska unless such restriction would be prejudicial to the best interest of the Alaska public.

Subsection (h) requires the U.S. branch to maintain assets in a trust account in an amount no less than the U.S. branches reserves and other liabilities and minimum basic capital and surplus.

Subsection (i) lists the requirements for the written trust agreement which must exist for the U.S. branch to conduct business in the United States.

Subsection (j) states that the trust agreement shall be in the form required by the director and not be effective until approved by the director.

Subsection (k) states that the director may approve written modifications of the written trust agreement.

Subsection (l) allows the director to conduct examinations of trust assets and may require the trustee to file statements as to the trust fund.

Subsection (m) allows the director to withdraw approval of the trust agreement, effective in 10 days, if the requirements for the agreement do not now exist.

Subsection (n) allows that refusal or neglect of the statute requirements is cause for suspension or revocation of the certificate of authority.

Subsection (o) requires that annual and quarterly financial statements relate only to transactions within the United States and states who must sign the statement.

Subsection (p) requires that a statement of trustee surplus be filed with the annual and quarterly financial statement and gives the requirements for that statement.

Subsection (q) allows the director to require additional information on the business of the alien insurer or its U.S. branch.

Subsection (r) requires that a report of examination of the U.S. branch include a trustee surplus statement.

Subsection (s) adds definitions of the terms "trustee assets" and "United States branch".

Section 14. AS 21.09.310(c). Alien insurer, page 17.

The repeal and reenactment of this subsection included in Section 13 is to add that a trust account must be in an amount not less than minimum capital and surplus nor less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.

Section 15. AS 21.09.310(h). Alien insurer, page 18.

The repeal and reenactment of this subsection included in Section 13 is to add that the trustee assets maintained may not be less than minimum capital and surplus or less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.

FINANCIAL REQUIREMENTS AND FILINGS OF INSURERS

Sections 16 through 28 include corrections to requirements for recognizing reinsurance credits in financial statements, updating of sections on unearned premium and loss reserves, clarification of investment limitations, correction of language regarding tender offers and authority to hire experts, and clarification of information required in the holding company registration statement.

Section 16. AS 21.12.020(a). Reinsurance Credits, page 18.

The amendments to this subsection are to make corrections for errors made when this section was most recently adopted in 1992. The amendments require that for a US branch of a non-US reinsurer to become accredited they must be licensed in at least one state that is accredited by the National Association of Insurance Commissioners (NAIC). Accreditation is a program of the NAIC which reviews state insurance divisions to determine if they meet a set of standards considered to be the minimum necessary for effective regulation. Other amendments recognize the addition of incorporated members to group insurers (such as

Lloyd's of London) and require that the incorporated member not be engaged in any other business other than underwriting as a member of the group.

Section 17. AS 21.18.060(b). Unearned Premium Reserve For Property, Casualty, and Surety Insurance, page 22.

The amendment to this section removes the outdated method for determining unearned premium on property/casualty policies and requires a prorata determination of unearned premium at any point in time. Premium for property/casualty policies is required to be earned in the accounting records over the term of the insurance policy. This change was suggested by the NAIC accreditation team during review of Alaska insurance statute.

Section 18. AS 21.18.060(c). Unearned Premium Reserve For Property, Casualty, and Surety Insurance, page 23.

The amendment to this section clarifies that insurers must compute all reserves on a basis at least as frequent as monthly.

Section 19. AS 21.18.090. Loss Reserves for Liability Insurance and Workers' Compensation, page 23.

The amendment to this section removes the outdated method for determining loss reserves on liability and workers compensation policies and allows accounting recognition of determined and estimated losses. This change was suggested by the NAIC accreditation team during review of Alaska insurance statute.

Section 20. AS 21.21.250(a). Other Investments, page 24.

The amendment to this section is to clarify the meaning of this investment limitation called the "basket clause". This clause allows insurers to invest a small amount in investments that are not prohibited by law. No substantive change is made.

Section 21. AS 21.21.370(a). Noninvestment Grade Obligations, page 25.

The amendment to this section is a change to clarify the meaning and application of the investment limitations on medium and lower grade bonds.

Section 22. AS 21.22.010(g). Filing Statement of Tender Offer, page 25.

The amendment to this subsection is a clarification of the exemption from filing a Form A statement of notification of acquisition of a domestic insurer with the division.

Section 23. AS 21.22.030(a). Approval of Tender Offer; Hearing, page 25.

The amendment to this subsection adds to the list of conditions which, if present, allows the director to disapprove the merger of acquisition of control of an insurer. The condition added is if the acquisition is likely to be hazardous or prejudicial to the public.

Section 24. AS 21.22.030(d). Approval of Tender Offer; Hearing, page 26.

The amendment to this section is to add a new subsection to allow the director to hire experts to assist the director in reviewing a proposed acquisition of control of an insurer at the acquiring person's expense.

Section 25. AS 21.22.060(b). Registration of Insurers; Contents of Registration Statement, page 26.

The amendment to this subsection clarifies the information which must be supplied in a Form B (Holding Company) registration report. After the change all management and service contracts, cost sharing arrangements, and reinsurance agreements must be reported.

Section 26. AS 21.22.060(c). Registration of Insurers; Contents of Registration Statement, page 27.

The amendment to this subsection is to remove unnecessary language which is currently in effect in subsection (k) regarding the ability to require the filing of a registration statement by a licensed insurer.

Section 27. AS 21.22.060(d). Registration of Insurers; Contents of Registration Statement, page 27.

The amendment to this subsection is to clarify the definition of when an amount is considered not material and need not be disclosed on the holding company registration statement.

Section 28. AS 21.22.060(k). Registration of Insurers; Contents of Registration Statement, page 28.

The amendment to this subsection is to correct the subsection reference and clarify the director's authority to require filing by authorized insurers.

PRODUCER LICENSING

Sections 29 through 43 include clarification of licensing requirements, provide authority to require continuing education, require that fiduciary accounts for premium held by resident producers be in Alaska, allows a single bond to cover multiple locations, and updates language from NAIC model act on Managing General Agents and Reinsurance Intermediaries to allow the director to file civil action for damages.

Section 27. AS 21.27.010(a). License Required, page 28.

Amendment to this section is primarily editorial in nature and clarifies exceptions to general producer licensing requirements under AS 21.27.

Section 30. AS 21.27.020. Refusal to Issue License, page 28.

Amendments to this section provide for regulations to establish additional educational requirements for licensees to implement continuing education and to contract out some licensing services for increased efficiency.

Section 31. AS 21.27.025(a). Notice of Changes, page 29.

Amendments to this subsection require a licensee to report to the division a change of name or any disciplinary action taken by another jurisdiction.

Section 32. AS 21.27.060(d). Examination of Applicants, page 29.

Amendment to this subsection specifies that exemption from examination for licensure is only available to travel limited license, disability limited license for sports purposes, and retired producer licenses. Removes qualification for exemption regarding NAIC accreditation.

Section 33. AS 21.27.100(e). Appointment of Agents or General Agents, page 29.

Addition of this new subsection is primarily editorial in nature and clarifies that an appointment of a firm licensee extends to persons licensed as an individual in the firm.

Section 34. AS 21.27.130. Form and Content of Licenses, page 29.

Amendment to this section is primarily editorial in nature and clarifies the type of licensee address to be shown on a license.

Section 35. AS 21.27.360(b). Fiduciary accounts, page 30.

Amendment to this subsection requires a resident licensee to maintain its fiduciary accounts in Alaska.

Section 36. AS 21.27.380(a). License Renewal, page 30.

Amendment to this subsection is primarily editorial in nature and clarifies that all license renewal documents must be received by the director on or before the renewal date.

Section 37. AS 21.27.420(c). Conditioning a license, page 30.

Adds a new subsection that provides additional licensing flexibility by allowing a license to be issued or renewed with conditions.

Section 38. AS 21.27.530. Producer Qualifications, page 31.

Amendment to this paragraph is primarily editorial in nature and clarifies that a single bond may cover multiple locations for a single licensee.

Section 39. AS 21.27.570(a)(3)(B). Controlling Insurance Producers, page 31.

Amendment to this paragraph is primarily editorial in nature and clarifies by adding punctuation suggested by the NAIC accreditation team.

Section 40. AS 21.27.620(j). Managing General Agents, page 32.

Amendment to this subsection adds language from updated NAIC Managing General Agents Act to allow the director to bring a civil action to recover damages from an MGA.

Section 41. AS 21.27.690(b). Reinsurance Intermediary Brokers, page 32.

Amendment to this subsection provides that the exemption from licensure for non-resident reinsurance intermediary brokers who are licensed in an accredited resident jurisdiction is extended to authorized insurers.

Section 42. AS 21.27.690(e). Reinsurance Intermediary Brokers, page 33.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to bring a civil action to recover damages from reinsurance intermediary brokers.

Section 43. AS 21.27.760(j). Reinsurance Intermediary Managers, page 33.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to bring

a civil action to recover damages from reinsurance intermediary managers.

SURPLUS LINES INSURERS

Sections 44 to 47 add to the definition of Lloyd's the inclusion of incorporated underwriters, add an alternative method to meet the requirement of notification to the insured, and correct the time period for filing fees.

Section 44. AS 21.34.040(c)(4). Incorporated Underwriters, page 34.

The amendment to this paragraph is to include incorporated underwriters as members of a group of insurers such as Lloyd's. Lloyd's recently allowed incorporated members to join the unincorporated members. The incorporated members may not be engaged in any business other than underwriting.

Section 45. AS 21.34.080(c). Evidence of Insurance, Affidavits, Duty to File, page 34.

The amendment to this subsection clearly establishes who must execute the affidavit that notice was given to the insured and when that notice must be given.

Section 46. AS 21.34.110. Surplus Lines Broker's Duty to Notify Insured, page 35.

This amendment to this section provides the surplus lines broker with an alternative method to discharge his duty to notify the insured that the company is a nonadmitted insurer not covered by the Alaska Insurance Guarantee Association Act.

Section 47. AS 21.34.190(a). Filing Fee, page 35.

The amendment to this subsection provides that the calculations for determining the filing fee should be based on the calendar year rather than quarterly.

TRADE PRACTICES

Sections 48 to 58 include correction of license types, correction of responsibilities of insurance producers, clarification when rate changes may be made, reorder of one section of the chapter, clarification application of the section, and provides that false statements made in regard to claims may result in prosecution under Alaska law.

Section 48. AS 21.36.120(d). Rebates, page 35.

Amendment to this subsection is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect current license types.

Section 49. AS 21.36.195. Prohibited Acts, page 36.

Amendment to this section is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect responsibilities of insurance producers under AS 21.34.

Section 50. AS 21.36.235(a). Notice of Premium or Coverage Changes upon Renewal, page 36.

This is a change in the statute cite to accommodate the moving of AS 21.36.420 to AS 21.36.305.

Section 51. AS 21.36.290(a). Policy Period, page 36.

This amendment recognizes that the addition of subsection (b) in Section 52 is an exception to this subsection (a).

Section 52. AS 21.36.290(b). Policy Period, page 36.

The amendment to this section clarifies that rate changes may be applied at the renewal date for personal auto policies which are written for a term of at least six months. Policies written for a period of less than six months are treated as six month policies.

Section 53. AS 21.36.305. Premium Increases on Personal Automobile Insurance Policies, page 36.

The addition to Chapter 36 of a new section is to move language from the existing AS 21.36.420 which is being deleted. This move is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place. There are additions to this section to clarify that a surcharge may be applied on an auto policy where the insured has pleaded no contest to a moving violation, and to specify that any surcharge or premium increase may not be applied until the renewal date of the policy. The definitions section is not moved because the move to section AS 21.36.305 allowed the application of the definition of "personal automobile insurance" currently in AS 21.36.310.

Section 54. AS 21.36.360(i). Criminal Insurance Acts, page 37.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to all persons including risk retention groups and purchasing groups.

Section 55. AS 21.36.360(j). Criminal Insurance Acts, page 38.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to current license types and risk retention groups and purchasing groups.

Section 56. AS 21.36.360(k). Criminal Insurance Acts, page 39.

Amendment to this subsection is primarily editorial in nature and updates this subsection of the Trade Practices and Frauds chapter to correctly reflect current license types and risk retention groups and purchasing groups.

Section 57. AS 21.36.360(n). Criminal Insurance Acts, page 39.

Amendment to this subsection is primarily editorial in nature and correctly reflects current license types.

Section 58. AS 21.36.380. Notice on claim form, page 40.

Amendment to this section is primarily editorial in nature and clarifies that false statements made in regard to claims may result in prosecution under Alaska law.

RATE AND POLICY FILINGS

Sections 59 to 62 provide that insurers who have applied for certificate of authority may file rates and policy forms, provides that the director may specify format and content of rate and policy form filings, and clarifies coverage for newborn or adoptive children.

Section 59. AS 21.39.040. Rate Filings, page 40.

The amendment to this section is by adding two new subsections. Subsection (j) allows insurers who have applied for a certificate of authority and who have filed their policy forms with the division to file their requested rates with the division, before the certificate of authority has been granted. Subsection (k) specifically authorizes the director to adopt regulations regarding the format and content of rate filings.

Section 60. AS 21.39.055. Rate Filings, page 40.

The addition of a new subsection provides that when a certificate of authority is surrendered or not continued, any approvals of rate filings are automatically cancelled unless affirmed by the director.

Section 61. AS 21.42.120. Filing, Approval of Forms, page 40.

The amendment to this section is by adding three new subsections. Subsection (f) excludes credit insurance forms from this section (since they are covered in AS 21.57.080). Subsection (g) allows insurers who have applied for a certificate of authority to file their requested policy forms with the division, before the certificate of authority has been granted. Subsection (h) specifically authorizes the director to adopt regulations regarding the format and content of form filings.

Section 62. AS 21.42.345(b). Newly born or adopted children, page 40.

Amendment is primarily editorial in nature and clarifies that the mandatory offer of coverage for newborn or adoptive children applies to all parents.

CONSUMER CREDIT INSURANCE

Sections 63 through 77 are the result of this chapter being revised to correspond more closely with the NAIC model law on credit insurance. The major changes to this chapter are 1) an expansion of the disclosures that must be made to debtors before the insurance may be sold, 2) the inclusion of credit unemployment insurance in the chapter, 3) the removal of the restriction limiting the scope of this chapter to loans less than \$5000 and of less than 5 years duration, and 4) the limitation on the amount of credit life insurance to no more than the amount of the loan. These changes are detailed by section below.

Section 63. AS 21.57.010. Purpose, page 41.

This is an editorial change to change the reference from credit life and disability insurance to consumer credit insurance.

Section 64. AS 21.57.020. Applicability, page 41.

This broadens the scope of this chapter to include credit insurance on all loans except for ones secured by a first mortgage. The restriction of this chapter in the existing law to loans of less than \$5000 for periods of less than 5 years has been eliminated.

Section 65. AS 21.57.030. Authorized Types of Credit Insurance, page 41.

This allows the defined types of credit insurance (credit life, disability, and unemployment) be written separately or combined in a package.

Section 66. AS 21.57.040. Amount of Consumer Credit Insurance.

page 41.

This section gives a detailed description of the amount of credit life insurance that may be written in different situations. In general, the amount of credit insurance may be no more than the balance of the loan. The existing law allows the amount of credit life insurance to equal the balance of the loan plus all unearned finance charges.

The amount of credit disability or unemployment insurance may equal the total of the unpaid installments of the loan.

Section 67. AS 21.57.050. Duration of Coverage, page 43.

This section explains when a credit insurance policy may become effective in different situations, and how long the insurance may extend beyond the date the loan is paid. It also specifies that if the insurance is terminated before the scheduled termination date, the debtor is entitled to a refund.

Section 68. AS 21.57.055. Disclosure to Debtors, page 45.

This is a new section detailing specific disclosures that must be made to debtors before a credit insurance policy may be sold, and the manner and time that the disclosures must be made. The disclosures that must be made include: 1) that the purchase of credit insurance is optional, and not required to obtain the loan, 2) whether or not the debtor is able to select which types of consumer credit insurance to purchase, or whether the types are only sold as a package, 3) who is eligible for the credit insurance, 4) the fact that the debtor may not need or want credit insurance if they have other insurance, 5) the fact that the debtor has a 30 day free look during which time they can cancel the policy without charge, 6) a description of the coverage provided, 7) any finance charge to be applied to the premium, and 8) whether or not the benefits of the policy are sufficient to pay off the debt in full in the event of a claim.

Section 69. AS 21.57.060. Provisions of Policies and Certificates of Insurance, page 46.

This section lists required policy provisions that must be specified on the individual policy or certificate of insurance. Most of these provisions are not significantly changed from the current law. There are new requirements for the policy to clearly specify: 1) how refunds will be calculated in the event of policy termination, and 2) whether or not the credit insurance benefits are sufficient to pay of the loan in the event of death, disability, and unemployment.

Section 70. AS 21.57.070. Requirements for Evidence of

Insurance, page 47.

This section makes mostly editorial changes to the requirements regarding when the policy or certificate must be delivered to the debtor and what must be included on it. It also adds a requirement that the debtor be given a 30 day free look period to review the policy. If the debtor decides within the 30 days that they don't want the policy, they are entitled to a full refund.

Section 71. AS 21.57.080. Filing of Forms and Rates, page 48.

This section details that all policy forms, rates, etc must be filed with and approved by the director, and is not substantially different from the existing law. The main additions to the section are an addition of filing requirements for insurers' disclosure notices and advertising.

Section 72. AS 21.57.090. Premium and Refunds, page 50.

This section involves some editorial changes, and specifies the formula that must be used to calculate premium refunds in the event of policy termination.

Section 72. AS 21.57.090. Premium and Refunds, page 50.

This section adds a new subsection clarifying that nothing in this chapter authorizes payments prohibited under other laws governing credit transactions.

Section 74. AS 21.57.120. Selection Rights of Insured, page 51.

This section specifies that the debtor is not obligated to purchase credit insurance from the lender as security for a debt, but may substitute insurance that the debtor already has, or by purchasing similar insurance elsewhere. The changes here are purely editorial.

Section 75. AS 21.57.125. Duties of an Insurer, page 51.

Throughout Chapter 57, various duties or responsibilities are placed on insurers. This is a new section which states that the duties assigned to an insurer may be carried out by a creditor as long as the creditor is licensed under AS 21.27.

Section 76. AS 21.57.150. Penalties, page 51.

This section lists the penalties which may be applied to an insurer, creditor, or other person for violating this chapter or an order of the director. The penalties are increased substantially from the existing law, and are consistent with the penalties listed in AS 21.27.440.

Section 77. AS 21.57.160. Definitions, page 52.

Several new definitions are added to this section, primarily to clarify some of the terms that are used in this chapter and may have been misinterpreted in the past.

REDOMESTICATION AND VOLUNTARY SURRENDER OF CERTIFICATE OF AUTHORITY

Section 78 adds two new sections. New procedures have been added for (1) seeking approval for redomestication of an insurer, and (2) voluntary surrender of a certificate of authority issued by this state.

Section 78. AS 21.69.645. Redomestication, page 54

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to move its domestic status to another state or when an insurer that is domiciled in another state wishes to change its domicile to Alaska.

Subsection (a) requires that an insurer domiciled in another state that is licensed in this state may become a domestic of this state if they comply with all Alaska laws regarding organization and licensing of a domestic insurer and designates a principal place of business in this state.

Subsection (b) allows an Alaska domestic insurer to transfer domicile status to another state and shall be licensed in Alaska with the director's approval. The director shall give approval unless it is not in the interest of policyholders or the marketplace. The insurer is required to meet qualifications for being licensed in this state for three years after transfer.

Subsection (c) says that when domestic status is transferred in or out of this state, the certificate of authority, producer appointments, rates, and other items that the director may allow will continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the director. The director shall be notified of the details of the transfer 30 days in advance.

Subsection (d) says that if the transfer is by merger or consolidation it must meet the statute requirements for mergers in Chapter 69. Certificate of authority, producer appointments, rates and other items allowed by the director shall continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the

director.

Subsection (e) requires the insurer transferring to this state to file revised policy forms for approval.

Subsection (f) says that an Alaska domestic transferring to another state does not have to file new forms if the forms have already been approved in this state.

AS 21.69.648. Voluntary Surrender of Certificate of Authority, page 62.

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to voluntarily surrender its certificate of authority and discontinue operations as an insurer. The insurer must make a request to extinguish the certificate of authority six months prior to the planned effective date of extinguishment of the charter. The director must conduct an examination within 12 months of the effective date of the extinguishment and all issues noted in that report must be resolved. Any business of the insurer must be cancelled or reinsured.

DOMESTIC INSURER ORGANIZATIONS AND PROCEDURES

Sections 79 through 86 requires quarterly financial statements for insurance entities which did not clearly require quarterly statements, adjustment of requirements for advisory committees and special meetings of advisory committees of reciprocal insurers, clarification of definition of member insurer of the life guarantee fund, and clarification that risk retention groups are not covered by the property/casualty guarantee fund.

Section 79. AS 21.72.125. Quarterly Statements, page 55

The amendment of a new section allows that a benevolent association may be required by the director to submit a quarterly financial statement which must include the information required for the annual financial statement.

Section 80. AS 21.75.135. Quarterly Statements, page 56.

The amendment of a new section allows that a reciprocal insurer may be required to submit a quarterly financial statement and the director may require supplemental information on the transactions of the reciprocal insurer.

Section 81. AS 21.75.170(e). Advisory Committee, page 56.

The amendment to this subsection adds that a special meeting of the subscribers committee may be called by no less than three

individual subscribers. The current language of one percent of the subscribers can be burdensome for very small reciprocals.

Section 82. AS 21.75.170(g) Advisory Committee, page 56.

This new subsection allows a domestic reciprocal insurer to have a subscribers committee of not less than five persons with prior written approval of the director. This change is to remove the burden of having a nine member subscribers committee when the reciprocal is very small.

Section 83. AS 21.79.900(6). Definitions, page 56.

Amendment to this subsection is primarily editorial in nature and clarifies the definition of "member insurer" in the Alaska Life and Disability Insurance Guaranty Association Act.

Section 84. AS 21.80.020. Risk Retention Group, Page 57.

Amendment to this section is primarily editorial in nature and clarifies that risk retention groups are not covered by the Alaska Insurance Guaranty Association Act consistent with the Liability Risk Retention Act.

Section 85. AS 21.84.340(d). Annual Statement, page 57.

The amendment of a new section allows that a fraternal benefit society may be required by the director to submit a quarterly financial statement.

Section 86. AS 21.86.080(b). Annual Statements, page 57.

The amendment of a new section allows that a health maintenance organization may be required by the director to submit a quarterly financial statement.

MISCELLANEOUS SECTIONS, DEFINITIONS, REPEALERS AND EFFECTIVE DATES

Sections 87 through 97 allow insurers to pay claims using electronic funds transfer, provides authority to the director to specify requirement of electronic data transfer, gives requirements and procedures for the operation of risk retention groups and purchasing groups, adds new definitions and clarifies old definitions, and repeals sections which were rewritten or found to be conflicting. The effective date for legislation is July 1, 1994 except for sections regarding consumer credit insurance which will be effective on October 1, 1994.

Section 87. AS 21.89.030. Payment, page 57.

The amendment to this section allows insurers to pay claims using electronic funds transfer.

Section 88. AS 21.89.070, AS 21.89.080. Electronic Data Transfer, Risk Retention Groups and Purchasing Groups, page 57.

Amendment adds two new sections to this chapter. The sections provide (1) authority to specify requirements to facilitate electronic data transfer and (2) give the director authority to require risk retention groups and purchasing groups to register before transacting business in Alaska as consistent with the Liability Risk Retention Act.

Detail description of the new section on requirements for risk retention groups and purchasing groups are as follows.

Subsection (a) requires risk retention groups and purchasing groups to register with the director.

Subsection (b) states that registration shall be on forms prescribed by the director and a fee will be required.

Subsection (c) requires the groups to submit an annual continuation application and fee.

Subsection (d) states that a risk retention group which is domiciled in Alaska and holds an Alaska certificate of authority does not need to register.

Subsection (e) states that a group that is not complying with federal law may not register or continue the registration.

Subsection (f) states that failure to comply with federal law on risk retention groups and purchasing groups is a violation of Alaska statute.

Subsection (g) states that violation of statute may result in a penalty of not more than \$10,000 per violation or \$25,000 if the director determines that the violation was wilful.

Subsection (h) allows the director to adopt regulations on operating and reporting requirements which do not conflict with federal law.

Section 89. AS 21.90.900(26). Definitions, page 58.

Amendment is primarily editorial in nature and clarifies definition of "managing general agent" as requested by the NAIC accreditation team.

Section 90. Repeal, page 59.

This section repeals two parts of current statute. AS 21.27.650(f)(3) contradicts AS 21.27.100(a) which does not allow a third-party administrator to appoint subagents and is repealed. The language in AS 21.36.420 is included in AS 21.36.305 in Section 50, page 40 of this legislation. This move to a new section is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place.

Section 91. Repeal, page 59.

This section repeals two sections of current statute regarding consumer credit insurance. AS 21.57.110 duplicates sections in AS 21.36 and is unnecessary. AS 21.57.170 is not appropriate in our law, and is removed.

Section 92. Alaska Rule of Civil Procedure, page 59.

This section notes that the new subsection in AS 21.09.300(c) affects Alaska Rule of Civil Procedure 45 by not allowing reports of material transactions to be given when under subpoena.

Section 93. Effective date on policies of insurance, page 59.

This section provides that the Act applies to insurance policies entered into or renewed on or after the Act's effective date.

Section 94. Effective Date, page 59.

This specifies that sections 14 and 15 will become effective upon adoption of legislation dealing with risk-based capital. Until risk-based capital legislation is adopted, AS 21.09.310 will be as shown in section 13 of this bill.

Section 95. Effective Date, page 59.

This specifies that sections 14 and 15 will take effect when statute regarding risk based capital requirements for insurers takes effect.

Section 96. Effective Date, page 59.

This specifies that the effective date for the changes to AS 21.57 dealing with Consumer Credit Insurance will be October 1, 1994.

Section 97. Effective Date, page 59.

This specifies that all other sections of this legislation, other than effective dates specified above in Sections 95 and 96, will be effective on July 1, 1994.

INSURANCE LEGISLATION OF 1994

AN ACT RELATING TO THE LICENSING, ACCREDITATION, EXAMINATION, REGULATION, AND SOLVENCY OF PERSONS ENGAGED IN THE INSURANCE BUSINESS, INCLUDING INSURERS, NONADMITTED INSURERS, PURCHASING GROUPS, RISK RETENTION GROUPS, AND UNITED STATES BRANCHES OF NON-U.S. INSURERS; RELATING TO THE MANAGEMENT OF AND FILING OF REPORTS BY PERSONS LICENSED OR OTHERWISE DOING BUSINESS UNDER THE INSURANCE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Sectional Analysis by the
Department of Commerce and Economic Development,
Division of Insurance

DIRECTOR OF INSURANCE

Sections 1 through 10 include regulation of risk retention groups, authority to respond to a catastrophe, procedure on examination reports, procedures on applying for and not continuing a certificate of authority of an insurer, financial statements, and procedures on premium tax refunds and credits. Many of these changes are suggestions from the NAIC Accreditation Team visit in October 1992. Others are to provide authority and procedures in areas where none existed before.

Section 1. AS 21.03.010. Scope of Code, page 1.

Amends this section to explicitly extend the Scope of Code to include risk retention groups and purchasing groups as requested by the NAIC accreditation team.

Section 2. AS 21.06.080(e). General Powers, Duties, page 1.

This new subsection adds to the director's general powers and duties the ability to respond to a catastrophe.

Section 3. AS 21.06.150(q). Examination Reports, page 2.

The amendment to this subsection allows the director to close a hearing on an examination if the director finds that the closure is necessary to protect someone from unwarranted injury or is in the public interest.

Section 4. AS 21.09.110. Application for Certificate of Authority, page 2.

The amendment to this section removes the requirement that insurers applying for their Certificate of Authority (COA) submit specimen copies of their policy forms and rates with their COA application, and instead specifies that these policy forms and

rates should be submitted under new sections AS 21.39.040(j) or 21.42.120(g).

Section 5. AS 21.09.130(b). Continuance, Termination, Reinstatement, and Amendment of Certificate, page 4.

The amendment to this subsection provides for a suspension of the certificate of authority instead of cancellation if the insurer fails to file the forms or pay the fee to continue the certificate of authority. This change is to prevent insurers from ending regulation by Alaska Division of Insurance when issues regarding insurance operations may still be outstanding. It provides a one year suspension period.

Section 6. AS 21.09.135. Voluntary Surrender of Certificate of Authority, page 4.

This is a new section which provides a process for an insurer to voluntarily surrender their certificate of authority from Alaska. To surrender the insurer must be in compliance with Alaska

Section 7. AS 21.09.200(f). Annual Statement, page 5.

The amendment to this subsection requires the filing of annual financial statements with the National Association of Insurance Commissioners (NAIC) by all licensed insurers instead of just domestic insurers. Also provides that the filings must be on electronic media acceptable to the NAIC.

Section 8. AS 21.09.205(d). Quarterly Financial Statements, page 5.

This is a new subsection which requires that a licensed insurer file quarterly financial statements with the National Association of Insurance Commissioners (NAIC), on acceptable electronic media, and pay the applicable filing fee. Failure to comply will result in penalties.

Section 9. AS 21.09.210. Premium Tax, page 6.

The following new subsections discuss the procedures for obtaining a refund or credit for overpayment of premium taxes by an insurer.

Subsection (j) allows for the payment of a premium tax refund when an insurer discovers that it has made an overpayment due to an error in calculation, mistake of fact, or misinterpretation of law. It (1) limits the time in which the refund must be discovered to three years; (2) sets the minimum amount of a refund which can be requested at \$250; and (3) gives the director discretion in payment of a

monetary refund or a premium tax credit.

Subsection (k) was written to avoid trafficking of the premium tax credit. It prohibits the transfer or carryover of the credit in reinsurance transactions or receiverships.

Subsection (l) defines a premium tax credit.

Section 10. AS 21.09.290. Risk Retention Groups, page 6.

This is a new section that allows a risk retention group to be formed as a domestic insurer in Alaska consistent with the NAIC Model Risk Retention Act.

Subsection (a) sets out the requirements for being licensed as a risk retention group in this state.

Subsection (b) lists the items that must be submitted with an application for certificate of authority.

Subsection (c) requires the risk retention group to notify 30 days in advance any material change to its plan of operation and must receive the director's written approval of the change.

Subsection (d) provides definitions of terms used in this section.

DISCLOSURE OF MATERIAL TRANSACTIONS

Several sections of the Alaska Insurance Statutes require domestic insurers to file information on specific transactions. Section 11 below is being added to statute to require the filing of information on material asset transactions and material changes in ceded reinsurance transactions. Ceded reinsurance is the transfer of risk from an insurer to another insurer by contract, usually resulting in the sharing of claim liability, marketing expenses, etc. Ceded reinsurance contracts are negotiated and can take many forms depending on the need for the reinsurance. A material change in a ceded reinsurance agreement may have significant financial effects for an insurance company. The basis for this section is the NAIC Disclosure of Material Transactions Model Act which must be adopted to maintain accreditation.

Section 11. AS 21.09.300. Disclosure of Material Transactions, page 8.

This is a new section which provides requirements and procedures for filing information on specific material transactions.

Subsection (a) requires disclosure of material acquisition or disposition of assets or material nonrenewal, cancellation, or revision of ceded reinsurance agreements unless the transactions have been submitted pursuant to other provisions of the statute.

Subsection (b) requires the report be filed 15 days after the end of the calendar month in which the transaction occurs.

Subsection (c) requires that a copy of the report also be filed with the National Association of Insurance Commissioners (NAIC).

Subsection (d) requires that the report be given confidential treatment by the division, the NAIC, or any other person, except sharing with insurance departments of other states, unless the insurer gives prior written consent or unless the director determines it is in the interest of policyholders, shareholders, or the public to publish the report and gives the insurer notice and an opportunity to be heard.

Subsection (e) gives the requirements for reporting transactions of material acquisition or disposition of assets.

Paragraph (e)(1) requires that only material transactions be reported and defines material.

Paragraph (e)(2) requires that asset acquisition include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the development of real property for the insurer or acquisition of material for such development.

Paragraph (e)(3) requires that asset disposition include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

Paragraph (e)(4) lists the information required in the disclosure notice to the division: date, manner of acquisition or disposition, description of asset, consideration given or received, purpose, manner of determining amount of consideration, gain or loss recognized or realized, names of persons involved.

Subsection (f) gives the requirements for reporting transactions of material nonrenewal, cancellation or revision of a ceded reinsurance agreement.

Paragraph (f) (1) requires that only material transactions be reported and defines material.

Paragraph (f) (2) requires that the filing must be made regardless of who initiates the transaction in certain circumstances.

Paragraph (f) (3) lists the information required in the disclosure notice to the division: effective date, description of the transaction, initiator of the transaction, purpose or reason, if applicable, the identity of the replacement reinsurer.

Subsection (g) requires that the report be made on a non-consolidated basis unless the insurer is part of a consolidated group which pools substantially all of its insurance losses. The subsection defines "substantially all".

U.S. BRANCHES OF NON-U.S. INSURERS

Section 12 through 14 provide authority and procedures for an insurer organized in a country outside of the United States to establish a U.S. branch in Alaska for operating throughout the United States.

Section 12. AS 21.09.500. Authorization of U.S. Branches of Non-U.S. Insurers and General Requirements, page 11.

This new section establishes Alaska as a state of entry for non-U.S. insurers who seek to transact insurance in the United States through a U.S. branch by adopting the NAIC State of Entry Model Law.

Subsection (a) states what companies to which this section applies.

Subsection (b) requires that the U.S. branch will be subject to all laws applicable to an Alaska domiciled insurance company.

Subsection (c) sets out the requirements for applying to use this state as a state of entry .

Subsection (d) allows the director to require evidence from the board of directors that the insurer will not violate Alaska law or its charter.

Subsection (e) allows the director to renew a

certificate of authority for a U.S. branch if the U.S. branch meets the requirements for renewal.

Subsection (f) lists the conditions of the U.S. branch which if they existed would prohibit the director from issuing or renewing a certificate of authority.

Subsection (g) prohibits the U.S. branch insurer from transacting business outside of Alaska that is not permitted in Alaska unless such restriction would be prejudicial to the best interest of the Alaska public.

Subsection (h) requires the U.S. branch to maintain assets in a trust account in an amount no less than the U.S. branches reserves and other liabilities and minimum basic capital and surplus.

Subsection (i) lists the requirements for the written trust agreement which must exist for the U.S. branch to conduct business in the United States.

Subsection (j) states that the trust agreement shall be in the form required by the director and not be effective until approved by the director.

Subsection (k) states that the director may approve written modifications of the written trust agreement.

Subsection (l) allows the director to conduct examinations of trusteed assets and may require the trustee to file statements as to the trust fund.

Subsection (m) allows the director to withdraw approval of the trust agreement, effective in 10 days, if the requirements for the agreement do not now exist.

Subsection (n) allows that refusal or neglect of the statute requirements is cause for suspension or revocation of the certificate of authority.

Subsection (o) requires that annual and quarterly financial statements relate only to transactions within the United States and states who must sign the statement.

Subsection (p) requires that a statement of trusteed surplus be filed with the annual and quarterly financial statement and gives the requirements for that statement.

Subsection (q) allows the director to require additional information on the business of the non-U.S. insurer or its U.S. branch.

Subsection (r) requires that a report of examination of the U.S. branch include a trustee surplus statement.

Section 13. AS 21.09.500(c). Non-U.S. Reinsurer, page 18.

The amendment to the subsection included in Section 12 is to add that a trust account must be in an amount not less than minimum capital and surplus nor less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.

Section 14. AS 21.09.500(h). Non-U.S. Reinsurer, page 19.

The amendment to the subsection included in Section 12 is to add that the trustee assets maintained may not be less than minimum capital and surplus or less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.

FINANCIAL REQUIREMENTS AND FILINGS OF INSURERS

Sections 15 through 26 include corrections to requirements for recognizing reinsurance credits in financial statements, updating of sections on unearned premium and loss reserves, clarification of investment limitations, correction of language regarding tender offers and authority to hire experts, and clarification of information required in the holding company registration statement.

Section 15. AS 21.12.020(a). Reinsurance Credits, page 19.

The amendments to this subsection are to make corrections for errors made when this section was most recently adopted in 1992. The amendments require that for a US branch of a non-US reinsurer to become accredited they must be licensed in at least one state that is accredited by the National Association of Insurance Commissioners (NAIC). Accreditation is a program of the NAIC which reviews state insurance divisions to determine if they meet a set of standards considered to be the minimum necessary for effective regulation. Other amendments recognize the addition of incorporated members to group insurers (such as Lloyd's of London) and require that the incorporated member not be engaged in any other business other than underwriting as a member of the group.

Section 16. AS 21.18.060. Unearned Premium Reserve For Property, Casualty, and Surety Insurance, page 23.

The amendment to this section removes the outdated method for determining unearned premium on property/casualty policies

and requires a prorata determination of unearned premium at any point in time. Premium for property/casualty policies is required to be earned in the accounting records over the term of the insurance policy. This change was suggested by the NAIC accreditation team during review of Alaska insurance statute.

Section 17. AS 21.18.090. Loss Reserves for Liability Insurance and Workers' Compensation, page 25.

The amendment to this section removes the outdated method for determining loss reserves on liability and workers compensation policies and allows accounting recognition of determined and estimated losses. This change was suggested by the NAIC accreditation team during review of Alaska insurance statute.

Section 18. AS 21.21.250(a). Other Investments, page 26.

The amendment to this section is to clarify the meaning of this investment limitation called the "basket clause". This clause allows insurers to invest a small amount in investments that are not prohibited by law. No substantive change is made.

Section 19. AS 21.21.370(a). Noninvestment Grade Obligations, page 27.

The amendment to this section is a two word change to clarify the meaning and application of the investment limitations on medium and lower grade bonds.

Section 20. AS 21.22.010(a). Filing Statement of Tender Offer, page 28.

The amendment to this subsection is a clarification of the exemption from filing a Form A acquisition statement with the division.

Section 21. AS 21.22.030(a). Approval of Tender Offer; Hearing, page 28.

The amendment to this subsection adds to the list of conditions which, if present, allows the director to disapprove the merger of acquisition of control of an insurer. The condition added is if the acquisition is likely to be hazardous or prejudicial to the public.

Section 22. AS 21.22.030(d). Approval of Tender Offer; Hearing, page 29.

The amendment to this section is to add a new subsection to allow the director to hire experts to assist the director in

reviewing a proposed acquisition of control of an insurer at the acquiring person's expense.

Section 23. AS 21.22.060(b). Registration of Insurers; Contents of Registration Statement, page 29.

The amendment to this subsection clarifies the information which must be supplied in a Form B (Holding Company) registration report. After the change all management and service contracts, cost sharing arrangements, and reinsurance agreements must be reported.

Section 24. AS 21.22.060(c). Registration of Insurers; Contents of Registration Statement, page 30.

The amendment to this subsection is to remove unnecessary language which is currently in effect in subsection (k) regarding the ability to require the filing of a registration statement by a licensed insurer.

Section 25. AS 21.22.060(d). Registration of Insurers; Contents of Registration Statement, page 31.

The amendment to this subsection is to clarify the definition of when an amount is considered not material and need not be disclosed on the holding company registration statement.

Section 26. AS 21.22.060(k). Registration of Insurers; Contents of Registration Statement, page 31.

The amendment to this subsection is to correct the subsection reference.

PRODUCER LICENSING

Sections 27 through 41 include clarification of licensing requirements, provide authority to require continuing education, require that fiduciary accounts for premium held by resident producers be in Alaska, allows a single bond to cover multiple locations, and updates language from NAIC model act on Managing General Agents and Reinsurance Intermediaries to allow the director to file civil action for damages.

Section 27. AS 21.27.010(a). License Required, page 31.

Amendment to this section is primarily editorial in nature and clarifies exceptions to general producer licensing requirements under AS 21.27.

Section 28. AS 21.27.020. Refusal to Issue License, page 31.

Amendments to this section by adding new subsections (f) and (g) provide for regulations to establish additional educational requirements for licensees to implement continuing education and to contract out some licensing services for increased efficiency.

Section 29. AS 21.27.025(a). Notice of Changes, page 32.

Amendments to this subsection require a licensee to report to the division a change of name or any disciplinary action taken by another jurisdiction.

Section 30. AS 21.27.060(d). Examination of Applicants, page 32.

Amendment to this subsection would allow the director to reestablish testing for certain limited licensees.

Section 31. AS 21.27.100(e). Appointment of Agents or General Agents, page 32.

Addition of this new subsection is primarily editorial in nature and clarifies that an appointment of a firm licensee extends to persons licensed as an individual in the firm.

Section 32. AS 21.27.130(1). Form and Content of Licenses, page 33.

Amendment to this section is primarily editorial in nature and clarifies the licensee's address to be shown on a license.

Section 33. AS 21.27.360(b). Fiduciary accounts, page 33.

Amendment to this subsection requires a resident licensee to maintain its fiduciary accounts in Alaska.

Section 34. AS 21.27.380(a). License Renewal, page 33.

Amendment to this subsection is primarily editorial in nature and clarifies that all license renewal documents must be received by the director on or before the renewal date.

Section 35. AS 21.27.420(c). Conditioning a license, page 33.

Adds a new subsection that provides additional licensing flexibility by allowing a license to be issued or renewed with conditions.

Section 36. AS 21.27.530(5). Producer Qualifications, page 34.

Amendment to this paragraph is primarily editorial in nature and clarifies that a single bond may cover multiple locations for a single licensee.

Section 37. AS 21.27.570(a)(3)(B). Controlling Insurance Producers, page 34.

Amendment to this paragraph is primarily editorial in nature and clarifies by adding punctuation suggested by the NAIC accreditation team.

Section 38. AS 21.27.620(j). Managing General Agents, page 34.

Amendment to this subsection adds language from updated NAIC Managing General Agents Act to allow the director to maintain a civil action to recover damages from an MGA.

Section 39. AS 21.27.690(b). Reinsurance Intermediary Brokers, page 35.

Amendment to this subsection clarifies that the exemption from licensure for non-resident reinsurance intermediary brokers who are licensed in an accredited resident jurisdiction.

Section 40. AS 21.27.690(e). Reinsurance Intermediary Brokers, page 35.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to maintain a civil action to recover damages from reinsurance intermediary brokers.

Section 41. AS 21.27.760(j). Reinsurance Intermediary Managers, page 36.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to maintain a civil action to recover damages from reinsurance intermediary managers.

SURPLUS LINES INSURERS

Sections 42 to 45 add to the definition of Lloyd's the inclusion of incorporated underwriters, add an alternative method to meet the requirement of notification to the insured, and correct the time period for filing fees.

Section 42. AS 21.34.040(c)(4). Incorporated Underwriters, page 36.

The amendment to this paragraph is to include incorporated underwriters as members of a group of insurers such as Lloyd's. Lloyd's recently allowed incorporated members to join the unincorporated members. The incorporated members may not be engaged in any business other than underwriting.

Section 43. AS 21.34.080(c). Evidence of Insurance Affidavits, Duty to File, page 37.

The amendment to this subsection clearly establishes who must execute the affidavit that notice was given to the insured and when that notice must be given.

Section 44. AS 21.34.110. Surplus Lines Broker's Duty to Notify Insured, page 38.

This amendment to this section provides the surplus lines broker with an alternative method to discharge his duty to notify the insured that the company is a nonadmitted insurer not covered by the Alaska Insurance Guarantee Association Act.

Section 45. AS 21.34.190(a). Filing Fee, page 38.

The amendment to this subsection provides that the calculations for determining the filing fee should be based on the calendar year rather than quarterly.

TRADE PRACTICES

Sections 46 to 55 include correction of license types, correction of responsibilities of insurance producers, clarification when rate changes may be made, reorder of one section of the chapter, clarification application of the section, and provides that false statements made in regard to claims may result in prosecution under Alaska law.

Section 46. AS 21.36.120(d). Rebates, page 38.

Amendment to this subsection is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect current license types.

Section 47. AS 21.36.195. Prohibited Acts, page 39.

Amendment to this section is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect responsibilities of insurance producers under AS 21.34.

Section 48. AS 21.36.235(a). Notice of Premium or Coverage Changes upon Renewal, page 39.

This is a change in the statute cite to accommodate the moving of AS 21.36.420 to AS 21.36.305.

Section 49. AS 21.36.290. Policy Period, page 39.

The amendment to this section clarifies that rate changes may be applied at the renewal date for personal auto policies which are written for a term of at least six months. Policies written for a period of less than six months are treated as six month policies.

Section 50. AS 21.36.305. Premium Increases on Personal Automobile Insurance Policies, page 40.

The addition to Chapter 36 of a new section is to move language from the existing AS 21.36.420 which is being deleted. This move is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place. There are additions to this section to clarify that a surcharge may be applied on an auto policy where the insured has pleaded no contest to a moving violation, and to specify that any surcharge or premium increase may not be applied until the renewal date of the policy. The definitions section is not moved because the move to section AS 21.36.305 allowed the application of the definition of "personal automobile insurance" currently in AS 21.36.310.

Section 51. AS 21.36.360(i). Criminal Insurance Acts, page 41.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to all persons including risk retention groups and purchasing groups.

Section 52. AS 21.36.360(j). Criminal Insurance Acts, page 42.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to current license types and risk retention groups and purchasing groups.

Section 53. AS 21.36.360(k). Criminal Insurance Acts, page 42.

Amendment to this subsection is primarily editorial in nature and updates this subsection of the Trade Practices and Frauds chapter to correctly reflect current license types and risk retention groups and purchasing groups.

Section 54. AS 21.36.360(n). Criminal Insurance Acts, page 43.

Amendment to this subsection is primarily editorial in nature and correctly reflects current license types.

Section 55. AS 21.36.380. Notice on claim form, page 43.

Amendment to this section is primarily editorial in nature and clarifies that false statements made in regard to claims may result in prosecution under Alaska law.

RATE AND POLICY FILINGS

Sections 56 to 58 provide that insurers who have applied for certificate of authority may file rates and policy forms, provides that the director may specify format and content of rate and policy form filings, and clarifies coverage for newborn or adoptive children.

Section 56. AS 21.39.040. Rate Filings, page 44.

The amendment to this section is by adding two new subsections. Subsection (j) allows insurers who have applied for a certificate of authority and who have filed their policy forms with the division to file their requested rates with the division, before the certificate of authority has been granted. Subsection (k) specifically authorizes the director to adopt regulations regarding the format and content of rate filings.

Section 57. AS 21.42.120. Filing, Approval of Forms, page 44.

The amendment to this section is by adding three new subsections. Subsection (f) excludes credit insurance forms from this section (since they are covered in AS 21.57.080). Subsection (g) allows insurers who have applied for a certificate of authority to file their requested policy forms with the division, before the certificate of authority has been granted. Subsection (h) specifically authorizes the director to adopt regulations regarding the format and content of form filings.

Section 58. AS 21.42.345(b). Newly born or adopted children, page 44.

Amendment is primarily editorial in nature and clarifies that the mandatory offer of coverage for newborn or adoptive children applies to all parents.

CONSUMER CREDIT INSURANCE

Sections 59 through 72 are the result of this chapter being revised to correspond more closely with the NAIC model law on credit insurance. The major changes to this chapter are 1) an expansion of the disclosures that must be made to debtors before the insurance may be sold, 2) the inclusion of credit unemployment insurance in the chapter, 3) the removal of the restriction limiting the scope of this chapter to loans less than \$5000 and of less than 5 years duration, and 4) the limitation on the amount of credit life insurance to no more than the amount of the loan. These changes are detailed by section below.

Section 59. AS 21.57.010. Purpose, page 45.

This is an editorial change to change the reference from credit life and disability insurance to credit insurance.

Section 60. AS 21.57.020. Applicability, page 45.

This broadens the scope of this chapter to include credit insurance on all loans except for ones secured by a first mortgage. The restriction of this chapter in the existing law to loans of less than \$5000 for periods of less than 5 years has been eliminated.

Section 61. AS 21.57.030. Authorized Types of Credit Insurance, page 45.

This allows the defined types of credit insurance (credit life, disability, and unemployment) be written separately or combined in a package.

Section 62. AS 21.57.040. Amount of Consumer Credit Insurance, page 45.

This section gives a detailed description of the amount of credit life insurance that may be written in different situations. In general, the amount of credit insurance may be no more than the balance of the loan. The existing law allows the amount of credit life insurance to equal the balance of the loan plus all unearned finance charges.

The amount of credit disability or unemployment insurance may equal the total of the unpaid installments of the loan.

Section 63. AS 21.57.050. Duration of Coverage, page 47.

This section explains when a credit insurance policy may become effective in different situations, and how long the insurance may extend beyond the date the loan is paid. It also specifies that if the insurance is terminated before the scheduled termination date, the debtor is entitled to a refund.

Section 64. AS 21.57.055. Disclosure to Debtors, page 49.

This is a new section detailing specific disclosures that must be made to debtors before a credit insurance policy may be sold, and the manner and time that the disclosures must be made. The disclosures that must be made include: 1) that the purchase of credit insurance is optional, and not required to obtain the loan, 2) whether or not the debtor is able to select which types of consumer credit insurance to purchase, or whether the types are only sold as a package, 3) who is eligible for the credit insurance, 4) the fact that the debtor may not need or want credit insurance if they have other insurance, 5) the fact that

the debtor has a 30 day free look during which time they can cancel the policy without charge, 6) a description of the coverage provided, 7) any finance charge to be applied to the premium, and 8) whether or not the benefits of the policy are sufficient to pay off the debt in full in the event of a claim.

Section 65. AS 21.57.060. Provisions of Policies and Certificates of Insurance, page 51.

This section lists required policy provisions that must be specified on the individual policy or certificate of insurance. Most of these provisions are not significantly changed from the current law. There are new requirements for the policy to clearly specify: 1) how refunds will be calculated in the event of policy termination, and 2) whether or not the credit insurance benefits are sufficient to pay of the loan in the event of death, disability, and unemployment.

Section 66. AS 21.57.070. Requirements for Evidence of Insurance, page 52.

This section makes mostly editorial changes to the requirements regarding when the policy or certificate must be delivered to the debtor and what must be included on it. It also adds a requirement that the debtor be given a 30 day free look period to review the policy. If the debtor decides within the 30 days that they don't want the policy, they are entitled to a full refund.

Section 67. AS 21.57.080. Filing of Forms and Rates, page 54.

This section details that all policy forms, rates, etc must be filed with and approved by the director, and is not substantially different from the existing law. The main additions to the section are an addition of filing requirements for insurers' disclosure notices and advertising.

Section 68. AS 21.57.090. Premium and Refunds, page 56.

This section involves some editorial changes, and specifies the formula that must be used to calculate premium refunds in the event of policy termination.

Section 69. AS 21.57.120. Selection Rights of Insured, page 57.

This section specifies that the debtor is not obligated to purchase credit insurance from the lender as security for a debt, but may substitute insurance that the debtor already has, or by purchasing similar insurance elsewhere. The changes here are purely editorial.

Section 70. AS 21.57.125. Duties of an Insurer, page 57.

Throughout Chapter 57, various duties or responsibilities are placed on insurers. This is a new section which states that the duties assigned to an insurer may be carried out by a creditor as long as the creditor is licensed under AS 21.27.

Section 71. AS 21.57.150. Penalties, page 57.

This section lists the penalties which may be applied to an insurer, creditor, or other person for violating this chapter or an order of the director. The penalties are increased substantially from the existing law, and are consistent with the penalties listed in AS 21.27.440.

Section 72. AS 21.57.160. Definitions, page 58.

Several new definitions are added to this section, primarily to clarify some of the terms that are used in this chapter and may have been misinterpreted in the past.

DOMESTIC INSURER ORGANIZATIONS AND PROCEDURES

Sections 73 through 82 include procedures on redomestication to or from Alaska, procedures for voluntary surrender of a certificate of authority, requires quarterly financial statements for insurance entities which did not clearly quarterly statements, adjustment of requirements for advisory committees and special meetings of advisory committees of reciprocal insurers, clarification of definition of member insurer of the life guarantee fund, and clarification that risk retention groups are not covered by the property/casualty guarantee fund.

Section 73. AS 21.69.645. Redomestication, page 61.

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to move its domestic status to another state or when an insurer that is domiciled in another state wishes to change its domicile to Alaska.

Subsection (a) requires that an insurer domiciled in another state that is licensed in this state may become a domestic of this state if they comply with all Alaska laws regarding organization and licensing of a domestic insurer and designates a principal place of business in this state.

Subsection (b) allows an Alaska domestic insurer to transfer domicile status to another state and shall be licensed in Alaska with the director's approval. The director shall give approval unless it is not in the interest of policyholders or the marketplace. The insurer is required to meet qualifications for being licensed in this state for three years after transfer.

Subsection (c) says that when domestic status is transferred in or out of this state, the certificate of authority, producer appointments, rates, and other items that director may allow will continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the director. The director shall be notified of the details of the transfer 30 days in advance.

Subsection (d) says that if the transfer is by merger or consolidation it must meet the statute requirements for mergers in Chapter 69. Certificate of authority, producer appointments, rates and other items allowed by the director shall continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the director.

Subsection (e) requires the insurer transferring to this state to file revised policy forms for approval.

Subsection (f) says that an Alaska domestic transferring to another state does not have to file new forms if the forms have already been approved in this state.

Section 74. AS 21.69.648. Voluntary Surrender of Certificate of Authority, page 62.

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to voluntarily surrender its certificate of authority and discontinue operations as an insurer. The insurer must make a request to extinguish the certificate of authority six months prior to the planned effective date of extinguishment of the charter. The director must conduct an examination within 12 months of the effective date of the extinguishment and all issues noted in that report must be resolved. Any business of the insurer must be cancelled or reinsured.

Section 75. AS 21.72.125. Quarterly Statements, page 63.

The amendment of a new section allows that a benevolent association may be required by the director to submit a quarterly financial statement which must include the information required for the annual financial statement.

Section 76. AS 21.75.135. Quarterly Statements, page 63.

The amendment of a new section allows that a reciprocal insurer may be required to submit a quarterly financial statement and the director may require supplemental information on the transactions of the reciprocal insurer.

Section 77. AS 21.75.170(a). Advisory Committee, page 63.

The amendment to this subsection allows a domestic reciprocal insurer to have a subscribers committee of not less than five persons with prior written approval of the director. This change is to remove the burden of having a nine member subscribers committee when the reciprocal is very small.

Section 78. AS 21.75.170(e). Advisory Committee, page 64.

The amendment to this subsection adds that a special meeting of the subscribers committee may be called by no less than three individual subscribers. The current language of one percent of the subscribers can be burdensome for very small reciprocals.

Section 79. AS 21.79.900(6). Definitions, page 64.

Amendment to this subsection is primarily editorial in nature and clarifies the definition of "member insurer" in the Alaska Life and Disability Insurance Guaranty Association Act.

Section 80. AS 21.80.020. Risk Retention Group, Page 65.

Amendment to this section is primarily editorial in nature and clarifies that risk retention groups are not covered by the Alaska Insurance Guaranty Association Act consistent with the Liability Risk Retention Act.

Section 81. AS 21.84.340(d). Annual Statement, page 65.

The amendment of a new section allows that a fraternal benefit society may be required by the director to submit a quarterly financial statement.

Section 82. AS 21.86.080(b). Annual Statements, page 65.

The amendment of a new section allows that a health maintenance organization may be required by the director to submit a quarterly financial statement.

MISCELLANEOUS SECTIONS, DEFINITIONS, REPEALERS AND EFFECTIVE DATES

Sections 83 through 92 allow insurers to pay claims using electronic funds transfer. provides authority to the director to specify requirement of electronic data transfer, gives requirements and procedures for the operation of risk retention groups and purchasing groups, adds new definitions and clarifies old definitions, and repeals sections which were rewritten or found to be conflicting. The effective date for legislation is July 1, 1994 except for sections regarding consumer credit

insurance which will be effective on October 1, 1994.

Section 83. AS 21.89.030. Payment, page 65.

The amendment to this section allows insurers to pay claims using electronic funds transfer.

Section 84. AS 21.89.070. Electronic Data Transfer, page 65.

Amendment adds a section to this chapter to give the director authority to specify requirements to facilitate electronic data transfer.

Section 85. AS 21.89.080. Risk Retention Groups and Purchasing Groups, page 66.

Amendment adds a section to this chapter to give the director authority to require risk retention groups and purchasing groups to register before transacting business in Alaska as consistent with the Liability Risk Retention Act.

Subsection (a) requires risk retention groups and purchasing groups to register with the director.

Subsection (b) states that registration shall be on forms prescribed by the director and a fee will be required.

Subsection (c) requires the groups to submit an annual continuation application and fee.

Subsection (d) states that a risk retention group which is domiciled in Alaska and holds an Alaska certificate of authority does not need to register.

Subsection (e) states that a group that is not complying with federal law may not register or continue the registration.

Subsection (f) states that failure to comply with federal law on risk retention groups and purchasing groups is a violation of Alaska statute.

Subsection (g) states that violation of statute may result in a penalty of not more than \$10,000 per violation or \$25,000 if the director determines that the violation was wilful.

Subsection (h) allows the director to adopt regulations on operating and reporting requirements which do not conflict with federal law.

Section 86. AS 21.90.900(26). Definitions, page 67.

Amendment is primarily editorial in nature and clarifies definition of "managing general agent" as requested by the NAIC accreditation team.

Section 87. AS 21.90.900. Definitions, page 67.

Amendment adds new definitions to the title for "non-U.S. insurer" and "United States branch."

Section 88. Repeal, page 67.

This section repeals two parts of current statute. AS 21.27.650(f)(3) contradicts AS 21.27.100(a) which does not allow a third-party administrator to appoint subagents and is repealed. The language in AS 21.36.420 is included in AS 21.36.305 in Section 50, page 40 of this legislation. This move to a new section is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place.

Section 89. Repeal, page 67.

This section repeals two sections of current statute regarding consumer credit insurance. AS 21.57.110 duplicates sections in AS 21.36 and is unnecessary. AS 21.57.170 is not appropriate in our law, and is removed.

Section 90. Effective Date, page 67.

This specifies that sections 13 and 14 will become effective upon adoption of legislation dealing with risk-based capital. Until risk-based capital legislation is adopted, AS 21.09.500 will be as shown in section 12 of this bill.

Section 91. Effective Date, page 68.

This specifies that the effective date for the changes to AS 21.57 dealing with Consumer Credit Insurance will be October 1, 1994.

Section 92. Effective Date, page 68.

This specifies that all other sections of this legislation, other than effective dates specified above in Sections 90 and 91, will be effective on July 1, 1994.

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 18, 1994

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/07/94
The LABOR AND COMMERCE Committee considered:

HB 534

HOUSE BILL NO. 534

OMNIBUS INSURANCE REFORM

"An Act relating to insurance, to the licensing, accreditation, examination, regulation, and solvency of persons engaged in the insurance business, including insurers, nonadmitted insurers, purchasing groups, risk retention groups, and United States branches of alien insurers; relating to the management of and the filing of reports by persons licensed or otherwise doing business under the insurance code; amending Alaska Rule of Civil Procedure 45; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSHB 534(L+C) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	✓	<i>Joe Sutton</i>		X	
<i>Tom Williams</i>	✓	<i>WJ Williams</i>		X	
<i>Bill Hudson</i>	✓				

Bill Hudson

CHAIRMAN'S SIGNATURE

unless 25 percent of the subscribers petition the commission for regulation.

(I) A person, utility, or cooperative that is exempt from regulation under (a) or (d) — (k) of this section is not subject to regulation by a municipality under AS 29.35.060 and 29.35.070. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7 — 9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982; am § 1 ch 30 SLA 1983; am § 68 ch 74 SLA 1985; am § 1 ch 80 SLA 1985; am § 2 ch 107 SLA 1986)

Cross references. — For limitations on these exemptions, see AS 42.05.321(b) and AS 42.05.381(c).

Effect of amendments. — The first 1985 amendment substituted "AS 29.35.060 and 29.35.070" for "AS 29.48.060 — 29.48.090" at the end of subsection (I).

The second 1985 amendment in subsection (b) inserted the language beginning "electric operating entities" and ending "subdivision of the state."

The 1986 amendment rewrote subsection (b).

Opinions of attorney general. — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical au-

thority had completed its proposed organization as a nonprofit corporation under AS 10.20. June 7, 1976, Op. Att'y Gen.

When a deregulated utility exceeds the gross annual limit of \$325,000 specified in subsection (f), and thus fails to be eligible for deregulation, the deregulation exemption ends automatically, and the utility is again subject to economic regulation. December 20, 1988, Op. Att'y Gen.

In order for the commission to effectively provide for an overview of eligibility for statutory exemption from regulation, it should specify the nature and extent of the exemption certified and require the subject utility to submit a report on its annual operating revenues. These terms and conditions should be included in the order which certifies the deregulation election results. December 20, 1988, Op. Att'y Gen.

NOTES TO DECISIONS

Municipally owned utilities in competition with other utilities subjected to full gamut of regulation pertaining to other utilities, with exception relat-

ing to bond covenants. — See Alaska Pub. Utils. Comm'n v. Municipality of Anchorage, 555 P.2d 262 (Alaska 1976).

Sec. 42.05.712. Deregulation ballot. (a) A utility or cooperative that may elect to be exempt from the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

(b) The votes of a majority of those voting in an election in which at least 15 percent of the eligible subscribers or members return ballots are required for a utility or cooperative to elect exemption under (a) of this section.

(c) Each subscriber or member of the utility or cooperative shall receive notice of an election under this section with the subscriber's or member's regular bill for service at least 60 days before the date set for the election. The notice shall contain impartial language informing the subscribers or members that an election on the option of dereg-

Proposed Legislation	Existing Statutes	Comments
* Section 1. AS 06.20.260(a) is amended to read:		Editorial changes.
(a) A further or other charge or amount for an examination, service, brokerage commission, expense, fee, bonus, or other thing may not be directly or indirectly charged, contracted for, or received except	(a) No further or other charge or amount for any examinations, service, brokerage commission, expense fee, bonus, or other thing shall be directly or indirectly charged, contracted for, or received except.	
(1) lawful fees actually paid out by the licensee to a public officer for filing recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or nothing on that certificate;	(1) lawful fees, actually paid out by the licensee to a public officer for filing, recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or noting a lien on that certificate;	
(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, or consumer credit [LIFE] insurance; in this paragraph consumer credit insurance has the meaning given in AS 21.57.160 [ON THE LIFE OF ONE OR MORE BORROWERS, CREDIT LOSS OF INCOME INSURANCE, OR CREDIT DISABILITY INSURANCE TO PROVIDE INDEMNITY FOR PAYMENTS BECOMING DUE ON THE INDEBTEDNESS];	(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrowers, credit loss of income insurance, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;	
(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;	(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;	
(4) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate;	(4) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate;	
(F) a late payment fee of not more than 10 percent of the payment that is due or \$15, whichever is less.	(5) a late payment fee of not more than 10 percent of the payment that is due or \$15, whichever is less.	
* Sec. 2. AS 06.20.287(a) is amended to read:		Editorial changes.

Proposed Legislation	Existing Statutes	Comments
<p>(a) A licensee may obtain <u>consumer credit [LIFE, CREDIT DISABILITY,] and property insurance on open-end loan under this chapter. The consumer credit [LIFE AND CREDIT DISABILITY] insurance obtained by a licensee shall satisfy the requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers involving consumer credit [LIFE, CREDIT DISABILITY] and property insurance.</u></p>	<p>(a) A licensee may obtain credit life, credit disability, and property insurance on open-end loans under this chapter. The credit life and credit disability insurance obtained by a licensee shall satisfy the requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers involving credit life, credit disability and property insurance.</p>	
<p>* Section 3. AS 21.03.010 is amended by adding a new subsection to read:</p>		<p>Amends this section to explicitly extend the Scope of Code to include risk retention groups and purchasing groups as requested by the NAIC accreditation team.</p>
<p>(c) A person who transacts insurance in this state, or relative to a subject resident, located, or to be performed in this state as or on behalf of a risk retention group or purchasing group formed under and in compliance with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) and any amendments to it, shall comply with the applicable provisions of this title.</p>		
<p>* Sec. 4. AS 21.06.080 is amended by adding a new subsection to read:</p>		<p>This new subsection adds to the director's general powers and duties the ability to respond to a catastrophe.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(e) If the director determines that a catastrophe has occurred in this state and in good faith believes that the Governor or the President of the United States has issued or is about to issue a declaration of disaster, the director may take any action that the director deems necessary to respond to the disaster in order to assure the continuity and stability of the insurance market in this state, to protect policyholders and the public, or to prevent aggravation of the disaster including issuing an emergency order temporarily suspending specific provisions of this title. Until the declaration of the disaster has been lifted, the director may take action to respond to the disaster without a hearing. An action taken under this subsection may not remain in effect more than six months from the date that the director determines that a catastrophe has occurred unless, after a hearing, the director determines that an action is still necessary to respond to the disaster.</p>		
<p>* Sec. 5. AS 21.06.150(g) is amended to read:</p>		<p>The amendment to this subsection allows the director to close a hearing on an examination if the director finds that the closure is necessary to protect someone from unwarranted injury or is in the public interest.</p>
<p>(g) The director may withhold a document, information, account, record, examination, or report from the public inspection for as long as the director finds the withholding is necessary to protect a person against unwarranted injury or is in the public interest. <u>The director may close an examination hearing to the public when the director finds the closure is necessary to protect a person against unwarranted injury or is in the public interest.</u> The director may publish the examination report or a summary of it in a newspaper in the state if the director determines that the publication is in the public interest.</p>	<p>(g) The director may withhold a document, information, account, record, examination, or report from the public inspection for as long as the director finds the withholding is necessary to protect a person against unwarranted injury or is in the public interest. The director may publish the examination report or a summary of it in a newspaper in the state if the director determines that the publication is in the public interest.</p>	

Proposed Legislation	Existing Statutes	Comments
<p>*Sec. 6. AS 21.09.110 is amended to read:</p>		<p>The amendment to this section removes the requirement that insurers applying for their Certificate of Authority (COA) submit specimen copies of their policy forms and rates with their COA application, and instead specifies that these policy forms and rates should be submitted under new sections AS 21.39.040(j) or 21.42.120(g).</p>
<p>Sec. 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To apply for an original certificate of authority an insurer shall file with the director its application, [(] accompanied by the applicable fees set under AS 21.06.250,)] showing its name, location of its home office or principal office in the United States [(if an alien insurer)], kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and additional information that the director may reasonably require, together with the following documents, as applicable:</p>	<p>SECTION 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To apply for an original certificate of authority an insurer shall file with the director its application (accompanied by the applicable fees set under AS 21.06.250) showing its name, location of its home office or principal office in the United States (if an alien insurer), kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and additional information that the director may reasonably require, together with the following documents, as applicable:</p>	<p>N/C</p>
<p>(1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments certified by the public officer with whom the originals are on file in the state or country of domicile;</p>	<p>(1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments certified by the public officer with whom the originals are on file in the state or country of domicile;</p>	<p>N/C</p>
<p>(2) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;</p>	<p>(2) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;</p>	<p>N/C</p>
<p>(3) a copy of its financial statement as of the preceding December 31, and all subsequent quarterly financial statements, sworn to by at least two executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;</p>	<p>(3) a copy of its financial statement as of the preceding December 31, and all subsequent quarterly financial statements, sworn to by at least two executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;</p>	<p>N/C</p>

Proposed Legislation	Existing Statutes	Comments
(4) a copy of the report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;	(4) a copy of the report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;	N/C
(5) appointment of the director under AS 21.09.180, as its attorney to receive service of legal process;	(5) appointment of the director under AS 21.09.180, as its attorney to receive service of legal process;	N/C
(6) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state;	(6) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state;	N/C
(7) if an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records; <u>and</u>	(7) if an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records;	Editorial changes
(8) if a foreign insurer, a certificate as to deposit if it is to be tendered under AS 21.09.090;	(8) if a foreign insurer, a certificate as to deposit if it is to be tendered under AS 21.09.090;	Editorial changes
(9) SPECIMEN COPIES OF POLICIES PROPOSED TO BE OFFERED IN THIS STATE IF THEN AVAILABLE, TOGETHER WITH PREMIUMS OR PREMIUM RATES APPLICABLE IF THEN KNOWN, OR A DECLARATION THAT THE RATES AS APPLICABLE WILL BE THOSE PROMULGATED BY DESIGNATED RATING ORGANIZATIONS AUTHORIZED TO FILE RATES IN THIS STATE ON BEHALF OF THE INSURER OR BY THE INSURER.]	(9) specimen copies of policies proposed to be offered in this state if then available, together with premiums or premium rates applicable if then known, or a declaration that the rates as applicable will be those promulgated by designated rating organizations authorized to file rates in this state on behalf of the insurer or by the insurer.	Deleted. This section is replaced by the subsection below.

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 7. AS 21.09.110 is amended by adding a new subsection to read:</p>		<p>The addition of a new subsection requires that policy form and rate filings by submitted for approval under the appropriate statutes in Chapter 39 and 42 and that the filings may not be submitted with the application for certificate of authority.</p>
<p>(b) Policy forms and rates that require approval under AS 21.39 or AS 21.42 shall be submitted under AS 21.39.040(j) or 21.42.120(g) and may not be submitted with the application for certificate of authority.</p>		
<p>* Sec. 8. AS 21.09.130 (b) is amended to read:</p>		<p>The amendment to this subsection provides for a suspension of the certificate of authority instead of cancellation if the insurer fails to file the forms or pay the fee to continue the certificate of authority. This change is to prevent insurers from ending regulation by Alaska Division of Insurance when issues regarding insurance operations may still be outstanding. It provides a one year suspension period.</p>
<p>(b) If not continued by the insurer, its certificate of authority <u>shall be suspended [EXPIRES] at midnight on June 30 following the failure of the insurer to continue it in force. The certificate of authority shall expire on June 30 one year following its suspension due to failure to continue the certificate of authority.</u> The director shall promptly notify the insurer of the occurrence of a failure that may result in suspension [RESULTING IN IMPENDING EXPIRATION] of its certificate of authority.</p>	<p>(b) If not continued by the insurer, its certificate of authority expires at midnight on June 30 following the failure of the insurer to continue it in force. The director shall promptly notify the insurer of the occurrence of a failure resulting in impending expiration of its certificate of authority.</p>	
<p>* Sec. 9. AS 21.09 is amended by adding a new section to read:</p>		<p>This is a new section which provides a process for an insurer to voluntarily surrender their certificate of authority from Alaska. To surrender the insurer must be in compliance with Alaska</p>

Proposed Legislation	Existing Statutes	Comments
<p>Sec. 21.09.135. VOLUNTARY SURRENDER OF CERTIFICATE OF AUTHORITY. (a) A foreign admitted insurer may apply for voluntarily surrender of its certificate of authority and the director may accept such application, if the foreign admitted insurer</p>		
<p>(1) is in compliance with all applicable sections of AS 21, or the director waives in writing each condition of noncompliance;</p>		
<p>(2) provides a written confirmation that any obligations incurred prior to the voluntary surrender of the certificate of authority will be paid to guarantee funds and insurance pools established by Alaska Statute; and</p>		
<p>(3) is domiciled in a state that</p>		
<p>(A) is accredited by the National Association of Insurance Commissioners at the time of the request for voluntary surrender; or</p>		
<p>(B) is not accredited by the National Association of Insurance Commissioners at the time of the request and agrees in writing to be subject to</p>		
<p>(i) AS 21.09.200 and 21.09.205 for a period of two years, including payment of any fee related to filing information with the director; and</p>		
<p>(ii) any other selection required in writing by the director for any period of time the director may specify.</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(b) If a foreign admitted insurer who surrenders a certificate of authority ceases to exist, all business written and in force relative to a risk resident, located, or to be performed in this state shall be lawfully cancelled or reinsured. A reinsurance agreement covering all or a part of a risk described in this subsection shall be approved by the director before accepting the certificate of authority for surrender if it meets the following criteria:</p>		
<p>(1) insurance coverage has not deteriorated from the policies existing at the time of the transfer;</p>		
<p>(2) the assuming insurer is of equal or better financial standing; and</p>		
<p>(3) the assuming insurer is admitted to do business in this state, unless this requirement is waived by the director.</p>		
<p>* Sec. 10. AS 21.09.200(f) is amended to read:</p>		<p>The amendment to this subsection requires the filing of annual financial statements with the National Association of Insurance Commissioners (NAIC) by all licensed insurers instead of just domestic insurers. Also provides that the filings must be on electronic media acceptable to the NAIC.</p>
<p>(f) In addition to the requirements of (a) of this section, <u>an authorized [A DOMESTIC] insurer shall file its annual statement with the National Association of Insurance Commissioners on electronic media acceptable to the association</u> by the due date established by the association, and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (e) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>	<p>(f) In addition to the requirements of (a) of this section, a domestic insurer shall file its annual statement with the National Association of Insurance Commissioners by the due date established by the association, and shall pay the applicable filing fee. An insurer that fails to comply with this subsection is subject to the penalties specified in (e) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>	

Proposed Legislation	Existing Statutes	Comments
<p>• Sec. 11. AS 21.09.205 is amended by adding a new subsection to read:</p>		
<p>(d) In addition to the requirements of (a) of this section, an authorized insurer shall file its quarterly statement with the National Association of Insurance Commissioners on electronic media acceptable to the association by the due date established by the association, and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (c) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>		<p>This is a new subsection which requires that a licensed insurer file quarterly financial statements with the National Association of Insurance Commissioners (NAIC), on acceptable electronic media, and pay the applicable filing fee. Failure to comply will result in penalties.</p>
<p>• Sec. 12. AS 21.09.210 is amended by adding new subsections to read:</p>		<p>The following new subsections discuss the procedures for obtaining a refund or credit for overpayment of premium taxes by an insurer.</p>
<p>(j) If, within three years of the date the tax under this section was due, an insurer discovers a mistake of fact, an error in calculation, or a misinterpretation of law that resulted in an overpayment of the tax in an amount exceeding \$250 in any one calendar year, the insurer may make a written request to the director for a refund. If the director determines the validity of the mistake, error, or misinterpretation, the director shall refund to the insurer the amount of the excess by granting, at the director's discretion, a monetary refund or premium tax credit. A premium tax credit shall be used in the next calendar year to the fullest extent possible and each succeeding year until no credit remains. A premium tax credit shall not reduce the payable tax, calculated without use of the credit, to less than zero.</p>		<p>Subsection (j) allows for the payment of a premium tax refund when an insurer discovers that it has made an overpayment due to an error in calculation, mistake of fact, or misinterpretation of law. It (1) limits the time in which the refund must be discovered to three years; (2) sets the minimum amount of a refund which can be requested at \$250; and (3) gives the director discretion in payment of a monetary refund or a premium tax credit.</p>
<p>(k) A premium tax credit may not carry over as an attribute in a transaction under AS 21.69.610, 21.69.620, 21.78; or similar transaction entered into by a foreign insurer</p>		<p>Subsection (k) was written to avoid trafficking of the premium tax credit. It prohibits the transfer or carryover of the credit in reinsurance transactions or receiverships.</p>

Proposed Legislation	Existing Statutes	Comments
(l) In this section "premium tax credit" means an amount that an insurer may use as an offset against a premium tax payment.		Subsection (l) defines a premium tax credit.
* Sec. 13. AS 21.09 is amended by adding a new section to read:		
Sec. 21.09.290. RISK RETENTION GROUPS. (a) A risk retention group formed in this state shall (1) comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act); and		Subsection (a) sets out the requirements for being licensed as a risk retention group in this state.
(2) qualify for and hold in good standing a certificate of authority under this chapter, limited to liability insurance only.		
(b) A risk retention group shall submit with its application for a certificate of authority		Subsection (b) lists the items that must be submitted with an application for certificate of authority.
(1) the identity of		
(A) the initial members of the risk retention group;		
(B) all persons who organized the risk retention group;		
(C) all persons who will provide administrative services to the risk retention group;		
(D) all persons who will influence or control the activities of the risk retention group;		
(2) the amount and nature of initial capitalization;		
(3) a plan of operation or a feasibility study that includes the coverage, deductible, coverage limit, rate, and rating classification system for each type or class of liability insurance the group intends to offer; and		
(4) the states in which the risk retention group intends to operate.		

Proposed Legislation	Existing Statutes	Comments
<p>(c) At least 30 days before a domestic risk retention group implements a material change or revision to an approved plan of operation or feasibility study, the material change or revision shall be filed with the director. A material change or revision may not be implemented unless the domestic risk retention group receives the director's written approval. In this subsection, "material change or revision" includes an offering of an additional type or class of liability insurance.</p>		<p>Subsection (c) requires the risk retention group to notify 30 days in advance any material change to its plan of operation and must receive the director's written approval of the change.</p>
<p>(d) In this section,</p>		<p>Subsection (d) provides definitions of terms used in this section.</p>
<p>(1) "liability" means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injury to another person, damage to property, or other damage or loss to a person resulting from or arising out of a business, whether profit or nonprofit, trade, product, service, including a professional service, premises, or operation; or any activity of a state or local government, or an agency or political subdivision of a state or local government; "liability" does not include personal risk liability or employer's liability with respect to its employees other than legal liability under the 45 U.S.C. 51 (Federal Employers' Liability Act);</p>		
<p>(2) "personal risk liability" means liability for damages because of injury to a person, damage to property, or other loss or damage resulting from a personal, familial, or household responsibility or activity, rather than from a responsibility or activity referred to in (1) of this section.</p>		