

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 86/2

7087 HOUSE LABOR & COMMERCE

<p>(i) In a judicial or administrative proceeding a finding of fact made in an examination report approved under AS 21.06.150(b)(1) is prima facie evidence of the fact.</p>		<p>States that findings of fact in a public examination report may be used in any proceedings.</p>
<p>• Sec. 10. AS 21.06.150 is repealed and reenacted to read:</p>	<p>*AS 21.06.150</p>	
<p>Sec. 21.06.150. EXAMINATION REPORTS. (a) An examination report may only consist of facts appearing upon the books, records, or other documents of the examined company, the company's agents, or other persons examined, or facts determined from the testimony of officers, agents, or other persons examined concerning the company's affairs, and the conclusions and recommendations that the examiners find reasonably warranted from the facts.</p>	<p>Sec. 21.06.150. EXAMINATION REPORTS. (a) The person conducting an examination shall make a full report of each examination, verified by the oath of the examiner.</p> <p>(b) The report shall comprise only facts appearing from the books, papers, records, or documents of a person being examined, or ascertained from the testimony under oath, of individuals concerning its affairs, and conclusions and recommendations warranted by the facts.</p>	<p>AS 21.06.150 is similar to 21.06.150 (b) in current statute - sets out what may be included in the examination report.</p>
<p>(b) The examiner shall file with the division a proposed written report of an examination, signed by the examiner under oath, not later than 60 days following the last day of examination field work. The period for filing the proposed report may be extended for 60 additional days upon approval of the director. Upon receipt of the proposed report the division shall transmit the report to the person being examined, together with a notice that gives the person being examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the proposed examination report. Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals, and any relevant portions of the examiner's work papers and enter an order</p>	<p>(c) The director shall furnish a copy of the proposed report to the person examined not less than 20 days before filing the report in the office of the director. If the person examined so requests in writing within the 20-day period, the director shall grant a hearing with respect to the report, and shall not file the report until after the hearing and after such modifications, if any, have been made therein as the director considers proper.</p>	<p>Limits the period of time to 60 days in which a report must be presented to the director after field work is complete, provides 30 days for the person being examined to provide written response to the report, and provides another 30 days for the director to review the report and response and issue an order accepting or rejecting the report or setting a date for hearing to get additional information.</p>

Proposed Legislation	Existing Statute	Comments
(1) approving the examination report as filed or approving the examination report with modification or corrections;		See comments on AS 21.06.150(b) above.
(2) rejecting the examination report with directions to the examiners to reopen the examination for the purpose of obtaining additional data, documentation, or information and refileing the report under this subsection; or		See comments on AS 21.06.150(b) above.
(3) setting a hearing under AS 21.06.180 for purposes of obtaining additional information.		See comments on AS 21.06.150(b) above.
(c) In the event the director determines that regulatory action is appropriate as a result of an examination, the director may initiate proceedings as provided by law. The director may use and, if appropriate, make public an examination report, work papers or other documents, the testimony of the examiners, or other information discovered or developed during the course of an examination in a judicial or administrative proceeding, whether or not a written report of the examination at the time has been made, transmitted, or approved by the director.	(d) The director and examiners may at any time testify and offer other proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been made, served, or filed in the director's office. (f) The director may publish the examination report or a summary of it in one or more newspapers in the state on a determination that the publication is in the public interest.	Gives the director authority to use information related to the examination in a legal proceeding.
(d) The director may disclose the content of an examination report, preliminary examination report or results, or a matter relating to it to the insurance division of this or another state or country. Except as allowed by this subsection or other provision of law, the director may not disclose the contents of a preliminary examination report before the report is filed in the office of the director under AS 21.06.060.	AS 21.06.130(b) The director may withhold from public inspection information obtained under this section for so long as the director considers the withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest.	Allows the director to communicate examination information to insurance regulators in other jurisdictions. Otherwise the exam report is confidential until filed in the office of the director as a public document.
(e) An order entered under (b)(1) of this section must be accompanied by findings of fact and conclusions of law resulting from the director's consideration and review of the examination report, relevant examiner work papers, and written submissions or rebuttals.		The order of the director regarding acceptance of the exam report under (b) must have findings of fact and conclusions of law.

<p>(f) Within 30 days of the receipt of the approved report, the person examined shall file affidavits executed by each director and the chief executive officer or equivalent officer stating under oath that they have received and reviewed a copy of the approved report and related orders.</p>		<p>Provides that 30 days after the approved report is received by the licensee, the licensee must file affidavits from each director and the chief executive officer stating that they have reviewed the report.</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.</p>	<p>(e) The director may withhold from public inspection documents, information, accounts, or records received during an examination or investigation, and an examination or investigation reports, for as long as the director finds the withholding to be necessary for the protection of a person against unwarranted injury or to be in the public interest.</p>	<p>Same as current 21.06.150 (e).</p>
<p>• Sec. 11. AS 21.06.160(b) is amended to read:</p>	<p>AS 21.06.160(b)</p>	
<p>(b) The director shall pay into the general fund of the state all money received under (a) of this section. Instead of charging and collecting the costs and expenses of the examination under (a) of this section [MAKING A DEPOSIT INTO THE GENERAL FUND], the director may <u>give written authorization for</u> [ORDER] the person examined to make direct payment to the contract examiner for all or part of the contract examiner's compensation <u>or expenses</u>. The contract between the state and a contract examiner who will receive direct payment under this subsection must require that the examiner provide the director with a copy of each billing for the examination.</p>	<p>(b) The director shall pay into the general fund of the state all money received under (a) of this section. Instead of making a deposit into the general fund, the director may order, the person examined to make direct payment to the contract examiner for all or part of the contract examiner's compensation. The contract between the state and a contract examiner who will receive direct payment under this subsection must require that the examiner provide the director with a copy of each billing for the examination.</p>	<p>Allows the director to provide for direct payments to the examiner through written authorization instead of by order.</p>

Proposed Legislation	Existing Statute	Comments
<p>* Sec. 12. AS 21.06.165 is amended by adding a new subsection to read:</p>		
<p>(d) Except as provided in this section, a person may not bring a civil action if the civil action arises out of communicating or delivering information to the director, a representative of the director, or an examiner performing an examination under this title..</p>		<p>Limits liability for persons communicating information during an examination.</p>
<p>* Sec. 13. AS 21.06.180 is amended by adding a new subsection to read:</p>		
<p>(d) If the parties agree, the director may conduct a hearing under this section by teleconference.</p>		<p>Allows the director to conduct a hearing by teleconference.</p>
<p>* Sec. 14. AS 21.09.090(a) is amended to read:</p>	<p>AS 21.09.090(a)</p>	
<p>(a) This section applies to all insurers [OTHER THAN TITLE INSURERS].</p>	<p>(a) This section applies to all insurers other than title insurers.</p>	<p>Allows the section on trust deposits to apply to all insurers including Title Insurers.</p>
<p>* Sec. 15. AS 21.09 is amended by adding a new section to read:</p>		
<p>Sec. 21.09.175. ORDER UPON DETERMINATION OF HAZARDOUS CONDITION. The director may adopt regulations that establish when the continued operation of an insurer transacting business in this state is hazardous to the policyholders, creditors, or the general public. The director may order an insurer to limit or change the insurer's business practices, increase the insurer's capital and surplus, or file additional reports with the director. If an insurer is subject to an order under this section, the insurer may request a hearing under AS 21.06.180.</p>		<p>Gives the director authorization to determine if an insurer is hazardous to policyholders and order appropriate action. The insurer may request a hearing on the order.</p>

* Sec. 16. AS 21.09.210(b) is amended to read:	AS 21.09.210(b)	
<p>(b) Each insurer, and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state, shall pay a tax on the total direct premium income received during the year ending on the preceding December 31 and paid for the insurance of property or risks resident or located in the state other than wet marine and transportation insurance, after deducting from the total direct premium income the applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, all policy dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to their policies. No deductions may be made of cash surrender value of policies. Considerations received on annuity contracts are not included in the direct premium income and are not subject to tax. The tax shall be paid to the director annually <u>on or before March 1</u> [APRIL 1], and is computed at the rate of</p>	<p>(b) Each insurer, and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state, shall pay a tax on the total direct premium income received during the year ending on the preceding December 31 and paid for the insurance of property or risks resident or located in the state other than wet marine and transportation insurance, after deducting from the total direct premium income the applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, all policy dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to their policies. No deductions may be made of cash surrender value of policies. Considerations received on annuity contracts are not included in the direct premium income and are not subject to tax. The tax shall be paid to the director annually before April 1, and is computed at the rate of</p>	<p>Moves the payment date of premium taxes from April 1 to March 1 to match the date for receiving annual financial statements and fees.</p>
<p>(1) for domestic and foreign insurers, except hospital and medical service corporations, 2.7 percent;</p>	<p>(1) for domestic and foreign insurers, except hospital and medical service corporations, 2.7 percent;</p>	<p>No change.</p>
<p>(2) for hospital and medical service corporations, six percent of their gross premiums less claims paid.</p>	<p>(2) for hospital and medical service corporations, six percent of their gross premiums less claims paid.</p>	<p>No change.</p>

Proposed Legislation	Existing Statute	Comments
* Sec. 17. AS 21.09.210(d) is amended to read:	AS 21.09.210(d)	
<p>(d) An authorized insurer shall, with respect to all wet marine and transportation contracts written in this state during the preceding calendar year, <u>on or before March</u> [APRIL 1] of each year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit. The gross underwriting profit is computed by deducting from the net premiums [(I.E., GROSS PREMIUMS LESS ALL RETURN PREMIUMS AND PREMIUMS FOR REINSURANCE),] on wet marine and transportation insurance contracts, the net losses paid [(I.E., GROSS LOSSES PAID, LESS SALVAGE AND RECOVERIES ON REINSURANCE CEDED)] during the calendar year under the contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit <u>may</u> [SHALL] not include, for computation of the tax prescribed by this section, the amounts refunded or paid as participation dividends by the insurers to the holders of the contracts. <u>In this subsection,</u></p>	<p>(d) An authorized insurer shall, with respect to all wet marine and transportation contracts written in this state during the preceding calendar year, before April 1 of each year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit. The gross underwriting profit is computed by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance), on wet marine and transportation insurance contracts, the net losses paid (i.e., gross losses paid, less salvage and recoveries on reinsurance ceded) during the calendar year under the contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this section, the amounts refunded or paid as participation dividends by the insurers to the holders of the contracts.</p>	<p>Changes the due date on payment of premium tax on wet marine and transportation insurance from April 1 to March 1 to match the date for receiving annual financial statements and other tax payments. Other changes are in format only.</p>
<p><u>(1) "net losses" means gross losses less salvage and recoveries on reinsurance ceded;</u></p>		<p>See comments on AS 21.09.210(d) above.</p>
<p><u>(2) "net premiums" means gross premiums less all return premiums and premiums for reinsurance.</u></p>		<p>See comments on AS 21.09.210(d) above.</p>
* Sec. 18. AS 21.09.210 is amended by adding a new subsection to read:		
<p>(j) The director may adopt regulations requiring estimated tax payments during the year and a final tax payment on the date specified under (a) of this section.</p>		<p>Allows the director to adopt regulations for receiving premium tax payments more often than annually.</p>

Proposed Legislation	Existing Statute	Comments
<p>* Sec. 19. AS 21.12.020(a) is amended to read:</p>	<p>AS 21.12.020(a)</p>	
<p>(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an</p>	<p>(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an</p>	<p>No change.</p>
<p>(1) assuming insurer that is licensed to transact insurance or reinsurance in this state;</p>	<p>(1) assuming insurer that is licensed to transact insurance or reinsurance in this state;</p>	<p>No change.</p>
<p>(2) assuming insurer that is accredited as a reinsurer in this state; an accredited reinsurer is one that</p>	<p>(2) assuming insurer that is accredited as a reinsurer in this state; an accredited reinsurer is one that</p>	<p>No change.</p>
<p>(A) submits to this state's jurisdiction, submits to this state's authority to examine its books and records, [AND] is licensed to transact insurance or reinsurance in at least one state, <u>and files annually with the director a copy of the reinsurer's annual statement filed with the insurance department of the reinsurer's state of domicile and a copy of the reinsurer's most recent audited financial statement;</u> or</p>	<p>(A) submits to this state's jurisdiction, submits to this state's authority to examine its books and records, and is licensed to transact insurance or reinsurance in at least one state; or</p>	<p>Adds requirement that an accredited insurer must file each year with the director its annual financial statement and audited financial statement.</p>
<p>(B) in the case of a United States branch of an alien assuming insurer, is entered through, and licensed to transact insurance or reinsurance in, at least one state, files annually with the director a copy of its annual financial statement that is filed with the insurance regulatory agency of its state of domicile, and maintains at least \$20,000,000 in policyholder surplus; the surplus requirements in this subparagraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	<p>(B) in the case of a United States branch of an alien assuming insurer, is entered through, and licensed to transact insurance or reinsurance in, at least one state, files annually with the director a copy of its annual financial statement that is filed with the insurance regulatory agency of its state of domicile, and maintains at least \$20,000,000 in policyholder surplus; the surplus requirements in this subparagraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	<p>Adds effective in 1994, that the state in which an insurer is licensed in lieu of being licensed in this state must be a state accredited by the NAIC.</p>

<p>(3) assuming insurer that is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	<p>(3) assuming insurer that is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	<p>No change.</p>
<p>(4) assuming alien insurer that</p>	<p>(4) assuming alien insurer that</p>	<p>No change.</p>
<p>(A) maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest, that conforms to the following requirements:</p>	<p>(A) maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest, that conforms to the following requirements:</p>	<p>No change.</p>

<p>(i) the trust shall be established in a form approved by the director; the trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director; the trust must remain in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;</p>	<p>(i) the trust shall be established in a form approved by the director; the trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director; the trust must remain in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;</p>	<p>No change.</p>
<p>(ii) on or before March 1 of each year the trustees shall report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;</p>	<p>(ii) on or before March 1 of each year the trustees shall report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;</p>	<p>No change.</p>

Proposed Legislation	Existing Statute	Comments
<p>(iii) in the case of a single assuming insurer, the trust shall consist of trust money representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trust surplus of not less than \$20,000,000; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by the insurer's domiciliary regulator and by an independent public accountant;</p>	<p>(iii) in the case of a single assuming insurer, the trust shall consist of trust money representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trust surplus of not less than \$20,000,000; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by the insurer's domiciliary regulator and by an independent public accountant;</p>	<p>No change.</p>
<p>(iv) in the case of a group of individual unincorporated insurers, the trust shall consist of trust money representing the group's liabilities attributable to business written in the United States and, in addition, include a trust surplus not less than \$100,000,000 [\$50,000,000]; the group shall make available to the director an annual certification of the solvency of each of the individual unincorporated insurers by the group's domiciliary regulator and by an independent <u>certified</u> public accountant;</p>	<p>(iv) in the case of a group of individual unincorporated insurers, the trust shall consist of trust money representing the group's liabilities attributable to business written in the United States and, in addition, include a trust surplus not less than \$50,000,000; the group shall make available to the director an annual certification of the solvency of each of the individual unincorporated insurers by the group's domiciliary regulator and by an independent public accountant;</p>	<p>Changes trust surplus for a group of individual unincorporated insurers from \$50 million to \$100 million for business written in the U.S. before Alaska domestic insurers may record the effect of reinsurance by these entities.</p>

Proposed Legislation	Existing Stat	Comments
<p>(v) <u>in the case of a group of incorporated insurers under common administration that complies with the reporting requirements contained in (ii) of this subparagraph, that has continuously transacted an insurance business outside the United States for at least three years immediately before making application for accreditation, that submits to this state's authority to examine its books and records and bears the expense of the examination, and that has aggregate policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to a member of the group under reinsurance contracts issued in the name of the group, and the group shall maintain a joint trustee surplus, of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of a member of the group as additional security for the</u></p>		<p>Adds requirements for accrediting a group of incorporated insurers under common administration.</p>

Proposed Legislation	Existing Statute	Comments
<p><u>group's liabilities, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and the member's independent certified public accountant; and</u></p>		
<p>(B) reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund;</p>	<p>(B) reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund;</p>	<p>No change.</p>
<p>(5) assuming insurer that does not meet the requirements of (1) - (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.</p>	<p>(5) assuming insurer that does not meet the requirements of (1) - (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.</p>	<p>No change.</p>
<p>* Sec. 20. AS 21.12.020(a) is repealed and reenacted to read:</p>		
<p>(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(1) assuming insurer that is licensed to transact insurance or reinsurance in this state;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

Proposed Legislation	Existing Stat	Comments
<p>(2) assuming insurer is accredited as a reinsurer in this state; an accredited reinsurer is one that</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(A) submits to this state's jurisdiction, submits to this state's authority to examine its books and records, is licensed to transact insurance or reinsurance in at least one state, that is accredited by the National Association of Insurance Commissioners, and files annually with the director a copy of the reinsurer's annual statement filed with the insurance department of the reinsurer's state of domicile and a copy of the reinsurer's most recent audited financial statement; or</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(B) in the case of a United States branch of an alien assuming insurer, is entered through, and licensed to transact insurance or reinsurance in, at least one state accredited by the National Association of Insurance Commissioners, files annually with the director a copy of its annual financial statement that is filed with the insurance regulatory agency of its state of domicile, and maintains at least \$20,000,000 in policyholder surplus; the surplus requirements in this subparagraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

<p>(3) assuming insurer that is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state accredited by the National Association of Insurance Commissioners that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(4) assuming alien insurer that</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(A) maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest, that conforms to the following requirements:</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

<p>(i) the trust shall be established in a form approved by the director; the trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director; the trust must remain in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(ii) on or before March 1 of each year the trustees shall report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

Proposed Legislation	Existing Statute	Comments
<p>(iii) in the case of a single assuming insurer, the trust shall consist of trust money representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trust surplus of not less than \$20,000,000; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by the insurer's domiciliary regulator and by an independent public accountant;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(iv) in the case of a group of individual unincorporated insurers, the trust shall consist of trust money representing the group's liabilities attributable to business written in the United States and, in addition, include a trust surplus not less than \$100,000,000; the group shall make available to the director an annual certification of the solvency of each of the individual unincorporated insurers by the group's domiciliary regulator and by an independent certified public accountant;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

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

This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.

Proposed Legislation	Existing Statute	Comments
<p>(B) reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund;</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(5) assuming insurer that does not meet the requirements of (1) - (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.</p>		<p>This section replaces proposed AS 21.12.020(a) in Sec. 19 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>* Sec. 21. AS 21.12.020(c) is amended to read:</p>	<p>AS 21.12.020(c)</p>	
<p>(c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be equal to the amount of money held by or on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under it, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States financial institution. The security must be in the form of</p>	<p>(c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be equal to the amount of money held by or on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under it, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States financial institution. The security must be in the form of</p>	<p>No change.</p>
<p>(1) cash;</p>	<p>(1) cash;</p>	<p>No change.</p>
<p>(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners that qualify as admitted assets under AS 21.21;</p>	<p>(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners that qualify as admitted assets under AS 21.21;</p>	<p>No change.</p>

Proposed Legislation	Existing Statute	Comments
<p>(3) clean, irrevocable, unconditional letters of credit that contain an evergreen clause issued or confirmed by a qualified United States financial institution not later than December 31 in the year for which filing is made, and in the possession of the ceding company on or before the filing date of the ceding company's annual statement; letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; or</p>	<p>(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; or</p>	<p>Adds that if letters of credit are used as security for recording the effect of reinsurance on an insurers financial statement, the letters must contain an evergreen clause (continuous renewal), must be in place on or before December 31 of the year being reported and must be in possession of the ceding company before the filing date of the annual statement for that year which is the following March 2.</p>
<p>(4) other security acceptable to and approved in advance by the director.</p>	<p>(4) other security acceptable to and approved in advance by the director.</p>	<p>No change</p>
<p>* Sec. 22. AS 21.12.020 is amended by adding new subsections to read:</p>		
<p>(h) An insurer may receive credit for reinsurance transactions if the reinsurance agreement meets all applicable requirements established by the director. The director may establish requirements for reinsurance agreements by regulation.</p>		<p>Gives the director authorization to adopt regulations for determining acceptable reinsurance agreements, for example, to restrict use of financial reinsurance for which no insurance risk is transferred</p>
<p>(i) A domestic ceding insurer may not be allowed credit if the assuming insurer's accreditation has been revoked by the director.</p>		<p>Sets out that ceding insurers may not record the effect of reinsurance with assuming insurers whose accreditation is revoked.</p>

Proposed Legislation	Existing Statute	Comments
<p>* Sec. 23. AS 21.18.100 is amended to read:</p>	<p>AS 21.18.100</p>	
<p>Sec. 21.18.100. INCREASE OF [INADEQUATE] RESERVES. If loss experience shows that an insurer's loss reserves <u>or reserves for incurred but not reported losses</u>, however computed or estimated, are inadequate, the director shall require the insurer to maintain loss reserves <u>or reserves for incurred but not reported losses</u> in the increased amount needed to make them adequate.</p>	<p>Sec. 21.18.100. INCREASE OF INADEQUATE RESERVES. If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the director shall require the insurer to maintain loss reserves in the increased amount needed to make them adequate.</p>	<p>Allows the director to require increases in reserves for "incurred but not reported" losses when loss experience shows the reserves to be inadequate.</p>
<p>* Sec. 24 AS 21.18.110 is amended by adding new subsections to read:</p>		
<p>(m) A life insurance company doing business in the state shall annually submit to the director an opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of a policy or contract specified by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of this state. The director may adopt regulations to define the specific form, substance, and standards of the actuarial opinion.</p>		<p>Requires an annual actuarial opinion on reserves and gives the director authority to adopt regulations for the details of the opinion.</p>
<p>(n) The actuarial opinion must</p>		<p>Gives details on the actuarial opinion.</p>
<p>(1) be submitted with the annual statement reflecting the valuation of the reserve liabilities;</p>		<p>See comments on AS 21.18.110(n) above.</p>
<p>(2) apply to all business in force, including individual and group health insurance plans;</p>		<p>See comments on AS 21.18.110(n) above.</p>
<p>(3) be based on standards adopted by the Actuarial Standards Board; and</p>		<p>See comments on AS 21.18.110(n) above.</p>

<p>(4) include an assessment as to whether the reserves and related actuarial items held in support of the policies and contracts, when considered in light of the assets held by a company with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under policies and contracts, make adequate provision for a company's obligations under a policy or contract including the benefits under and expenses associated with a policy or contract.</p>		<p>See comments on AS 21.18.110(i.) above.</p>
<p>(o) In the case of an actuarial opinion submitted by a foreign or alien company, the director shall accept an opinion filed by the company with the insurance supervisory official of another state if the director determines that the opinion meets the requirements applicable to a company domiciled in this state.</p>		<p>Allows the director to accept an actuarial opinion submitted to another state insurance regulation office.</p>
<p>(p) The director may adopt regulations to provide for a transition period for establishing higher reserves that a qualified actuary may consider necessary in order to render the opinion required under (n) of this section.</p>		<p>Allows the director to adopt regulations for establishing higher reserves so the actuary can render the necessary opinion.</p>
<p>(q) A qualified actuary who submits an opinion under (m) of this section</p>		<p>States that the actuary will not be liable for damages with respect to the opinion, may be disciplined by the director, and shall write a memo of support for the opinion.</p>
<p>(1) is not liable for damages to a person, other than the insurance company and the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion except in a case of fraud or wilful misconduct;</p>		<p>See comments on AS 21.18.110(q) above.</p>
<p>(2) may be subject to disciplinary action by the director; and</p>		<p>See comments on AS 21.18.110(q) above.</p>

<p>(3) shall include a memorandum, in form and substance acceptable to the director, to support the actuarial opinion.</p>		<p>See comments on AS 21.18.110(q) above.</p>
<p>(r) If the insurance company fails to provide a supporting memorandum required by (q)(3) of this section within a period specified by regulation or the director determines that the supporting memorandum fails to meet the standards adopted by regulation or is otherwise unacceptable to the director, the director may engage a qualified actuary, at the expense of the insurance company, to review the opinion and the basis for the opinion and to prepare a supporting memorandum as required under (q) of this section.</p>		<p>Allows the director to have an actuary prepare a supporting memo for the actuarial opinion at the insurer's expense if the insurer does not have one on file.</p>
<p>(s) A memorandum in support of an actuarial opinion and other supporting material provided by an insurance company to the director is confidential and may not be made public by the director or another person and is not subject to a civil subpoena, except for the purpose of defending an action seeking damages from a person by reason of an action required by this section. The memorandum or other material may be released by the director with the written consent of the company or to the American Academy of Actuaries upon a request stating that the memorandum or other material is required for the purpose of a disciplinary proceeding and setting out procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once a portion of the memorandum or other material is cited by the company in its marketing, is cited before a governmental agency other than a state insurance department, or is released by the company to the news media, the remainder of the confidential memorandum or other material is no longer confidential.</p>		<p>States that the supporting memo is confidential unless written consent is given by the insurer or the American Academy of Actuaries has a disciplinary action in process and agrees to keep the information confidential. If the company releases the memo the director is no longer bound by this confidentiality requirement.</p>
<p>(t) An insurer's aggregate reserves for</p>		<p>States the conditions that the insurers reserves must meet.</p>

<p>(1) all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this act, may not be less than the aggregate reserves, or calculated under (b)(2), (5), (8), and (l) of this section, and the mortality table and rates of interest used in calculating nonforfeiture benefits for the policies; and</p>		<p>See comments on AS 21.18.110(t) above.</p>
<p>(2) all policies, contracts, and benefits may not be less than the aggregate reserves determined by a qualified actuary to be necessary to render the opinion required under (m) of this section.</p>		<p>See comments on AS 21.18.110(t) above.</p>
<p>* Sec. 25. AS 21.18.110(o) is repealed and reenacted to read:</p>		
<p>(o) In the case of an actuarial opinion submitted by a foreign or alien company, the director shall accept an opinion filed by the company with the insurance supervisory official of another state that is accredited by the National Association of Insurance Commissioners if the director determines that the opinion meets the requirements applicable to a company domiciled in this state.</p>		<p>This section replaces proposed AS 21.18.110(0) in Sec. 25 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>

Proposed Legislation	Existing Statute	Comments
<p>• Sec. 26. AS 21.18.130 is amended to read:</p> <p>Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than those referred to in AS 21.18.120 or AS 21.21.260, held by an insurer shall be valued, in the discretion of the director, at [THEIR MARKET VALUE, OR AT] their appraised value <u>as determined by a competent appraisal acceptable to the director</u>, or at prices determined by the director as representing their fair market value, all consistent with the current method for the valuation of a security formulated or approved by the National Association of Insurance Commissioners.</p>	<p>AS 21.18.130</p> <p>Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than those referred to in AS 21.18.120, held by an insurer shall be valued, in the discretion of the director, at their market value, or at their appraised value or at prices determined by the director as representing their fair market value, all consistent with the current method for the valuation of a security formulated or approved by the National Association of Insurance Commissioners.</p>	<p>Provides that all securities, except bonds and adding exception for real estate mortgages, are valued at appraised value or at a price determined by the director representing fair market value. Specifies that appraised value will be determined by an appraiser acceptable to the director.</p>
<p>(b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried at a fixed value in lieu of market value at the discretion of the director and <u>consistent</u> [IN ACCORDANCE] with the method of computation the director approves.</p>	<p>(b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried at a fixed value in lieu of market value at the discretion of the director and in accordance with the method of computation the director approves.</p>	<p>Changes terminology from "in accordance" to "consistent".</p>
<p>• Sec. 27. AS 21.18.130 is amended by adding a new subsection to read:</p>		
<p>(c) Securities referred to in AS 21.21.260 at any time after the date of investment by an insurer shall be valued on that insurer's quarterly and annual statement at an amount that may not exceed the larger of the following amounts:</p>		<p>States that the valuation method for reporting real estate mortgages on insurer's financial statements may not exceed market value, guarantee of the loan by U.S. or an agency of the U.S., or a combination of market value and guarantee.</p>
<p>(1) 100 percent of the market value of the real property or leasehold securing the same as determined by a competent appraisal acceptable to the director or at values determined by the director as representing fair market value of the real property or leasehold;</p>		<p>See comments on AS 21.18.130(c) above.</p>

(2) the amount of insurance or guaranty of the loan by the United States or by an agency or instrumentality of the United States; or		See comments on AS 21.18.130(c) above.
(3) the amount provided in (1) of this subsection plus the amount by which the excess of the loan over the amount provided in (1) of this subsection is insured or guaranteed by the United States or by an agency or instrumentality of the United States.		See comments on AS 21.18.130(c) above.
* Sec. 28. AS 21.18.140(b) is amended to read:	AS 21.18.140(b)	
(b) Other real property held by an insurer shall [MAY NOT] be valued at the lower of cost or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the director may call for and require a new appraisal in order to determine fair market value. The reasonable cost of the appraisal shall be borne by the insurer.	(b) Other real property held by an insurer may not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the director may call for and require a new appraisal in order to determine fair value. The reasonable cost of the appraisal shall be borne by the insurer.	Adds that real property must be valued on the financial statement at the lower cost or fair market value.
* Sec. 29. AS 21.21.050 is amended to read:	AS 21.21.050	
Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in or hold as admitted assets categories of investments only within applicable limits as follows:	Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in or hold as admitted assets categories of investments only within applicable limits as follows:	No change
(1) an insurer may not, except with the consent of the director, have a combination of investments in or loans upon the security of the obligations, property, or securities of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's assets; this restriction does not apply to	(1) an insurer may not, except with the consent of the director, have a combination of investments in or loans upon the security of the obligations, property, or securities of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's assets; this restriction does not apply to	No change
(A) general obligations of the United States; or	(A) general obligations of the United States; or	No change

<p>(B) general obligations of a state of the United States that is not insolvent and whose securities are not then in default; or</p>	<p>(B) general obligations of a state of the United States that is not insolvent and whose securities are not then in default; or</p>	<p>No change</p>
<p>(C) policy loans made under AS 21.21.210;</p>	<p>(C) policy loans made under AS 21.21.210;</p>	<p>No change</p>
<p>(2) an insurer may not invest in or hold at any one time more than 10 percent of the outstanding voting stock of a corporation, except with the consent of the director given with respect to voting rights of preference stock during default of dividends; this paragraph does not apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer acquired under AS 21.21.170;</p>	<p>(2) an insurer may not invest in or hold at any one time more than 10 percent of the outstanding voting stock of a corporation, except with the consent of the director given with respect to voting rights of preference stock during default of dividends; this paragraph does not apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer acquired under AS 21.21.170;</p>	<p>No change</p>
<p>(3) an insurer, other than title insurer, shall invest and maintain invested funds in an amount not less than the higher of</p>	<p>(3) an insurer, other than title insurer, shall invest and maintain invested funds in an amount not less than the higher of</p>	<p>No change</p>
<p>(A) the minimum basic capital for stock insurers or basic guarantee surplus for mutual insurers and additional surplus for both stock and mutual insurers required under AS 21.09.070; or</p>	<p>(A) the minimum basic capital for stock insurers or basic guarantee surplus for mutual insurers and additional surplus for both stock and mutual insurers required under AS 21.09.070; or</p>	<p>No change</p>
<p>(B) 50 percent of the total capital and surplus shown on the most recent statement of the insurer's financial condition as filed with the director under AS 21.09.200 only in</p>	<p>(B) 50 percent of the total capital and surplus shown on the most recent statement of the insurer's financial condition as filed with the director under AS 21.09.200 only in</p>	<p>No change</p>
<p>(i) cash;</p>	<p>(i) cash;</p>	<p>No change</p>
<p>(ii) the fully insured portion of bank deposits when the insurance is provided by a solvent agency of the United States government or by collateral in the form of the securities provided for under AS 21.21.060 and 21.21.080; or</p>	<p>(ii) the fully insured portion of bank deposits when the insurance is provided by a solvent agency of the United States government or by collateral in the form of the securities provided for under AS 21.21.060 and 21.21.080; or</p>	<p>No change</p>

Proposed Legislation	Existing Stat	Comments
(ii) the securities provided for under AS 21.21.060 and 21.21.080;	(iii) the securities provided for under AS 21.21.060 and 21.21.080;	No change
(4) a life insurer shall invest and keep invested its funds in an amount not less than the reserves under its life insurance policies and annuity contracts, other than variable annuities, in force, in cash or the securities or investments provided for under this chapter;	(4) a life insurer shall invest and keep invested its funds in an amount not less than the reserves under its life insurance policies and annuity contracts, other than variable annuities, in force, in cash or the securities or investments provided for under this chapter;	No change
(5) except with the director's written consent, an insurer may not have invested at any one time more than 20 percent of its assets in the class of securities described in AS 21.21.140, exclusive of obligations of public utilities;	(5) except with the director's written consent, an insurer may not have invested at any one time more than 20 percent of its assets in the class of securities described in AS 21.21.140, exclusive of obligations of public utilities;	No change
(6) an insurer may invest and have invested at any one time in aggregate amount not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and 21.21.200, except with the director's written consent; determination of the amount that an insurer has invested in common stocks for the purposes of this paragraph is based on the cost of the stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;	(6) an insurer may invest and have invested at any one time in aggregate amount not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and 21.21.200 , except with the director's written consent; determination of the amount that an insurer has invested in common stocks for the purposes of this paragraph is based on the cost of the stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;	No change
(7) except with the director's written consent, an insurer may not have invested at any one time more than 10 percent of its assets in any one of the class of securities described in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260 .	(7) except with the director's written consent, an insurer may not have invested at any one time more than 10 percent of its assets in any one of the class of securities described in AS 21.21.100, 21.21.150, 21.21.190, or 21.21.250(c).	Adds real estate secured mortgage obligations to the list of types of investments to which a limitation of 10% of assets for domestic insurers is applied in (7).

<p>• Sec. 30 AS 21.21.170(b) is amended to read:</p>		
<p>(b) With the director's consent an insurer may acquire and hold the controlling interest in the outstanding voting stock of another stock insurer formed under the laws of this or another state. All stocks under this subsection shall be subject to the <u>limitations on acquisition</u> [LIMITATION AS TO AMOUNT] as provided in AS 21.21.180.</p>	<p>(b) With the director's consent an insurer may acquire and hold the controlling interest in the outstanding voting stock of another stock insurer formed under the laws of this or another state. All stocks under this subsection shall be subject to the limitation as to amount as provided in AS 21.21.180.</p>	
<p>• Sec. 31. AS 21.21.180 is repealed and reenacted to read:</p>	AS 21.21.180	
<p>Sec. 21.21.180. INVESTMENTS IN SUBSIDIARIES. (a) A domestic insurer, either alone or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:</p>	<p>Sec. 21.21.180. STOCKS OF SUBSIDIARIES. With the director's consent an insurer may invest in the stock of its wholly-owned subsidiary insurance corporation; or in the stock of its wholly-owned subsidiary business corporation formed under the laws of this state and necessary and incidental to the convenient operation of the insurer's insurance business or to the administration of any of its investments. All of the insurer's investments under this section, together with its investments in insurance stocks under AS 21.21.170(b) may not at any time exceed the amount of the investing insurer's surplus, if a life insurer, or its surplus to policyholders if other than a life insurer.</p>	<p>Sets out for insurers the kinds of business that a subsidiary to an insurer may be engaged. Old section repealed.</p>
<p>(1) insurance business authorized by this title;</p>		<p>See comments on AS 21.21.180 above.</p>
<p>(2) acting as an insurance producer or as an agent for the insurer's parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;</p>		<p>See comments on AS 21.21.180 above.</p>
<p>(3) investing, reinvesting, or trading in securities for the insurer's own account, that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;</p>		<p>See comments on AS 21.21.180 above.</p>

<p>(4) management of an investment company subject to or registered under 15 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;</p>		See comments on AS 21.21.180 above.
<p>(5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78 (Securities Exchange Act of 1934, as amended);</p>		See comments on AS 21.21.180 above.
<p>(6) rendering investment advice to a government, government agency, corporation, or other organization or group;</p>		See comments on AS 21.21.180 above.
<p>(7) rendering other services related to the operations of an insurance business including actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;</p>		See comments on AS 21.21.180 above.
<p>(8) ownership and management of assets that the parent corporation could own or manage;</p>		See comments on AS 21.21.180 above.
<p>(9) acting as administrative agent for a governmental instrumentality that is performing an insurance function;</p>		See comments on AS 21.21.180 above.
<p>(10) financing insurance premiums, agents, and other forms of consumer financing;</p>		See comments on AS 21.21.180 above.
<p>(11) any other business activity determined by the director in writing using the standards set out in this section to be reasonably ancillary to an insurance business; or</p>		See comments on AS 21.21.180 above.
<p>(12) owning a corporation engaged or organized to engage exclusively in one or more of the businesses specified in this section.</p>		See comments on AS 21.21.180 above.
<p>(b) A domestic insurer may also</p>		See comments on AS 21.21.180 above.

Proposed Legislation	Existing Stat	Comments
<p>(1) invest in securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries in amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50 percent of the insurer's surplus regarding policyholders, if, after the investment, the insurer's surplus regarding policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to the insurer's financial needs; in calculating the amount of the investment, investment in domestic or foreign insurance subsidiaries shall be excluded, but the following must be included:</p>		See comments on AS 21.21.180 above.
<p>(A) total net moneys or other consideration expended and all obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary if represented or not represented by the purchase of capital stock or issuance of other securities; and</p>		See comments on AS 21.21.180 above.
<p>(B) all amounts expended in acquiring additional securities described in AS 21.21.140 - 21.21.160 and all contributions to the capital or surplus of a subsidiary subsequent to the subsidiary's acquisition or formation;</p>		See comments on AS 21.21.180 above.
<p>(2) invest an amount in securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as an investment for the insurer if that subsidiary agrees to limit the subsidiary's investment in an asset in a way that the investment does not cause the amount of the total investment of the insurer to exceed the investment limitations specified in (1) of this subsection or AS 21.21.050; for the purpose of this paragraph, the total investment of the insurer includes:</p>		See comments on AS 21.21.180 above.

Proposed Legislation	Existing Statute	Comments
(A) a direct investment by the insurer in an asset; and		See comments on AS 21.21.180 above.
(B) the insurer's proportionate share of an investment in an asset by a subsidiary of the insurer calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership in the subsidiary; or		See comments on AS 21.21.180 above.
(3) with the prior written approval of the director, invest a greater amount in those securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to the insurer's financial needs.		See comments on AS 21.21.180 above.

<p>(c) A domestic insurer shall determine if an investment meets the applicable requirements under (b) of this section before the investment is made by calculating the applicable investment limitations under AS 21.21.020(d) as though the investment had already been made under and by taking into account the then outstanding principal balance on all previous investments under AS 21.21.140 - 21.21.160, calculated at statement value, giving effect to a return of capital invested and not giving effect to dividends.</p>		See comments on AS 21.21.180 above.
<p>(d) If an insurer ceases to control a subsidiary, it shall dispose of an investment in the subsidiary made under this section within three years from the time of the cessation of control or within a further time that the director prescribes unless, at any time after the investment has been made, the investment meets the requirements for investment under another section of this chapter and the insurer has notified the director regarding the application of another section of this chapter to the investment.</p>		See comments on AS 21.21.180 above.
<p>• Sec. 32. AS 21.21.255 is amended to read:</p>	AS 21.21.255	
<p>Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984), securities that are purchased, held, or invested in by an insurer shall be regulated under AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, [AS 21.66.030,] and other applicable provisions of this title.</p>	<p>Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984), securities that are purchased, held, or invested in by an insurer shall be regulated under AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, AS 21.66.030, and other applicable provisions of this title.</p>	Deletes a reference to a section that is repealed.

Proposed Legislation	Existing Statute	Comments
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<p>* Sec. 33. AS 21.21.350(b) is amended to read:</p>	<p>AS 21.21.350(b)</p>	
<p>(b) Before completing investment activities with or through affiliated or controlling persons <u>or completing a transaction of the type listed in AS 21.21.180</u>, an insurer shall fully disclose and document in writing to its board of directors, <u>the committee or committees having responsibility for reviewing the insurer's financial condition under AS 21.22.105(d) or (e)</u>, and the committee authorized by the board and charged with the supervision or making of the investment or loan involved, the material facts concerning the affiliation or circumstances of control. An insurer may not complete an investment activity with or through affiliated or controlling persons [,] unless the board of directors, by specific board action, authorizes the transaction and concludes that the transaction complies with (c) and (d) of this section. The vote of the board authorizing the transaction must be recorded in the minutes, on a member-by-member basis, and must indicate each vote approving, disapproving, or abstaining on the transaction.</p>	<p>(b) Before completing investment activities with or through affiliated or controlling persons, an insurer shall fully disclose and document in writing to its board of directors and the committee authorized by the board and charged with the supervision or making of the investment or loan involved, the material facts concerning the affiliation or circumstances of control. An insurer may not complete an investment activity with or through affiliated or controlling persons, unless the board of directors, by specific board action, authorizes the transaction and concludes that the transaction complies with (c) and (d) of this section. The vote of the board authorizing the transaction must be recorded in the minutes, on a member-by-member basis, and must indicate each vote approving, disapproving, or abstaining on the transaction.</p>	<p>Amendment requires disclosure of information on acquisition of subsidiaries by insurers to the board of directors and any committees on financial condition.</p>

Proposed Legislation	Existing Statute	Comments
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<p>* Sec. 34. AS 21.21 is amended by adding new sections to read:</p>		
<p>Sec. 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE OBLIGATIONS. (a) A domestic insurer may not acquire, directly or indirectly, a medium grade or lower grade obligation of an institution if, after giving effect to the acquisition,</p>		<p>Provides that limits are placed on a domestic insurer's ability to purchase new medium grade and lower grade investment obligations. Obligations rated four or lower, five or lower and six by the Securities Valuation Office of the National Association of Insurance Commissioners are restricted to ten, three and one percent respectively of a domestic insurer's assets. An additional limitation is provided in that additional medium and lower grade obligations may not be purchased if such purchase would cause total such obligations to exceed 30 percent of a domestic insurer's policyholders surplus account. Obligations rated four or lower are generally not rated by the private securities rating firms and are often referred to as "junk bonds."</p>
<p>(1) the aggregate amount of all medium grade and lower grade obligations held by the domestic insurer exceeds 20 percent of its admitted assets if not more than</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(A) 10 percent of its admitted assets consist of obligations rated four, five, or six by the securities valuation office;</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(B) three percent of its admitted assets consist of obligations rated five or six by the securities valuation office; and</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(C) one percent of its admitted assets consist of obligations rated six by the securities valuation office; or</p>		<p>See comments on AS 21.21.370(a) above.</p>

Proposed Legislation	Existing Statute	Comments
<p>(2) the aggregate amount of all medium grade or lower grade obligations held by the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(b) Attaining or exceeding the limit of one category does not preclude an insurer from acquiring an obligation in another category subject to the specific or multi-category limits.</p>		<p>Provides that reaching the limit in one category does not stop an insurer from investing in items which fall under another category.</p>
<p>(c) A domestic insurer may not invest in medium grade and lower grade obligations issued, guaranteed, or insured by a single institution in an aggregate amount greater than</p>		<p>Places limitations on a domestic insurer's ownership of obligations issued by one institution. Medium grade obligations are limited to one percent of admitted assets. Total investment in medium or lower grade obligations is further limited to one percent of admitted assets.</p>
<p>(1) one percent of its admitted assets in medium grade obligations;</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(2) one-half of one percent of its admitted assets in lower grade obligations; and</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(3) one percent of its admitted assets in a combination of medium grade or lower grade obligations.</p>		<p>See comments on AS 21.21.370(a) above.</p>
<p>(d) The investment limitations in this section apply in addition to the limits on investments under AS 21.21.050 and 21.21.250.</p>		<p>Provides that other limitations on investments in the statute of 5% of assets for one issuer and limitations by type of investment still apply to investments that come under this section.</p>
<p>(e) The investment limitations in this section and AS 21.21.380(b) shall be calculated after including, as though they were already owned, the medium grade and lower grade obligations that the domestic insurer is committed to acquire at the time of the calculation.</p>		<p>Requires that investment limitations be calculated after including investments the insurer is committed to purchase.</p>

Proposed Legislation	Existing Statute	Comments
<p>Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE OBLIGATIONS. (a) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation that it has committed to acquire if the insurer would have been permitted to acquire that obligation under AS 21.21.370 on the date on which the insurer committed to purchase that obligation.</p>		<p>Allows an acquisition to occur if the securities were obligated to be acquired at a time when the insurer was permitted to do so.</p>
<p>(b) Notwithstanding AS 21.21.370, a domestic insurer may acquire an obligation of an institution in which the insurer already has an obligation if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, if all the acquired obligations do not exceed one-half of one percent of the insurer's admitted assets.</p>		<p>Permits acquisition to protect an investment previously made.</p>
<p>(c) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation created by a restructuring of a medium grade or lower grade obligation that is already held.</p>		<p>Permits a domestic insurer to acquire an obligation created by a restructuring of a medium or lower grade obligation already held.</p>
<p>(d) AS 21.21.370 does not require a domestic insurer to sell or otherwise dispose of an obligation legally acquired before July 1, 1992.</p>		<p>Clarifies that disposition is not required of medium and lower grade obligations legally acquired prior to the effective date of this legislation.</p>
<p>Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM GRADE AND LOWER GRADE OBLIGATIONS. (a) The board of directors of a domestic insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for making these investments.</p>		<p>Requires that a written plan be adopted by the board of directors of a domestic insurer if investment is made in medium grade or lower grade obligation which amounts to greater than 2% of assets.</p>
<p>(b) The written plan adopted under (a) of this section must contain</p>		<p>Sets out the required elements of the written plan which are based on quality and diversification.</p>

Proposed Legislation	Existing Statute	Comments
(1) guidelines for the quality of the issues in which investments are to be made; and		See comments on AS 21.21.390(b) above.
(2) diversification standards including standards for issuer, industry, duration, liquidity, and geographic locations.		See comments on AS 21.21.390(b) above.
Sec. 21.21.400. DISPOSITION OR WRITE-DOWN OF LOWER GRADE OBLIGATIONS. If the limitation in AS 21.21.370(a)(2) is exceeded and the director determines that the continued holding of the insurer's medium grade and lower grade obligations would be detrimental to the interests of policyholders, the director may issue an order under AS 21.06.100 requiring one or more of the following:		Grants to the director the authority to order the write-down of holding value or disposition of medium or lower grade obligations or actions against the Certificate of Authority if the medium or lower grade obligations are considered detrimental to the policyholders of the insurer.
(1) the disposition of lower grade obligations;		See comments on AS 21.21.400 above.
(2) the write-down of lower grade obligations to current market value as determined by the securities valuation office or other person upon whom the director may rely; or		See comments on AS 21.21.400 above.
(3) action under AS 21.09.150.		See comments on AS 21.21.400 above.
* Sec. 35. AS 21.21.600 is amended by adding new paragraphs to		
(17) "admitted asset" has the meaning given in AS 21.18.900;		Amended to add definitions to accommodate the inclusion in statute of the sections dealing with medium and lower grade obligations.
(18) "aggregate amount" means the aggregate statutory statement value of medium grade and lower grade obligations;		See comments on AS 21.21.600 above.
(19) "institution" means a corporation, joint stock company, association, trust, business partnership, business joint venture, or similar entity;		See comments on AS 21.21.600 above.

Proposed Legislation	Existing Statute	Comments
<p>(20) "lower grade obligation" means an obligation that is rated four, five, or six by the securities valuation office or its successor;</p>		See comments on AS 21.21.600 above.
<p>(21) "medium grade obligation" means an obligation that is rated three by the securities valuation office or its successor;</p>		See comments on AS 21.21.600 above.
<p>(22) "securities valuation office" means the organization designated by the National Association of Insurance Commissioners to determine the carrying or admitted asset value of obligations owned by the insurer.</p>		See comments on AS 21.21.600 above.
<p>* Sec. 36. AS 21.22.060 is amended by adding new subsections to read:</p>		
<p>(k) An insurer subject to registration under (a) of this section shall register annually by April 1 of each year for the previous calendar year unless, for good cause shown, the director extends the time for registration. The director may require an insurer authorized to do business in the state, that is a member of a holding company system and that is not subject to registration under (a) of this section, to furnish a copy of the registration statement, the summary specified in (l) of this section, or other information filed by the insurer with the insurance regulatory authority of the insurer's state of domicile.</p>		Requires insurers to file a holding company statement on April 1 of each year.
<p>(l) An annual registration statement filed under (k) of this section must contain a summary outline of items in the current registration statement representing changes from the prior registration statement.</p>		Requires annual filing of holding company statements to include a list of changes from the prior year.

Proposed Legislation	Existing Statute	Comments
<p>* Sec. 37. AS 21.22 is amended by adding a new section to read:</p>		
<p>Sec. 21.22.065. ACQUISITIONS INVOLVING CHANGE OF CONTROL. (a) Unless exempted in (j) of this section, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.</p>		<p>Establishes standards of market concentration that cannot be exceeded in an acquisition of an insurer by another insurer and information that must be submitted for director's approval. (a) requires approval of a change in control of an insurer doing business in Alaska.</p>
<p>(b) If an acquisition violates the standards established in (d) and (f) of this section, the director may enter an order requiring an involved insurer to cease doing business in this state with respect to the line or lines of insurance involved in the violation or denying the application of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive effect of the acquisition within a reasonable time. Based upon a plan or other information submitted, the director shall specify the conditions, if any, under a time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified. The order is stayed by the insurer's submission of a plan and shall be rescinded if the acquisition is not consummated.</p>		<p>If acquisition violates standards of market concentration, the director may issue an order to cease business of the insurer or deny approval of the acquisition. The insurer may submit a plan to remedy the anti-competitive effects of the acquisition.</p>
<p>(c) An acquisition which meets (a) of this section is subject to an order under (b) of this section unless the acquiring person files a preacquisition notification and the waiting period has expired. The person to be acquired may file a preacquisition notification. A preacquisition notification by a person to be acquired may not be filed in place of a preacquisition filing by an acquiring person. The preacquisition notification</p>		<p>Requires the insurer who is acquiring another insurer must file a preacquisition notice with the director including specific information. After filing, there is a 30 day waiting period before completion of the acquisition.</p>

<p>(1) must be in a form and contain the information prescribed in regulations adopted by the director relating to insurance markets that, under (j)(5) of this section, cause the acquisition not to be exempt from the provisions of this section; the director may require additional material and information the director considers necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standards of this section;</p>		See comments on AS 21.22.065(c) above.
<p>(2) may include an opinion of an economist regarding the competitive effect of the acquisition in this state accompanied by a summary of the education and experience indicating the economist's ability to render an informed opinion; and</p>		See comments on AS 21.22.065(c) above.
<p>(3) must be followed by a waiting period beginning on the date of receipt by the director of a preacquisition notification and ending on the earlier of the 30th day after the date of receipt or termination of the waiting period by the director unless, before the end of the waiting period, the director requires the submission of additional information relevant to the proposed acquisition, in which event the waiting period shall end on the 30th day after receipt of the additional information by the director or termination of the waiting period by the director, whichever is earlier.</p>		See comments on AS 21.22.065(c) above.
<p>(d) The director may enter an order under (b) of this section regarding an acquisition if</p> <p>(1) the insurer fails to file adequate information in compliance with (c) of this section;</p>		The director may order based on the preacquisition filing that the filing is incomplete or that there is evidence of anti-competitive effect under guidelines provided.

Proposed Legislation	Existing Statute	Comments										
<p>(2) there is substantial evidence that the acquisition may substantially lessen competition, create a monopoly in a line of insurance in this state or significantly increase an insurer's market concentration; there is substantial evidence when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eighth largest, has increased by seven percent or more of the market over a period of time extending from any base year five to 10 years before the acquisition up to the time of the acquisition;</p>		See comments on AS 21.22.065(d) above.										
<p>(3) after considering an acquisition covered under (a) of this section involving two or more insurers competing in the same market there is evidence of a violation of the competitive standards contained in the following tables:</p>		See comments on AS 21.22.065(d) above.										
<p>(A) if the market is highly concentrated, the involved insurers possess the following shares of the market:</p>		See comments on AS 21.22.065(d) above.										
<table border="0"> <tr> <td>Insurer A</td> <td>Insurer B</td> </tr> <tr> <td>4 percent</td> <td>4 percent or more</td> </tr> <tr> <td>10 percent</td> <td>2 percent or more</td> </tr> <tr> <td>15 percent</td> <td>1 percent or more;</td> </tr> </table>	Insurer A	Insurer B	4 percent	4 percent or more	10 percent	2 percent or more	15 percent	1 percent or more;		See comments on AS 21.22.065(d) above.		
Insurer A	Insurer B											
4 percent	4 percent or more											
10 percent	2 percent or more											
15 percent	1 percent or more;											
<p>(B) if the market is not highly concentrated, the involved insurers possess the following shares of the market:</p>		See comments on AS 21.22.065(d) above.										
<table border="0"> <tr> <td>Insurer A</td> <td>Insurer B</td> </tr> <tr> <td>5 percent</td> <td>5 percent or more</td> </tr> <tr> <td>10 percent</td> <td>4 percent or more</td> </tr> <tr> <td>15 percent</td> <td>3 percent or more</td> </tr> <tr> <td>19 percent</td> <td>1 percent or more.</td> </tr> </table>	Insurer A	Insurer B	5 percent	5 percent or more	10 percent	4 percent or more	15 percent	3 percent or more	19 percent	1 percent or more.		See comments on AS 21.22.065(d) above.
Insurer A	Insurer B											
5 percent	5 percent or more											
10 percent	4 percent or more											
15 percent	3 percent or more											
19 percent	1 percent or more.											

Proposed Legislation	Existing Statute	Comments
<p>(e) A percentage not shown in the tables contained in (d) of this section may be interpolated proportionately to the percentage that is shown. The insurer with the largest share of the market shall be considered Insurer A. If more than two insurers are involved, a market share that exceeds the total of the two columns in the table by the insurers involved is prima facie evidence of a violation of the competitive standards contained in (d) of this section.</p>		<p>Guidelines are given for using the tables on market concentration.</p>
<p>(f) Even though an acquisition does not violate the competitive standard under (d) of this section, the director may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition does violate the competitive standard under (d) of this section, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under (d) of this section include market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry into and exit out of the market. The burden of showing substantial evidence of a violation of the competitive standards rests with the director.</p>		<p>The director may make conclusions on concentrations based on other substantial evidence.</p>
<p>(g) An order may not be entered under (b) of this section if</p> <p>(1) the acquisition will yield substantial economy of scale or economy in resource utilization that cannot be achieved in another way and the public benefits that would arise from the economy exceed the public benefits that would arise from not lessening competition; or</p>		<p>The director may not order ceasing business or refuse to approve the acquisition if the acquisition results in economy of scale, other public benefits or increase in the availability of insurance.</p>
<p>(2) the acquisition will substantially increase the availability of insurance and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.</p>		<p>See comments on AS 21.22.065(g) above.</p>

Proposed Legislation	Existing Statute	Comments
<p>(h) A person who violates a cease and desist order of the director under (b) of this section may, after hearing and on order of the director, be subject to the suspension or revocation of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.</p>		<p>Violation of the order to cease operations could mean revocation, or suspension of the Certificate of Authority of the insurer or \$10,000 for each day of violation.</p>
<p>(i) An insurer or other person who fails to make a preacquisition filing required by (c) of this section and who also fails to demonstrate a good faith effort to comply with filing requirements shall be subject to a fine of not more than \$50,000.</p>		<p>An insurer who does not make an effort to file notice or other information on the acquisition can be fined \$50,000.</p>
<p>(j) This section does not apply to</p> <p>(1) an acquisition subject to approval or disapproval by the director under AS 21.22.010;</p> <p>(2) a purchase of securities solely for investment purposes if the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in an insurance market in this state; if a purchase of securities for investment purposes results in a presumption of control under AS 21.22.200(2), it is not solely for investment purposes unless the insurance supervisory official of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the director;</p>		<p>Certain acquisitions are exempt from this notice and approval due to approval by the director under other statutes, purchases for investment purposes, purchases by affiliates, purchases representing only 5% of an insurance market, purchases affecting only ocean marine insurance, or situations where the insurers condition will be improved by the purchase. See comments on AS 21.22.065 above.</p>
<p>(3) the acquisition of a person resulting in the change of control of an insurer by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance if preacquisition notification is filed with the director under (e) of this section 30 days before the proposed effective date of the acquisition; however, the preacquisition notification is not required if the acquisition would otherwise be excluded under this subsection;</p>		<p>See comments on AS 21.22.065(j) above.</p>

Proposed Legislation	Existing Statute	Comments
(4) the acquisition of an already affiliated person;		See comments on AS 21.22.065(j) above.
(5) an acquisition if, as an immediate result of the acquisition,		See comments on AS 21.22.065(j) above.
(A) the combined market share of the involved insurers would not exceed five percent of the total market;		See comments on AS 21.22.065(j) above.
(B) there would not be an increase in a market share of the larger writer; or		See comments on AS 21.22.065(j) above.
(C) the combined market share of the involved insurers would not exceed 12 percent of the total market and the market share of the larger writer would not increase by more than two percent of the total market;		See comments on AS 21.22.065(j) above.
(6) an acquisition for which a preacquisition notification would be required under this section due solely to the resulting effect on the ocean marine insurance line of business; or		See comments on AS 21.22.065(j) above..
(7) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in a failing condition, there are no feasible alternatives to improving this insurer's condition, the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition, and these findings are communicated by the domiciliary commissioner to this state's director.		See comments on AS 21.22.065(j) above.
(k) AS 21.22.150 - 21.22.160 and 21.22.180 do not apply to acquisitions covered under this section.		Exempts acquisitions which must be filed under this section from restrictions on voting securities, seizing of voting securities, and receivership of the insurer.

Proposed Legislation	Existing Statute	Comments
<p>* Sec. 38. AS 21.22.080 is amended to read:</p>	<p>AS 21.22.080</p>	
<p>Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by registered insurers with their affiliates are subject to the following standards:</p>	<p>Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by registered insurers with their affiliates are subject to the following standards:</p>	<p>AS 21.22.080 adds standards for material transactions with affiliated companies on fees and expenses.</p>
<p>(1) the terms shall be fair and reasonable;</p>	<p>(1) the terms shall be fair and reasonable;</p>	<p>No change</p>
<p>(2) charges or fees for services performed shall be reasonable;</p>		<p>See comments on AS 21.22.080 above.</p>
<p>(3) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;</p>		<p>See comments on AS 21.22.080 above.</p>
<p>(4) the books, accounts, and records of each party shall be maintained so as to disclose clearly and accurately the precise nature and detail of the transactions including accounting information that is necessary to support the reasonableness of the charges or fees to the respective parties; and</p>	<p>(2) the books, accounts, and records of each party shall be maintained so as to disclose clearly and accurately the precise nature and details of the transactions; and</p>	<p>See comments on AS 21.22.080 above.</p>
<p>(5) [(3)] the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates or performance under a material transaction with an affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.</p>	<p>(3) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates or performance under a material transaction with an affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.</p>	<p>No change</p>

<p>* Sec. 39. AS 21.22 is amended by adding a new section to read:</p>		
<p>Sec. 21.22.085. TRANSACTIONS INVOLVING A DOMESTIC INSURER REQUIRING DIRECTOR REVIEW. (a) The following transactions involving a domestic insurer and a person in its holding company system may not be entered into unless the insurer has notified the director in writing of the insurer's intention to enter into the transaction at least 30 days before the transaction, or a shorter period if allowed by the director, and the director has not disapproved the transaction within the required notice period:</p>		<p>Requires notification of the director of certain material transactions between a domestic insurer and any person in its holding company system. These transactions include purchases, loans, reinsurance agreements and contracts.</p>
<p>(1) a sale, purchase, exchange, loan or extension of credit, guarantee, or investment, provided the transaction is equal to or exceeds</p>		<p>See comments on AS 21.22.085(a) above.</p>
<p>(A) with respect to insurers other than life insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus that pertains to policyholder surplus, each calculated under AS 21.21.020(d); or</p>		<p>See comments on AS 21.22.085(a) above.</p>
<p>(B) with respect to life insurers, three percent of the insurer's admitted assets calculated under AS 21.21.020(d);</p>		<p>See comments on AS 21.22.085(a) above.</p>
<p>(2) a loan or extension of credit to a person who is not an affiliate, where the insurer makes loans or extensions of credit with the agreement or understanding that the proceeds of the transaction, in whole or in substantial part, are to be used to make a loan or extension of credit to, purchase an asset of, or make an investment in an affiliate of the insurer making the loan or extension of credit provided the transaction is equal to or exceeds</p>		<p>See comments on AS 21.22.085(a) above.</p>

Proposed Legislation	Existing Statute	Comments
<p>(A) with respect to insurers other than life insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus that pertains to policyholder surplus, each calculated under AS 21.21.020(d); or</p>		See comments on AS 21.22.085(a) above.
<p>(B) with respect to life insurers, three percent of the insurer's admitted assets calculated under AS 21.21.020(d);</p>		See comments on AS 21.22.085(a) above.
<p>(3) a reinsurance agreement or modification in which the reinsurance premium or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that may require as consideration the transfer of assets from an insurer to a nonaffiliate if an agreement or understanding exists between the insurer and nonaffiliate that a portion of the assets will be transferred to an affiliate of the insurer;</p>		See comments on AS 21.22.085(a) above.
<p>(4) a management agreement, service contract, or cost-sharing arrangement; and</p>		See comments on AS 21.22.085(a) above.
<p>(5) a material transaction specified by regulation that the director determines may adversely affect the interests of the insurer's policyholders.</p>		See comments on AS 21.22.085(a) above.
<p>(b) Nothing in (a) of this section authorizes or permits a transaction that, in the case of an insurer not a member of the same holding company system, would violate a provision of law</p>		This section does not allow prohibited transactions.

<p>(c) A domestic insurer may not enter into a transaction that is part of a plan or series of similar transactions with persons within the holding company system if the purpose of the separate transaction is to avoid the statutory threshold amount and avoid review that would otherwise occur. If the director determines that this separate transaction is entered into over a 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i), 21.22.170, AS 21.36.320, and 21.36.360(a).</p>		<p>Insurer may not conduct a series of transactions to avoid thresholds or review by the division required by law.</p>
<p>(d) The director, in reviewing a transaction under this section, shall consider whether the transaction complies with the standards provided in AS 21.22.080 and whether the transaction may adversely affect the interests of policyholders.</p>		<p>Standards for review are in current statute and include whether the transaction is fair and reasonable, whether records will be maintained to accurately disclose the transaction, and whether capital and surplus will remain adequate.</p>
<p>(e) A domestic insurer shall notify the director within 30 days of an investment of a domestic insurer in a corporation if, after the investment, the total investment by the insurance holding company system in a corporation exceeds 10 percent of the corporation's voting securities.</p>		<p>Domestic insurers shall notify the director within 30 days if investment in a corporation by the holding company system exceeds 10%.</p>
<p>* Sec. 40. AS 21.22.090 is amended to read:</p>	<p>AS 21.22.090</p>	
<p>Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:</p>	<p>Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:</p>	<p>Language changed in (7) from future policyholder surplus to investment portfolio as in NAIC model law.</p>
<p>(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;</p>	<p>(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;</p>	<p>No change</p>

(2) the extent to which the insurer's business is diversified among the several lines of insurance;	(2) the extent to which the insurer's business is diversified among the several lines of insurance;	No change
(3) the number and size of risks insured in each line of business;	(3) the number and size of risks insured in each line of business;	No change
(4) the extent of the geographical dispersion of the insurer's insured risk;	(4) the extent of the geographical dispersion of the insurer's insured risk;	No change
(5) the nature and extent of the insurer's reinsurance program;	(5) the nature and extent of the insurer's reinsurance program;	No change
(6) the quality, diversification, and liquidity of the insurer's investment portfolio;	(6) the quality, diversification, and liquidity of the insurer's investment portfolio;	No change
(7) the recent past and projected future trend in the size of the insurer's <u>investment portfolio</u> [SURPLUS AS REGARDS POLICYHOLDERS];	(7) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;	Language changed from future policyholder surplus to investment portfolio as in NAIC model law.
(8) the surplus as regards policyholders maintained by other comparable insurers;	(8) the surplus as regards policyholders maintained by other comparable insurers;	No change
(9) the adequacy of the insurer's reserves; and	(9) the adequacy of the insurer's reserves; and	No change
(10) the quality and liquidity of investments in <u>affiliates</u> [SUBSIDIARIES] made under AS 21.21; the director may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever the director determines the investment warrants it.	(10) the quality and liquidity of investments in subsidiaries made under AS 21.21; the director may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever the director determines the investment warrants it.	

Proposed Legislation	Existing Statute	Comments
<p>• Sec. 41. AS 21.22.100(b) is amended to read:</p> <p>(b) For purposes of this section, an extraordinary dividend or distribution includes a [ANY] dividend or distribution of cash or other property, the fair market value of which together with that of other dividends or distributions made within the preceding 12 months exceeds the <u>lesser</u> [GREATER] of (1) 10 percent of the insurer's surplus as regards policyholders as of December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the 12-month period ending December 31 of the preceding year; but does not include pro rata distributions of any class of the insurer's own securities. <u>In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. The carry forward provision shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.</u></p>	<p>AS 21.22.100(b)</p> <p>(b) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, the fair market value of which together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) 10 percent of the insurer's surplus as regards policyholders as of December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the 12-month period ending December 31 of the preceding year; but does not include pro rata distributions of any class of the insurer's own securities.</p>	<p>Current statute requires domestic insurers to notify the director 30 days prior to payment of an extraordinary dividend. This addition specifies how to determine if a dividend is extraordinary. The threshold is changed to the lesser of 10% of (1) policyholder surplus or (2) gain from operations from the prior years.</p>

<p>* Sec. 42. AS 21.22 is amended by adding a new section to read:</p>		
<p>Sec. 21.22.105. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO REGISTRATION. (a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer may not be relieved of an obligation or liability to which the officers and directors would otherwise be subject to by law, and the insurer shall be managed so as to assure the insurer's separate operating identity consistent with this title.</p>		<p>Officers and directors continue to have liability regardless of a controlling person and shall manage the insurer as a separate entity.</p>
<p>(b) This section does not preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of AS 21.22.080.</p>		<p>Insurers may share common management or property.</p>
<p>(c) Not less than one-third of the directors of a domestic insurer registered under AS 21.22.060 and not less than one-third of the members of each committee of the board of directors of a domestic insurer registered under AS 21.22.060 shall be persons who are not officers or employees of the insurer or of an entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or an entity. At least one person who is not an officer, employee, or owner of a controlling interest in stock of an insurer or controlling entity must be included in a quorum for the transaction of business at a meeting of the board of directors or a committee of the board of directors.</p>		<p>One-third of the director and members of committees of the board of directors shall not be officers, directors, or controlling interests. One such person shall be included in each quorum of the board of directors.</p>

<p>(d) The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of an entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or an entity. The committee or committees shall have responsibility for recommending the selection of independent certified public accountants, reviewing the insurer's financial condition, the scope and results of the independent audit, and an internal audit, nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers that are principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.</p>		<p>A committee of the board of directors shall consist of those who are not officers, directors or controlling interests which shall be responsible for auditing, evaluation of officers and determination of compensation for officers.</p>
<p>(e) The provisions of (c) and (d) of this section do not apply to a domestic insurer if the person controlling the insurer is an insurer having a board of directors and committees that meet the requirements of (c) and (d) of this section, or to a domestic insurer that holds a certificate of authority under this title on December 31, 1991.</p>		<p>Domestic insurers who are controlled by an insurer that meets these requirements or domestic insurers licensed on December 31, 1990 are exempt from these requirements.</p>

<p>* Sec. 43. AS 21.22.120 is amended to read:</p>	<p>AS 21.22.120</p>	
<p>Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the information and documents obtained by or disclosed to the director or any other person in the course of an examination or investigation made under AS 21.22.110 and all information reported under AS 21.22.060 and all preacquisition notification information received under AS 21.22.065, shall be given confidential treatment and may not be made public by the director or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains. However, if the director, after giving the insurer and its affiliates who would be affected by publication of the information notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information, the director may publish all or any part of the information in the manner the director considers appropriate.</p>	<p>Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the information and documents obtained by or disclosed to the director or any other person in the course of an examination or investigation made under AS 21.22.110 and all information reported under AS 21.22.060 shall be given confidential treatment and may not be made public by the director or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains. However, if the director, after giving the insurer and its affiliates who would be affected by publication of the information notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information, the director may publish all or any part of the information in the manner the director considers appropriate.</p>	<p>Provides that preacquisition information shall be kept confidential by the director.</p>
<p>* Sec. 44. AS 21.22.150 is amended by adding a new subsection to read:</p>		
<p>(c) This section does not apply to a security that constitutes an acquisition covered by AS 21.22.065</p>		
<p>* Sec. 45. AS 21.22.160 is amended by adding a new subsection to read:</p>		
<p>(b) This section does not apply to a security that constitutes an acquisition covered by AS 21.22.065</p>		

<p>* Sec. 46. AS 21.22.180 is amended by adding a new subsection to read:</p>		
<p>(b) This section does not apply to a violation involving a security that constitutes an acquisition covered by AS 21.22.065</p>		
<p>* Sec. 47. AS 21.22.200 is amended by adding new paragraphs to read:</p>		<p>Adds terms and definitions to terms used in amendments to AS 21.22.</p>
<p>(11) "acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes the acquisition of voting securities, assets, bulk reinsurance, and mergers;</p>		
<p>(12) "highly concentrated" means a market in which the share of the four largest insurers is 75 percent or more of the market;</p>		
<p>(13) "insurer" has the meaning given in AS 21.90.900 and includes a company or group of companies under common management, ownership, or control;</p>		
<p>(14) "involved insurer" means an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger;</p>		

Proposed Legislation	Exist	Statute	Comments
<p>(15) "market" or "insurance market" means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state; in determining the relevant product and geographical markets, the director shall give due consideration to, among other things, the definitions or guidelines adopted by the National Association of Insurance Commissioners and to information submitted by parties to the acquisition; in the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, the line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;</p>			
<p>(16) "statement value" means the value that an insurer is instructed by the securities valuation office of the National Association of Insurance Commissioners to carry on the insurer's financial statement and that represents an investment.</p>			

<p>• Sec. 48. AS 21.27.010 is repealed and reenacted to read:</p>	<p>AS 21.27.010</p>	
<p>Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not act as or represent to be an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a subject resident, located, or to be performed in this state unless licensed under this chapter. A person may not act as or represent to be a managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager representing an insurer domiciled in this state regarding a risk located outside this state unless licensed by this state.</p>	<p>Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not in this state act as or represent to be an agent, general agent, broker, solicitor, or adjuster unless licensed by this state.</p>	<p>Lists persons to be licensed.</p> <p>Agent, broker, and solicitor licenses are combined into a single license, the insurance producer license. Chapter is expanded to include reinsurance intermediary broker, reinsurance intermediary manager, and surplus lines broker licenses. Language "resident, located or to be performed in this state" added for consistency with the scope of the Title.</p> <p>Requires licensure of managing general agents, reinsurance intermediary brokers, and reinsurance intermediary managers of domestic insurers.</p>
<p>(b) An insurance producer, a managing general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications for, procure, place for others, or otherwise transact business for a kind or class of insurance for which the person is not licensed.</p>	<p>(b) An agent, general agent, solicitor, or broker may not solicit or take applications for, procure, or place for others any kind of insurance for which the person is not licensed.</p>	<p>New licensees included.</p>
	<p>(c) This section does not apply to a person securing and forwarding information required for the purposes of group insurance covering the unpaid balance, or remaining payments proposed to be made, in connection with the purchase of merchandise or services, if no commission or other compensation is payable on account of the insurance to the person.</p>	<p>Moved to new Sec.21.27.010(i)(4).</p>
	<p>(d) A person that the director determines, following an appropriate hearing as provided in AS 21.06.170—21.06.230, has violated this section is subject to a civil penalty of not more than \$2,500 for each violation.</p>	<p>Moved to new Sec.21.27.440(a).</p>

<p>(c) A person who performs administrative functions, including claims administration and payment, marketing administrative functions, premium accounting, premium billing, coverage verification, underwriting authority, or certificate issuance in regard to insurance as a third-party administrator shall be licensed as a managing general agent unless the person only administers claims and is licensed under this chapter as an independent adjuster.</p>	<p>AS 21.90.900(13) "general agent" means a person, firm, or corporation that</p> <p>(A) has authority to exercise general supervision over the business, or any part of the business, of one or more insurers; and</p> <p>(B) performs administrative functions normally performed by the insurer including claims administration and payment, marketing administration, agent appointment, premium accounting, premium billing, coverage verification, final underwriting authority, and certificate issuance; "managing general agent" includes a third party administrator;</p>	<p>Clarifies licensing of third party administrators. Reflects contents of current AS 21.90.900(13) to allow licensing as adjuster or managing general agent.</p>
<p>(d) A licensee may not use a fictitious name or alias unless the licensee's legal name and fictitious name or alias are on the license.</p>		<p>New requirement to register fictitious name or alias on license.</p>
<p>(e) A person who is an employee of an admitted insurer, who acts within the course and scope of that employment, and within the scope of the insurer's certificate of authority is not required to be additionally licensed under this section.</p>	<p>AS 21 27.095(b) A person employed on salary by an insurer, including an officer or salaried employee performing the same services as a general agent, is considered to be a service representative and is not required to be licensed.</p>	<p>Relocated from AS 21.27.095(b). Minor editorial change.</p>
<p>(f) A person who performs management services for an admitted insurer or admitted reinsurer is not required to be licensed as a managing general agent or reinsurance intermediary manager if the person's compensation is not based on the volume of premium written and the person</p> <p>(1) is a wholly-owned subsidiary of the admitted insurer;</p>	<p>AS 21 27.095(c) For purposes of this section, a person that performs management services for an insurer is not required to be licensed as a general agent if the person</p> <p>(1) is a wholly-owned subsidiary of the insurer;</p>	<p>Relocated from AS 21.27.095(c). Minor editorial change. Reinsurance intermediary manager included. Exception to license noted.</p>
<p>(2) wholly owns the admitted insurer;</p>	<p>(2) wholly owns the insurer; or</p>	<p>No change.</p>
<p>(3) is a wholly-owned subsidiary of the insurance holding company that owns or controls the admitted insurer;</p>	<p>(3) is a wholly-owned subsidiary of the insurance holding company that owns or controls the insurer.</p>	<p>No change.</p>
<p>(4) is a United States manager of the United States branch of an alien admitted insurer; or</p>		<p>New exception to license noted. From NAIC Models.</p>

<p>(5) is the manager of a group, association, pool, or organization of admitted insurers that does joint underwriting if it is subject to examination by the authorized insurance regulator in the state in which the person's principal place of business is located.</p>		<p>New exception to license noted. From NAIC Models.</p>
<p>(g) This chapter does not apply to a person licensed to practice as an attorney at law while this person is acting as an attorney at law.</p>	<p>AS 21.90.900(1). "adjuster" means a person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates and adjusts claims arising under insurance contracts on behalf of the insurer, but does not include an attorney at law who adjusts insurance losses from time to time incidental to the practice of law or a salaried employee of an insurer</p>	<p>Exempts attorney at law when practicing law from additional license requirement of this chapter.</p>
<p>(h) A person licensed under AS 21.75 as an attorney-in-fact is not required to be additionally licensed under this chapter while acting on behalf of subscribers and within the scope and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under AS 21.75.</p>	<p>AS 21.90.910 EXCEPTIONS FROM DEFINITIONS. The definitions of "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900 do not include (2) the attorney-in-fact of a reciprocal insurer, or the salaried traveling representative of a reciprocal or mutual insurer not compensated on a commission basis.</p>	<p>Attorney-in-fact is licensed under AS 21.75 per NAIC Model. This paragraph moved from definition in AS 21.90.900(2).</p>
<p>(i) This section does not apply to a person who</p>		
<p>(1) is employed on salary by a person licensed under this section solely for the performance of accounting, clerical, stenographic, and similar office duties;</p>	<p>AS 21.90.910 EXCEPTIONS FROM DEFINITIONS. The definitions of "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900 do not include (1) individuals employed and used by agents for the performance of clerical, stenographic, and similar office duties; incidental taking of an application for insurance from time to time in the office of the employing agent if the employee's compensation is not contingent upon or related to the volume of applications, insurance, or premiums</p>	<p>Moved from AS 21.90.910(1)</p>

<p>(2) only secures and forwards information required for the purposes of group insurance covering the unpaid balance, or remaining payments proposed to be made, in connection with the purchase of merchandise or services, if the person receives no compensation, directly or indirectly, arising out of or in any way relating to the insurance transactions;</p>	<p>AS 21.27.010.(c) This section does not apply to a person securing and forwarding information required for the purposes of group insurance covering the unpaid balance, or remaining payments proposed to be made, in connection with the purchase of merchandise or services, if no commission or other compensation is payable on account of the insurance to the person.</p>	<p>Taken from AS 21.27.010(c)</p>
<p>(3) is employed on salary by a licensee, is supervised by and reports directly to a licensee in the firm at the licensee's place of business, and who, after disclosure that the person is not licensed, may</p>		<p>Clarifies activities that may be performed by unlicensed individuals.</p>
<p>(A) furnish premium estimates from published or printed lists of standard rates if the person does not advise, counsel, or suggest what coverage may be needed, or otherwise solicit insurance coverage;</p>		<p>See comment for Sec 21.27.010(i)(3) above.</p>
<p>(B) arrange appointments for a licensee if the person does not solicit insurance coverage;</p>		<p>See comment for Sec 21.27.010(i)(3) above.</p>
<p>(C) record information from an applicant or policyholder and complete for the licensee's personal review and signature, a certificate of insurance that is not a contract of insurance; the licensee's signature may be by facsimile.</p>		<p>See comment for Sec 21.27.010(i)(3) above.</p>
<p>(D) inform a policyholder of the type of coverage shown in the licensee's policy record if the person does not advise that an event or hypothetical event is or is not covered; or</p>		<p>See comment for Sec 21.27.010(i)(3) above.</p>

Proposed Legislation	Existing Statute	Comments
<p>(E) in the physical presence of the licensee, record information from an applicant or policyholder and completes for a licensee's personal review and personal signature, applications, binders, endorsements, or identification cards if the person discloses to the applicant or policyholder that the information provided may be reviewed with a licensee; or</p>		<p>See comment for Sec 21.27.010(i)(3) above.</p>
<p>(j) In addition to the business activities expressly exempt from licensing under this section, the director may adopt regulations that exempt other activities from the licensing requirements of this section.</p>		
<p>* Sec. 49. AS 21.27.010(f) is repealed and reenacted to read:</p>		
<p>(f) A person who performs management services for an admitted insurer or admitted reinsurer is not required to be licensed as a managing general agent or reinsurance intermediary manager if the person's compensation is not based on the volume of premium written and the person</p>		<p>This section replaces proposed AS 21.27.010(f) in Sec. 48 above as of January 1, 1994. The difference in effective dates reflects reciprocity with other NAIC accredited states. See comments in Sec. 2. See Sec 223.</p>
<p>(1) is a wholly-owned subsidiary of the admitted insurer;</p>		<p>See Sec. 49 comments above.</p>
<p>(2) wholly owns the admitted insurer;</p>		<p>See Sec. 49 comments above.</p>
<p>(3) is a wholly-owned subsidiary of the insurance holding company that owns or controls the admitted insurer;</p>		<p>See Sec. 49 comments above.</p>
<p>(4) is a United States manager of the United States branch of an alien admitted insurer; or</p>		<p>See Sec. 49 comments above.</p>

Proposed Legislation	Existing Statute	Comments
<p>(5) is the manager of a group, association, pool, or organization of admitted insurers that does joint underwriting if it is subject to examination by the authorized insurance regulator in the state in which the person's principal place of business is located and the insurance regulator is accredited by the National Association of Insurance Commissioners.</p>		<p>Sec Sec. 49 comments above.</p>
<p>* Sec. 50. AS 21.27.020 is amended to read:</p>	<p>AS 21.27.020</p>	
<p>Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the director may not issue <u>or renew</u> a license except in compliance with this chapter <u>and may not issue a license</u> to a person, or to be exercised by a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under this chapter.</p>	<p>Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the director may not issue a license except in compliance with this chapter to a person, or to be exercised by a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under this chapter.</p>	<p>Minor editorial changes to reflect proposed biennial renewal license process.</p>

<p>• Sec. 51. AS 21.27.020 is amended by adding new subsections to read:</p>		Relocation of AS 21.27.090.
<p>To qualify for issuance or renewal of an individual or individual in the firm license, an applicant or licensee shall comply with this title and</p>	<p>AS 21.27.090(a) To qualify for an agent, general agent, broker, solicitor, or adjuster license, an applicant shall comply with this title and</p>	Relocation of AS 21.27.090(a). No change.
<p>(1) be 19 years of age or older with a high school or General Education Development diploma or equivalent;</p>	<p>AS 21.27.090(a)(1) be 19 years of age or older with a high school or General Education Development diploma or equivalent;</p>	Relocation of AS 21.27.090(a). No change.
<p>(2) if for a resident license, be a bona fide resident before issuance of the license and actually reside in the state;</p>	<p>AS 21.27.090(a)(2) if for a resident license, be a bona fide resident before issuance of the license and actually reside in the state;</p>	Relocation of AS 21.27.090(a). No change.
<p>(3) successfully pass an examination required under AS 21.27.060;</p>	<p>AS 21.27.090(a)(3) successfully pass any examination required under AS 21.27.060;</p>	Relocation of AS 21.27.090(a). No change.
<p>(4) be a trustworthy person;</p>	<p>AS 21.27.090(a)(4) be a trustworthy person;</p>	Relocation of AS 21.27.090(a). No change.
<p>(5) not use or intend to use the license for the purpose principally of writing controlled business, as defined in AS 21.27.030;</p>	<p>AS 21.27.090(a)(5) not use or intend to use the license for the purpose principally of writing controlled business, as defined in AS 21.27.030;</p>	Relocation of AS 21.27.090(a). No change.
<p>(6) not have committed an act that is a cause for denial, nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.</p>	<p>AS 21.27.090(a)(6) not have committed an act that is a ground for denial, suspension, or revocation set out in AS 21.27.410;</p>	Relocation of AS 21.27.090(a). Substantially similar.
<p>(c) To qualify for issuance or renewal of a license as a firm insurance producer, a firm managing general agent, a firm reinsurance intermediary broker, a firm reinsurance intermediary manager, a firm surplus lines broker, or a firm independent adjuster license, an applicant or licensee shall</p>	<p>AS 21.27.090(d) To qualify for a firm agent or broker license an applicant must comply with this title and</p>	Relocation of AS 21.27.090(d). Reflects revised types of licensees.
<p>(1) comply with (b)(4) and (5) of this section;</p>	<p>AS 21.27.090(d)(1) comply with (a)(4) and (5) of this section;</p>	Relocation of AS 21.27.090(d). Reflects revised types of licensees.

Proposed Legislation	Existing Statute	Comments
(2) have the principal or manager licensed as an individual in the firm;		Reflects current procedure.
(3) if a corporation or partnership,	AS 21.27.090(d)(2) if a corporation, maintain a lawfully established place of business in this state, except as provided in AS 21.27.270.	Relocation of AS 21.27.090(d)(2).
(A) maintain a lawfully established place of business in this state, except as provided in AS 21.27.330;		
(B) disclose to the director all officers, directors, or partners, and whether or not they are licensed;		Reflects current procedure.
(C) designate a licensed officer or partner responsible for the firm's compliance with the insurance statutes and regulations of this state; and		Establishes person in the firm who is point of contact with Division of Insurance.
(D) provide to the director documents necessary to verify the information contained in or made in connection with the application;		Reflects current procedure.
(4) notify the director within 30 days in writing by certified mail of a change in a principal or manager of the firm or the termination of employment of an individual in the firm licensee.		Establishes timeliness standards for reporting changes to Division of Insurance.
(d) The director may adopt regulations establishing additional education or experience requirements for applicants or licensees under this chapter.	AS 21.27.380(e) A license continues in force if, in addition to meeting the other requirements of this chapter, the individual licensee, or, if a firm licensee, the principal or manager demonstrates to the director that the licensee continues to meet additional educational requirements that the director prescribes by regulation.	Relocation of AS 21.22.380(e).
(e) If the director finds that the applicant or licensee is qualified and that application, license, or renewal fees have been paid, the director may issue or renew the license.		

<p>(f) A licensed individual in the firm who changes employers remains licensed under this chapter pending the issuance of a new license if the licensee otherwise meets the requirements of this chapter.</p>		
<p>• Sec. 52. AS 21.27. is amended by adding a new section to read:</p>		
<p>Sec. 21.27.025. REQUIRED NOTICE BY LICENSEE. (a) A licensee shall notify the director within 30 days in writing by certified mail of a change in residence, employment that is licensed under this chapter, place of business, mailing address, or phone number; a suspension or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or felony.</p>		
<p>(b) A principal or manager shall notify the director in writing within 30 days of a termination of employment of a licensed individual in the firm. Notice required under this subsection must include the licensee's name; the firm's name and address; the date of hire, self-employment, or termination; and other information required by the director.</p>		
<p>(c) In addition to any other penalty provided by law, a failure to notify the director as required by this section is cause for denial, nonrenewal, suspension, or revocation of a license</p>		

<p>• Sec. 53. AS 21.27.030(a) is repealed and reenacted to read:</p>	AS 21.27.030(a)	
<p>(a) The director may not issue an insurance producer, a managing general agent, or a surplus lines broker license to a person if the director has reasonable cause to believe that the applicant for the license would, during the 12-month period immediately following issuance of the license, earn or receive an aggregate amount in commission, service fees, brokerage, or other valuable consideration, directly or indirectly, by whatever name called, represented by the controlled business that exceeds 50 percent of the aggregate amount of compensation, commission, service fees, brokerage, or other valuable consideration represented by all other insurance business that would be procured by or through the applicant.</p>	<p>(a) The director may not grant an agent, general agent, solicitor, or broker license to a person if the director has reasonable cause to believe that the applicant for the license would, during the 12-month period immediately following issuance of the license, receive an aggregate amount in commissions represented by the controlled business that exceeds the aggregate amount of commissions represented by all other insurance business that would be procured by or through the applicant.</p>	Revised to reflect biennial license.
<p>• Sec. 54. AS 21.27.030(c) is repealed and reenacted to read:</p>		
<p>(c) A licensee may not earn or receive an aggregate amount in commission, service fees, brokerage, or other valuable consideration, directly or indirectly, by whatever name called, represented by the controlled business that exceeds 50 percent of the aggregate amount in compensation, commission, service fees, brokerage, or other valuable consideration represented by all other insurance business in a calendar year.</p>	<p>(c) The director may revoke an agent, general agent, solicitor, or broker license if the director has reasonable cause to believe that during either of the two preceding calendar years the aggregate amount of commissions represented by the controlled business procured by or through the licensee exceeded the aggregate amount of commissions represented by all other insurance business procured by or through the licensee.</p>	Expressly prohibits the activities for which the director may not issue a license in AS 21.27.030(a) above.
<p>• Sec. 55. AS 21.27.030 is amended by adding a new subsection to read:</p>		
<p>(e) In addition to any other penalty provided by law, a person who violates this section is subject to the penalties provided under AS 21.27.440(a).</p>		Relocation of penalty provisions.

<p>* Sec. 56. AS 21.27.040(a) is amended to read:</p>	AS 21.27.040(a)	
<p>(a) Application for a license shall be made to the director upon forms prescribed and furnished by the director. As a part of or in connection with the application, the applicant shall furnish information concerning the identity, personal history, experience, business record, purposes of <u>the applicant</u> [.] and other pertinent facts concerning the applicant that the director may reasonably require. <u>The applicant shall declare under penalty of denial, nonrenewal, suspension, or revocation of a license issued by the director that the statements made in or in connection with the application are true, correct, and complete to the best of the applicant's knowledge and belief. Payment of an application fee established under AS 21.06.250 must be submitted with the application.</u></p>	<p>(a) Application for a license shall be made to the director upon forms prescribed and furnished by the director. As a part of or in connection with the application, the applicant shall furnish information concerning the identity, personal history, experience, business record, purposes, and other pertinent facts concerning the applicant that the director may reasonably require.</p>	<p>Clarifies that data provided in the application process must be truthful. Reflects biennial renewal license.</p>
<p>* Sec. 57. AS 21.27.040(c) is amended to read:</p>	AS 21.27.040(c)	
<p>(c) <u>In addition to any other penalty provided by law,</u> a [A] person wilfully misrepresenting a fact required to be disclosed in <u>or in connection with the application or other information required by this section</u> is subject to the penalties provided for <u>under AS 21.27.440(a)</u> [IN THIS TITLE].</p>	<p>(c) A person wilfully misrepresenting a fact required to be disclosed in the application is subject to the penalties provided for in this title.</p>	<p>Editorial changes.</p>
<p>* Sec. 58. AS 21.27.040 is amended by adding a new subsection to read:</p>		
<p>(d) The director may require an applicant or licensee at any time, including at the time of license renewal, to supply current information of the type made in or supplemental to an application.</p>		<p>Reflects current procedure. Moved from AS 21.27.050(b).</p>

Proposed Legislation	Existing Statute	Comments
To be repealed. See Sec. 221.	AS 21.27.050 ONE FILING OF PERSONAL DATA SUFFICIENT. (a) The filing of personal data by an individual in connection with one application for an agent or general agent license is sufficient, regardless of the number of insurers to be represented or the number of subsequent applications by the same applicant.	Removal requested because section causes procedural inefficiencies.
To be repealed. See Sec. 221.	(b) The director may require a licensed agent, general agent, solicitor, broker, or adjuster, to supply the information called for in an application for a license.	Moved to AS 21.27.040(d).
* Sec. 59. AS 21.27.060 is repealed and reenacted to read:	*AS 21.27.060	
Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as provided in this chapter, an applicant for an individual license and a principal or manager applicant for a firm license shall, before the issuance of the license, personally take and pass, to the satisfaction of the director, an examination that tests the knowledge and competence of the applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and regulations of the state.	AS 21.27.070 SCOPE OF EXAMINATION.(a) Each examination shall be as the director prescribes and shall be of sufficient scope reasonably to test the applicant's knowledge relative to the kinds of insurance which may be dealt with under the license applied for, and of the duties and responsibilities of, and laws of this state applicable to the licensee. AS 21.27.060. EXAMINATIONS OF APPLICANTS (a) An applicant for an individual license as agent, general agent, broker, solicitor, or adjuster shall, before the issuance of the license, personally take and pass, to the satisfaction of the director, an examination given by the director as a test of the qualifications and competence of the applicant.	Clarifies principal and manager licensure as individuals in the firm. Incorporates AS 21.27.070(a).