

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
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1           the matter with a licensee.

2           (k) In addition to the business activities expressly exempt from licensing under this  
3 section, the director may adopt regulations that exempt other activities from the licensing  
4 requirements of this section.

5

6 \* **Sec. 51.** AS 21.27.020 is amended to read:

7           Sec. 21.27.020. **GENERAL QUALIFICATIONS FOR LICENSE.** For the protection of  
8 the people of this state, the director may not issue or renew a license except in compliance with  
9 this chapter and may not issue a license to a person, or to be exercised by a person, found by  
10 the director to be untrustworthy, incompetent, or who has not established to the satisfaction of  
11 the director that the person is qualified under this chapter.

12 \* **Sec. 52.** AS 21.27.020 is amended by adding new subsections to read:

13           (b) To qualify for issuance or renewal of an individual or individual in the firm license,  
14 an applicant or licensee shall comply with this title and

15                   (1) be 19 years of age or older with a high school or General Education  
16 Development diploma or equivalent;

17                   (2) if for a resident license, be a bona fide resident before issuance of the license  
18 and actually reside in the state;

19                   (3) successfully pass an examination required under AS 21.27.060;

20                   (4) be a trustworthy person;

21                   (5) not use or intend to use the license for the purpose principally of writing  
22 controlled business, as defined in AS 21.27.030;

23                   (6) not have committed an act that is a cause for denial, nonrenewal, suspension,  
24 or revocation of a license in this state or another jurisdiction.

25           (c) To qualify for issuance or renewal of a license as a firm insurance producer, a firm  
26 managing general agent, a firm reinsurance intermediary broker, a firm reinsurance intermediary  
27 manager, a firm surplus lines broker, or a firm independent adjuster, an applicant or licensee shall

28                   (1) comply with (b)(4) and (5) of this section;

29                   (2) have the principal or manager licensed as an individual in the firm;

30                   (3) if a corporation or partnership,

31                           (A) maintain a lawfully established place of business in this state, except

1 when licensed as a nonresident as provided in AS 21.27.270;

2 (B) disclose to the director all officers, directors, or partners, and whether  
3 or not they are licensed;

4 (C) designate a licensed officer or partner responsible for the firm's  
5 compliance with the insurance statutes and regulations of this state; and

6 (D) provide to the director documents necessary to verify the information  
7 contained in or made in connection with the application;

8 (4) notify the director within 30 days in writing by certified mail of a change in  
9 a principal or manager of the firm or the termination of employment of an individual in the firm  
10 licensee.

11 (d) The director may adopt regulations establishing additional education or experience  
12 requirements for applicants or licensees under this chapter.

13 (e) If the director finds that the applicant or licensee is qualified and that application,  
14 license, or renewal fees have been paid, the director may issue or renew the license.

15 (f) A licensed individual in the firm who changes employers remains licensed under this  
16 chapter pending the issuance of a new license if the licensee otherwise meets the requirements  
17 of this chapter.

18 \* Sec. 53. AS 21.27 is amended by adding a new section to read:

19 Sec. 21.27.025. **REQUIRED NOTICE BY LICENSEE.** (a) A licensee shall notify the  
20 director within 30 days in writing by certified mail of a change in residence, employment that  
21 is licensed under this chapter, place of business, mailing address, or phone number; a suspension  
22 or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or  
23 felony.

24 (b) A principal or manager shall notify the director in writing within 30 days of a  
25 termination of employment of a licensed individual in the firm. Notice required under this  
26 subsection must include the licensee's name; the firm's name and address; the date of hire, self-  
27 employment, or termination; and other information required by the director.

28 (c) In addition to any other penalty provided by law, a failure to notify the director as  
29 required by this section is cause for denial, nonrenewal, suspension, or revocation of a license.

30 \* Sec. 54. AS 21.27.030(a) is repealed and reenacted to read:

31 (a) The director may not issue an insurance producer, a managing general agent, or a

1 surplus lines broker license to a person if the director has reasonable cause to believe that the  
2 applicant for the license would, during the 12-month period immediately following issuance of  
3 the license, earn or receive an aggregate amount in commission, service fees, brokerage, or other  
4 valuable consideration, directly or indirectly, by whatever name called, represented by the  
5 controlled business that exceeds 50 percent of the aggregate amount of compensation,  
6 commission, service fees, brokerage, or other valuable consideration represented by all other  
7 insurance business that would be procured by or through the applicant.

8 \* Sec. 55. AS 21.27.030(c) is repealed and reenacted to read:

9 (c) A licensee may not earn or receive an aggregate amount in commission, service fees,  
10 brokerage, or other valuable consideration, directly or indirectly, by whatever name called,  
11 represented by the controlled business that exceeds 50 percent of the aggregate amount in  
12 compensation, commission, service fees, brokerage, or other valuable consideration represented  
13 by all other insurance business in a calendar year.

14 \* Sec. 56. AS 21.27.030 is amended by adding a new subsection to read:

15 (e) In addition to any other penalty provided by law, a person who violates this section  
16 is subject to the penalties provided under AS 21.27.440.

17 \* Sec. 57. AS 21.27.040(a) is amended to read:

18 (a) Application for a license shall be made to the director upon forms prescribed [AND  
19 FURNISHED] by the director. As a part of or in connection with the application, the applicant  
20 shall furnish information concerning the identity, personal history, experience, business record,  
21 purposes of the applicant [,] and other pertinent facts concerning the applicant that the director  
22 may reasonably require. The applicant shall declare under penalty of denial, nonrenewal,  
23 suspension, or revocation of a license issued by the director that the statements made in or  
24 in connection with the application are true, correct, and complete to the best of the  
25 applicant's knowledge and belief. Payment of an application fee established under  
26 AS 21.06.250 must be submitted with the application.

27 \* Sec. 58. AS 21.27.040(c) is amended to read:

28 (c) In addition to any other penalty provided by law, a [A] person wilfully  
29 misrepresenting a fact required to be disclosed in or in connection with the application or other  
30 information required by this section is subject to the penalties provided for under  
31 AS 21.27.440 [IN THIS TITLE].

1 \* Sec. 59. AS 21.27.040 is amended by adding a new subsection to read:

2 (d) The director may require an applicant or licensee at any time, including at the time  
3 of license renewal, to supply current information of the type made in or supplemental to an  
4 application.

5 \* Sec. 60. AS 21.27.060 is repealed and reenacted to read:

6 Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as  
7 provided in this chapter, an applicant for an individual license and a principal or manager  
8 applicant for a firm license shall, before the issuance of the license, personally take and pass, to  
9 the satisfaction of the director, an examination that tests the knowledge and competence of the  
10 applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and  
11 regulations of the state.

12 (b) If the director determines that a licensee has violated this title or that a licensee has  
13 conducted affairs under the license that cause the director reasonably to desire further evidence  
14 of the qualifications of the licensee, the director may at any time require the licensee to  
15 personally take and pass, to the satisfaction of the director, an examination that tests the  
16 knowledge and competence of the licensee as to the licensee's duties and responsibilities as a  
17 licensee, or the insurance laws of the state.

18 (c) An applicant who files a current letter of clearance from a prior state of residence  
19 certifying that the applicant was in good standing and has held a license in that state that had the  
20 same qualifications as the license applied for in this state, including passing an examination, shall  
21 personally take and pass, to the satisfaction of the director, an examination pertaining to this  
22 state's statutes and regulations and any kind or class of insurance not covered under the license  
23 held in the prior state of residence, provided the filing of the letter of clearance is made within  
24 180 days of cancellation of the prior state's resident license.

25 (d) This section does not apply, at the discretion of the director, to an applicant

26 (1) for a limited license under AS 21.27.150;

27 (2) who, at any time within the two-year period immediately preceding the date  
28 the current pending application is received by the division, had been licensed in good standing  
29 in this state under a license requiring substantially similar qualifications as required by the license  
30 applied for, or

31 (3) whose license in the resident jurisdiction requires the same qualifications as

1 the license applied for in this state if the license in all jurisdictions is in good standing.

2 (e) The director may make available a printed manual specifying in general terms the  
3 subjects that may be covered in an examination for a particular license.

4 \* Sec. 61. AS 21.27.060(c) is repealed and reenacted to read:

5 (c) An applicant who files a current letter of clearance from a prior state of residence  
6 certifying that the applicant was in good standing and has held a license in that state that had the  
7 same qualifications as the license applied for in this state, including passing an examination, shall  
8 personally take and pass, to the satisfaction of the director, an examination pertaining to this  
9 state's statutes and regulations and any kind or class of insurance not covered under the license  
10 held in the prior state of residence, provided the filing of the letter of clearance is made within  
11 180 days of cancellation of the prior state's resident license. This subsection only applies if the  
12 prior resident state is accredited by the National Association of Insurance Commissioners.

13 \* Sec. 62. AS 21.27.060(d) is repealed and reenacted to read:

14 (d) This section does not apply, at the discretion of the director, to an applicant

15 (1) for a limited license under AS 21.27.150;

16 (2) who, at any time within the two-year period immediately preceding the date  
17 the current pending application is received by the division, had been licensed in good standing  
18 in this state under a license requiring substantially similar qualifications as required by the license  
19 applied for, or

20 (3) whose license in the resident jurisdiction requires the same qualifications as  
21 the license applied for in this state if the license in all jurisdictions is in good standing and its  
22 resident jurisdiction is accredited by the National Association of Insurance Commissioners.

23 \* Sec. 63. AS 21.27.080(b) is amended to read

24 (b) The director shall give examinations at the times and places [WITHIN THIS STATE]  
25 that the director considers necessary to reasonably serve the convenience of [BOTH] the director,  
26 [AND] applicants, and licensees.

27 \* Sec. 64. AS 21.27.100 is repealed and reenacted to read:

28 Sec. 21.27.100. APPOINTMENT OF INSURANCE PRODUCER, MANAGING  
29 GENERAL AGENT, AND REINSURANCE INTERMEDIARY MANAGER. (a) On forms  
30 prescribed by the director, an appointment shall be filed with the director at least 10 days before  
31 its proposed effective date by the following licensees:

1 (1) an admitted insurer appointing a managing general agent in this state or  
2 relative to a subject resident, located, or to be performed in this state;

3 (2) a managing general agent appointing an insurance producer as its subagent  
4 in this state or relative to subjects resident, located, or to be performed in this state;

5 (3) a domestic reinsurer appointing a reinsurance intermediary manager; and

6 (4) a reinsurance intermediary manager appointing an insurance producer as its  
7 subagent in this state.

8 (b) On forms prescribed by the director, an admitted insurer appointing an insurance  
9 producer as its agent in this state or relative to a subject resident, located, or to be performed in  
10 this state shall file written notice of appointment not later than 30 days from the date the written  
11 agency contract is executed or the first insurance application is submitted to the admitted insurer  
12 by the licensed insurance producer. If the licensed insurance producer has not received written  
13 acknowledgement of the appointment from the director within 45 days from the date the written  
14 agency contract is executed or the first insurance application is submitted to the admitted insurer  
15 by the insurance producer, whichever is later, the insurance producer shall immediately  
16 discontinue acting as an insurance producer on behalf of the insurer until an acknowledgement  
17 has been received.

18 (c) If the appointee is licensed, the director shall provide written acknowledgement of  
19 the appointment, including the effective date to the person making the appointment, to the  
20 appointee, and to the insurer or reinsurer.

21 (d) The person making the appointment, the appointee, and the insurer shall review the  
22 acknowledgement for accuracy and advise the director of an error within 30 days for correction.

23 \* Sec. 65. AS 21.27.110 is repealed and reenacted to read:

24 Sec. 21.27.110. TERM OF APPOINTMENT. (a) An appointment under AS 21.27.100  
25 continues in force until the appointment is terminated

26 (1) by the insurer, reinsurer, managing general agent as authorized by the insurer,  
27 or reinsurance intermediary manager as authorized by the reinsurer; a written notice of  
28 termination shall be mailed at least 10 days before the effective date of the termination to the last  
29 known address of the appointee and to the director by first class certified mail, first class  
30 registered mail, or first class with a certificate of mailing from the United States Postal Service;  
31 or

1 (2) by the director, a written notice of termination shall be mailed at least 10 days  
 2 before the effective date of the termination by first class certified mail to the last address of  
 3 record with the director of the appointee and insurer, reinsurer, managing general agent, or  
 4 reinsurance intermediary.

5 (b) A notice of termination submitted to the director under (a) of this section must  
 6 include a statement of the reasons for the termination. A statement of the reasons for termination  
 7 is privileged and may not be admitted as evidence in an action or proceeding against the insurer,  
 8 reinsurer, managing general agent, or reinsurance intermediary or their representatives by or on  
 9 behalf of a person affected by the termination, except in an action involving perjury, false  
 10 statement, fraud, or failure to comply with this subsection.

11 (c) The director may require that an insurer renew an appointment annually and may  
 12 require payment of a renewal fee under AS 21.06.250 for an appointment in effect on  
 13 December 31 of the current year. If the director requires that an appointment be renewed or a  
 14 renewal fee be paid, the director shall terminate an insurer's appointment if the renewal fees have  
 15 not been received by the director on or before the close of business of March 1 of the renewal  
 16 year.

17 \* Sec. 66. AS 21.27.130 is amended to read:

18 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license [AGENT,  
 19 GENERAL AGENT, ADJUSTER, SOLICITOR, AND BROKER LICENSES] must be in the  
 20 form the director prescribes [,] and must set out

21 (1) the name and mailing address of the licensee, and [OR] if the licensee is  
 22 required to have a place of business, the physical address of the place of business;

23 (2) if for a firm, the name of the principal or manager of the firm;

24 (3) the kind or class [KINDS] of insurance the licensee is licensed to handle;

25 (4) the effective date and expiration date of the license [IF A SOLICITOR'S  
 26 LICENSE, THE NAME AND ADDRESS OF THE AGENT OR BROKER REPRESENTED BY  
 27 THE SOLICITOR];

28 (5) the condition under which the license is granted;

29 (6) the date of issuance of the license;

30 (7) each fictitious name and alias under which the licensee may do business:

31 and

1                    (8) other information required by the director.

2   \* Sec. 67. AS 21.27.140 is repealed and reenacted to read:

3                    Sec. 21.27.140. FIRM LICENSES. (a) A firm shall have a firm license of the same  
4                    scope as each individual employee of the firm.

5                    (b) A firm may not be licensed as an insurance producer, managing general agent,  
6                    reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or  
7                    independent adjuster, or transact insurance unless each individual employed as an insurance  
8                    producer, managing general agent, surplus lines broker, trainee insurance producer, trainee  
9                    independent adjuster, or independent adjuster by the firm is licensed as an individual in the firm  
10                    and the principal or manager of the firm is licensed as an individual in the firm to exercise all  
11                    the powers conferred by the firm's license.

12                    (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew or should  
13                    have known of an act or representation made on the firm's behalf by a person not licensed as  
14                    required by this chapter, the firm and the firm's principal or manager are subject to the penalties  
15                    provided under AS 21.27.440.

16   \* Sec. 68. AS 21.27.150 is repealed and reenacted to read:

17                    Sec. 21.27.150. LIMITED LICENSES. The director may issue a

18                    (1) travel insurance limited producer license to a person whose place of business  
19                    is located in this state, who sells transportation tickets of a common carrier of persons or  
20                    property, who is appointed under AS 21.27.100, and whose sole purpose is to be appointed by  
21                    and to act as an agent for transportation ticket policies of disability insurance, baggage insurance  
22                    on personal effects, and trip cancellation or trip interruption insurance;

23                    (2) disability insurance limited producer license to a resident of this state whose  
24                    sole purpose is to be appointed by and act as an agent for disability insurance pertaining to sports  
25                    and recreation;

26                    (3) title insurance limited producer license to a person whose place of business  
27                    is located in this state and whose sole purpose is to be appointed by and act on behalf of a title  
28                    insurer;

29                    (4) bail bond limited producer license to a person whose place of business is  
30                    located in this state and whose sole purpose is to be appointed by and act on behalf of a surety  
31                    insurer pertaining to bail bonds;

1 (5) fraternal benefit society limited producer license to a person whose sole  
2 purpose is to be appointed by and to act on behalf of a fraternal benefit society licensed under  
3 AS 21.84;

4 (6) retired insurance producer license to a resident who is retired or retiring from  
5 the business of insurance and surrenders all in-force licenses to allow the person to receive a  
6 continuing commission in regard to insurance transacted before retirement; a retired insurance  
7 producer licensee may not solicit, induce, negotiate, or effectuate contracts of insurance; the  
8 director may renew a retired insurance producer license if the licensee ceases to be a resident of  
9 this state;

10 (7) the director may waive the bond required under AS 21.27.530(5) for a person  
11 licensed under this section.

12 \* Sec. 69. AS 21.27.160 is repealed and reenacted to read:

13 Sec. 21.27.160. SCOPE OF LICENSES. An insurance producer, managing general  
14 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker,  
15 or independent adjuster is only required to have one license inclusive of all kinds or combination  
16 of kinds or all classes or combination of classes of insurance the insurance producer, managing  
17 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
18 broker, or independent adjuster is licensed to handle.

19 \* Sec. 70. AS 21.27.170 is amended to read:

20 Sec. 21.27.170. INSURANCE VENDING MACHINES LICENSE. (a) A licensed  
21 insurance producer that has a place of business in this state [RESIDENT AGENT] may  
22 solicit applications for and issue policies on behalf of an admitted insurer providing [OF]  
23 personal travel accident insurance by means of a mechanical vending machine supervised by the  
24 licensed insurance producer [AGENT] and placed at airports, railroad stations, bus stations, and  
25 similar places where transportation tickets are sold as a convenience to the traveling public, if  
26 the director finds that

27 (1) the policy to be sold provides reasonable coverage and benefits, is reasonably  
28 suited for sale and issuance through vending machines, and that use of a machine in a particular  
29 proposed location would be of material convenience to the public;

30 (2) the type of vending machine proposed to be used is reasonably suitable and  
31 practical for the purpose;

1 (3) reasonable means are provided for informing the prospective purchaser of the  
2 policy of the coverage and restrictions of the policy;

3 (4) reasonable means are provided for refund to the applicant or prospective  
4 applicant of money inserted in defective machines and for which no insurance, or a less amount  
5 than that paid for is actually received.

6 (b) The director shall issue to the licensed insurance producer [AGENT] a special  
7 vending machine license for each machine to be used. The license must specify the name and  
8 mailing address of the insurer and insurance producer [AGENT], the name of the policy to be  
9 sold, the serial number of the machine, and the physical location [PLACE] where the machine  
10 is to be in operation. The special vending machine license is subject to nonrenewal,  
11 suspension, or revocation coincidentally with that of the insurance producer [AGENT]. The  
12 director shall also revoke the license on a machine if the director finds that the conditions upon  
13 which the machine was licensed, under (a) of this section, no longer exist. Proof of the existence  
14 of a license shall be displayed on or about each vending machine in use in the manner the  
15 director may [REASONABLY] require.

16 \* Sec. 71. AS 21.27.190 is repealed and reenacted to read:

17 Sec. 21.27.190. BOND. (a) In addition to any other requirements in this title, a bond  
18 or an alternative indemnity permitted under this section shall meet the following requirements:

19 (1) it shall be continuous in form;

20 (2) it shall remain in force until the licensee is released from liability by the  
21 director or until cancelled by the issuer;

22 (3) without prejudice to any liability accrued before the effective cancellation, it  
23 may be cancelled if the director receives 60 days advance written notice;

24 (4) the amount required to be maintained must be maintained unimpaired; and

25 (5) it shall be in favor of insurers, insureds, and this state.

26 (b) A bond may only be issued by an admitted insurer authorized to transact surety  
27 insurance in this state, or by a surplus lines insurer on the most recent list of eligible surplus  
28 lines insurers published by the director, that is acceptable to the director.

29 (c) For a firm licensee, a single bond or an alternative indemnity permitted under this  
30 section may combine the sureties required

31 (1) by separate sections of this title; and

1 (2) for separate places of business.

2 (d) An individual in the firm who acts solely on behalf of a firm that has and maintains  
3 a bond or an alternative permitted under this section may not be required to also have and  
4 maintain a bond if the individual in the firm deposits all money into the firm's fiduciary account.

5 (e) Except as provided in this title, the director may adopt, by regulation, a deposit of  
6 cash, a certificate of deposit, or letter of credit as an alternative to a bond if the deposit of cash,  
7 certificate of deposit, or letter of credit meets the requirements of this section, other provisions  
8 of this title, and other requirements established by the director.

9 \* Sec. 72. AS 21.27.270(a) is amended to read:

10 (a) The director may license as a nonresident licensee [INSURANCE AGENT,  
11 GENERAL AGENT, BROKER, OR ADJUSTER] a person who otherwise qualifies under this  
12 title, but who is not a resident of [OR DOMICILED IN] the state.

13 \* Sec. 73. AS 21.27.270(c) is repealed and reenacted to read:

14 (c) In addition to the other requirements of this chapter, a person may not be licensed  
15 as a nonresident licensee until the person files a power of attorney as follows:

16 (1) an applicant shall appoint the director as attorney to receive service of legal  
17 process issued against the licensee in this state upon a cause of action arising in this state or  
18 relative to a subject resident, located, or to be performed in this state; service upon the director  
19 as attorney shall constitute effective legal service upon the licensee; and

20 (2) the appointment shall be irrevocable for as long as there could be a cause of  
21 action against the licensee arising out of an insurance transaction in this state or relative to a  
22 subject resident, located, or to be performed in this state.

23 \* Sec. 74. AS 21.27.270 is amended by adding new subsections to read:

24 (d) Duplicate copies of legal process against a licensed or formerly licensed nonresident  
25 licensee shall be served upon the director either by a peace officer or through certified mail with  
26 return receipt requested. At the time of service, the plaintiff shall pay to the director a fee set  
27 under AS 21.06.250.

28 (e) Upon receiving a service of process, the director shall immediately send one of the  
29 copies of the process by certified mail with return receipt requested to the licensed or formerly  
30 licensed nonresident licensee at the last address of record filed with the director.

31 (f) If, under the law of another state or foreign country, a tax, license, fee, fine, penalty,

1 deposit requirement or other material obligation, prohibition or restriction is or may be imposed  
2 upon a licensee of this state that is in excess of the tax, license, fee, fine, penalty, deposit  
3 requirement or other material obligation, prohibition or restriction directly imposed upon a similar  
4 licensee of another state or country under the statutes of this state, the same tax, license, fee, fine,  
5 penalty, deposit requirement or other material obligation, prohibition or restriction may, in the  
6 discretion of the director, be imposed by the director upon the licensee of the other state or  
7 country transacting or seeking to transact business in this state or relative to a subject resident,  
8 located, or to be performed in this state. For the purposes of this section, a tax, license, fee, or  
9 other obligation imposed by a city, borough, or other political subdivision or agency or another  
10 state or country on a licensee of this state shall be considered imposed by the state or country.

11 \* Sec. 75. AS 21.27.330 is repealed and reenacted to read:

12 Sec. 21.27.330. PLACE OF BUSINESS. A licensed insurance producer, managing  
13 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
14 broker, and independent adjuster, other than those licensed for life or disability insurance or  
15 annuity only, shall have and maintain a place of business physically accessible to the public  
16 where the licensee principally conducts transactions under the license in this state, or if a  
17 nonresident licensee, in the state of residence. The address of the place of business must appear  
18 on each license, and the licensee shall within 30 days notify the director in writing by certified  
19 mail of a change of address or place of business. If the licensee maintains more than one place  
20 of business, the licensee shall obtain a separate license for each place of business and pay a  
21 license fee for each license.

22 \* Sec. 76. AS 21.27.340 is repealed and reenacted to read:

23 Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. The license of a licensee other than  
24 a licensee whose license has a scope of only life or disability insurance or annuity shall be  
25 conspicuously displayed in that part of the place of business that is customarily open to the  
26 public.

27 \* Sec. 77. AS 21.27.350 is repealed and reenacted to read:

28 Sec. 21.27.350. RECORDS OF LICENSEES. (a) A licensee shall document each action  
29 taken in regard to an insurance transaction. The documentation must contain all notes, work  
30 papers, documents, and similar material, and be in sufficient detail that relevant events, the dates  
31 of those events, and all persons participating in those events can be identified. The

1 documentation must include a record of each insurance contract procured, issued, or  
2 countersigned, together with the names of the insurers and insureds, the amount of premium paid  
3 or to be paid, and a statement of the subject of the insurance; the names of other licensees from  
4 whom business is accepted, and of persons to whom commissions or allowances are promised  
5 or paid; and a record of each investigation or adjustment undertaken or consummated, and a  
6 statement of the fee, commission, or other compensation received or to be received on account  
7 of the investigation or adjustment.

8 (b) A licensee shall keep at the licensee's place of business or at the place of business  
9 of an admitted insurer a complete record of transactions under the license. An admitted insurer  
10 shall maintain records received from a licensee as required by this section.

11 (c) The records of a particular transaction shall be retained and kept open for examination  
12 and inspection by the director at any business time during the five years immediately after the  
13 date of the completion of the transaction or 10 years for reinsurance transactions, unless the  
14 director orders a longer period of retention. If a licensee assumes the business of another  
15 licensee or former licensee by merger, purchase, or otherwise, the principal or manager of the  
16 assuming licensee firm shall provide to the director in writing each location where the assumed  
17 licensee's records are maintained by the assuming licensee during the period in which the records  
18 must be kept available and open to the inspection of the director. A formerly licensed person  
19 shall provide to the director in writing each location where records shall be maintained during  
20 the period in which the records of a particular transaction must be kept available and open to the  
21 examination and inspection of the director. A formerly licensed person may, with the permission  
22 of the director, arrange to have a current licensee or the home office of the last known insurer  
23 of each policyholder, maintain the records open to the examination and inspection of the director  
24 during the period in which the records must be maintained.

25 (d) In addition to the record required under (a) of this section, a licensee shall have and  
26 maintain at the licensee's principal place of business current accounting and financial records  
27 maintained under generally accepted accounting principles.

28 (e) A licensee shall reply in writing within 10 working days to a records inquiry of the  
29 director. The director may inspect or request summary or detailed copies of records for  
30 examination by the division. Accounting and financial records inspected or examined under this  
31 section are confidential when in the possession of the division, but may be used by the director

1 in a proceeding against the licensee. For purposes of this section, the records of a firm shall  
2 include and be considered the records of an individual licensee acting on behalf of the firm.

3 \* Sec. 78. AS 21.27.360(b) is amended to read:

4 (b) All money, except that made payable to the insurer, representing premium taxes  
5 and fees, premiums or return premiums received by the licensee, shall be received in the  
6 fiduciary account of the licensee [AND SHALL BE DEPOSITED IN A BANK ACCOUNT OR  
7 DEPOSITORY SEPARATE FROM ANY OTHER ACCOUNT OR DEPOSITORY,] and shall  
8 be promptly accounted for and paid to the person [INSURED, INSURER, OR AGENT] entitled  
9 to the money. For purposes of this section [SUBSECTION], the fiduciary account of the firm  
10 shall be considered the fiduciary account of an individual licensee acting on behalf of the firm  
11 and shall be the responsibility of the firm. Money deposited into a fiduciary account may not  
12 be commingled or otherwise combined with other money, except as allowed under (d) of this  
13 section and AS 21.27.365.

14 \* Sec. 79. AS 21.27.360(c) is repealed and reenacted to read:

15 (c) In addition to any other penalty provided by law, a person who the director has  
16 determined has acted to divert or appropriate fiduciary account money for personal use shall be  
17 ordered to make restitution and shall be subject to suspension or revocation under AS 21.27.420 -  
18 21.27.435 of all licenses and a civil penalty not to exceed \$50,000 for each violation.

19 \* Sec. 80. AS 21.27.360(d) is amended to read:

20 (d) A licensee may only commingle premium taxes and fees, premiums, and return  
21 premiums with [PREMIUM MONEY,] additional money for the purpose of advancing  
22 premiums, establishing reserves for the payment of return premiums, or reserves for receiving  
23 and transmitting premium or return premium money. Money collected for the payment of  
24 premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money on  
25 deposit, may be commingled in a fiduciary account, but shall be separately accounted for and  
26 periodically removed from the fiduciary account.

27 \* Sec. 81. AS 21.27.360(e) is amended to read:

28 (e) A licensee may not treat money required to be in a fiduciary account as a personal  
29 asset, as collateral for a personal or business loan, or as a personal asset or income on a financial  
30 statement, except that money in a fiduciary account may be included in a financial statement of  
31 the licensee if clearly identified as fiduciary account assets and liabilities.

1 \* Sec. 82. AS 21.27.360(f) is repealed and reenacted to read:

2 (f) This section does not apply to an individual in the firm who acts solely on behalf of  
3 a firm that maintains compliance with this section and deposits all money into the firm's  
4 fiduciary account.

5 \* Sec. 83. AS 21.27 is amended by adding a new section to read:

6 Sec. 21.27.365. DEPOSIT OR SURETY BOND IN PLACE OF FIDUCIARY  
7 ACCOUNT. (a) Instead of maintaining a separate fiduciary account for premium trust funds,  
8 a licensed firm, eligible under (c) of this section may apply in writing to the director for  
9 permission to maintain, while licensed or thereafter as the director may require, the deposit or  
10 surety bond described in (b) of this section.

11 (b) A deposit in a financial institution as defined by regulation or a surety bond executed  
12 by an authorized insurer acceptable to the director shall be maintained in an amount not less than  
13 10 percent of the eligible licensee's prior year's gross written premium on insurance in this state  
14 or relative to a risk resident, located, or to be performed in this state, and in trust in favor of the  
15 director for the protection of an insurer, insured, and this state.

16 (c) To become and to remain eligible under this section, a licensed firm shall

17 (1) have been licensed in good standing in this state for the last two calendar  
18 years;

19 (2) file with the director with its application, and by June 1 of each subsequent  
20 year

21 (A) a premium report certified by an independent certified public  
22 accountant licensed in this state, of the prior two calendar year's gross written premiums  
23 on insurance in this state or relative to a risk resident, located, or to be performed in this  
24 state; this report may include all places of business of the firm; and

25 (B) a report that certifies that the licensee's system of accounting, internal  
26 control, and procedure is operating effectively to provide reasonable assurance that  
27 premium taxes and fees, premiums, and return premiums are promptly accounted for and  
28 paid to the person entitled to the money;

29 (3) be current in paying this state's taxes and fees; and

30 (4) satisfy additional requirements that the director may establish by regulation.

31 (d) Deposits under (b) of this section shall be administered under the procedures

1 described in AS 21.24.030 - 21.24.090 and 21.24.120 - 21.24.130, as if the licensee were the  
2 insurer. Income from the deposit is the property of the firm making the deposit.

3 (e) If the director approves a licensee's application, the licensee as a fiduciary shall  
4 account for premium taxes and fees, premiums, and return premiums received and promptly pay  
5 the money to the person entitled to its receipt. The director may exempt the licensee from trust  
6 accounting requirements established by regulation.

7 \* Sec. 84. AS 21.27.370 is repealed and reenacted to read:

8 Sec. 21.27.370. SHARING COMPENSATION. (a) A licensee may not compensate or  
9 offer to compensate a person, other than an insurance producer, managing general agent,  
10 reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker,  
11 licensed by this state who is acting within the scope of their license, for procuring or in any  
12 manner helping to procure applications for insurance or to place insurance in this state or relative  
13 to a risk resident, located, or to be performed in this state. Nothing in this subsection prohibits  
14 the payment of compensation to a regular employee of an insurance producer or managing  
15 general agent by the employing licensee that is not contingent upon the volume of business  
16 transacted.

17 (b) A licensee may not be promised or paid, directly or indirectly, compensation for  
18 procuring an application or for placing a kind or class of insurance for which the licensee is not  
19 then licensed to procure or place or for insurance that the licensee is prohibited by this title from  
20 procuring or placing.

21 (c) In addition to any other penalty provided by law, the director may suspend or revoke  
22 the license of an individual licensee and a firm licensee participating in a violation of this  
23 section. The director may order a licensee who violates this section to pay a penalty of not more  
24 than three times the compensation promised or paid.

25 \* Sec. 85. AS 21.27.380 is repealed and reenacted to read:

26 Sec. 21.27.380. LICENSE RENEWAL, LAPSE, AND REINSTATEMENT. (a) Except  
27 as provided in this title, the director may renew a license biennially on a date set by the director  
28 if the licensee continues to be qualified under this chapter and if renewal license fees set under  
29 AS 21.06.250 for each license are received by the director on or before the close of business of  
30 the renewal date. A licensee is responsible for knowing the date that a license lapses and for  
31 renewing a license before expiration. The director shall mail a renewal notice to the licensee's

1 current address on file with the director 30 days before the renewal date.

2 (b) If a license is not renewed on or before the renewal date set by the director, the  
3 license lapses. A licensee may not act as or represent to be an insurance producer, managing  
4 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
5 broker, or independent adjuster during the time a license has lapsed. The director may reinstate  
6 a lapsed license if the person continues to qualify for the license, pays renewal license fees, and  
7 a delayed renewal penalty. Reinstatement does not exempt a person from a penalty provided  
8 by law for transacting business while unlicensed. A license may not be renewed if it has lapsed  
9 for two years or longer.

10 (c) If a licensee does not wish to renew a license issued under this chapter, the licensee  
11 shall surrender the license to the director on or before the close of business of the renewal date  
12 in the manner prescribed in AS 21.27.460.

13 (d) Notice of lapse from the director shall be mailed to a licensee at the licensee's last  
14 address on record with the director. The director shall obtain a certificate of mailing from the  
15 United States Postal Service.

16 (e) A trainee license issued to an insurance producer or an independent adjuster shall be  
17 for a term not to exceed 12 months and may not be renewed.

18 (f) A two-year trainee license issued to a managing general agent, reinsurance  
19 intermediary broker, reinsurance intermediary manager, or surplus lines broker may be renewed  
20 only once.

21 \* Sec. 86. AS 21.27.390 is repealed and reenacted to read:

22 Sec. 21.27.390. TEMPORARY LICENSE. (a) The director may issue a temporary  
23 license only to a person who, except for experience, training, or the taking of an examination,  
24 meets all qualifications for a permanent license and if the person is

25 (1) the surviving spouse, next of kin, or the administrator or executor of a  
26 deceased licensed insurance producer or managing general agent;

27 (2) the spouse, next of kin, employee, or legal guardian of a licensed insurance  
28 producer or managing general agent who is disabled from transacting insurance because of  
29 sickness, insanity, or injury;

30 (3) a surviving member, officer, or employee of a firm licensed as insurance  
31 producer or managing general agent upon the death of the principal or manager of the firm

1 holding the same licenses as the firm; or

2 (4) the designee of a licensed insurance producer who enters active service in the  
3 armed forces of the United States, but only for insurance relating to insurers for whom the  
4 licensee was acting as an agent.

5 (b) A temporary license may not be in effect for more than 90 consecutive days, and may  
6 not be renewed or reissued for more than one additional 90-day period.

7 (c) A temporary licensee may not be appointed by an insurer for which a licensed  
8 insurance producer or managing general agent was not appointed at the time of death or  
9 commencement of disability.

10 \* Sec. 87. AS 21.27 is amended by adding a new section to read:

11 Sec. 21.27.405. HEARING AND ORDER ON VIOLATION. (a) On the complaint of  
12 a person or on the motion of the director, the director may conduct an investigation to determine  
13 whether a person has violated this chapter.

14 (b) If the director determines that a person has violated this chapter, the director shall  
15 serve an order upon the person charged requiring that person to cease and desist from engaging  
16 in the act or practice. Service required under this subsection shall be by mail with a certificate  
17 of mailing from the United States Postal Service. A person aggrieved by the cease and desist  
18 order may demand a hearing under AS 21.06.170 - 21.06.240.

19 (c) If the director believes that a person has violated a cease and desist order issued  
20 under (b) of this section, the director may certify the relevant facts to the superior court for  
21 proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in  
22 AS 44.62.590, the superior court, upon finding that the cease and desist order has been violated,  
23 may order the violator to comply with the order, pay a penalty of not more than \$100,000 for  
24 each violation, revoke or suspend the violator's license, and bar the violator from transacting the  
25 business of insurance in the future.

26 \* Sec. 88. AS 21.27.410 is repealed and reenacted to read:

27 Sec. 21.27.410. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF  
28 LICENSES. (a) The director may deny issuance of or not renew a license, or may suspend or  
29 revoke a license issued under this chapter for any of the following:

30 (1) a cause for which issuance of the license or its renewal could have been  
31 denied had it then existed and been known to the director;

- 1 (2) a violation or participation in a violation of a provision of this title;
- 2 (3) wilful misrepresentation or fraud by the licensee or applicant to obtain or
- 3 attempt to obtain a license;
- 4 (4) misappropriation, conversion to personal use, or illegally withholding money
- 5 required to be held in a fiduciary capacity by a licensee or applicant;
- 6 (5) with intent to deceive, material misrepresentation of the terms or effect of an
- 7 insurance contract by a licensee or applicant;
- 8 (6) twisting in violation of AS 21.36.050 or rebating in violation of AS 21.36.100
- 9 by a licensee or applicant;
- 10 (7) conviction of a felony;
- 11 (8) the conduct of affairs under a license if the licensee exhibits conduct
- 12 considered by the director to reflect incompetence or untrustworthiness, or to be a source of
- 13 potential injury and loss to the public;
- 14 (9) the licensee or applicant dealing with, or attempting to deal with, or to
- 15 exercise a power relative to, insurance outside the scope of the license of the licensee or
- 16 applicant;
- 17 (10) failure to surrender a license as required by this chapter, or revocation of a
- 18 license within the 12 months preceding the date a new application is received;
- 19 (11) failure to pass an examination required under this chapter;
- 20 (12) cheating on an examination required under this title;
- 21 (13) a licensee or applicant engaging in or about to engage in an unfair or
- 22 fraudulent insurance transaction;
- 23 (14) suspension or revocation of a license in another jurisdiction;
- 24 (15) forgery of another's name to an application for insurance by a licensee or
- 25 applicant;
- 26 (16) accepting insurance business from a person not licensed as required by this
- 27 title if the applicant or licensee knew or should have known that the person was unlicensed.
- 28 (b) The license of a firm and its principal or manager may be denied, nonrenewed,
- 29 suspended, or revoked for a violation or cause that relates to a person representing or acting on
- 30 behalf of the firm.

31 \* Sec. 89. AS 21.27.420 is repealed and reenacted to read:

1           Sec. 21.27.420. PROCEDURE FOR SUSPENDING, REVOKING, OR CONDITIONING  
2 A LICENSE. (a) After a hearing under AS 21.06.170 - 21.06.240, if the director determines that  
3 a person has violated a provision of this title and that the person's license should be suspended  
4 or revoked, the director shall issue an order effective 10 days after the date of issuing that the  
5 license is suspended or revoked.

6           (b) After a hearing under AS 21.06.170 - 21.06.240, if the director determines the person  
7 has violated a provision of this title, the director may place conditions on a person's license if  
8 the director finds that the conditions will protect the public from injury or potential injury.

9 \* Sec. 90. AS 21.27.430 is repealed and reenacted to read:

10           Sec. 21.27.430. SUSPENSIONS AND REVOCATIONS. (a) An order suspending a  
11 license shall specify the period during which the license is suspended. A period of suspension  
12 may not exceed 12 months.

13           (b) An order revoking a license shall specify the period during which the person may not  
14 seek to be licensed in this state or licensed relative to a subject resident, located, or to be  
15 performed in this state.

16           (c) In addition to any other penalty provided by law, a person whose license has been  
17 suspended or revoked shall pay a penalty equal to all or a portion of the compensation received  
18 during the suspension or revocation relating to the transaction of insurance.

19 \* Sec. 91. AS 21.27.440 is repealed and reenacted to read:

20           Sec. 21.27.440. PENALTIES. (a) In addition to any other penalty provided by law, a  
21 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions  
22 of this chapter is subject to

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

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

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

29           (b) An order issued by the director that levies a civil penalty shall specify the time period  
30 within which the civil penalty must be fully paid. The period may not be less than 15 days or  
31 more than one year after the date of the order. Upon failure to pay a civil penalty when due, the

1 director shall revoke, without further hearing, all licenses of the licensee not already revoked.

2 \* Sec. 92. AS 21.27.460(a) is amended to read:

3 (a) A license issued under this chapter is the property of the state. Within 10 days of  
4 an order or notice of nonrenewal [UPON THE TERMINATION], suspension, or revocation  
5 of the license, the licensee or other person having possession or custody of the license shall  
6 [IMMEDIATELY] deliver it to the director either personally or by certified mail.

7 \* Sec. 93. AS 21.27.460 is amended by adding a new subsection to read:

8 (c) Upon a change in the state of residence, a place of business, a mailing address, or in  
9 the principal or manager of a firm, a license subject to the change shall be surrendered to the  
10 director within 10 days either personally or by certified mail and the division shall reissue the  
11 license reflecting the changes if the licensee continues to satisfy the qualifications under this  
12 chapter.

13 \* Sec. 94. AS 21.27 is amended by adding new sections to read:

14 ARTICLE 2. INSURANCE PRODUCERS.

15 Sec. 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition to the  
16 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an insurance  
17 producer license, an applicant or licensee

18 (1) must possess the competence necessary to fulfill the responsibilities of an  
19 insurance producer;

20 (2) if previously licensed in good standing in this state as an insurance producer,  
21 must not have had a license suspended or revoked within the previous four calendar years;

22 (3) for a fraternal society limited insurance producer license, shall file with the  
23 application a statement by an officer or director of the appointing fraternal society that affirms  
24 that the society has satisfied itself that the applicant is trustworthy and competent to act as its  
25 insurance agent;

26 (4) for a license with a scope that includes variable contracts, must either be  
27 currently registered with the federal Securities and Exchange Commission as a broker-dealer or  
28 personally take and pass, to the satisfaction of the director, tests of the knowledge and  
29 competence of the applicant concerning securities; and

30 (5) except for an applicant or licensee who represents to be and acts solely on  
31 behalf of admitted insurers as an agent and who does not receive money required to be received

1 in the fiduciary account of the licensee, shall file with the application and maintain in force while  
2 licensed a bond in the amount of \$10,000, unless a greater amount is required by another  
3 provision of this title.

4 Sec. 21.27.540. TRAINEE INSURANCE PRODUCERS. (a) Except for life, disability,  
5 and annuity insurance, a person who has not passed the examinations required under  
6 AS 21.27.060 but who otherwise meets the requirements of AS 21.27.530, may be employed by  
7 a licensed insurance producer as a trainee insurance producer.

8 (b) Before a trainee may transact insurance, the licensed insurance producer employing  
9 the trainee insurance producer shall submit to the director the application of the trainee insurance  
10 producer, with the fee set under AS 21.06.250, and receive the trainee insurance producer license.

11 (c) The director shall terminate a trainee insurance producer license unless the individual  
12 has

13 (1) not later than four months after the effective date of the trainee insurance  
14 producer license, complied with the insurance producer licensing requirements of AS 21.27.060  
15 concerning the insurance laws and regulations of this state; and

16 (2) within eight months after the effective date of the trainee insurance producer  
17 license, complied with the insurance producer licensing requirements of AS 21.27.060 concerning  
18 the knowledge and competence of the licensee and the licensee's duties and responsibilities as  
19 a licensee.

20 (d) Upon satisfying the requirements of (c) of this section, a trainee insurance producer  
21 shall apply within 30 days for an insurance producer license.

22 (e) A licensed trainee insurance producer

23 (1) shall at all times be working at the direction and under the supervision of the  
24 employing licensed insurance producer; file and record documentation must reflect the direction  
25 and supervision, and activities must be in the name of the employing licensed insurance producer,  
26 who is responsible for all actions of the trainee insurance producer;

27 (2) is restricted to assisting the employing licensed insurance producer to prepare  
28 applications; binders; certificates of insurance; schedules of equipment, vehicles, drivers; loss  
29 notices to insurers; and invoices; and to performing clerical functions for which a license is not  
30 required; file and record documentation must reflect compliance with these restrictions;

31 (3) may not transact business away from the place of business with clients or

1 insurers unless a licensed insurance producer physically accompanies the trainee.

2 (f) In addition to any other penalty provided by law, the director shall revoke the trainee  
3 license of a trainee insurance producer that the director determines has violated the provisions  
4 of this section. A licensee or other person having possession or custody of the license shall  
5 immediately surrender the license to the director either personally or by certified mail.

6 (g) In addition to any other penalty provided by law, if the director determines under  
7 AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have  
8 known that a trainee insurance producer violated this section, the employing licensed insurance  
9 producer and firm, principal and manager, if any, are subject to the penalties provided under  
10 AS 21.27.440.

11 Sec. 21.27.550. APPOINTMENT OF INSURANCE PRODUCER AS AN AGENT. (a)  
12 A person may not act as or represent to be a representative of, authorized or appointed agent of,  
13 or other term implying a contractual relationship with a particular admitted insurer, or accept  
14 applications on behalf of an admitted insurer, unless the person is licensed as an insurance  
15 producer under this chapter and is or becomes an appointed agent of the admitted insurer under  
16 AS 21.27.100.

17 (b) An admitted insurer or managing general agent of an admitted insurer may not enter  
18 into an agency agreement with an insurance producer unless the managing general agent and the  
19 insurance producer are licensed under this chapter, and there is in effect a written agency  
20 agreement that specifically sets out the duties, functions, powers, authority, and compensation of  
21 all parties to the contract. The written agreement shall be kept in the permanent records of the  
22 insurer or managing general agent, if any, and the insurance producer, and be open to inspection  
23 by the director.

24 (c) All money collected for the account of an insurer shall be held by the insurance  
25 producer in a fiduciary account as described under AS 21.27.360, and the insurance producer  
26 shall comply with all applicable fiduciary account statutes and regulations.

27 (d) An agency agreement may not be assigned in whole or in part by the insurance  
28 producer.

29 (e) If the agency agreement permits the insurance producer to settle a claim on behalf  
30 of the insurer

31 (1) a claim must be reported to the insurer within 30 days;

1 (2) a copy of the claim file shall be sent to the insurer;

2 (3) all insurance claim files shall be the property of the insurer or managing  
3 general agent, if any, and insurance producer, but upon an order of liquidation of the insurer, the  
4 files shall become the sole property of the insurer or the insurer's estate; the insurance producer  
5 shall have reasonable access to and the right to copy the files on a timely basis.

6 (f) An insurance producer is subject to the unfair trade practice and fraud provisions  
7 under AS 21.36.

8 (g) The insurance producer may not

9 (1) bind reinsurance or retrocessions on behalf of the insurer;

10 (2) commit the insurer to participate in insurance or reinsurance syndicates;

11 (3) appoint an agent or subagent;

12 (4) jointly employ an individual who is employed by the insurer or by the  
13 managing general agent; or

14 (5) delegate insurance producer authority to another person.

15 (h) Except as provided under AS 21.27.560, an agency appointment may not extend,  
16 directly or indirectly, to a client for whom the insurance producer is a producing broker or for  
17 whom insurance is exported to nonadmitted insurers under AS 21.34.

18 (i) A reinsurance intermediary manager may not enter into an agency agreement with an  
19 insurance producer unless both parties are licensed under this chapter, and there is in effect a  
20 written agency agreement that specifically sets out the duties, functions, powers, authority, and  
21 compensation of all parties to the agreement. The written agreement shall be kept in the  
22 permanent records of the reinsurance intermediary manager, the reinsurer, and the insurance  
23 producer, and be open to inspection by the director. A written agreement must contain the  
24 following minimum provisions:

25 (1) money collected for the account of a reinsurer must be held by the insurance  
26 producer in a fiduciary account as described under AS 21.27.360; the insurance producer shall  
27 comply with all applicable fiduciary account statutes and regulations;

28 (2) the agreement may not be assigned in whole or in part by the insurance  
29 producer;

30 (3) the agreement may not permit the insurance producer to settle claims on  
31 behalf of the reinsurer or reinsurance intermediary manager; and

1 (4) the insurance producer may not

2 (A) jointly employ an individual who is employed with the reinsurer or  
3 reinsurance intermediary manager; or

4 (B) delegate insurance producer authority to another person.

5 Sec. 21.27.560. APPOINTMENT OF INSURANCE PRODUCERS AS BROKERS. (a)

6 A client who appoints an insurance producer as its broker in this state or relative to a subject  
7 resident, located, or to be performed in this state shall execute a written contract that specifically  
8 sets out the duties, functions, powers, authority, and compensation of the insurance producer, if  
9 the broker is compensated by a fee paid the client or by a combination of a fee paid by a client  
10 and a commission paid by an insurer with which coverage has been placed. The written contract  
11 shall be kept in the permanent records of the insurance producer and be open to inspection by  
12 the director.

13 (b) The insurance producer may not knowingly accept payment of a premium for  
14 coverage until the coverage has been authorized by the insurer. This subsection does not apply  
15 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for  
16 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not  
17 obtained within 10 working days.

18 (c) An insurance producer appointed as a client's broker may only receive compensation  
19 if the compensation is a

20 (1) fee that requires the insurance producer to offset or reimburse the client for  
21 the full amount of a commission earned by the insurance producer;

22 (2) combination of a fee paid by a client and a commission paid by an insurer  
23 with which coverage is placed that may offset or reimburse a client for all or part of a  
24 commission earned by the insurance producer if the amount of the commission is disclosed to  
25 the client; or

26 (3) commission paid by an insurer with which coverage has been placed.

27 (d) A contract between a client and an insurance producer may not be assigned in whole  
28 or in part by the insurance producer.

29 (e) An insurance producer appointed as a broker by a client may act as an appointed  
30 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium  
31 from the client on behalf of the admitted insurer.

1 (f) A controlling insurance producer may not be appointed as a broker by a client in this  
2 state or relative to a subject resident, located, or to be performed in this state unless, in a form  
3 acceptable to the director, the controlling insurance producer has disclosed in writing to the client  
4 the relationship between the controlling insurance producer and the controlled insurer, each client  
5 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is  
6 maintained by the controlling insurance producer in its records. The records shall be available  
7 for inspection by the director.

8 (g) Money paid by a client to an insurance producer for insurance premiums shall be held  
9 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the  
10 insurance producer shall comply with applicable fiduciary account statutes and regulations.

11 (h) An insured shall be entitled to coverage or a return premium and the premium shall  
12 be considered received by the insurer if the premium payment made to the insurance producer  
13 was, at the time made, designated for specific coverage, and the insurer accepted or  
14 acknowledged coverage by issuing a policy binder or other evidence of temporary insurance, or  
15 the insurance producer received information from the insurer in the normal course of business  
16 that the insurance had been granted.

17 (i) Except as provided under (c) and (e) of this section, this section does not alter the  
18 common law of agency as applied to transactions under this title.

19 Sec. 21.27.570. OPERATING REQUIREMENTS FOR CONTROLLING INSURANCE  
20 PRODUCERS. (a) If the aggregate amount of gross written premium on business placed by a  
21 controlling insurance producer exceeds five percent of the admitted assets of the controlled  
22 insurer for a calendar year as reported in the insurer's most recent financial statement filed with  
23 the director, the controlling insurance producer may not place business with the controlled insurer  
24 and the controlled insurer may not accept business from the controlling insurance producer unless  
25 a written contract is in effect between the parties that

26 (1) establishes the responsibilities of each party, indicates each party's share of  
27 responsibility for each particular function, and specifies the division of responsibilities;

28 (2) has been approved by the board of directors of the controlled insurer;

29 (3) contains the following minimum provisions:

30 (A) the controlled insurer may terminate the contract for cause upon  
31 written notice sent by certified mail to the controlling producer and shall suspend the

1 authority of the controlling insurance producer to write business during a dispute  
2 regarding the cause for termination;

3 (B) the controlling insurance producer shall render accounts to the  
4 controlled insurer detailing all transactions including information necessary to support  
5 compensation, commissions, charges, and other fees received by, or owing to, the  
6 controlling producer;

7 (C) the controlling insurance producer shall remit money due under the  
8 contract to the controlled insurer at least monthly;

9 (D) premiums or installments collected shall be due not later than 90 days  
10 after the effective date of coverage placed with the controlled insurer;

11 (E) money collected for the account of a controlled insurer shall be held  
12 by the controlling insurance producer in a fiduciary account as described under  
13 AS 21.27.360, except a controlling insurance producer not required to be licensed under  
14 this chapter shall maintain its fiduciary account in compliance with the requirements of  
15 its domiciliary jurisdiction;

16 (F) a licensed controlling insurance producer shall comply with all  
17 applicable fiduciary account statutes and regulations;

18 (G) a fiduciary account must be used for all payments on behalf of the  
19 controlled insurer;

20 (H) the controlling insurance producer shall maintain separate records for  
21 each controlled insurer in a form usable by the controlled insurer; the controlled insurer  
22 or its authorized representative shall have the right to audit and the right to copy all  
23 accounts and records related to the controlled insurer's business; the director, in addition  
24 to authority granted in this title, shall have access to all books, bank accounts, and records  
25 of the controlling insurance producer in a form usable to the director;

26 (I) the contract may not be assigned in whole or in part by the controlling  
27 insurance producer;

28 (J) the controlled insurer shall provide, and the controlling producer shall  
29 follow, written underwriting standards, rules, procedures, and manuals that must include  
30 the conditions for acceptance or rejection of risks, including types of risks that may be  
31 written, maximum limits of liability, applicable exclusions, territorial limitations, policy

1 cancellation provisions, the maximum policy term, the rating system, and basis of the  
2 rates to be charged;

3 (K) the underwriting standards, rules, procedures, and manuals shall be the  
4 same as those applicable to comparable business placed with the controlled insurer by  
5 licensees other than the controlling licensee;

6 (L) the rates and terms of the controlling insurance producer's  
7 compensation including commissions, charges, and other fees may not be greater than  
8 those applicable to comparable business placed with the controlled insurer by licensees  
9 other than the controlling licensee;

10 (M) the controlled insurer shall establish a limit, that may be different for  
11 each kind or class of business, on the amount of premium that the controlling insurance  
12 producer may place with the controlled insurer in relation to the controlled insurer's  
13 surplus and total writings;

14 (N) the controlled insurer shall notify the controlling insurance producer  
15 if an applicable limit is approached and the controlling insurance producer may not place  
16 and the controlled insurer may not accept business if the limit under (M) of this paragraph  
17 has been reached;

18 (O) if the contract provides that the controlling insurance producer, on  
19 insurance placed with the controlled insurer, is to be compensated contingent upon the  
20 controlling insurer's profits on the placed insurance, the contingent compensation may not  
21 be determined or paid until

22 (i) at least five years after the premiums are earned on casualty  
23 business and at least one year after the premiums are earned on any other  
24 insurance;

25 (ii) a later period established by the director for specified kinds or  
26 classes of insurance; and

27 (iii) not until the profits have been verified under (b) of this  
28 section;

29 (P) the controlling insurance producer may negotiate but may not bind  
30 reinsurance on behalf of the controlled insurer on insurance that the controlling insurance  
31 producer places with the controlled insurer, except that the controlling insurance producer

1           may bind facultative reinsurance contracts under obligatory agreements if the contract  
2           with the controlled insurer contains reinsurance underwriting guidelines including, for  
3           both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements  
4           are in effect, the coverage and amounts or percentages that may be reinsured, and  
5           commission schedules; and

6                   (4) provides that the controlled insurer has an audit committee composed of  
7           independent members of the board of directors that meet at least annually with management, the  
8           insurer's independent certified public accountants, and an independent actuary specialist  
9           acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and  
10          outstanding.

11                   (b) In addition to any other required loss reserve certification, the controlled insurer shall  
12          annually obtain the opinion of an independent qualified actuary attesting to the adequacy of loss  
13          reserves established for losses incurred and outstanding on business produced by the controlling  
14          insurance producer. The controlled insurer shall file with the director on or before April 1 of  
15          each year an opinion of an independent actuary attesting to the adequacy of the reserves for  
16          losses incurred and outstanding and reporting the loss ratios for each kind and class of business  
17          placed with the controlled insurer by the controlling producer.

18                   (c) The controlled insurer shall annually report by kind and class of insurance in a form  
19          acceptable to the director the amount of compensation paid to the controlling producer, the  
20          percentage the compensation represents to the net premiums written, the amount of compensation  
21          paid to uncontrolled producers, and the percentage the compensation represents to the net  
22          premiums written.

23                   (d) A controlling insurance producer may be examined by the director as if it were the  
24          controlled insurer.

25                   (e) If the conservator, rehabilitator, or liquidator of a controlled insurer or formerly  
26          controlled insurer has reason to believe that the controlled insurer or formerly controlled insurer  
27          suffered loss or damage arising out of a failure to comply with this section by the controlling  
28          producer or another person, the conservator, rehabilitator, or liquidator may maintain a civil  
29          action for recovery of damages or other relief for the benefit of the controlled insurer or its  
30          estate.

31                   (f) In addition to any other liability and without intent to limit in any manner the rights

1 of policyholders, claimants, auditors, creditors, or third parties, if the director determines after  
2 a hearing under AS 21.06.170 - 21.06.240 that a controlling insurance producer caused losses  
3 arising out of a violation of this section to a controlled insurer, the director may order the  
4 controlling insurance producer to make restitution to the controlled insurer, the rehabilitator, or  
5 the liquidator of the controlled insurer for the loss.

6 (g) In addition to any other penalty provided by law, a person who violates this section  
7 is subject to the penalties provided under AS 21.27.440 and a controlled insurer's certificate of  
8 authority may be suspended or revoked. The director may also order the controlling producer  
9 to cease placing business with the controlled insurer.

10 (h) This section does not apply to

11 (1) a person appointed to act on behalf of the controlled insurer as a managing  
12 general agent under this chapter;

13 (2) a person who receives no compensation based upon the amount of premiums  
14 written with the controlled insurer and who places insurance only with the controlled insurer,  
15 only with the controlled insurer and an admitted member or admitted members of the insurer's  
16 holding company system, or only with the controlled insurer's parent, affiliate, or subsidiary if  
17 admitted in this state;

18 (3) a person who does not accept insurance placements directly from an insured  
19 and who only accepts insurance placements from a nonaffiliated subagent;

20 (4) a controlled insurer and its controlling insurance producer if, except for  
21 insurance written through a residual market facility under this title, insurance placements are  
22 accepted only from a controlling producer, an insurance producer controlled by the controlled  
23 insurer, or a producer that is a subsidiary of the controlled insurer;

24 (5) a risk retention group under 15 U.S.C. 3901; or

25 (6) a risk apportionment plan under AS 21.39.150 or an assigned risk pool under  
26 AS 21.39.155.

### 27 ARTICLE 3. MANAGING GENERAL AGENTS.

28 Sec. 21.27.590. MANAGING GENERAL AGENT QUALIFICATIONS. (a) In addition  
29 to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of a  
30 managing general agent license, an applicant or licensee shall have at least three years active  
31 working experience within the previous 10 calendar years in insurance administrative functions

1 which, in the director's opinion, exhibits the applicant's ability to competently perform the  
2 administrative functions for all kinds and classes of insurance applied for.

3 (b) The director may require that a managing general agent maintain

4 (1) a bond in an amount acceptable to the director and conditioned in that the  
5 managing general agent will conduct business as required by this title; and

6 (2) an errors and omissions insurance policy acceptable to the director.

7 Sec. 21.27.600. TRAINEE MANAGING GENERAL AGENTS. (a) An individual  
8 licensed in this state as an insurance producer who does not have the experience required to be  
9 licensed as a managing general agent, but who otherwise meets the requirements of  
10 AS 21.27.590, may be employed by a licensed managing general agent as a trainee managing  
11 general agent, subject to the provisions of this section.

12 (b) Before an individual may transact insurance as a managing general agent, a managing  
13 general agent employing the trainee managing general agent shall submit to the director the  
14 application of the trainee managing general agent, with the fee set under AS 21.06.250, and  
15 receive the trainee managing general agent license.

16 (c) Upon satisfying the managing general agent experience requirement, a trainee  
17 managing general agent shall apply within 30 days for a managing general agent license.

18 (d) A trainee managing general agent shall at all times be working at the direction and  
19 under the supervision of the employing licensed managing general agent, and file and record  
20 documentation must reflect the direction and supervision. The activities of a managing general  
21 agent trainee must be in the name of the employing managing general agent. A managing  
22 general agent who employs a trainee is responsible for all actions of the trainee managing  
23 general agent.

24 (e) A trainee managing general agent is restricted to assisting the employing licensed  
25 managing general agent in preparing applications; binders; certificates of insurance; schedules of  
26 equipment, vehicles, drivers; loss notices to insurers; and invoices; and to performing clerical  
27 functions for which a license is not required. The file and record documentation must reflect  
28 compliance with this subsection.

29 (f) A trainee managing general agent may not transact business away from the place of  
30 business with clients or insurers unless a licensed managing general agent physically accompanies  
31 the trainee.

1 (g) In addition to any other penalty provided by law

2 (1) the director shall revoke the trainee license of a trainee managing general  
3 agent who the director determines has violated the provisions of this section; a licensee or other  
4 person having possession or custody of the license shall immediately surrender the license to the  
5 director either personally or by certified mail;

6 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing  
7 managing general agent knew of or should have known that a trainee managing general agent  
8 violated this section, the employing managing general agent and firm, principal, and manager,  
9 if any, are subject to the penalties provided under AS 21.27.440.

10 Sec. 21.27.610. AUTHORITY OF MANAGING GENERAL AGENTS. A managing  
11 general agent has only the authority consistent with this title that is conferred by an admitted  
12 insurer. A managing general agent, resident or nonresident, qualified and licensed under this  
13 chapter, may exercise the powers conferred by this title upon insurance producers and  
14 independent adjusters only for the kinds or classes of insurance and within the scope authorized  
15 by the insurer appointing the managing general agent.

16 Sec. 21.27.620. OPERATING REQUIREMENTS FOR MANAGING GENERAL  
17 AGENTS. (a) An insurer may not transact business with a managing general agent unless

18 (1) the insurer holds a certificate of authority in this state;

19 (2) the managing general agent is licensed under this chapter or, when the  
20 managing general agent is operating only for a foreign insurer, is licensed by its resident  
21 insurance regulator in a state that the director has determined has enacted provisions substantially  
22 similar to those contained in this chapter and the state is accredited by the National Association  
23 of Insurance Commissioners;

24 (3) a written contract is in effect between the parties that establishes the  
25 responsibilities of each party, indicates both party's share of responsibility for a particular  
26 function, and specifies the division of responsibilities;

27 (4) a written contract between an insurer and a managing general agent contains  
28 the following provisions:

29 (A) the insurer may terminate the contract for cause upon written notice  
30 sent by certified mail to the managing general agent and may suspend the underwriting  
31 authority of the managing general agent during a dispute regarding the cause for

1 termination;

2 (B) the managing general agent shall render accounts to the insurer  
3 detailing all transactions and remit all money due under the contract to the insurer at least  
4 monthly;

5 (C) all money collected for the account of an insurer shall be held by the  
6 managing general agent in a fiduciary account as described under AS 21.27.360;

7 (D) the managing general agent shall comply with all applicable fiduciary  
8 account statutes and regulations;

9 (E) a fiduciary account shall be used for all payments on behalf of the  
10 insurer;

11 (F) the managing general agent may not retain more than three months  
12 estimated claims payments and allocated loss adjustment expenses;

13 (G) the managing general agent shall maintain separate records for each  
14 insurer in a form usable by the insurer; the insurer or its authorized representative shall  
15 have the right to audit and the right to copy all accounts and records related to the  
16 insurer's business; the director, in addition to authority granted in this title, shall have  
17 access to all books, bank accounts, and records of the managing general agent in a form  
18 usable to the director;

19 (H) the contract may not be assigned in whole or in part by the managing  
20 general agent;

21 (I) if the contract permits the managing general agent to do underwriting,  
22 the contract must include the following:

23 (i) the managing general agent's maximum annual premium  
24 volume;

25 (ii) the rating system and basis of the rates to be charged;

26 (iii) the types of risks that may be written;

27 (iv) maximum limits of liability;

28 (v) applicable exclusions;

29 (vi) territorial limitations;

30 (vii) policy cancellation provisions;

31 (viii) the maximum policy term; and

1 (ix) that the insurer shall have the right to cancel or not renew a  
2 policy of insurance subject to applicable state law;

3 (J) if the contract permits the managing general agent to settle claims on  
4 behalf of the insurer, the contract must include the following:

5 (i) written settlement authority must be provided by the insurer and  
6 may be terminated for cause upon the insurer's written notice sent by certified  
7 mail to the managing general agent or upon the termination of the contract, but  
8 the insurer may suspend the settlement authority during a dispute regarding the  
9 cause of termination;

10 (ii) claims shall be reported to the insurer within 30 days;

11 (iii) a copy of the claim file shall be sent to the insurer upon  
12 request or as soon as it becomes known that the claim has the potential to exceed  
13 an amount determined by the director or exceeds the limit set by the insurer,  
14 whichever is less, involves a coverage dispute, may exceed the managing general  
15 agent's claims settlement authority, is open for more than six months, involves  
16 extra contractual allegations, or is closed by payment in excess of an amount set  
17 by the director or an amount set by the insurer, whichever is less;

18 (iv) each party shall comply with unfair claims settlement statutes  
19 and regulations;

20 (v) transmission of electronic data at least monthly if electronic  
21 claim files are in existence; and

22 (vi) claim files shall be the property of both the insurer and  
23 managing general agent; upon an order of liquidation of the insurer, the files shall  
24 become the sole property of the insurer or the insurer's estate; the managing  
25 general agent shall have reasonable access to and the right to copy the files on a  
26 timely basis;

27 (K) if the contract provides for sharing of interim profits by the managing  
28 general agent, and the managing general agent has the authority to determine the amount  
29 of the interim profits by establishing loss reserves, by controlling claim payments, or in  
30 any other manner, interim profits may not be paid to the managing general agent until

31 (i) one year after they are earned for property insurance business

1 and five years after they are earned on casualty business;

2 (ii) a later period established by the director for specified kinds or  
3 classes of insurance; and

4 (iii) not until the profits have been verified under (d) of this  
5 section;

6 (L) if the insurer is domiciled in this state or the managing general agent  
7 has a place of business in this state, a copy of the contract must be filed with and  
8 approved by the director at least 30 days before the managing general agent transacts  
9 business on behalf of the insurer; and

10 (M) if the contract is not required to be approved in advance by the  
11 director, the insurer shall provide written notification to the director within 30 days of the  
12 entry into or termination of a contract with a managing general agent; the notice must  
13 include a statement of duties to be performed by the managing general agent on behalf  
14 of the insurer, the kinds and classes of insurance for which the managing general agent  
15 has authorization to act, and other information required by the director.

16 (b) The managing general agent may not

17 (1) bind reinsurance or retrocessions on behalf of the insurer, except that the  
18 managing general agent may bind facultative reinsurance contracts under obligatory agreements  
19 if the contract with the insurer contains reinsurance underwriting guidelines including, for both  
20 reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in  
21 effect, the coverage and amounts or percentages that may be reinsured, and commission  
22 schedules;

23 (2) commit the insurer to participate in insurance or reinsurance syndicates;

24 (3) appoint a subagent unless the scope of the subagent's license as an insurance  
25 producer includes the kinds and classes of insurance for which the subagent is appointed;

26 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of  
27 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last  
28 completed calendar year without the prior written approval of the insurer for the settlement and  
29 the approval is received after the insurer has been notified in writing that the claim settlement  
30 will exceed one percent of the insurer's policyholder's surplus as of December 31 of the last  
31 completed calendar year;

1 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement  
2 with a reinsurer without prior written approval of the insurer, but if prior written approval is  
3 given, a complete report must be forwarded to the insurer within 30 days;

4 (6) permit a subagent to serve on the insurer's board of directors;

5 (7) jointly employ an individual who is employed with the insurer; or

6 (8) delegate managing general agent authority to another person.

7 (c) In a form acceptable to the director, a managing general agent shall annually provide  
8 and an insurer shall annually obtain a copy of certified financial statements of each managing  
9 general agent with which the insurer has done business. The financial statements shall be  
10 prepared by an independent certified public accountant if the managing general agent, with or  
11 without authority, either separately or with affiliates, directly or indirectly produces or  
12 underwrites an amount of gross written premium equal to or more than five percent of the policy  
13 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

14 (d) In addition to any other required loss reserve certification, if a managing general  
15 agent establishes loss reserves, the insurer shall annually obtain the opinion of an independent  
16 qualified actuary attesting to the adequacy of loss reserves established for losses incurred and  
17 outstanding on business produced by the managing general agent. The insurer retains an  
18 independent responsibility to determine the adequacy of its loss reserves, including those  
19 established by its managing general agents.

20 (e) An insurer shall at least semiannually conduct an on-site review of the underwriting  
21 and claims processing operations of the managing general agent if the managing general agent,  
22 with or without authority, either separately or with affiliates, directly or indirectly produces or  
23 underwrites an amount of gross written premium equal to or more than five percent of the policy  
24 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

25 (f) An insurer shall review its books and records quarterly to determine if a person or  
26 insurance producer has acted as its managing general agent. If an insurer determines that a  
27 person or insurance producer has acted as its managing general agent, the insurer shall promptly  
28 notify the person or insurance producer and the director of the determination and the insurer and  
29 person or insurance producer must fully comply with the provisions of this chapter within 30  
30 days.

31 (g) An insurer may not appoint to its board of directors an officer, director, employee,

1 subagent, insurance producer, or controlling shareholder of its managing general agent.

2 (h) The actual or apparently authorized acts of the managing general agent are considered  
3 the acts of the insurer upon whose behalf it is acting.

4 (i) A managing general agent may be examined by the director as if it were the insurer.

5 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a  
6 managing general agent caused loss arising out of a violation of AS 21.27.590 - 21.27.630 to an  
7 insurer, the director may order the managing general agent to make restitution to the insurer, the  
8 rehabilitator, or the liquidator of the insurer for the loss. Restitution ordered under this  
9 subsection is in addition to any other liability of the managing general agent and does not affect  
10 the rights of a policy holder, claimant, creditor, or third party.

11 (k) In addition to any other penalty provided by law, a person who violates this section  
12 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority  
13 may be suspended or revoked.

#### 14 ARTICLE 4. THIRD-PARTY ADMINISTRATORS.

15 Sec. 21.27.630. REGISTRATION REQUIRED. (a) A person may not act as or  
16 represent to be a third-party administrator in this state or relative to a subject resident, located,  
17 or to be performed in this state, unless registered under this chapter or in another jurisdiction  
18 under AS 21.27.650. A person may not act as or represent to be a third-party administrator  
19 representing an insurer domiciled in this state regarding a risk located outside this state unless  
20 registered by this state under the provisions of this chapter.

21 (b) A third-party administrator may not transact business for a kind or class of insurance  
22 for which the person is not registered.

23 (c) A person who performs administrative functions, including claims administration and  
24 payment, marketing administrative functions, premium accounting, premium billing, coverage  
25 verification, underwriting authority, or certificate issuance in regard to insurance as a third-party  
26 administrator shall be registered as a third-party administrator unless the person only investigates  
27 and adjusts claims and is licensed under this chapter as an independent adjuster.

28 (d) A third-party administrator may not use a fictitious name or alias unless the licensee's  
29 legal name and fictitious name or alias are on the registration.

30 (e) A person who is an employee of an admitted insurer, who acts within the course and  
31 scope of that employment, and within the scope of the insurer's certificate of authority is not

1 required to be registered under this section.

2 (f) A person who performs management services for an admitted insurer is not required  
3 to be registered as a third-party administrator if the person's compensation is not based on the  
4 volume of premium written and the person

5 (1) is a wholly-owned subsidiary of the admitted insurer;

6 (2) wholly owns the admitted insurer;

7 (3) is a wholly-owned subsidiary of the insurance holding company that owns or  
8 controls the admitted insurer;

9 (4) is a United States manager of the United States branch of an alien admitted  
10 insurer; or

11 (5) is the manager of a group, association, pool, or organization of admitted  
12 insurers that does joint underwriting if it is subject to examination by the authorized insurance  
13 regulator in the state in which the person's principal place of business is located.

14 (g) A credit union or a financial institution subject to supervision or examination by  
15 federal or state banking authorities, or a mortgage lender, that performs no functions other than  
16 advancing premiums to the insurer and collecting a debt from the insured is not required to be  
17 registered as a third-party administrator.

18 (h) A credit card issuing company that performs no functions, including adjustment or  
19 settlement of claims, other than advancing and collecting premiums from its credit card holders  
20 who have authorized collection is not required to be registered as a third-party administrator.

21 (i) A person who only provides services to bona fide employee benefit plans that are  
22 established by an employer or an employee organization, or both, for which the insurance laws  
23 of this state are preempted under the Employee Retirement Income Security Act of 1974, is not  
24 required to be additionally registered as a third-party administrator if the person certifies to the  
25 director on or before February 1 of each year its exempt status.

26 (j) A third-party administrator

27 (1) shall apply for registration under the procedures of AS 21.27.040;

28 (2) shall renew its registration under the procedures of AS 21.27.380; and

29 (3) is subject to hearings and orders on violations; denial, nonrenewal, suspension,  
30 or revocation of registration; penalties; and surrender of registration under the procedures set out

31 in AS 21.27.405 - 21.27.460.

1           Sec. 21.27.640. THIRD-PARTY ADMINISTRATOR QUALIFICATIONS. (a) The  
2 director may not issue or renew a registration except in compliance with this chapter and may  
3 not issue a registration to a person, or to be exercised by a person, found by the director to be  
4 untrustworthy, incompetent, financially irresponsible, or who has not established to the  
5 satisfaction of the director that the person is qualified under this chapter.

6           (b) To qualify for issuance or renewal of a registration, an applicant or registrant shall  
7 comply with this title and

8                     (1) be a trustworthy person;

9                     (2) have active working experience in administrative functions that, in the  
10 director's opinion, exhibits the ability to competently perform the administrative functions of a  
11 third-party administrator;

12                    (3) not have committed an act that is a cause for denial, nonrenewal, suspension,  
13 or revocation of a registration in this state or another jurisdiction;

14                    (4) if a corporation or partnership,

15                         (A) maintain a lawfully established place of business as described in  
16 AS 21.27.330 in this state, except when licensed as a nonresident as provided in  
17 AS 21.27.270;

18                         (B) disclose to the director all officers, directors, or partners, and whether  
19 or not they are licensed in this state or another jurisdiction;

20                         (C) designate an officer or partner responsible for the firm's compliance  
21 with the insurance statutes and regulations of this state;

22                    (5) provide in ~~or~~ with its application

23                         (A) all basic organizational documents of the third-party administrator,  
24 including articles of incorporation, articles of association, partnership agreement, trade  
25 name certificate, trust agreement, shareholder agreement and other applicable documents  
26 and all endorsements to the required documents;

27                         (B) the bylaws, rules, regulations or similar documents regulating the  
28 internal affairs of the administrator;

29                         (C) the names, mailing addresses, physical addresses, official positions,  
30 and professional qualifications of persons who are responsible for the conduct of affairs  
31 of the third-party administrator, including the members of the board of directors, board

1 of trustees, executive committee or other governing board or committee; the principal  
2 officers in the case of a corporation or the partners or members in the case of partnership  
3 or association; shareholders holding directly or indirectly 10 percent or more of the voting  
4 securities of the third-party administrator; and any other person who exercises control or  
5 influence over the affairs of the third-party administrator;

6 (D) certified financial statements for the prior two years prepared by an  
7 independent certified public accountant that establish that the applicant is solvent, that the  
8 applicant's system of accounting, internal control, and procedure is operating effectively  
9 to provide reasonable assurance that money is promptly accounted for and paid to the  
10 person entitled to the money, and any other information that the director may require to  
11 review the current financial condition of the applicant; and

12 (E) a statement describing the business plan, including information on  
13 staffing levels and activities proposed in this state and in other jurisdictions and providing  
14 details establishing the third-party administrator's capability for providing a sufficient  
15 number of experienced and qualified personnel in the areas of claims handling,  
16 underwriting, and record keeping;

17 (6) provide to the director documents necessary to verify the statements contained  
18 in or in connection with the application; and

19 (7) notify the director within 30 days in writing by certified mail of a change in  
20 principal or manager, residence, place of business, mailing address, phone number, suspension  
21 or revocation of an insurance license or registration by another state or jurisdiction; or a  
22 conviction of a misdemeanor or felony of the third-party administrator, its officers, directors,  
23 partners, owners, or employees.

24 (c) The director may adopt regulations establishing additional education or experience  
25 requirements for third-party administrator applicants or registrants.

26 (d) The director may require that a third-party administrator maintain

27 (1) a bond as described in AS 21.27.190 in an amount acceptable to the director  
28 and conditioned in that the third-party administrator will conduct business as required by this  
29 title; and

30 (2) an errors and omissions insurance policy acceptable to the director.

31 (e) If the director finds that the applicant or registrant is qualified and that application,

1 registration, or renewal fees have been paid, the director may issue or renew the registration.

2 Sec. 21.27.650. OPERATING REQUIREMENTS FOR THIRD-PARTY  
3 ADMINISTRATORS. (a) An insurer may not transact business with a third-party administrator  
4 unless

5 (1) the insurer holds a certificate of authority in this state;

6 (2) the third-party administrator is registered under this chapter or, when the third-  
7 party administrator is operating only for a foreign insurer, is registered as a third-party  
8 administrator by the third-party administrator's resident insurance regulator in a state that the  
9 director has determined has enacted provisions substantially similar to those contained in  
10 AS 21.27.630 - 21.27.650 and that is accredited by the National Association of Insurance  
11 Commissioners;

12 (3) the third-party administrator provides the director on January 1, April 1,  
13 July 1, and October 1 of each year

14 (A) a list of current employees, identifying those transacting business in  
15 this state or upon a subject resident, located or to be performed in this state;

16 (B) a list of current insurers under contract; and

17 (C) other information the director may require;

18 (4) a written contract is in effect between the parties that establishes the  
19 responsibilities of each party, indicates both parties' share of responsibility for a particular  
20 function, and specifies the division of responsibilities;

21 (5) there is in effect a written contract between the insurer and third-party  
22 administrator that contains the following provisions:

23 (A) the insurer may terminate the contract for cause upon written notice  
24 sent by certified mail to the third-party administrator and may suspend the underwriting  
25 authority of the third-party administrator during a dispute regarding the cause for  
26 termination; but the insurer must fulfill all lawful obligations with respect to policies  
27 affected by the written agreement, regardless of any dispute between the insurer and the  
28 third-party administrator;

29 (B) the third-party administrator shall render accounts to the insurer  
30 detailing all transactions and remit all money due under the contract to the insurer at least  
31 monthly;

1 (C) all money collected for the account of an insurer shall be held by the  
2 third-party administrator in a fiduciary account as described under AS 21.27.360;

3 (D) the third-party administrator shall comply with all applicable fiduciary  
4 account statutes and regulations;

5 (E) a fiduciary account shall be used for all payments on behalf of the  
6 insurer;

7 (F) the third-party administrator may not retain more than three months  
8 estimated claims payments and allocated loss adjustment expenses;

9 (G) the third-party administrator shall maintain separate records for each  
10 insurer in a form usable by the insurer; the insurer or its authorized representative shall  
11 have the right to audit and the right to copy all accounts and records related to the  
12 insurer's business; the director, in addition to other authority granted in this title, shall  
13 have access to all books, bank accounts, and records of the third-party administrator in  
14 a form usable to the director; any trade secrets contained in books and records reviewed  
15 by the director, including the identity and addresses of policyholders and certificate  
16 holders, shall be kept confidential, except that the director may use the information in a  
17 proceeding instituted against the third-party administrator or the insurer;

18 (H) the contract may not be assigned in whole or in part by the third-party  
19 administrator;

20 (I) if the contract permits the third-party administrator to do underwriting,  
21 the contract must include the following:

22 (i) the third-party administrator's maximum annual premium  
23 volume;

24 (ii) the rating system and basis of the rates to be charged;

25 (iii) the types of risks that may be written;

26 (iv) maximum limits of liability;

27 (v) applicable exclusions;

28 (vi) territorial limitations;

29 (vii) policy cancellation provisions;

30 (viii) the maximum policy term; and

31 (ix) that the insurer shall have the right to cancel or not renew a

1 policy of insurance subject to applicable state law;

2 (J) if the contract permits the third-party administrator to administer claims  
3 on behalf of the insurer, the contract must include the following:

4 (i) written settlement authority must be provided by the insurer and  
5 may be terminated for cause upon the insurer's written notice sent by certified  
6 mail to the third-party administrator or upon the termination of the contract, but  
7 the insurer may suspend the settlement authority during a dispute regarding the  
8 cause of termination;

9 (ii) claims shall be reported to the insurer within 30 days;

10 (iii) a copy of the claim file shall be sent to the insurer upon  
11 request or as soon as it becomes known that the claim has the potential to exceed  
12 an amount determined by the director or exceeds the limit set by the insurer,  
13 whichever is less, involves a coverage dispute, may exceed the third-party  
14 administrator's claims settlement authority, is open for more than six months,  
15 involves extra contractual allegations, or is closed by payment in excess of an  
16 amount set by the director or an amount set by the insurer, whichever is less;

17 (iv) each party to the contract shall comply with unfair claims  
18 settlement statutes and regulations;

19 (v) transmission of electronic data must occur at least monthly if  
20 electronic claim files are in existence; and

21 (vi) claim files shall be the sole property of the insurer; upon an  
22 order of liquidation of the insurer, the third-party administrator shall have  
23 reasonable access to and the right to copy the files on a timely basis; and

24 (K) the contract may not provide for commissions, fees, or charges  
25 contingent upon savings obtained in the adjustment, settlement, and payment of losses  
26 covered by the insurer's obligations; but a third-party administrator may receive  
27 performance-based compensation for providing hospital or other auditing services or may  
28 receive compensation based on premiums or charges collected or the number of claims  
29 paid or processed.

30 (b) If the insurer is domiciled in this state or the third-party administrator has a place of  
31 business in this state, a copy of the contract must be filed with and approved by the director at

1 least 30 days before the third-party administrator transacts business on behalf of the insurer. If  
2 the contract is not required to be approved in advance by the director, the insurer shall provide  
3 written notification to the director within 30 days of the entry into or termination of a contract  
4 with a third-party administrator; the notice must include a statement of duties to be performed  
5 by the third-party administrator on behalf of the insurer, the kinds and classes of insurance for  
6 which the third-party administrator has authorization to act, and other information required by  
7 the director.

8 (c) If the contract provides for the third-party administrator to receive or collect  
9 premiums, payment by or on behalf of the insured of premiums for insurance to the third-party  
10 administrator shall be presumed to have been received by the insurer; payment of return  
11 premiums or claim payments forwarded by the insurer to the third-party administrator may not  
12 be presumed to have been received by the person entitled to the money until the payments are  
13 received by the insured or claimant. Nothing in this subsection limits the rights that the insurer  
14 may have against the third-party administrator resulting from the failure of the third-party  
15 administrator to make payments to persons entitled to money.

16 (d) Policies, certificates, booklets, termination notices or other written communications  
17 delivered by the insurer to the third-party administrator for delivery to the insured or covered  
18 individuals shall be delivered by the third-party administrator within 10 days after receipt of  
19 instructions from the insurer to deliver them.

20 (e) When the services of a third-party administrator are utilized, the third-party  
21 administrator shall provide a written notice, approved in writing by the insurer, to a covered  
22 person advising the person of the identity of the insurer and the relationship between the third-  
23 party administrator, the policyholder, and the insurer.

24 (f) The third-party administrator may not

- 25 (1) bind reinsurance or retrocessions on behalf of the insurer,  
26 (2) commit the insurer to participate in insurance or reinsurance syndicates;  
27 (3) appoint a subagent unless the scope of the subagent's license as an insurance  
28 producer includes the kinds and classes of insurance for which the subagent is appointed and  
29 there is in effect a written agency agreement that specifically sets out the duties, functions,  
30 powers, authority, and compensation of all parties to the contract;  
31 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of

1 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last  
2 completed calendar year without prior written approval of the insurer for the settlement; the  
3 approval of an insurer must be received after the insurer has been notified in writing that the  
4 claim settlement will exceed one percent of the insurer's policyholder's surplus as of  
5 December 31 of the last completed calendar year;

6 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement  
7 with a reinsurer without prior written approval of the insurer, but if prior written approval is  
8 given, a complete report must be forwarded to the insurer within 30 days;

9 (6) serve on the insurer's board of directors;

10 (7) jointly employ an individual who is employed by the insurer;

11 (8) delegate third-party administrator authority to another person;

12 (9) solicit applications for insurance or renewals of insurance directly through  
13 employees or by appointments of insurance producers as its subagents unless its employees or  
14 the insurance producers appointed under the procedures set out in AS 21.27.100 and 21.27.110  
15 are licensed for the kinds or classes of insurance and the solicitation or renewals are within the  
16 scope of authority granted by the insurer contracting with the third-party administrator; or

17 (10) advertise the business underwritten by an insurer unless the advertising has  
18 been approved in writing by the insurer in advance of its use.

19 (g) In a form acceptable to the director, a third-party administrator shall annually provide  
20 to the insurer and an insurer shall annually obtain a copy of certified financial statements  
21 prepared by an independent certified public accountant of each third-party administrator with  
22 which the insurer has done business.

23 (h) In addition to any other required loss reserve certification, if a third-party  
24 administrator establishes loss reserves, the insurer shall annually obtain the opinion of an  
25 independent qualified actuary attesting to the adequacy of loss reserves established for losses  
26 incurred and outstanding on business produced by the third-party administrator. The insurer  
27 retains an independent responsibility to determine the adequacy of its loss reserves, including  
28 those established by its third-party administrators.

29 (i) If a third-party administrator provides services for more than 100 certificate holders  
30 on behalf of an insurer, the insurer shall at least semiannually conduct a review of the operations  
31 of the third-party administrator. At least one review required under this subsection must be an

1 on-site review.

2 (j) A third-party administrator shall maintain records as described in AS 21.27.350.

3 (k) An insurer may not appoint to its board of directors an officer, director, employee,  
4 subagent, insurance producer, or controlling shareholder of its third-party administrator.

5 (l) An actual or apparently authorized act of the third-party administrator is considered  
6 to be the act of the insurer upon whose behalf the third-party administrator is acting.

7 (m) A third-party administrator may be examined by the director under AS 21.06.120 as  
8 if it were the insurer.

9 (n) If the director determines after a hearing under AS 21.06.170 - 21.05.240 that a third-  
10 party administrator caused loss arising out of a violation of AS 21.27.630 - 21.27.650 to an  
11 insurer, the director may order the third-party administrator to reimburse the insurer, the  
12 rehabilitator, or the liquidator of the insurer for the loss. Reimbursement ordered under this  
13 subsection is in addition to any other liability of the third-party administrator and does not affect  
14 the rights of a policyholder, claimant, creditor, or third-party.

15 (o) In addition to any other penalty provided by law, a person who violates this section  
16 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority  
17 may be suspended or revoked.

## 18 ARTICLE 5. REINSURANCE INTERMEDIARY BROKERS.

19 Sec. 21.27.670. REINSURANCE INTERMEDIARY BROKER QUALIFICATIONS. (a)  
20 In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal  
21 of a reinsurance intermediary broker license, an applicant or licensee shall have at least three  
22 years active working experience within the previous 10 calendar years in insurance administrative  
23 functions, that, in the director's opinion, exhibit the applicant's ability to competently perform  
24 the functions for all kinds and classes of insurance applied for.

25 (b) The director may require that a reinsurance intermediary broker maintain

26 (1) a bond in an amount acceptable to the director in favor of insurers and this  
27 state, and with a condition in that the reinsurance intermediary broker conduct business as  
28 required under this title; and

29 (2) an errors and omissions insurance policy acceptable to the director.

30 Sec. 21.27.680. TRAINEE REINSURANCE INTERMEDIARY BROKERS. (a) An  
31 individual licensed in this state as an insurance producer, who does not have the experience

1 required of a reinsurance intermediary broker but who otherwise meets the requirements of  
2 AS 21.27.670, may be employed by a licensed reinsurance intermediary broker as a trainee  
3 reinsurance intermediary broker, subject to the provisions of this section.

4 (b) Before an individual may transact insurance as a trainee reinsurance intermediary  
5 broker, the reinsurance intermediary broker employing the trainee reinsurance intermediary broker  
6 shall submit to the director the application of the trainee reinsurance intermediary broker, with  
7 the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary broker license.

8 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary broker  
9 shall apply within 30 days for a reinsurance intermediary broker license.

10 (d) A trainee reinsurance intermediary broker shall at all times be working at the  
11 direction and under the supervision of the employing licensed reinsurance intermediary broker,  
12 and the file and record documentation must reflect the direction and supervision. Insurance  
13 activities must be in the name of the employing reinsurance intermediary broker who is  
14 responsible for all actions of the trainee reinsurance intermediary broker.

15 (e) A trainee reinsurance intermediary broker is restricted to assisting the employing  
16 licensed reinsurance intermediary broker in preparing applications; binders; certificates of  
17 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;  
18 and to performing clerical functions for which a license is not required. The file and record  
19 documentation must reflect compliance with this subsection.

20 (f) A trainee reinsurance intermediary broker may not transact business away from the  
21 place of business with clients, insurers, or reinsurers unless a licensed reinsurance intermediary  
22 broker physically accompanies the trainee.

23 (g) In addition to any other penalty provided by law,

24 (1) the director shall revoke the license of a trainee reinsurance intermediary  
25 broker who the director determines has violated the provisions of this section; a licensee or other  
26 person having possession or custody of the license shall immediately surrender the license to the  
27 director either personally or by certified mail;

28 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing  
29 reinsurance intermediary broker knew of or should have known that a trainee reinsurance  
30 intermediary broker violated this section, the employing reinsurance intermediary broker and firm,  
31 principal and manager, if any, are subject to the penalties provided under AS 21.27.440.

1           Sec. 21.27.690.   OPERATING REQUIREMENTS FOR REINSURANCE  
2 INTERMEDIARY BROKERS. (a) Except as provided in (b) of this section, an insurer may not  
3 transact business with a reinsurance intermediary broker unless the insurer holds a certificate of  
4 authority in this state, the reinsurance intermediary broker is licensed in this state, and there is  
5 in effect a written contract between the parties that establishes the responsibilities of each party,  
6 indicates each party's share of responsibility for each particular function, and specifies the  
7 division of responsibilities. The written contract shall be kept in the permanent records of the  
8 insurer and the reinsurance intermediary broker, be open to inspection by the director, and must  
9 contain the following minimum provisions:

10                   (1) the insurer may terminate the reinsurance intermediary broker's authority at  
11 any time by written notice sent by certified mail;

12                   (2) the reinsurance intermediary broker shall render accounts to the insurer  
13 detailing all transactions including information necessary to support all commissions, charges, and  
14 other fees received by or owing to the reinsurance intermediary broker and remit the money due  
15 under the contract to the insurer within 30 days of receipt;

16                   (3) money collected for the account of an insurer shall be held by the reinsurance  
17 intermediary broker in a fiduciary account required under AS 21.27.360; the reinsurance  
18 intermediary broker shall comply with applicable fiduciary account statutes and regulations;

19                   (4) the reinsurance intermediary broker shall maintain separate accounts and  
20 records for each insurer and maintain the records in a form usable by the insurer; the insurer or  
21 the authorized representative of the insurer shall have access and the right to audit and the right  
22 to copy all accounts and records related to the insurer's business; the director, in addition to the  
23 other authority granted in this title, shall have access to all books, bank accounts, and records of  
24 the insurance intermediary broker in a form usable to the director;

25                   (5) the insurer shall establish written standards for the cession or retrocession of  
26 all risks, and the reinsurance intermediary broker shall comply with those standards;

27                   (6) the reinsurance intermediary broker shall disclose to the insurer all its  
28 relationships with insurers and reinsurers to whom risks are ceded or retroceded; and

29                   (7) the contract may not be assigned in whole or in part by the reinsurance  
30 intermediary broker.

31           (b) A domestic insurer may use a nonresident reinsurance intermediary broker who is not

1 licensed under this chapter if the person is licensed in good standing as a resident reinsurance  
2 intermediary broker by an insurance regulator of another state that is accredited by the National  
3 Association of Insurance Commissioners. Upon written request, the director may grant written  
4 permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed  
5 by and without a place of business in a jurisdiction subject to accreditation by the National  
6 Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed  
7 in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed  
8 reinsurance intermediary broker are subject to all other requirements of this section.

9 (c) An insurer may not employ a person who is employed by a reinsurance intermediary  
10 broker with which it transacts business, unless the reinsurance intermediary broker is under  
11 common control with the insurer and subject to AS 21.22.

12 (d) In a form acceptable to the director, a reinsurance intermediary broker shall annually  
13 provide and an insurer shall annually obtain a copy of certified financial statements of each  
14 reinsurance intermediary broker with which the insurer has done business, prepared by the  
15 independent certified public accountant.

16 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a  
17 reinsurance intermediary broker caused losses arising out of a violation of AS 21.27.670 -  
18 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker  
19 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer  
20 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection  
21 is in addition to any other liability of the reinsurance intermediary broker and does not affect the  
22 rights of a policyholder, claimant, creditor, or third party.

23 (f) In addition to any other penalty provided by law, a person who violates this section  
24 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority  
25 may be suspended or revoked.

26 Sec. 21.27.700. REINSURANCE INTERMEDIARY BROKER RECORDS. In addition  
27 to any other records requirements under this title, a reinsurance intermediary broker shall  
28 maintain in organized form a record of each transaction including

29 (1) the type of contract, limits, underwriting restrictions, classes or risks, and  
30 territory;

31 (2) the period of coverage, including effective and expiration dates, cancellation

- 1 provisions, and required notice of cancellation;
- 2 (3) the reporting and settlement requirements of balances;
- 3 (4) the rate used to compute the reinsurance premium;
- 4 (5) the names and addresses of reinsurers;
- 5 (6) the rate of all reinsurance commissions, including the commissions on
- 6 retrocessions handled by the reinsurance intermediary broker;
- 7 (7) the related correspondence and memoranda;
- 8 (8) the proof of placement;
- 9 (9) the details regarding retrocessions handled by the reinsurance intermediary
- 10 broker including the identity of retrocessionaires and the percentage of each contract assumed or
- 11 ceded;
- 12 (10) the financial records of premium and loss accounts;
- 13 (11) if the reinsurance intermediary broker procures a reinsurance contract on
- 14 behalf of an admitted ceding insurer
- 15 (A) written evidence directly from an assuming reinsurer that it has agreed
- 16 to assume the risk; or
- 17 (B) written evidence, if placed through a representative of the assuming
- 18 reinsurer other than an employee, that the reinsurer had delegated binding authority to the
- 19 representative; and
- 20 (12) additional information that is customary or that may be required by the
- 21 director.

22 ARTICLE 6. REINSURANCE INTERMEDIARY MANAGERS.

23 Sec. 21.27.730. REINSURANCE INTERMEDIARY MANAGER QUALIFICATIONS.

24 (a) In addition to the general qualifications under AS 21.27.020, to qualify for issuance or

25 renewal of a reinsurance intermediary manager license, an applicant or licensee shall have at least

26 three years active working experience within the previous 10 calendar years in insurance

27 administrative functions, that, in the director's opinion, exhibit the applicant's abilities to

28 competently perform the functions for all kinds and classes of insurance applied for.

29 (b) The director may require that a reinsurance intermediary manager maintain

30 (1) a bond in an amount acceptable to the director and with a condition that the

31 reinsurance intermediary manager conduct business as required under this title; and

1 (2) an errors and omissions insurance policy acceptable to the director.

2 Sec. 21.27.740. TRAINEE REINSURANCE INTERMEDIARY MANAGERS. (a) An  
3 individual licensed in this state as an insurance producer who does not have the experience  
4 required of a reinsurance intermediary manager, but who otherwise meets the requirements of  
5 AS 21.27.730, may be employed by a licensed reinsurance intermediary manager as a trainee  
6 reinsurance intermediary manager, subject to the provisions of this section.

7 (b) Before an individual may transact insurance as a trainee reinsurance intermediary  
8 manager, the reinsurance intermediary manager employing the trainee reinsurance intermediary  
9 manager shall submit to the director the application of the trainee reinsurance intermediary  
10 manager, with the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary  
11 manager license.

12 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary  
13 manager shall apply within 30 days for a reinsurance intermediary manager license.

14 (d) A trainee reinsurance intermediary manager shall at all times be working at the  
15 direction and under the supervision of the employing licensed reinsurance intermediary manager,  
16 and the file and record documentation must reflect the direction and supervision. Insurance  
17 activities must be in the name of the employing reinsurance intermediary manager, who is  
18 responsible for all insurance actions of the trainee reinsurance intermediary manager.

19 (e) A trainee reinsurance intermediary manager is restricted to assisting the employing  
20 licensed reinsurance intermediary manager in preparing applications; binders; certificates of  
21 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;  
22 and to performing clerical functions for which a license is not required. The file and record  
23 documentation must reflect compliance with this subsection.

24 (f) A trainee reinsurance intermediary manager may not transact business away from the  
25 place of business with clients, insurers, or reinsurers unless a reinsurance intermediary manager  
26 physically accompanies the trainee.

27 (g) In addition to any other penalty provided by law,

28 (1) a trainee reinsurance intermediary manager who the director determines has  
29 violated the provisions of this section shall have its license revoked; a licensee or other person  
30 having possession or custody of the license shall immediately surrender the license to the director  
31 either personally or by certified mail;

1 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing  
2 reinsurance intermediary manager knew of or should have known that a trainee reinsurance  
3 intermediary manager violated this section, the employing reinsurance intermediary manager and  
4 firm, principal, and manager, if any, are subject to the penalties provided under AS 21.27.440.

5 Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.

6 A reinsurance intermediary manager has only the authority that is consistent with this title and  
7 that is conferred by the reinsurer. A reinsurance intermediary manager, resident or nonresident,  
8 qualified and licensed under this chapter, may exercise the powers conferred by this title upon  
9 insurance producers and independent adjusters only for the kinds or classes of insurance and  
10 within the scope that reinsurance intermediary is authorized by the reinsurer appointing the  
11 reinsurance intermediary manager.

12 Sec. 21.27.760. OPERATING REQUIREMENTS FOR REINSURANCE  
13 INTERMEDIARY MANAGERS. (a) A reinsurer may not transact business with a reinsurance  
14 intermediary manager unless there is in effect a written contract approved by the reinsurer's  
15 board of directors between the parties that establishes the responsibilities of each party, indicates  
16 each party's share of responsibility for each particular function, and specifies the division of  
17 responsibilities.

18 (b) The contract required under (a) of this section must include the following provisions:

19 (1) the reinsurer may terminate the contract for cause upon written notice sent by  
20 certified mail to the reinsurance intermediary manager and may suspend the underwriting  
21 authority of the reinsurance intermediary manager during a dispute regarding the cause for  
22 termination;

23 (2) the reinsurance intermediary manager shall render accounts to the reinsurer  
24 detailing all transactions including information necessary to support all commissions, charges, and  
25 other fees received by or owing to the reinsurance intermediary manager and remit all money due  
26 under the contract to the insurer at least monthly;

27 (3) money collected for the account of a reinsurer shall be held by the reinsurance  
28 intermediary manager in a fiduciary account as described under AS 21.27.360;

29 (4) the reinsurance intermediary manager shall comply with applicable fiduciary  
30 account statutes and regulations;

31 (5) the reinsurance intermediary manager shall maintain a separate bank account

1 for each reinsurer that it represents;

2 (6) a fiduciary account must be used for all payments on behalf of the reinsurer;

3 (7) the reinsurance intermediary manager may retain not more than three months  
4 estimated claims payments and allocated loss adjustment expenses;

5 (8) the reinsurance intermediary manager shall maintain separate accounts and  
6 records for each reinsurer and maintain the records in a form usable by the reinsurer; the  
7 reinsurer or its authorized representative shall have access and the right to audit and the right to  
8 copy all accounts and records related to the reinsurer's business; the director, in addition to the  
9 other authority granted in this title, shall have access to all books, bank accounts, and records of  
10 the reinsurance intermediary manager in a form usable to the director;

11 (9) the contract may not be assigned in whole or in part by the reinsurance  
12 intermediary manager;

13 (10) the reinsurer shall establish written underwriting and rating standards for the  
14 acceptance, rejection, or cession of all risks and the reinsurance intermediary manager shall  
15 comply with the standards;

16 (11) compensation including rates, terms, purposes of commissions, charges, and  
17 other fees that the reinsurance intermediary manager may levy against the reinsurer;

18 (12) if the contract permits the reinsurance intermediary manager to settle claims  
19 on behalf of the reinsurer,

20 (A) written settlement authority must be provided by the reinsurer and  
21 may be terminated for cause upon the insurer's written notice by certified mail to the  
22 reinsurance intermediary manager or upon the termination of the contract; the reinsurer  
23 may suspend the settlement authority during a dispute regarding the cause of termination;

24 (B) claims shall be reported to the reinsurer within 30 days;

25 (C) a copy of the claim file shall be sent to the reinsurer upon request or  
26 as soon as it becomes known that the claim

27 (i) has the potential to exceed an amount determined by the  
28 director or exceeds the limit set by the insurer, whichever is less;

29 (ii) involves a coverage dispute;

30 (iii) may exceed the reinsurance intermediary manager's claims  
31 settlement authority;

- 1 (iv) is open for more than six months;  
2 (v) involves extra contractual allegations; or  
3 (vi) is closed by payment in excess of an amount set by the  
4 director or an amount set by the insurer, whichever is less;

5 (D) the reinsurance intermediary manager shall comply with unfair claims  
6 settlement statutes and regulations;

7 (E) transmission of electronic data at least once a month if electronic  
8 claims files are in existence;

9 (F) claim files shall be the property of both the reinsurer and reinsurance  
10 intermediary manager, but upon an order of liquidation of the reinsurer, the files shall  
11 become the sole property of the reinsurer or the reinsurer's estate; the reinsurance  
12 intermediary manager shall have reasonable access to and the right to copy the files on  
13 a timely basis;

14 (13) if the contract provides for sharing of interim profits by the reinsurance  
15 intermediary manager, the interim profits may not be paid until

16 (A) one calendar year after the end of each underwriting period for  
17 property risks and five years after the end of each underwriting period for casualty risks;

18 (B) a later period established by the director for specified kinds or classes  
19 of insurance; and

20 (C) the profits have been verified under (e)(2) of this section;

21 (14) the reinsurance intermediary manager may not

22 (A) cede retrocessions on behalf of the reinsurer, except that the  
23 reinsurance intermediary manager may cede facultative retrocessions under obligatory  
24 agreements if the contract with the reinsurer contains reinsurance underwriting guidelines  
25 including a list of reinsurers with which automatic agreements are in effect, and, for each  
26 reinsurer, the coverage and amounts or percentages that may be reinsured, and  
27 commission schedules;

28 (B) commit the reinsurer to participate in reinsurance syndicates;

29 (C) appoint a subagent unless the scope of the subagent's license as an  
30 insurance producer includes the kinds and classes of insurance for which the subagent is  
31 appointed;

1 (D) pay or commit the reinsurer to pay a claim, net of retrocessions, the  
2 amount of which exceeds one percent of the reinsurer's policyholder's surplus as of  
3 December 31 of the last completed calendar year without the prior written approval of the  
4 reinsurer for the settlement and the approval is received after the reinsurer has been  
5 notified in writing that the claim settlement will exceed one percent of the reinsurer's  
6 policyholder's surplus as of December 31 of the last completed calendar year;

7 (E) collect payment from a retrocessionaire or commit the reinsurer to a  
8 claim settlement with a retrocessionaire without prior written approval of the reinsurer,  
9 but if prior written approval is given, a complete report shall be forwarded to the reinsurer  
10 within 30 days;

11 (F) jointly employ an individual who is employed with the reinsurer; or

12 (G) delegate reinsurance intermediary manager authority to another person;

13 (15) if the insurer is domiciled in this state or the reinsurance intermediary  
14 manager has a place of business in this state, a copy of the contract must be filed with and  
15 approved by the director at least 30 days before the reinsurance intermediary manager transacts  
16 business on behalf of the reinsurer; and

17 (16) if the contract is not required to be approved in advance by the director, the  
18 insurer shall provide written notification to the director within 30 days of the entry into or  
19 termination of a contract with a reinsurance intermediary manager; the notice must include a  
20 statement of duties to be performed by the reinsurance intermediary manager on behalf of the  
21 reinsurer, the kinds and classes of insurance for which the reinsurance intermediary manager has  
22 authorization to act, and other information required by the director.

23 (c) Binding authority for all retrocession contracts or participation in reinsurance  
24 syndicates may only rest with an officer of the reinsurer who is not affiliated with a reinsurance  
25 intermediary manager.

26 (d) In a form acceptable to the director, a reinsurance intermediary manager shall  
27 annually provide and a reinsurer shall annually obtain a copy of certified financial statements of  
28 each reinsurance intermediary manager that the reinsurer has used, prepared by an independent  
29 certified public accountant.

30 (e) The reinsurer shall

31 (1) at least semiannually conduct an on-site review of the underwriting and claims

1 processing operations of each reinsurance intermediary manager,

2 (2) in addition to any other required loss reserve certification, annually obtain the  
3 opinion of an independent qualified actuary attesting to the adequacy of loss reserves established  
4 for losses incurred and outstanding on business produced by the reinsurance intermediary  
5 manager if a reinsurance intermediary manager establishes loss reserves; the reinsurer retains an  
6 independent responsibility to determine the adequacy of its loss reserves, including those  
7 established by its reinsurance intermediary manager; and

8 (3) provide written notification to the director by certified mail within 30 days  
9 of the termination of a contract with a reinsurance intermediary manager.

10 (f) The reinsurance intermediary manager shall disclose to the reinsurer a relationship  
11 with an insurer before ceding or assuming risks with the insurer under the contract.

12 (g) A reinsurer may not appoint to its board of directors an officer, director, employee,  
13 subagent, insurance producer, or controlling shareholder of its reinsurance intermediary manager.

14 (h) Within the scope of the actual or apparent authority, the acts of the reinsurance  
15 intermediary manager are considered the acts of the reinsurer upon whose behalf it is acting.

16 (i) A reinsurance intermediary manager may be examined by the director as if it were  
17 the insurer.

18 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a  
19 reinsurance intermediary manager caused losses arising out of a violation of AS 21.27.730 -  
20 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager  
21 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer  
22 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection  
23 is in addition to any other liability of the reinsurance intermediary manager and does not affect  
24 the rights of a policyholder, claimant, creditor, or third party.

25 (k) In addition to any other penalty provided by law, a person who violates this section  
26 is subject to the penalties provided under AS 21.27.440 and an insurer's or reinsurer's certificate  
27 of authority may be suspended or revoked.

28 Sec. 21.27.770. REINSURANCE INTERMEDIARY MANAGER RECORDS. In  
29 addition to any other records requirements under this chapter, a reinsurance intermediary manager  
30 shall maintain in organized form a complete record of each transaction including

31 (1) the type of contract, limits, underwriting restrictions, classes or risks, and

1 territory;

2 (2) the period of coverage, including effective and expiration dates, cancellation  
3 provisions, and required notice of cancellation;

4 (3) disposition of outstanding reserves on covered risks;

5 (4) the reporting and settlement requirements of balances;

6 (5) the rate used to compute the reinsurance premium;

7 (6) the names and addresses of reinsurers;

8 (7) the rate of all reinsurance commissions, including the commissions on  
9 retrocessions handled by the reinsurance intermediary broker and reinsurance intermediary  
10 manager;

11 (8) related correspondence and memoranda;

12 (9) proof of placement;

13 (10) details regarding retrocessions handled by the reinsurance intermediary broker  
14 and reinsurance intermediary manager including the identity of retrocessionaires and the  
15 percentage of each contract assumed or ceded;

16 (11) financial records of premium and loss accounts; and

17 (12) if the reinsurance intermediary broker procures a reinsurance contract on  
18 behalf of an admitted ceding insurer or when the reinsurance intermediary manager places a  
19 reinsurance contract on behalf of a ceding insurer, written evidence

20 (A) directly from an assuming reinsurer that it has agreed to assume the  
21 risk; or

22 (B) that the reinsurer had delegated binding authority to the representative,  
23 if placed through a representative of the assuming reinsurer other than an employee of the  
24 assuming reinsurer.

## 25 ARTICLE 7. SURPLUS LINES BROKER.

26 Sec. 21.27.790. SURPLUS LINES BROKER QUALIFICATIONS. In addition to the  
27 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a surplus  
28 lines broker license, an applicant or licensee shall

29 (1) have a minimum two years active working experience within the previous five  
30 calendar years as an insurance producer, managing general agent, reinsurance intermediary  
31 broker, reinsurance intermediary manager, independent adjuster, or underwriter or claims adjuster

1 employee of an insurer and, in the director's opinion, exhibit the ability to competently perform  
2 the responsibilities of the license applied for;

3 (2) have and maintain while licensed, a bond in the sum of not less than \$200,000  
4 aggregate liability and with the conditions that the surplus lines broker conduct business under  
5 the provisions of this title, promptly remit the taxes and fees provided by law, return premiums  
6 promptly when due, and pay proper losses promptly;

7 (3) if the director requires, maintain an errors and omissions insurance policy  
8 acceptable to the director.

9 Sec. 21.27.800. TRAINEE SURPLUS LINES BROKER. (a) An individual licensed in  
10 this state as an insurance producer who does not have the experience required of a surplus lines  
11 broker, but who otherwise meets the requirements of AS 21.27.790, may be employed by a  
12 licensed surplus lines broker as a trainee surplus lines broker, subject to the provisions of this  
13 section.

14 (b) Before an individual may transact insurance as a trainee surplus lines broker, the  
15 licensed surplus lines broker employing the trainee surplus lines broker shall submit to the  
16 director the application of the trainee surplus lines broker, with the fee set under AS 21.06.250,  
17 and receive the trainee surplus lines broker license.

18 (c) Upon satisfying the experience requirement, a trainee surplus lines broker shall apply  
19 within 30 days for a surplus lines broker license.

20 (d) A trainee licensed under this section shall at all times be working at the direction and  
21 under the supervision of the employing licensed surplus lines broker, and the file and record  
22 documentation shall reflect the direction and supervision. Insurance activities must be in the  
23 name of the employing licensed surplus lines broker, who is responsible for all actions of the  
24 trainee surplus lines broker.

25 (e) A trainee licensed under this section is restricted to assisting the employing licensed  
26 surplus lines broker in preparing applications; binders; certificates of insurance; schedules of  
27 equipment, vehicles, and drivers; loss notices to insurers; and invoices; and to perform clerical  
28 functions for which a license is not required. The file and record documentation must reflect  
29 compliance with this subsection.

30 (f) A trainee surplus line broker licensed under this section may not transact business  
31 away from the place of business with clients or insurers unless a licensed surplus lines broker

1 physically accompanies the trainee.

2 (g) In addition to any other penalty provided by law,

3 (1) the director shall revoke the license of a trainee surplus lines broker who the  
4 director determines has violated the provisions of this section; a licensee or other person having  
5 possession or custody of the license shall immediately surrender the license to the director either  
6 personally or by certified mail;

7 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing  
8 surplus lines broker knew of or should have known that a trainee licensed under this section  
9 violated this section, the employing surplus lines broker and firm, principal, and manager, if any,  
10 are subject to the penalties provided under AS 21.27.440.

11 Sec. 21.27.810. SURPLUS LINES BROKER RECORDS. In addition to any other records  
12 requirements under this chapter, a surplus lines broker shall maintain in organized form a  
13 complete record including

14 (1) the amount of insurance and perils insured;

15 (2) a complete description of property insured and the location of the property;

16 (3) gross premium charged;

17 (4) return premium paid;

18 (5) the rate of premium charged upon the several items of property;

19 (6) the effective date of the contract and the terms of the contract;

20 (7) the name and address of the insured;

21 (8) the name and address of the insurer;

22 (9) the amount of tax and other sums to be collected from the insured;

23 (10) the allocation of taxes by state under AS 21.34.180;

24 (11) evidence of insurance issued in compliance with AS 21.34.100;

25 (12) the identity and license number of the producing broker;

26 (13) any confirming correspondence from the insurer or the representative of the  
27 insurer; and

28 (14) the application.

29 Sec. 21.27.820. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF  
30 SURPLUS LINES BROKER LICENSE. In addition to other action available under this title, the  
31 director may deny issuance of or not renew a license, or may suspend or revoke a license of a

1 surplus lines broker issued under this chapter for any of the following causes:

2 (1) removal of the resident surplus lines broker's office from this state;

3 (2) removal of the resident surplus lines broker's accounts and records from this  
4 state during the period within which the accounts and records are required to be maintained under  
5 this chapter;

6 (3) removal of the nonresident surplus lines broker's accounts and records  
7 required to be maintained under this chapter from the location described in the license without  
8 prior approval of the director;

9 (4) closing of the surplus lines broker's office for a period of more than 45  
10 calendar days, unless permission is granted by the director;

11 (5) failure to make a required report;

12 (6) failure to transmit a required tax or fee on a surplus line premium to this state  
13 or a reciprocal state to which a tax is owing;

14 (7) failure to maintain a required bond.

#### 15 ARTICLE 8. INDEPENDENT ADJUSTERS.

16 Sec. 21.27.830. INDEPENDENT ADJUSTER QUALIFICATIONS. In addition to the  
17 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an independent  
18 adjuster license, an applicant or licensee shall

19 (1) have at least six months active working experience within the previous two  
20 calendar years as either an independent adjuster trainee, an insurance producer, a managing  
21 general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, a surplus  
22 lines broker, an independent adjuster, or an underwriter or claims adjuster employee of an insurer,  
23 and, in the director's opinion, exhibit the ability to competently perform the responsibilities of  
24 an independent adjuster; or

25 (2) have been previously licensed in good standing in this state as an independent  
26 adjuster within the previous four calendar years and not have had a license suspended or revoked.

27 Sec. 21.27.840. TRAINEE INDEPENDENT ADJUSTERS. (a) An individual resident  
28 who does not have the experience with reference to the handling of loss claims but who  
29 otherwise meets the requirements of AS 21.27.830, may be employed by a licensed independent  
30 adjuster as a trainee independent adjuster, subject to the provisions of this section.

31 (b) Before the individual may handle loss claims, the licensed independent adjuster

1 employing the trainee independent adjuster shall submit to the director the application of the  
2 trainee independent adjuster, with the fee set under AS 21.06.250, and receive the trainee  
3 independent adjuster license.

4 (c) The director shall revoke a trainee independent adjuster license unless the individual  
5 has

6 (1) not later than four months after the effective date of the trainee adjuster  
7 license, complied with the independent adjuster licensing requirements of AS 21.27.060  
8 concerning the insurance laws and regulations of this state;

9 (2) not later than eight months after the effective date of the trainee adjuster  
10 license, complied with the independent adjuster licensing requirements of AS 21.27.060  
11 concerning the knowledge and competence of the licensee concerning handling of loss claims and  
12 the licensee's duties and responsibilities as a licensee; and

13 (3) within 12 months after the effective date of the trainee adjuster license,  
14 complied with all other independent adjuster licensing requirements.

15 (d) A person whose trainee independent adjuster license was revoked for failure to meet  
16 a requirement of (c) of this section may submit a new application for a trainee independent  
17 adjuster license after the person has successfully passed both tests required under (c) of this  
18 section.

19 (e) Upon satisfying the requirements of (c) of this section, a trainee independent adjuster  
20 shall apply within 30 days for an independent adjuster license.

21 (f) A trainee independent adjuster shall at all times be working at the direction and under  
22 the supervision of the employing licensed independent adjuster, and the file and record  
23 documentation shall reflect the direction and supervision. The employing licensed independent  
24 adjuster and its firm, manager, and principal, if any, are responsible for all insurance actions of  
25 the trainee independent adjuster.

26 (g) A trainee independent adjuster is restricted to participation in a factual investigation  
27 and a tentative closing of a loss subject to review and final determination by the employing  
28 licensed independent adjuster, and file and record documentation shall reflect compliance with  
29 this subsection.

30 (h) A trainee independent adjuster may not participate in a factual investigation and a  
31 tentative closing of a loss away from the place of business unless a licensed independent adjuster

1 physically accompanies the trainee.

2 (i) In addition to any other penalty provided by law,

3 (1) a trainee independent adjuster who the director determines has violated the  
4 provisions of this section shall have its license terminated; a licensee or other person having  
5 possession or custody of the license shall within 30 days surrender the license to the director  
6 either personally or by certified mail;

7 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing  
8 licensed independent adjuster knew of or should have known that a trainee independent adjuster  
9 violated this section, the employing licensed independent adjuster and firm, principal and  
10 manager, if any, are subject to the penalties provided under AS 21.27.440.

11 Sec. 21.27.850. INSURANCE PRODUCER, MANAGING GENERAL AGENT,  
12 REINSURANCE INTERMEDIARY BROKER, REINSURANCE INTERMEDIARY MANAGER,  
13 SURPLUS LINES BROKER AS INDEPENDENT ADJUSTER. Without being required by this  
14 chapter to be licensed also as an independent adjuster

15 (1) a licensed insurance producer and a licensed managing general agent,  
16 incidental to acting as an insurance producer, may act as an adjuster and investigate, adjust, and  
17 report upon claims on behalf of and as authorized by an admitted insurer that has appointed the  
18 insurance producer or the managing general agent as its agent under AS 21.27.100;

19 (2) a surplus lines broker may act as an adjuster and investigate, adjust, and report  
20 upon claims on behalf of and as authorized by a nonadmitted insurer; and

21 (3) a reinsurance intermediary broker or a reinsurance intermediary manager may  
22 act as an adjuster and investigate, adjust, and report upon claims on behalf of and as authorized  
23 by an insurer or reinsurer under the contract required by this chapter.

24 Sec. 21.27.860. UNLICENSED NONRESIDENT ADJUSTERS. (a) A nonresident  
25 independent adjuster not licensed by this state who is licensed by and in good standing with its  
26 resident state may act as an adjuster and adjust a single loss in this state during a calendar year,  
27 or may act as an adjuster and adjust losses arising out of a catastrophe as declared by the  
28 director, if, within 10 days after the start of an investigation or adjustment under this section, the  
29 nonresident independent adjuster has advised the director in writing of the adjustment and  
30 provided the following information:

31 (1) the individual and firm name;

- 1 (2) the business mailing address;
- 2 (3) the business physical address and phone number;
- 3 (4) the licensing state of residence;
- 4 (5) the resident license number; and
- 5 (6) other facts that the director may require.

6 (b) A nonresident independent adjuster may be sued upon a cause of action arising in this  
7 state arising from an adjustment under this section under the procedure provided in AS 21.33.

8 Sec. 21.27.870. INDEPENDENT ADJUSTER RECORDS. In addition to any other  
9 records requirements under this chapter, an independent adjuster shall maintain in organized form  
10 a complete record of each investigation or adjustment undertaken or consummated, and a  
11 statement of the fee, commission, or other compensation received or to be received by the  
12 adjuster on account of the investigation or adjustment.

#### 13 ARTICLE 9. DEFINITIONS.

14 Sec. 21.27.900. DEFINITIONS. In this chapter,

- 15 (1) "affiliate" or "affiliated" has the meaning given in AS 21.22.200;
- 16 (2) "cession" means a unit of insurance, passed to a reinsurer by a primary insurer  
17 that issued the policy to the original insured, that may transfer part or all of a single risk, defined  
18 in the policy, or a defined group of business as agreed to in a contract of reinsurance;
- 19 (3) "comparable business" means the same lines or kinds of insurance, the same  
20 classes of risks, similar policy limits, and quality of business;
- 21 (4) "control," "controlling," and "controlled by" have the meaning given in  
22 AS 21.22.200;
- 23 (5) "controlled insurer" means an admitted insurer that is controlled, directly or  
24 indirectly, by an insurance producer;
- 25 (6) "controlling insurance producer" means an insurance producer that, directly  
26 or indirectly, controls an insurer;
- 27 (7) "fiduciary account" means an account in which the licensee holds money as  
28 a trustee for the person entitled to the money;
- 29 (8) "firm" means an organization of two or more licensees acting in association  
30 with each other, either in a partnership, corporation, or otherwise. or an organization in which  
31 a single licensee has less than 50 percent ownership interest in the organization;

1 (9) "independent qualified actuary" means an actuary who is a member of the  
2 American Academy of Actuaries and who is not affiliated with, an employee, principal, the direct  
3 owner or indirect owner of, or in any way controlled by the insurer, managing general agent,  
4 reinsurance intermediary broker, or reinsurance intermediary manager;

5 (10) "individual" means a natural person required to be licensed under  
6 AS 21.27.010 who is not acting in association with two or more licensees, either in partnership,  
7 corporation, or otherwise, or an organization in which a single licensee has 50 percent or more  
8 ownership interest in the organization;

9 (11) "individual in the firm" means a natural person required to be licensed under  
10 AS 21.27.010 who is employed by a firm;

11 (12) "insurance holding company system" has the meaning given in AS 21.22.200;

12 (13) "interim profits" means the excess of income over expenses and claim  
13 reserves determined before the expiration of all claim liabilities and contract obligations of the  
14 insurer to the insured;

15 (14) "manager" means the individual in the firm who is designated by the firm  
16 to be responsible for the firm's operations and the firm's compliance with insurance laws and  
17 regulations at the place of business in which the manager principally works;

18 (15) "physical presence or physically present" means contemporaneously available  
19 in the licensee's place of business;

20 (16) "principal" means the sole proprietor, partner, or officer of a firm who is  
21 licensed as an individual in the firm and who is designated by the firm to be responsible for the  
22 firm's operations and the firm's compliance with insurance laws and regulations;

23 (17) "reinsurance" means an insurance transaction by which the assuming insurer  
24 agrees to indemnify the ceding insurer in whole or in part against liability or losses that the  
25 ceding insurer might incur under a separate contract of insurance with its insured;

26 (18) "resident" means

27 (A) for an individual or an individual in the firm, a natural person who  
28 is domiciled in this state, whose principal place of business is in this state, who has a  
29 present intent to remain in this state while licensed, and who manifests that intent by  
30 establishing an ongoing physical presence in this state;

31 (B) for a firm, a person whose principal place of business is in this state;

1 (19) "retrocession" means a transaction in which a reinsurer cedes to another  
2 reinsurer all or part of the risk that the reinsurer has previously assumed;

3 (20) "subagent" means an agent reporting to a managing general agent or  
4 reinsurance intermediary manager and not directly to an insurer;

5 (21) "subsidiary" has the meaning given in AS 21.22.200;

6 (22) "underwrite" means the authority to accept or reject risk on behalf of the  
7 insurer.

8 \* Sec. 95. AS 21.27.620(a)(4)(L) is repealed and reenacted to read:

9 (L) if the insurer is domiciled in this state or the managing general agent  
10 has a place of business in this state, a copy of the contract must be filed with and  
11 approved by the director at least 30 days before the managing general agent transacts  
12 business on behalf of the insurer; if the insurer is not domiciled in this state or the  
13 managing general agent transacts business relative to a subject resident, located, or to be  
14 performed in this state from a place of business not physically located in this state, a copy  
15 of the contract required in this section must be filed with and approved by the director  
16 at least 30 days before the managing general agent transacts business on behalf of the  
17 insurer in this state or relative to a subject resident, located, or to be performed in this  
18 state if the insurer or the managing general agent are domiciled in a state not accredited  
19 by the National Association of Insurance Commissioners; and

20 \* Sec. 96. AS 21.27.760(b)(15) is repealed and reenacted to read:

21 (15) if the insurer is domiciled in this state or the reinsurance intermediary  
22 manager has a place of business in this state, a copy of the contract must be filed with and  
23 approved by the director at least 30 days before the reinsurance intermediary manager transacts  
24 business on behalf of the reinsurer; if the reinsurer is not domiciled in this state or the  
25 reinsurance intermediary manager transacts business relative to a subject resident, located, or to  
26 be performed in this state from a place of business not physically located in this state, a copy of  
27 the contract required in this section must be filed with and approved by the director at least 30  
28 days before the reinsurance intermediary manager transacts business on behalf of the insurer in  
29 this state or relative to a subject resident, located, or to be performed in this state if the insurer  
30 or the reinsurance intermediary manager are domiciled in a state not accredited by the National  
31 Association of Insurance Commissioners; and

1 \* Sec. 97. AS 21.33.011 is amended to read:

2 Sec. 21.33.011. PURPOSE. The legislature declares that insurance transactions with  
3 nonadmitted insurers are so affected with a public interest as to require regulation, taxation,  
4 supervision, and control of the transactions and matters relating to nonadmitted insurance as  
5 provided in this chapter in order to

6 (1) protect the insureds and claimants of this state in transactions involving the  
7 purchase of insurance from nonadmitted insurers;

8 (2) avoid the obstacle of resorting to distant forums for the purpose of asserting  
9 legal rights under policies issued by nonadmitted insurers;

10 (3) provide a method of substituted service of process upon nonadmitted insurers  
11 for proceedings before the director and in the courts in this state;

12 (4) provide for the public the ability to self-procure insurance directly from  
13 nonadmitted insurers [, TO THE EXTENT THAT INSURANCE IS NOT PROCURABLE  
14 FROM ADMITTED INSURERS, OR FROM ELIGIBLE SURPLUS LINES INSURERS  
15 THROUGH SURPLUS LINES BROKERS];

16 (5) protect the revenue of the state;

17 (6) protect regulated, admitted insurers from unregulated and unfair competition  
18 by nonadmitted insurers;

19 (7) regulate and supervise the effectuation of nonadmitted insurance under [IN  
20 ACCORDANCE WITH] the laws of this state and 15 U.S.C. 1011 [P.L. 79-15 (1945)  
21 (CHAPTER 20, 1ST SESS., S.340), 59 STAT. 33]; and

22 (8) maintain reliable insurance markets.

23 \* Sec. 98. AS 21.33.021(a) is amended to read:

24 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is  
25 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon  
26 the person or insurer, the executor, administrator, or personal representative of the person or  
27 insurer, or its successor in interest if a corporation, of the director and the successors of the  
28 director in office to be the lawful attorney of that person or insurer upon whom may be served  
29 all legal process in any action, suit, or proceeding in any court arising out of a transaction of  
30 insurance in this state or relative to a subject resident, located, or to be performed in this  
31 state by that person or nonadmitted insurer, except in an action, suit, or proceeding by the

1 director or by the state. The transaction of insurance by an unauthorized person or nonadmitted  
2 insurer is acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer  
3 that legal process so served has [IS OF] the same legal force and validity as personal service of  
4 process in this state upon the person or insurer, or upon the executor, administrator, or personal  
5 representative of the person or insurer, or its successor in interest if a corporation.

6 \* Sec. 99. AS 21.33.025(a) is amended to read:

7 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is  
8 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon  
9 the person or insurer, the executor, administrator, or personal representative of the person or  
10 insurer, or its successor in interest if a corporation, of the lieutenant governor and the successors  
11 in office of the lieutenant governor to be the lawful attorney of that person or insurer upon whom  
12 may be served all legal process in any action, suit, or proceeding in any court by the director or  
13 by the state and upon whom may be served any notice, order, pleading, or process in any  
14 proceeding before the director and which arises out of the transaction of insurance in this state  
15 or relative to a subject resident, located, or to be performed in this state by that person or  
16 insurer. The transaction of insurance by an unauthorized person or nonadmitted insurer is  
17 acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer that legal  
18 process in the court action, suit, or proceeding and any notice, order, pleading, or process in an  
19 administrative proceeding before the director so served has [IS OF] the same legal force and  
20 validity as personal service of process in this state upon the person or insurer, or upon the  
21 executor, administrator, or personal representative of that person or insurer, or its successor in  
22 interest if a corporation.

23 \* Sec. 100. AS 21.33.031(a) is amended to read:

24 (a) Before an unauthorized person or nonadmitted insurer files or causes to be filed a  
25 pleading, a court action, suit, or proceeding or a notice, order, pleading, or process in an  
26 administrative proceeding before the director instituted against the person or insurer, by service  
27 made as provided in AS 21.33.021 or 21.33.025, the person or insurer shall either

28 (1) deposit with the clerk of the court in which the action, suit, or proceeding is  
29 pending, or with the director in administrative proceedings before the director, cash or securities  
30 or bond with an admitted insurer [GOOD AND SUFFICIENT SURETIES] to be approved by  
31 the court, or the director, in an amount to be fixed by the court or the director sufficient to secure

1 the payment of a final judgment that may be rendered in the court proceeding or in the  
2 administrative proceeding before the director; however the court, or the director in administrative  
3 proceedings before the director, may in its or the director's discretion make an order dispensing  
4 with the deposit or bond where the insurer makes a showing satisfactory to the court or the  
5 director that it maintains in a state of the United States funds or securities, in trust or otherwise,  
6 sufficient and available to satisfy a final judgment that may be entered in the court action, suit,  
7 or proceeding or in an administrative proceeding before the director; or

8 (2) obtain admission to transact insurance in this state through a certificate of  
9 authority issued under this title.

10 \* Sec. 101. AS 21.33.031(c) is amended to read:

11 (c) Nothing in (a) of this section may be construed to prevent an unauthorized person or  
12 nonadmitted insurer from filing a motion to quash a writ or to set aside service made as provided  
13 in AS 21.33.021 or 21.33.025 on the ground that the unauthorized person or insurer has not  
14 transacted insurance in this state or relative to a subject resident, located, or to be performed  
15 in this state or that the person on whom service was made under AS 21.33.021(d) was not  
16 transacting insurance in this state or relative to a subject resident, located, or to be performed  
17 in this state.

18 \* Sec. 102. AS 21.33.037(b) is amended to read:

19 (b) This section does not apply to

- 20 (1) matters authorized to be done by the director;
- 21 (2) surplus lines insurance effected and written under AS 21.34;
- 22 (3) transactions for which a certificate of authority is not required under this title;
- 23 (4) reinsurance;
- 24 (5) the property and operations of railroads or aircraft engaged in interstate or  
25 foreign commerce and wet marine and transportation insurance;
- 26 (6) life insurance, disability insurance, and annuity contracts when solicited solely  
27 by mail or when not solicited, negotiated, or procured in this state;
- 28 (7) transactions subsequent to issuance of a policy not covering a subject  
29 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance[,]  
30 and lawfully solicited, written, or delivered outside this state.

31 \* Sec. 103. AS 21.33.037(c) is amended to read:

1           (c) In addition to other penalties under this title, a [A] person who represents or aids  
2 a nonadmitted insurer in violation of this chapter [SECTION] is subject to the penalties provided  
3 in AS 21.33.065. This chapter does [AN INSURANCE CONTRACT ENTERED INTO IN  
4 VIOLATION OF THIS SECTION SHALL] not preclude the insured from enforcing, under  
5 [THE INSURED'S RIGHTS IN ACCORDANCE WITH] the terms and provisions of the contract  
6 and the laws of this state, the insured's rights under a contract entered into in violation of  
7 this chapter.

8 \* Sec. 104. AS 21.33.042 is amended to read:

9           Sec. 21.33.042. SUTS BY NONADMITTED INSURERS. A nonadmitted insurer may  
10 not commence or maintain an action in law or equity in this state to enforce a right arising out  
11 of a transaction of insurance in this state except with respect to

12                   (1) claims under policies lawfully written in this state;

13                   (2) liquidation of assets and liabilities, other than the collection of new premiums,  
14 resulting from its former admitted operations in this state;

15                   (3) transactions subsequent to issuance of a policy not covering a subject  
16 resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance  
17 [,] and lawfully solicited, written, or delivered outside this state;

18                   (4) surplus lines insurance coverage exported under [IN ACCORDANCE WITH]  
19 AS 21.34;

20                   (5) reinsurance;

21                   (6) the continuation and servicing of life insurance, disability insurance policies,  
22 or annuity contracts remaining in force as to residents of this state where the insurer has  
23 withdrawn from the state and is not transacting new insurance;

24                   (7) servicing of policies written by an admitted insurer in a state to which the  
25 insured has moved but in which the insured is not licensed, until the term of the policy expires;

26                   (8) claims under policies covering wet marine and transportation insurance,  
27 including vessels of 50 displacement tons or less.

28 \* Sec. 105. AS 21.33.045(a) is amended to read:

29           (a) When the director has reason to believe that insurance has been effectuated by or for  
30 a person in this state with a nonadmitted insurer, the director shall in writing order the person  
31 to produce for examination all insurance contracts and other documents evidencing insurance with

1 nonadmitted insurers and to disclose to the director the amount of insurance, name and address  
2 of each insurer, gross amount of premium paid [,] or to be paid, [AND] the name and address  
3 of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of the  
4 insurance, and other information required by the director.

5 \* Sec. 106. AS 21.33.055(a) is amended to read:

6 (a) Except as to premiums on lawfully procured surplus lines insurance exported under  
7 AS 21.34 and premiums on independently procured insurance on which a tax has been paid under  
8 AS 21.33.061, every nonadmitted insurer shall pay to the director on or before March 1  
9 [APRIL 1] following the calendar year in which the insurance was so effectuated, continued, or  
10 renewed a premium-receipts tax of three percent of gross premiums charged for the insurance  
11 other than wet marine and transportation insurance and a premium-receipts tax of three-fourths  
12 of one percent of gross premiums charged for the wet marine and transportation insurance on  
13 subjects resident, located, or to be performed in this state. The insurance on subjects resident,  
14 located, or to be performed in this state procured through negotiations or an application, in whole  
15 or in part occurring or made in or from in or out of this state, or for which premiums in whole  
16 or in part are remitted directly or indirectly from in or out of this state, shall be considered to  
17 be insurance procured or continued or renewed in this state. The term "premium" includes all  
18 premiums, membership fees, assessments, dues, and any other consideration for insurance. The  
19 tax is in lieu of all taxes and fire department dues. On default of a nonadmitted insurer in the  
20 payment of the tax, the insured shall pay the tax within 30 days of written notice from the  
21 director of the default by the nonadmitted insurer. If the tax prescribed by this section is not  
22 paid by the nonadmitted insurer within the time stated or by the insured within the time  
23 stated after notice of default by the nonadmitted insurer, the tax may [SHALL] be increased  
24 by

25 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is  
26 greater;

27 (2) interest at the rate of one percent a month or part of a month from the  
28 date the payment was originally due to the date paid; and

29 (3) a [PENALTY OF 25 PERCENT AND BY THE AMOUNT OF AN  
30 ADDITIONAL] penalty not to exceed \$100 a day or 25 percent of the tax due, whichever is  
31 greater, from the date the payment was due to the date paid.

1 \* Sec. 107. AS 21.33.055(b) is repealed and reenacted to read:

2 (b) In determining the amount of premiums taxable in this state, all premiums written,  
3 procured, or received in this state shall be considered written on property or a subject located or  
4 resident in this state, except premiums that are properly allocated or apportioned and reported as  
5 taxable premiums of another state. In determining the amount of gross premiums taxable in this  
6 state covering a subject resident, located, or to be performed both inside and outside the state,  
7 the tax due shall be computed on that portion of the policy premium that is attributable to the  
8 subject resident, located, or to be performed in this state and that relates to the kind of insurance  
9 being placed as determined by reference to an allocation schedule as follows:

10 (1) if a policy covers more than one classification,

11 (A) for any portion of the coverage identified by a classification on the  
12 allocation schedule, the tax shall be computed by using the allocation schedule for the  
13 corresponding portion of the premium;

14 (B) for any portion of the coverage not identified by a classification on  
15 the allocation schedule, the tax shall be computed by using an alternative equitable  
16 method of allocation for the property or subject;

17 (C) for any portion of the coverage where the premium is indivisible, the  
18 tax shall be computed by using the method of allocation that pertains to the classification  
19 describing the predominant coverage.

20 (2) if the information provided is insufficient to substantiate the method of  
21 allocation used or if the director determines that the method is incorrect, the director shall  
22 determine the equitable and appropriate amount of tax due to the state as follows:

23 (A) by use of the allocation schedule where the subject is appropriately  
24 identified in the schedule;

25 (B) where the allocation schedule does not identify a classification  
26 appropriate to the coverage, the director may give acceptance by significant weight to  
27 documented evidence of the underwriting bases and other criteria used by the insurer or  
28 may give consideration to other available information to the extent it is sufficient and  
29 relevant, including the percentage of the insured's physical assets in this state, the  
30 percentage of the insured's sales in this state, the percentage of income or resources  
31 derived from this state, and the amount of premium tax paid to another jurisdiction for

1 the policy.

2 \* Sec. 108. AS 21.33.055 is amended by adding a new subsection to read:

3 (c) This section does not apply to insurance of risks of the state, a political subdivision  
4 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

5 \* Sec. 109. AS 21.33.061(a) is amended to read:

6 (a) Every insured who procures or causes to be procured or continues or renews  
7 insurance with a nonadmitted insurer, or an insured or self-insurer who so procures or continues  
8 excess loss, catastrophe or other insurance, upon a subject of insurance resident, located, or to  
9 be performed in this state, other than insurance lawfully procured through a surplus lines broker  
10 under AS 21.34 shall, within 30 days after the date the insurance was procured, continued, or  
11 renewed, file a report with the director in writing and in a form prescribed [UPON FORMS  
12 DESIGNATED] by the director [AND FURNISHED TO THE INSURED UPON REQUEST].  
13 The report must show the name and address of the insured, name and address of the insurer, the  
14 subject of the insurance, a general description of the coverage, the amount of premium currently  
15 charged, and additional pertinent information required [THAT IS REASONABLY  
16 REQUESTED] by the director.

17 \* Sec. 110. AS 21.33.061(c) is amended to read:

18 (c) There is levied upon the obligation, chose in action, or right represented by the  
19 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums  
20 charged for the insurance other than wet marine and transportation insurance and a premium  
21 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and  
22 transportation insurance. The term "premium" includes all premiums, membership fees,  
23 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and  
24 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar  
25 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to  
26 the director. In event of cancellation and rewriting of the insurance contract the additional  
27 premium for premium receipts tax purposes is the premium in excess of the unearned premium  
28 of the cancelled insurance contract. If the tax prescribed by this section is not paid within  
29 the time stated, the tax may be increased by

30 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is  
31 greater;

1                   (2) interest at the rate of one percent a month or part of a month from the  
2                   date the payment was due to the date paid; and

3                   (3) a penalty not to exceed \$100 a day or 25 percent of the tax due, whichever  
4                   is greater, from the date the payment was due to the date paid.

5 \* Sec. 111. AS 21.33.061(d) is repealed and reenacted to read:

6                   (d) In determining the amount of premiums taxable in this state, all premiums written,  
7                   procured, or received in this state shall be considered written on property or a subject located or  
8                   resident in this state, except premiums that are properly allocated or apportioned and reported as  
9                   taxable premiums of another state. In determining the amount of gross premiums taxable in this  
10                  state, the tax due shall be computed on that portion of the policy premium that is attributable to  
11                  a subject resident, located, or to be performed in this state and that relates to the kind of  
12                  insurance being placed as determined by reference to an allocation schedule as follows:

13                         (1) if a policy covers more than one classification,

14                                 (A) for any portion of the coverage identified by a classification on the  
15                                 allocation schedule, the tax shall be computed by using the allocation schedule for the  
16                                 corresponding portion of the premium;

17                                 (B) for any portion of the coverage not identified by a classification on  
18                                 the allocation schedule, the tax shall be computed by using an alternative equitable  
19                                 method of allocation for the property or subject;

20                                 (C) for any portion of the coverage where the premium is indivisible, the  
21                                 tax shall be computed by using the method of allocation that pertains to the classification  
22                                 describing the predominant coverage;

23                         (2) if the information provided is insufficient to substantiate the method of  
24                         allocation used, or if the director determines that the method is incorrect, the director shall  
25                         determine the equitable and appropriate amount of tax due to this state as follows:

26                                 (A) by use of the allocation schedule where the subject is appropriately  
27                                 identified in the schedule;

28                                 (B) where the allocation schedule does not identify a classification  
29                                 appropriate to the coverage, the director may give significant weight to documented  
30                                 evidence of the underwriting bases and other criteria used by the insurer or may give  
31                                 consideration to other available information to the extent sufficient and relevant, including

1 the percentage of the insured's physical assets in this state, the percentage of the insured's  
2 sales in this state, the percentage of income or resources derived from this state, and the  
3 amount of premium tax paid to another jurisdiction for the policy.

4 \* Sec. 112. AS 21.33.061(g) is amended to read:

5 (g) This section does not apply to insurance of risks of the state, a political  
6 subdivision of the state, insurance of aircraft regularly engaged in interstate or foreign  
7 commerce, to life insurance, [INDIVIDUAL LIFE OR INDIVIDUAL] disability insurance, or  
8 annuity contracts.

9 \* Sec. 113. AS 21.33.065(a) is amended to read:

10 (a) A person other than an insured, who in this state represents or aids a nonadmitted  
11 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than \$50,000  
12 [\$5,000] in addition to applicable criminal penalties and other penalties prescribed in this title  
13 [CHAPTER].

14 \* Sec. 114. AS 21.33.065(b) is amended to read:

15 (b) In addition to any other penalty provided, a person who violates a provision of this  
16 chapter is [SHALL BE] subject to a civil penalty of not more than \$10,000 [\$1,000] for the first  
17 offense and not more than \$100,000 [\$2,000] for each succeeding violation.

18 \* Sec. 115. AS 21.33.900 is amended to read:

19 Sec. 21.33.900. RECORDS OF INSUREDS. In order that the director may effectively  
20 administer this chapter, a [EACH] person who has placed insurance with an unauthorized insurer  
21 shall, upon the director's order, produce for the examination of the director all policies and other  
22 documents evidencing the insurance and shall disclose to the director the amount of premiums  
23 paid or agreed to be paid for the insurance and other information required by the director.  
24 For each refusal to obey the order, in addition to any other penalties prescribed in this title,  
25 the person is subject to a civil penalty of not more than \$25,000 [\$2,500] following an  
26 appropriate hearing as provided in AS 21.06.170 - 21.06.230.

27 \* Sec. 116. AS 21.33.910 is repealed and reenacted to read:

28 Sec. 21.33.910. DEFINITIONS. In this chapter,

29 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;

30 (2) "transaction of insurance" means the solicitation, negotiation, procurement,

31 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;

1 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or  
2 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of  
3 insurance and arising out of it;

4 (3) "unauthorized person" means a person not licensed as a surplus lines broker,  
5 or not a salaried employee of the insured;

6 (4) "wet marine and transportation insurance" has the meaning given in  
7 AS 21.34.900.

8 \* Sec. 117. AS 21.34.020 is repealed and reenacted to read:

9 Sec. 21.34.020. PLACEMENT OF SURPLUS LINES INSURANCE. Insurance other  
10 than reinsurance, wet marine and transportation insurance, insurance independently procured, life  
11 insurance, disability insurance, and annuity contracts may be procured through a surplus lines  
12 broker licensed under AS 21.27 from nonadmitted insurers if

13 (1) the insurer is an eligible surplus lines insurer;

14 (2) the full amount, kind, or class of insurance cannot be obtained from insurers  
15 who are admitted to do business in this state;

16 (3) the producing broker has conducted and documented a diligent search among  
17 insurers who are admitted to transact business in this state and are actually writing the particular  
18 kind or class of insurance required by the client in this state;

19 (4) the director authorizes an exception to (2) of this section by regulation or by  
20 written authorization for an individual placement upon written request by the broker; and

21 (5) all other requirements of this chapter are met.

22 \* Sec. 118. AS 21.34 is amended by adding a new section to read:

23 Sec. 21.34.025. SUBSCRIPTION POLICIES OR JOINT UNDERWRITING IN  
24 COMBINATION WITH ADMITTED INSURERS. Subscription policies or joint underwriting  
25 of insurance other than reinsurance, wet marine and transportation insurance, insurance  
26 independently procured, life insurance, disability insurance, and annuity contracts by a  
27 combination of authorized insurers and nonadmitted insurers is a surplus lines insurance  
28 placement in its entirety, is subject to this chapter, is not subject to AS 21.39 or AS 21.42.120 -  
29 21.42.130, and losses or claims are not covered by AS 21.80 (Alaska Insurance Guaranty  
30 Association Act).

31 \* Sec. 119. AS 21.34.040(a) is amended to read:

1 (a) Coverage may be placed in a nonadmitted insurer by a surplus lines broker only [,]  
2 if

3 (1) at the time of placement, the nonadmitted insurer meets all the requirements  
4 of this section; and

5 (2) the surplus lines broker is licensed under AS 21.27.

6 \* Sec. 120. AS 21.34.040(c) is amended to read:

7 (c) A nonadmitted insurer may be eligible to provide coverage in this state if it qualifies  
8 under one of the following:

9 (1) a foreign but nonalien stock insurer may qualify under this subsection if it has  
10 the minimum unimpaired basic capital and additional surplus equal to that required in its  
11 domiciliary jurisdiction, or maintains [\$5,000,000 AS OF JUNE 20, 1987, \$6,000,000 AS OF  
12 DECEMBER 31, 1990,] \$10,000,000 as of December 31, 1991, \$12,500,000 as of December 31,  
13 1992, and \$15,000,000 as of December 31, 1993, whichever is greater;

14 (2) a foreign but nonalien mutual insurer, a reciprocal insurer, or a mutual  
15 protection and indemnity association may qualify under this subsection if it has the minimum  
16 unimpaired basic surplus and additional surplus equal to that required in its domiciliary  
17 jurisdiction or maintains [\$6,000,000 AS OF DECEMBER 31, 1990,] \$10,000,000 as of  
18 December 31, 1991, \$12,500,000 as of December 31, 1992, and \$15,000,000 as of December 31,  
19 1993, whichever is greater;

20 (3) an alien insurer other than an alien mutual protection and indemnity  
21 association may qualify under this subsection if it meets the minimum requirements in (1) or  
22 (2) of this subsection and maintains in the United States an irrevocable trust fund [IN EITHER  
23 A NATIONAL BANK OR A MEMBER OF THE FEDERAL RESERVE SYSTEM,] in an  
24 amount not less than \$2,500,000 in a solvent federally insured bank acceptable to the  
25 director, as security to the full amount, for the protection of all its policyholders and creditors  
26 of each member of the mutual insurer, reciprocal insurer, or mutual protection and indemnity  
27 association in the United States; the trust fund must consist of instruments of substantially the  
28 same character and quality as those that are eligible investments for the capital and statutory  
29 reserves of admitted insurers authorized to write like kinds of insurance in this state or of  
30 irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date  
31 that at no time is less than five years;

1 (4) a Lloyd's or other similar unincorporated group of alien individual insurers  
2 may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to  
3 the full amount, for the protection of all its policy holders and creditors of each member of the  
4 group in the United States; the trust fund must consist of instruments of substantially the same  
5 character and quality as those that are eligible investments for the capital and statutory reserves  
6 of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable,  
7 clean, and unconditional letters of credit; the trust fund must have an expiration date that at no  
8 time is less than five years;

9 (5) an [" ] insurance exchange [" ] created by the laws of individual states may  
10 qualify if it maintains capital and surplus, or the substantial equivalent, of not less than  
11 \$50,000,000 in the aggregate; for insurance exchanges that maintain funds for the protection of  
12 all insurance exchange policyholders, each individual syndicate shall maintain minimum capital  
13 and surplus, or the substantial equivalent, of not less than \$3,000,000; in the event the insurance  
14 exchange does not maintain funds for the protection of all its policyholders, each individual  
15 syndicate shall meet the minimum requirements of (1) or (2) of this subsection;

16 (6) an alien mutual protection and indemnity association may qualify under  
17 this subsection if it has the minimum unimpaired basic capital and additional surplus equal  
18 to that required in its domiciliary jurisdiction or \$10,000,000, whichever is greater, and  
19 maintains in the United States an irrevocable trust fund in an amount not less than  
20 \$1,000,000 in a federally insured bank acceptable to the director, as security to the full  
21 amount, for the protection of all its policyholders and creditors or each member of the  
22 mutual protection and indemnity association in the United States; the trust fund must  
23 consist of instruments of substantially the same character and quality as those that are  
24 eligible investments for the capital and statutory reserves of admitted insurers authorized  
25 to write wet marine and transportation insurance in this state or of irrevocable, clean, and  
26 unconditional letters of credit; the trust fund must have an expiration date that at no time  
27 is less than five years.

28 \* Sec. 121. AS 21.34.040 is amended by adding a new subsection to read:

29 (e) The capital and surplus requirements of this section shall be calculated based upon  
30 generally accepted accounting practices used in the United States of America.

31 \* Sec. 122. AS 21.34.060 is amended to read:

1           Sec. 21.34.060. OTHER NONADMITTED INSURERS. Only that portion of a risk  
2 eligible for export for which the full amount of coverage is not procurable from eligible surplus  
3 lines insurers may be placed with another nonadmitted insurer that does not appear on the list  
4 of eligible surplus lines insurers published under AS 21.34.050 but nonetheless meets the  
5 requirements of AS 21.34.040 and a regulation adopted under this chapter. The surplus lines  
6 broker seeking to provide coverage through an unlisted nonadmitted insurer shall within 30 days  
7 after placing the coverage notify the director in writing on a form prescribed by the  
8 director [MAKE A FILING SPECIFYING] the amount and percentage of each risk to be placed  
9 and naming each nonadmitted insurer with which placements are intended. Within 30 days after  
10 placing the coverage, the surplus lines broker shall also send written notice to the insured and  
11 [OR] the producing broker that the insurance, or a portion of it, has been placed with the unlisted  
12 nonadmitted insurer.

13 \* Sec. 123. AS 21.34.070(b) is amended to read:

14           (b) The director may issue an order declaring [DECLARE] a nonadmitted insurer  
15 ineligible if at any time the director has reason to believe that the nonadmitted insurer

16           (1) is in unsound financial condition;

17           (2) is no longer eligible under AS 21.34.040;

18           (3) has wilfully violated the laws of this state or another state; or

19           (4) does not reasonably investigate and make [REASONABLY] prompt payment  
20 of just losses and claims in this state or another state [ELSEWHERE].

21 \* Sec. 124. AS 21.34.080 is repealed and reenacted to read:

22           Sec. 21.34.080. EVIDENCE OF INSURANCE, AFFIDAVITS, DUTY TO FILE. (a)  
23 A surplus lines broker shall execute and file with the monthly report required by AS 21.34.170  
24 a written report, which shall be kept confidential, regarding each surplus lines insurance  
25 transaction occurring in the preceding calendar month. The report must include

26           (1) the name and address of the insured;

27           (2) the identity of each insurer including the National Association of Insurance  
28 Commissioners group and company insurer number and the percentage of coverage provided by  
29 each;

30           (3) a complete description of the subject and location of the risk;

31           (4) the amount of premium charged for the insurance; and

1 (5) other information required by the director.

2 (b) Instead of the report required in (a) of this section, the director may order that  
3 evidence of insurance be filed with the surplus lines association and that the surplus lines  
4 association provide periodic reports regarding insurance transactions to the director.

5 (c) A producing broker shall execute and deliver to the surplus lines broker not later than  
6 the end of each month on a form prescribed by the director, and a surplus lines broker shall file  
7 with the director with the report required by (a) of this section or with the surplus lines  
8 association with the evidence of insurance required by (b) of this section, for surplus lines  
9 insurance first placed or renewed in the preceding calendar month, an affidavit that shall be open  
10 to public inspection, as to the diligent efforts to place the coverage with admitted insurers, and  
11 the results of those efforts. The affidavit must contain a statement by the broker that the insured  
12 was expressly informed in writing before placement of the surplus lines insurance that the surplus  
13 lines insurer with whom the insurance was to be placed is not licensed in this state, is not subject  
14 to this state's supervision, and in the event of the insolvency of the surplus lines insurer, losses  
15 will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

16 \* Sec. 125. AS 21.34.090(a) is amended to read:

17 (a) A surplus lines association of surplus lines brokers may be formed to

18 (1) facilitate and encourage compliance by its members with the laws of this state  
19 and the regulations relative to surplus lines insurance;

20 (2) attend National Association of Insurance Commissioners meetings and  
21 participate in task forces and work groups [PROVIDE MEANS FOR THE EXAMINATION,  
22 WHICH SHALL REMAIN CONFIDENTIAL, OF ALL SURPLUS LINES COVERAGES  
23 WRITTEN BY ITS MEMBERS TO DETERMINE WHETHER THE COVERAGES COMPLY  
24 WITH THE LAWS AND REGULATIONS OF THIS STATE];

25 (3) communicate with organizations of admitted insurers with respect to the  
26 proper use of the surplus lines market;

27 (4) receive and disseminate to its members information relative to surplus lines  
28 coverages; and

29 (5) contract with the director to receive reports and affidavits under  
30 AS 21.34.080, verify that coverage has been placed with eligible surplus lines insurers, verify  
31 the amount of taxes under AS 21.34.180 and fees under AS 21.34.190 for surplus lines

1 insurance for each surplus lines broker, and to prepare periodic reports as required by the  
2 director [RECEIVE AND COLLECT ON BEHALF OF THE STATE AND REMIT TO THE  
3 STATE PREMIUM RECEIPTS TAX FOR SURPLUS LINES INSURANCE].

4 \* Sec. 126. AS 21.34.090(c) is repealed and reenacted to read:

5 (c) A surplus lines association is subject to the same penalties under this title as a surplus  
6 lines broker.

7 \* Sec. 127. AS 21.34.090 is amended by adding a new subsection to read:

8 (e) The surplus lines association shall maintain its place of business in this state.

9 \* Sec. 128. AS 21.34.100(a) is amended to read:

10 (a) When surplus lines insurance is placed, the surplus lines broker shall within 30 days  
11 after placing the coverage [PROMPTLY] deliver to the insured or the producing broker the  
12 policy, or if the policy is not then available, a certificate, cover note, binder, or other evidence  
13 of insurance. The certificate, cover note, binder, or other evidence of insurance shall be executed  
14 by the surplus lines broker and must [SHALL] contain a complete record of all policy insuring  
15 agreements, conditions, exclusions, clauses, endorsements, other material facts that would  
16 regularly be included in the policy, description, and location of the subject of insurance, a general  
17 description of the coverages of the insurance, the premium and rate charged and taxes to be  
18 collected from the insured, the name and address of the insured, the name of each surplus lines  
19 insurer and the percentage of the entire risk assumed by each, the name of the surplus lines  
20 broker, and the license number of the surplus lines broker.

21 \* Sec. 129. AS 21.34.110 is amended to read:

22 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A  
23 contract of insurance placed by a surplus lines broker under this chapter is [SHALL] not [BE]  
24 binding upon the insured and a premium charged is [SHALL] not [BE] due and payable until the  
25 surplus lines broker has notified the insured in writing, a copy of which shall be maintained by  
26 the licensee with the records of the contract, available for examination, that the insurer with  
27 which the surplus lines broker places the insurance does not hold a certificate of authority  
28 issued [IS NOT LICENSED] by this state and is not subject to its supervision, and in the event  
29 of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska  
30 Insurance Guaranty Association Act) [PAID BY THE STATE INSURANCE GUARANTY  
31 FUND]. Nothing in this section shall nullify an agreement by an insurer to provide insurance.

1 \* **Sec. 130.** AS 21.34.130 is amended to read:

2           **Sec. 21.34.130. EFFECT OF PAYMENT TO SURPLUS LINES BROKER.** A payment  
3 of premium to a surplus lines broker acting for a person other than itself [ONESELF] in  
4 negotiating, continuing, or reviewing a policy of insurance under this chapter, is considered to  
5 be payment to the insurer, notwithstanding conditions or stipulations in the policy or contract to  
6 the contrary.

7 \* **Sec. 131.** AS 21.34.150 is amended to read:

8           **Sec. 21.34.150. SURPLUS LINES BROKERS MAY ACCEPT BUSINESS FROM**  
9 **OTHER BROKERS.** A surplus lines broker licensed by this state may originate surplus lines  
10 insurance or accept surplus lines insurance from another [BROKER OR] surplus lines broker  
11 licensed by [IN] this state or a producing broker licensed by this state as to the kind and class  
12 of insurance involved. The surplus lines broker may compensate the producing [LICENSED]  
13 broker or surplus lines broker for the insurance.

14 \* **Sec. 132.** AS 21.34.170 is repealed and reenacted to read:

15           **Sec. 21.34.170. MONTHLY REPORTS, SUMMARY OF EXPORTED BUSINESS.** (a)  
16 A surplus lines broker shall file with the director on or before the end of each month, on forms  
17 prescribed by the director, a verified report in duplicate of all surplus lines insurance, by type of  
18 insurance as required to be reported in the annual statement that must be filed with the director  
19 by admitted insurers. The report must include all surplus lines insurance transactions during the  
20 preceding calendar month showing the aggregate gross premiums written, the aggregate return  
21 premiums, the amount of aggregate tax remitted to this state, and the amount of aggregate tax  
22 remitted to each other state for which an allocation is made under AS 21.34.150.

23           (b) Instead of the report required under (a) of this section, the director may order that  
24 evidence of insurance be filed with surplus lines association and that the association file periodic  
25 reports regarding insurance transactions to the director.

26 \* **Sec. 133.** AS 21.34.190 is amended to read:

27           **Sec. 21.34.190. FILING FEE.** The fee for filing the statement under AS 21.34.180(b)  
28 is an amount equal to one percent on gross premium charged less any return premiums during  
29 the preceding calendar quarter [YEAR]. The surplus lines broker shall pay the fee at the time  
30 of filing of the statement.

31 \* **Sec. 134.** AS 21.34.190 is amended by adding a new subsection to read:

1 (b) If the filing fee is not paid when due, an additional late payment fee of \$250 plus two  
2 percent of the fee due per month, or part of a month, shall become due and payable by the  
3 surplus lines broker.

4 \* Sec. 135. AS 21.34.200(a) is amended to read:

5 (a) If the tax collectible under AS 21.34.180 or the fee collectible under AS 21.34.190  
6 by a surplus lines broker is not paid within the time prescribed, the tax, fee, or both, and late  
7 payment fees, along with appropriate penalties may be collected by distraint or by an action in  
8 court, against the surplus lines licensee and the surety on the bond filed under AS 21.27.790  
9 [AS 21.34.140(b)(4)].

10 \* Sec. 136. AS 21.34.230 is repealed and reenacted to read:

11 Sec. 21.34.230. PENALTIES. (a) In addition to any other penalty provided by law, a  
12 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions  
13 of this chapter is subject to

14 (1) a civil penalty equal to the compensation promised, paid or to be paid, directly  
15 or indirectly, to a licensee in regard to each violation; and

16 (2) either a civil penalty of not more than \$10,000 for each violation or a civil  
17 penalty of not more than \$25,000 for each violation if the director determines that the person  
18 wilfully violated the provisions of this chapter.

19 (b) A violation of this chapter is cause for denial, nonrenewal, suspension, or revocation  
20 of a license.

21 \* Sec. 137. AS 21.34.900 is repealed and reenacted to read:

22 Sec. 21.34.900. DEFINITIONS. In this chapter,

23 (1) "capital" means money paid in for stock or other evidence of ownership;

24 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a  
25 surplus lines broker may place surplus lines insurance under AS 21.34.040;

26 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;

27 (4) "kind of insurance" means one of the kinds of insurance defined in  
28 AS 21.12.040 - 21.12.110;

29 (5) "producing broker" means the insurance producer or surplus lines broker  
30 licensed under AS 21.27 dealing directly with the client seeking insurance;

31 (6) "reciprocal state" means a state that the director has determined has enacted

1 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

2 (7) "surplus," as used in the financial requirements of AS 21.34.040, means  
3 money over and above liabilities and capital of the company for the protection of policyholders;

4 (8) "transaction of insurance" means the solicitation, negotiation, procurement,  
5 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;  
6 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or  
7 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of  
8 insurance and arising out of it;

9 (9) "wet marine and transportation insurance" means

10 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,  
11 except vessels of 50 displacement tons or less;

12 (B) insurance of marine builders risks, marine war risks, and contracts of  
13 marine protection and indemnity insurance;

14 (C) insurance of freight and disbursements pertaining to a subject of  
15 insurance coming within this paragraph; and

16 (D) insurance of personal property and interests in personal property, in  
17 course of exportation from or importation into a country or in the course of coastal or  
18 inland water transportation, including transportation by land, water, or air from point of  
19 origin to final destination in connection with any and all risks or perils of navigation,  
20 transit, or transportation, and while being repaired for and while awaiting shipment, and  
21 during any delays, transshipment, or reshipment incident to them.

22 \* Sec. 138. AS 21.36.020 is amended to read:

23 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person  
24 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject  
25 resident, located, or to be performed in this state that is defined in this chapter as, or  
26 determined under this chapter to be, an unfair method of competition or an unfair or deceptive  
27 act or practice in the business of insurance.

28 \* Sec. 139. AS 21.36 is amended by adding a new section to read:

29 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may  
30 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,  
31 financial counselor, or similar specialist engaged in the business of giving financial planning or

1 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when  
2 the person is in fact only engaging in the sale of insurance.

3 (b) A person may not engage in the business of financial planning and solicit the sale  
4 of a product or service on the basis that the person is an insurance salesperson or that a  
5 commission for the sale of an insurance product will be received in addition to a fee for financial  
6 planning without full disclosure to the client before the execution of the agreement required in  
7 (c) of this section.

8 (c) A person licensed under this title may not charge a fee other than a commission for  
9 financial planning unless the fee is based upon a written agreement signed before the  
10 performance of a service under the agreement. The insurance salesperson shall provide the client  
11 a copy of the signed agreement at the time of signing. The agreement must specifically state the  
12 service for which a fee is to be charged and how the fee will be determined or calculated. The  
13 agreement must provide that the client is under no obligation to purchase an insurance product.  
14 The licensee shall retain a copy of the agreement for not less than five years after completion of  
15 services and the agreement shall be available to the director upon request.

16 \* Sec. 140. AS 21.36.150(a) is amended to read:

17 (a) If the director believes that a person engaged in the insurance business is engaging  
18 in this state in an unfair method of competition or in an unfair or deceptive act or practice in the  
19 conduct of the business that is not defined as being unfair or deceptive under this title  
20 [CHAPTER], the director shall hold a hearing on the matter, if the director believes it would be  
21 in the public interest to do so after giving notice of the hearing and of the charges. Upon  
22 conclusion of the hearing the director shall make a written report of the findings of fact relative  
23 to the charges and serve a copy upon the person and any intervenor at the hearing.

24 \* Sec. 141. AS 21.36.150(b) is amended to read:

25 (b) If the report charges a violation of this title [CHAPTER] and if the method of  
26 competition, act, or practice has not been discontinued, the director may, through the attorney  
27 general of this state, at any time after the service of the report, cause an action to be instituted  
28 to enjoin and restrain the person from engaging in the method, act, or practice. In the action the  
29 court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not  
30 be required to give security before the issuance of the order or injunction. If a stenographic  
31 [STENOGRAPH] record of the proceedings in the hearing before the director was made, a

1 certified transcript, including all evidence taken and the report and findings - be received in  
2 evidence in the action.

3 \* Sec. 142. AS 21.36.150 is amended by adding a new subsection to read:

4 (d) In addition to the unfair methods and unfair or deceptive acts or practices expressly  
5 defined in this title, the director may adopt regulations to define other methods of competition  
6 and other acts and practices in the conduct of the business of insurance found by the director to  
7 be unfair or deceptive.

8 \* Sec. 143. AS 21.36.220(c) is amended to read:

9 (c) If an insurer cancels a policy under this section, it shall return or credit any unearned  
10 premium to the agent or broker of record or directly to the insured or premium finance company,  
11 if applicable, before the effective date of cancellation, except that

12 (1) an unearned premium shall be returned or credited within 45 [30] days after  
13 notice of cancellation is given, if cancellation is for

14 (A) nonpayment of premium, including nonpayment of additional  
15 premiums, calculated in accordance with the current rating manual of the insurer, justified  
16 by a physical change in the insured property, a change in its occupancy or use, or a  
17 change in payroll, receipts, values, or other exposure units;

18 (B) conviction of the insured of a crime having as one of its necessary  
19 elements an act increasing a hazard insured against;

20 (C) discovery of fraud or material misrepresentation made by the insured  
21 or a representative of the insured in obtaining the insurance or by the insured in pursuing  
22 a claim under the policy;

23 (D) failure or refusal of the insured to provide the information necessary  
24 to confirm exposure or necessary to determine the policy premium;

25 (E) a reason described in AS 21.36.210(a)(2);

26 (2) the insurer shall perform or waive the audit before the effective date of the  
27 cancellation and return or credit any estimated unearned premium before the effective date of  
28 cancellation if the policy is subject to audit and is cancelled for a reason other than those  
29 described in (1)(A) - (D) of this subsection.

30 \* Sec. 144. AS 21.36.255(a) is amended to read:

31 (a) If an insurance policy is cancelled, rejected, or rescinded by the

1 (1) insurer, the insurer shall return or credit any [REFUND THE] unearned  
2 premium paid to the agent or broker of record, or directly to the insured or premium finance  
3 company, if applicable; or

4 (2) insured, the insurer shall return or credit any unearned premium to the agent  
5 or broker of record or directly [PAID] to the insured or premium finance company, if  
6 applicable, less a cancellation fee not to exceed 7.5 percent of the unearned premium; a  
7 cancellation fee may not be charged unless the fee is clearly stated in the policy; the insurer  
8 shall return or credit the unearned premium less a lawful cancellation fee

9 (A) within 45 days of receipt of the request for cancellation or the  
10 effective date of cancellation, whichever is later, on a policy not subject to audit; or

11 (B) within 45 days of completion of an audit; the insurer shall perform  
12 and complete an audit within 45 days of receipt of the request for cancellation or the  
13 effective date of cancellation, whichever is later, unless the audit cannot reasonably  
14 be completed using due diligence and the insured is advised in writing of the reason  
15 why additional time is necessary to complete the audit and when the audit will be  
16 completed.

17 \* Sec. 145. AS 21.36.310(1) is amended to read:

18 (1) "business or commercial insurance" means insurance other than personal  
19 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title  
20 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN  
21 AS 21.34.900,] or an annuity contract;

22 \* Sec. 146. AS 21.36.320(a) is amended to read:

23 (a) On the complaint of a person or on the motion of the director, the director may  
24 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an  
25 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

26 \* Sec. 147. AS 21.36.320(c) is amended to read:

27 (c) If the director determines that a person violated [ON A FINDING OF A  
28 VIOLATION OF] this chapter, the director shall serve upon the person charged an order  
29 requiring that person to cease and desist from engaging in the act or practice [STOP THE  
30 ACTS OR PRACTICES].

31 \* Sec. 148. AS 21.36.320(d) is amended to read: