

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7569 SENATE LABOR & COMMERCE

SB 376: An Act relating to insurance; and providing for an effective date."

This department is in favor of this legislation.

The Insurance Reform Act of 1992 is a single bill that includes the legislation needed for the Division of Insurance to become an accredited regulatory office by the National Association of Insurance Commissioners (NAIC) and includes revisions which bring the insurance statutes up to date.

The NAIC has instituted a program of accreditation for state insurance regulatory offices to provide a minimum level of regulation across the United States. The program consists of two facets: (1) adoption of specific NAIC model legislation and regulations; and (2) the presence of sufficient resources to provide a level of regulatory activity which is acceptable in overseeing the insurance industry. This bill includes those required NAIC model laws that are not presently in Alaska Statute.

This bill also includes reorganization and revision of the requirements for licensing of insurance professionals and revision of other areas of the Alaska insurance statute to reflect current regulatory needs.

The bill includes the following:

- o incorporates the NAIC model law on examination of insurance companies including requirements for processing of examination reports;
- o adopts authority for regulations to adopt the NAIC model regulation on action available to the director when an insurer is found to be in hazardous financial condition;
- o changes the date for premium tax payments from April 1 to March 1;
- o requires reinsurers accredited by the division to file financial statements annually and added requirements for accreditation of differing insurance organizations;
- o requires domestic insurers to obtain annual actuarial opinions on claim reserves and adds requirements for valuation of assets and claim reserves for financial statement presentation;
- o adopts limitations on the type of subsidiaries in which insurer may invest and limitations on subsidiary acquisitions which result in market concentration;

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- o adopts limitations on investment in medium and lower grade bonds;
- o adopts rules on evaluating material transactions between affiliates and determining payment of extraordinary dividends;
- o requires annual filing of holding company registration statements;
- o restructures statute to consolidate all requirements and qualifications for licensing of insurance professionals in one chapter;
- o adopts biennial license renewal for insurance professionals;
- o adopts licensure of reinsurance intermediary brokers and reinsurance intermediary managers;
- o adopts additional requirements for licensure and operation of managing general agents;
- o requires that persons may not call themselves financial planners when they are only engaging in the business of insurance;
- o clarifies the 30-day limit on return of unearned premium to consumers who cancel insurance policies;
- o increases penalties for violations of the insurance statutes;
- o allows specific types of charitable organizations to be life insurance policyholders;
- o adopts financial requirements for title insurers that are similar to those required for other insurers;
- o requires licensing of attorneys-in-fact;
- o allows a receiver to recover distributions to affiliates of an insurer paid within 12 months of the liquidation or rehabilitation order;
- o adopts for fraternal benefit societies the requirement and limitations on other insurers for assets, investments, and licensing;

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- o clarifies the timing and determination of eligibility for senior premium discounts; and
- o requires automobile and homeowner insurance policies to have an appraisal clause for settling claim disputes.



Glenn A. Olds, Commissioner *for*

Date: 2.7.92

LEGISLATIVE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/29/92

FURTHER: Judiciary

Date of 5-Day Notice: 2/12/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/20/92

L&C Committee considered SB 376

"An Act relating to insurance; and providing for an effective date."

and recommends:

replace with _____ CS SB 376 (L+C)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical title change (HB only)

NEW FISCAL NOTES: Dept/Date
 zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date
 Governor's bill with fiscal notes:
zero fiscal notes _____

fiscal notes _____

DO PASS:

OTHER RECOMMENDATIONS:

Shirley Craft
Caroline Callahan
Pete Halford

1 new hearing - 10/1/92
Chair, Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 376

Revision Date: _____ Department Affected: Commerce & Economic Dev.

Title: An Act relating to insurance BRU: Insurance

Sponsor: Sen. Pearce Component: Operations

Requestor: _____ COMPONENT SERIAL NO.

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared By: David J. Walsh, Director Phone: 465-2515

Division: Insurance *[Signature]* Date: 1-28-92

Approved by Commissioner: Glenn A. Olds, Commissioner *[Signature]* for the Bellway Cont Comm.

Agency: Commerce and Economic Development Date: 1-29-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

DIVISION OF LEGAL SERVICES

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MEMORANDUM

March 17, 1992

SUBJECT: Insurance reform act - (CSSB 376(L&C))

TO: Senator Drue Pearce
Attn: Bill Miles

FROM: Michael F. Ford *M. F.*
Legislative Counsel

The attached work draft contains a new title as you requested and also deletes section 133 of the prior draft. At the request of the Division of Insurance, the 3/12/92 work draft was also changed as follows:

1. Page 80, line 31 - delete "settle", and insert "administer";
2. Page 81, line 24, - change "insurer" to "insurer's";
3. Page 85, line 19 - before "reinsurance" insert "licensed";
4. Page 101, line 17 - delete "interest" insert "business".

Please contact me if you have further questions.

MFF.pl
92-182.plm

CS FOR SENATE BILL NO. 376 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the licensing, accreditation, examination, regulation, and solvency of
2 persons engaged in the insurance business, including insurers and nonadmitted insurers;
3 relating to the management of and the filing of reports by persons licensed or otherwise
4 doing business under the insurance code; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. AS 21.06.120(a) is amended to read:

7 (a) The director may examine the affairs, transactions, accounts, records, and assets of
8 each authorized and formerly authorized insurer and each licensed and formerly licensed
9 managing general agent, reinsurance intermediary broker, reinsurance intermediary
10 manager, surplus lines broker, and surplus lines association as often as the director considers
11 advisable. In scheduling and determining the nature, scope, and frequency of examinations,
12 the director may consider the results of financial statement analysis and ratios, competency
13 of management or change of ownership, actuarial opinions, reports of independent certified
14 public accountants, number and nature of consumer complaints, results of prior

1 examinations, frequency of prior violations of statute and regulation, criteria set out in the
2 Examiners' Handbook most recently approved by the National Association of Insurance
3 Commissioners and in effect when the director conducts an examination, and other material
4 authorized by this title that the director determines is appropriate [THE DIRECTOR SHALL
5 SO EXAMINE EACH DOMESTIC INSURER AT LEAST ONCE EVERY THREE YEARS].
6 Examination of an alien insurer may be limited to its insurance transactions and affairs in the
7 United States. Examination of a reciprocal insurer may also include examination of its
8 attorney-in-fact to the extent that the transactions of the attorney-in-fact relate to the insurer.

9 * Sec. 2. AS 21.06.120(c) is amended to read:

10 (c) In place of an examination by the director, the director may accept a full report of
11 the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory
12 official of another state, territory, commonwealth, or district of the United States if

13 (1) the insurance regulatory agency conducting the examination was at the
14 time of the examination accredited by the National Association of Insurance Commissioners;

15 (2) the examination is performed under the supervision of an insurance
16 regulatory agency accredited by the National Association of Insurance Commissioners; and
17 the supervising examiner after a review of the examination work papers states under oath
18 that the examination and report complies with the standards and procedures required by
19 their accredited state insurance regulatory agency; or

20 (3) the examiner conducting the examination was employed by an insurance
21 regulatory agency accredited at the time of the examination by the National Association of
22 Insurance Commissioners and the examiner, after review of the examination work papers,
23 states under oath that the examination and report complies with the standards and
24 procedures required by the accredited insurance regulatory agency.

25 * Sec. 3. AS 21.06.120(e) is amended to read:

26 (e) The director may use a contract examiner to carry out the functions of this section.
27 The selection of a contract examiner and the award of a contract is not subject to AS 36.30
28 (State Procurement Code).

29 * Sec. 4. AS 21.06.120 is amended by adding new subsections to read:

30 (f) For the purpose of completing an examination of a person under this title, the director
31 may extend the examination or investigation as provided under AS 21.06.170.

1 (g) The director shall examine a domestic insurer at least once every three years. Unless
2 the director determines that there is a clear and present danger of the imminent wasting of the
3 insurer's assets, when the director intends to conduct an interim examination of a domestic
4 insurer covering the same subjects as included in the scope of the last examination report, the
5 director shall give at least 10 days prior written notice stating the scope and purpose of the
6 examination, and the interim examination shall be limited to the scope and purpose stated in the
7 notice. In this subsection, "interim examination" means an examination of a domestic insurer that
8 occurs within three years after the start of the domestic insurer's last examination.

9 * Sec. 5. AS 21.06.130(a) is amended to read:

10 (a) To determine compliance with this title, the director may as often as the director
11 considers advisable examine or require a written report from a person of the accounts, records,
12 documents, and transactions pertaining to or affecting the insurance affairs or proposed insurance
13 affairs of

14 (1) an insurance producer [AGENT, BROKER, SOLICITOR, GENERAL
15 AGENT,] or independent adjuster; or

16 (2) [A PERSON HAVING A CONTRACT UNDER WHICH THE PERSON
17 ENJOYS IN FACT THE EXCLUSIVE OR DOMINANT RIGHT TO MANAGE OR CONTROL
18 AN INSURER;

19 (3) A PERSON HOLDING THE SHARES OF VOTING STOCK OR
20 POLICYHOLDER PROXIES OF A DOMESTIC INSURER, FOR THE PURPOSE OF
21 CONTROLLING ITS MANAGEMENT, AS VOTING TRUSTEE OR OTHERWISE;

22 (4)] a person engaged in or proposing to be engaged in or assisting in the
23 promotion or formation of a domestic insurer or insurance holding corporation, or corporation
24 to finance a domestic insurer or the production of its business.

25 * Sec. 6. AS 21.06.140(b) is amended to read:

26 (b) Every person being examined and its officers, employees, agents, and representatives
27 shall produce and make freely available to the director the accounts, records, documents, files,
28 information, assets, and matters in their possession or control relating to the subject of the
29 examination, and shall facilitate and aid the examination as far as reasonably possible, including
30 providing to the director, at the expense of the person being examined, a copy of any document
31 requested during the examination. The director may suspend, revoke, or refuse to issue or

1 renew a license or authority of a person engaging in the business of insurance or other
2 business under the jurisdiction of the director if the person or an officer, director,
3 employee, or agent of the person refuses to submit to examination or to comply with a
4 reasonable written request of an examiner. This subsection does not apply to material
5 subject to the insurer's attorney-client privilege.

6 * Sec. 7. AS 21.06.140(c) is amended to read:

7 (c) If the director finds financial or other records [ACCOUNTS] to be inadequate or
8 inadequately kept or posted or if an insurer's financial records are not kept as required by
9 the Accounting Practices and Procedures Manual currently approved by the National
10 Association of Insurance Commissioners after the director has issued an order citing [GIVEN
11 THE PERSON NOTICE OF] the inadequacy of the accounts and given a reasonable opportunity
12 to complete or correct the accounting, the director may employ experts to rewrite, post, or
13 balance them at the expense of the person being examined.

14 * Sec. 8. AS 21.06.140(d) is repealed and reenacted to read:

15 (d) When conducting an examination under this section, the director may retain attorneys,
16 appraisers, independent actuaries, independent certified public accountants, or other professionals
17 and specialists as examiners, the reasonable cost of which shall be paid by the person being
18 examined under AS 21.06.160(a). The director may adopt regulations limiting the scope of
19 examination work performed by specialists and limiting the amount charged by specialists to the
20 person being examined.

21 * Sec. 9. AS 21.06.140 is amended by adding new subsections to read:

22 (f) In conducting an examination under this section, the examiner shall observe those
23 guidelines and procedures set out in the Examiners' Handbook currently approved by the National
24 Association of Insurance Commissioners that are consistent with the scope of the examination
25 as authorized by this title. The director may adopt by regulation other guidelines or procedures
26 consistent with this title.

27 (g) An examiner may not be appointed by the director if the examiner, either directly or
28 indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary
29 interest in a person subject to examination under this title. This section may not be construed
30 to automatically preclude an examiner from being, in the ordinary course of business,

31 (1) a policyholder or claimant under an insurance policy;

1 (2) a grantor of a mortgage or similar instrument on the examiner's residence to
2 a regulated entity if obtained under customary terms;

3 (3) an investment owner in shares of regulated mutual fund companies; or

4 (4) a settlor or beneficiary of a blind trust into which otherwise impermissible
5 holdings have been placed.

6 (h) The director may terminate or suspend an examination in order to pursue other legal
7 or regulatory action under this title.

8 (i) In a judicial or administrative proceeding a finding of fact made in an examination
9 report approved under AS 21.06.150(b)(1) is prima facie evidence of the fact.

10 * Sec. 10. AS 21.06.150 is repealed and reenacted to read:

11 Sec. 21.06.150. EXAMINATION REPORTS. (a) An examination report may only
12 consist of facts appearing upon the books, records, or other documents of the examined company,
13 the company's agents, or other persons examined, or facts determined from the testimony of
14 officers, agents, or other persons examined concerning the company's affairs, and the conclusions
15 and recommendations that the examiners find reasonably warranted from the facts.

16 (b) The examiner shall file with the division a proposed written report of an examination,
17 signed by the examiner under oath, not later than 60 days following the last day of examination
18 field work. The period for filing the proposed report may be extended for 60 additional days
19 upon approval of the director. Upon receipt of the proposed report, the division shall transmit
20 the report to the person being examined, together with a notice that gives the person being
21 examined a period of 30 days or additional time, as allowed by the director, to make a written
22 submission or rebuttal with respect to matters contained in the proposed examination report.
23 Within 30 days of the end of the period allowed for the receipt of written submissions or
24 rebuttals, the director shall fully consider and review the report, together with any written
25 submissions or rebuttals, and any relevant portions of the examiner's work papers and enter an
26 order

27 (1) approving the examination report as filed or approving the examination report
28 with modification or corrections;

29 (2) rejecting the examination report with directions to the examiners to reopen the
30 examination for the purpose of obtaining additional data, documentation, or information and
31 refile the report under this subsection; or

1 (3) setting a hearing under AS 21.06.180 for purposes of obtaining additional
2 information.

3 (c) In the event the director determines that regulatory action is appropriate as a result
4 of an examination, the director may initiate proceedings as provided by law. The director may
5 use an examination report, work papers or other documents, the testimony of the examiners, or
6 other information discovered or developed during the course of an examination in a judicial or
7 administrative proceeding, whether or not a written report of the examination at the time has been
8 made, transmitted, or approved by the director.

9 (d) The director may disclose the content of an examination report, preliminary
10 examination report or results, or a matter relating to it to the insurance division of this or another
11 state or country. Except as allowed by this subsection or other provision of law, the director may
12 not disclose the contents of a preliminary examination report before the report is filed in the
13 office of the director under AS 21.06.060.

14 (e) An order entered under (b)(1) of this section must be accompanied by findings of fact
15 and conclusions of law resulting from the director's consideration and review of the examination
16 report, relevant examiner work papers, and written submissions or rebuttals.

17 (f) Within 30 days of the receipt of the approved report, the person examined shall file
18 affidavits executed by each director and the chief executive officer or equivalent officer stating
19 under oath that they have received and reviewed a copy of the approved report and related orders.

20 (g) The director may withhold a document, information, account, record, examination,
21 or report from the public inspection for as long as the director finds the withholding is necessary
22 to protect a person against unwarranted injury or is in the public interest.

23 * Sec. 11. AS 21.06.160(b) is amended to read:

24 (b) The director shall pay into the general fund of the state all money received under (a)
25 of this section. Instead of charging and collecting the costs and expenses of the examination
26 under (a) of this section [MAKING A DEPOSIT INTO THE GENERAL FUND], the director
27 may give written authorization for [ORDER] the person examined to make direct payment to
28 the contract examiner for all or part of the contract examiner's compensation or expenses. The
29 contract between the state and a contract examiner who will receive direct payment under this
30 subsection must require that the examiner provide the director with a copy of each billing for the
31 examination.

1 * **Sec. 12.** AS 21.06.165 is amended by adding a new subsection to read:

2 (d) Except as provided in this section, a person may not bring a civil action if the civil
3 action arises out of the act of communicating or delivering information to the director, a
4 representative of the director, or an examiner who is performing an examination under this title.

5 * **Sec. 13.** AS 21.06.180 is amended by adding a new subsection to read:

6 (d) If the parties agree, the director may conduct a hearing under this section by
7 teleconference.

8 * **Sec. 14.** AS 21.09.090(a) is amended to read:

9 (a) This section applies to all insurers [OTHER THAN TITLE INSURERS].

10 * **Sec. 15.** AS 21.09 is amended by adding a new section to read:

11 **Sec. 21.09.175. DETERMINATION OF HAZARDOUS CONDITION.** The director may
12 adopt regulations establishing the procedures for determining when the continued operation of
13 an insurer transacting business in this state is hazardous to the public or its policyholders and
14 procedures for the regulatory oversight of an insurer in a hazardous condition. Continued
15 operation of an insurer shall be considered hazardous only if the insurer is impaired or in
16 imminent danger of becoming impaired. The director may order an insurer determined to be in
17 a hazardous condition to limit or change the insurer's business practices, increase the insurer's
18 capital and surplus, or file additional reports with the director. If an insurer is aggrieved by an
19 order under this section, the insurer may request a hearing under AS 21.06.170 - 21.06.230.

20 * **Sec. 16.** AS 21.09.210(a) is amended to read:

21 (a) Each authorized insurer, and each formerly authorized insurer with respect to
22 premiums received while an authorized insurer in this state, shall file with the director, on or
23 before March 1 [MARCH 2] in each year, a report of all insurance business written or contracted
24 in the state, [(with proper proportionate allocation of premium for the property, subjects, or
25 risks in the state insured under policies or contracts covering property, subjects, or risks located
26 or resident in more than one state,)] during the preceding year ending December 31. The report
27 must show

28 (1) the amounts paid policyholders on losses;

29 (2) the total direct premium income including policy membership and other fees,
30 premiums paid by application of dividends, refunds, savings coupon, and similar returns or credits
31 to payment of premiums for new or additional or extended or renewed insurance, charges for

1 payment of premium in installments, and all other consideration for insurance from all kinds and
2 classes of insurance whether designated a premium or otherwise;

3 (3) the amounts paid policyholders as returned premiums;

4 (4) the amounts paid policyholders as dividends.

5 * Sec. 17. AS 21.09.210(b) is amended to read:

6 (b) Each insurer, and each formerly authorized insurer with respect to premiums received
7 while an authorized insurer in this state, shall pay a tax on the total direct premium income
8 received during the year ending on the preceding December 31 and paid for the insurance of
9 property or risks resident or located in the state other than wet marine and transportation
10 insurance, after deducting from the total direct premium income the applicable cancellations,
11 returned premiums, the unabsorbed portion of any deposit premium, all policy dividends,
12 unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other
13 similar returns paid or credited to policyholders with respect to their policies. No deductions may
14 be made of cash surrender value of policies. Considerations received on annuity contracts are
15 not included in the direct premium income and are not subject to tax. The tax shall be paid to
16 the director annually on or before March 1 [APRIL 1], and is computed at the rate of

17 (1) for domestic and foreign insurers, except hospital and medical service
18 corporations, 2.7 percent;

19 (2) for hospital and medical service corporations, six percent of their gross
20 premiums less claims paid.

21 * Sec. 18. AS 21.09.210(d) is amended to read:

22 (d) An authorized insurer shall, with respect to all wet marine and transportation contracts
23 written in this state during the preceding calendar year, on or before March 1 [APRIL 1] of each
24 year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit.
25 The gross underwriting profit is computed by deducting from the net premiums [(I.E., GROSS
26 PREMIUMS LESS ALL RETURN PREMIUMS AND PREMIUMS FOR REINSURANCE),] on
27 wet marine and transportation insurance contracts, the net losses paid [(I.E., GROSS LOSSES
28 PAID, LESS SALVAGE AND RECOVERIES ON REINSURANCE CEDED)] during the
29 calendar year under the contracts. In the case of an insurer issuing participating contracts, the
30 gross underwriting profit may [SHALL] not include, for computation of the tax prescribed by
31 this section, the amounts refunded or paid as participation dividends by the insurers to the holders

1 of the contracts. In this subsection,

2 (1) "net losses" means gross losses less salvage and recoveries on reinsurance
3 ceded;

4 (2) "net premiums" means gross premiums less all return premiums and
5 premiums for reinsurance.

6 * Sec. 19. AS 21.12.020(a) is amended to read:

7 (a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as
8 either an asset or a deduction from liability on account of reinsurance ceded only if the
9 reinsurance is ceded to an

10 (1) assuming insurer that is licensed to transact insurance or reinsurance in this
11 state;

12 (2) assuming insurer that is accredited as a reinsurer in this state; an accredited
13 reinsurer is one that

14 (A) files evidence of submission [SUBMITS] to this state's jurisdiction,
15 submits to this state's authority to examine its books and records under AS 21.06.120,
16 and is licensed to transact insurance or reinsurance in at least one state, or in the case
17 of a United States branch of an alien admitted insurer, is entered through and
18 licensed to transact insurance or reinsurance in at least one state; [OR]

19 (B) [IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN
20 ASSUMING INSURER, IS ENTERED THROUGH, AND LICENSED TO TRANSACT
21 INSURANCE OR REINSURANCE IN, AT LEAST ONE STATE, FILES ANNUALLY
22 WITH THE DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT
23 IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS STATE OF
24 DOMICILE, AND] maintains at least \$20,000,000 in policyholder surplus and whose
25 accreditation has not been denied by the director within 90 days of application to the
26 director, or maintains less than \$20,000,000 in policyholder surplus and whose
27 application for accreditation has been approved by the director; and

28 (C) files annually with the director a copy of the reinsurer's annual
29 financial statement filed with the insurance department of the reinsurer's state of
30 domicile [; THE SURPLUS REQUIREMENTS IN THIS SUBPARAGRAPH DO NOT
31 APPLY TO REINSURANCE CEDED AND ASSUMED UNDER A POOLING

1 ARRANGEMENT AMONG INSURERS IN THE SAME HOLDING COMPANY
2 SYSTEM];

3 (3) assuming insurer that is domiciled in a state, or in the case of a United States
4 branch of an alien assuming insurer, is entered through a state that employs standards regarding
5 credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this
6 subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and
7 the assuming insurer submits to the authority of this state to examine its books and records; the
8 surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a
9 pooling arrangement among insurers in the same holding company system;

10 (4) assuming alien insurer that

11 (A) maintains a trust fund in a qualified United States financial institution
12 for the payment of the valid claims of its United States policyholders and ceding insurers,
13 and their assigns and successors in interest, that conforms to the following requirements:

14 (i) the trust shall be established in a form approved by the director;
15 the trust instrument must provide that contested claims are valid and enforceable
16 upon the final order of any court of competent jurisdiction in the United States;
17 the trust shall vest legal title to its assets in the trustees of the trust for its United
18 States policyholders and ceding insurers, their assigns, and successors in interest;
19 the trust and the assuming insurer are subject to examination as determined by the
20 director; the trust must remain in effect for so long as the assuming insurer has
21 outstanding liabilities due under the reinsurance agreements subject to the trust;

22 (ii) on or before March 1 of each year the trustees shall report in
23 writing to the director on the balance of the trust and list the trust's investments
24 at the end of the preceding year, and shall certify the date of termination of the
25 trust, if so planned, or certify that the trust does not expire before the following
26 December 31;

27 (iii) in the case of a single assuming insurer, the trust shall consist
28 of trust money representing the assuming insurer's liabilities attributable to
29 business written in the United States and, in addition, include a trust surplus of not
30 less than \$20,000,000; the single assuming insurer shall make available to the
31 director an annual certification of the insurer's solvency by the insurer's

1 domiciliary regulator and by an independent public accountant;

2 (iv) in the case of a group of individual unincorporated insurers,
3 the trust shall consist of trust money representing the group's liabilities attributable
4 to business written in the United States and, in addition, include a trust surplus not
5 less than \$100,000,000 [\$50,000,000]; the group shall make available to the
6 director an annual certification of the solvency of each of the individual
7 unincorporated insurers by the group's domiciliary regulator and by an
8 independent certified public accountant, or for a Canadian or British insurer,
9 an independent Canadian or British chartered accountant;

10 (v) in the case of a group of incorporated insurers under
11 common administration that complies with the reporting requirements
12 contained in (ii) of this subparagraph, that has continuously transacted an
13 insurance business outside the United States for at least three years
14 immediately before making application for accreditation, that submits to this
15 state's authority to examine its books and records and bears the expense of
16 the examination, and that has aggregate policyholders' surplus of
17 \$10,000,000,000, the trust shall be in an amount equal to the group's several
18 liabilities attributable to business ceded by United States ceding insurers to
19 a member of the group under reinsurance contracts issued in the name of the
20 group, and the group shall maintain a joint trustee surplus, of which
21 \$100,000,000 shall be held jointly for the benefit of United States ceding
22 insurers of a member of the group as additional security for the group's
23 liabilities, and each member of the group shall make available to the director
24 an annual certification of the member's solvency by the member's domiciliary
25 regulator and the member's independent certified public accountant, or for
26 a Canadian or British insurer, the member's independent Canadian or British
27 chartered accountant; and

28 (B) reports annually to the director information substantially the same as
29 that required to be reported on the National Association of Insurance Commissioners'
30 annual statement form by licensed insurers to enable the director to determine the
31 sufficiency of the trust fund;

1 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
2 subsection, but only with respect to the insurance of risks located in jurisdictions where the
3 reinsurance is required by applicable law or regulation of that jurisdiction.

4 * Sec. 20. AS 21.12.020(a) is repealed and reenacted to read:

5 (a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as
6 either an asset or a deduction from liability on account of reinsurance ceded only if the
7 reinsurance is ceded to an

8 (1) assuming insurer that is licensed to transact insurance or reinsurance in this
9 state;

10 (2) assuming insurer that is accredited as a reinsurer in this state; an accredited
11 reinsurer is one that

12 (A) submits to this state's jurisdiction, submits to this state's authority to
13 examine its books and records, is licensed to transact insurance or reinsurance in at least
14 one state, that is accredited by the National Association of Insurance Commissioners, and
15 files annually with the director a copy of the reinsurer's annual statement filed with the
16 insurance department of the reinsurer's state of domicile and a copy of the reinsurer's
17 most recent audited financial statement; or

18 (B) in the case of a United States branch of an alien assuming insurer, is
19 entered through, and licensed to transact insurance or reinsurance in, at least one state
20 accredited by the National Association of Insurance Commissioners, files annually with
21 the director a copy of its annual financial statement that is filed with the insurance
22 regulatory agency of its state of domicile, and maintains at least \$20,000,000 in
23 policyholder surplus; the surplus requirements in this subparagraph do not apply to
24 reinsurance ceded and assumed under a pooling arrangement among insurers in the same
25 holding company system;

26 (3) assuming insurer that is domiciled in a state, or in the case of a United States
27 branch of an alien assuming insurer, is entered through a state accredited by the National
28 Association of Insurance Commissioners that employs standards regarding credit for reinsurance
29 ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming
30 insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits
31 to the authority of this state to examine its books and records; the surplus requirements in this

1 paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among
2 insurers in the same holding company system;

3 (4) assuming alien insurer that

4 (A) maintains a trust fund in a qualified United States financial institution
5 for the payment of the valid claims of its United States policyholders and ceding insurers,
6 and their assigns and successors in interest, that conforms to the following requirements:

7 (i) the trust shall be established in a form approved by the director;
8 the trust instrument must provide that contested claims are valid and enforceable
9 upon the final order of any court of competent jurisdiction in the United States;
10 the trust shall vest legal title to its assets in the trustees of the trust for its United
11 States policyholders and ceding insurers, their assigns, and successors in interest;
12 the trust and the assuming insurer are subject to examination as determined by the
13 director; the trust must remain in effect for so long as the assuming insurer has
14 outstanding liabilities due under the reinsurance agreements subject to the trust;

15 (ii) on or before March 1 of each year the trustees shall report in
16 writing to the director on the balance of the trust and list the trust's investments
17 at the end of the preceding year, and shall certify the date of termination of the
18 trust, if so planned, or certify that the trust does not expire before the following
19 December 31;

20 (iii) in the case of a single assuming insurer, the trust shall consist
21 of trust money representing the assuming insurer's liabilities attributable to
22 business written in the United States and, in addition, include a trust surplus of not
23 less than \$20,000,000; the single assuming insurer shall make available to the
24 director an annual certification of the insurer's solvency by the insurer's
25 domiciliary regulator and by an independent public accountant;

26 (iv) in the case of a group of individual unincorporated insurers,
27 the trust shall consist of trust money representing the group's liabilities attributable
28 to business written in the United States and, in addition, include a trust surplus not
29 less than \$100,000,000; the group shall make available to the director an annual
30 certification of the solvency of each of the individual unincorporated insurers by
31 the group's domiciliary regulator and by an independent certified public

1 accountant;

2 (v) in the case of a group of incorporated insurers under common
3 administration that complies with the reporting requirements contained in (ii) of
4 this subparagraph, that has continuously transacted an insurance business outside
5 the United States for at least three years immediately before making application
6 for accreditation, that submits to this state's authority to examine its books and
7 records and bears the expense of the examination, and that has aggregate
8 policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal
9 to the group's several liabilities attributable to business ceded by United States
10 ceding insurers to a member of the group under reinsurance contracts issued in the
11 name of the group, and the group shall maintain a joint trustee surplus, of which
12 \$100,000,000 shall be held jointly for the benefit of United States ceding insurers
13 of a member of the group as additional security for the group's liabilities, and
14 each member of the group shall make available to the director an annual
15 certification of the member's solvency by the member's domiciliary regulator and
16 the member's independent certified public accountant; and

17 (B) reports annually to the director information substantially the same as
18 that required to be reported on the National Association of Insurance Commissioners'
19 annual statement form by licensed insurers to enable the director to determine the
20 sufficiency of the trust fund;

21 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
22 subsection, but only with respect to the insurance of risks located in jurisdictions where the
23 reinsurance is required by applicable law or regulation of that jurisdiction.

24 * Sec. 21. AS 21.12.020(c) is amended to read:

25 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting
26 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities
27 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or
28 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a
29 reinsurance contract with the assuming insurer as security for the payment of obligations under
30 it, if the security is held in the United States subject to withdrawal solely by, and under the
31 exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States

1 financial institution. The security must be in the form of

2 (1) cash;

3 (2) securities listed by the Securities Valuation Office of the National Association
4 of Insurance Commissioners that qualify as admitted assets under AS 21.21;

5 (3) clean, irrevocable, unconditional letters of credit that contain an evergreen
6 clause issued or confirmed by a qualified United States financial institution not later than
7 December 31 in the year for which filing is made, and in the possession of the ceding
8 company on or before the filing date of the ceding company's annual statement; letters of
9 credit meeting applicable standards of issuer acceptability as of the dates of their issuance or
10 confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to
11 meet applicable standards of issuer acceptability, continue to be acceptable as security until their
12 expiration, extension, renewal, modification, or amendment, whichever occurs first; or

13 (4) other security acceptable to and approved in advance by the director.

14 * Sec. 22. AS 21.12.020 is amended by adding new subsections to read:

15 (h) A life insurer may receive credit for reinsurance transactions if the reinsurance
16 agreement meets all applicable requirements established by the director. The director may
17 establish requirements for life reinsurance agreements by regulation.

18 (i) A domestic ceding insurer may not be allowed credit if the assuming insurer's
19 accreditation has been revoked by the director.

20 * Sec. 23. AS 21.18.100 is amended to read:

21 Sec. 21.18.100. INCREASE OF [INADEQUATE] RESERVES. If loss experience shows
22 that an insurer's loss reserves or reserves for incurred but not reported losses, however
23 computed or estimated, are inadequate, the director shall require the insurer to maintain loss
24 reserves or reserves for incurred but not reported losses in the increased amount needed to
25 make them adequate.

26 * Sec. 24. AS 21.18.110 is amended by adding new subsections to read:

27 (m) A life insurance company doing business in the state shall annually submit to the
28 director an opinion of a qualified actuary as to whether the reserves and related actuarial items
29 held in support of a policy or contract specified by regulation are computed appropriately, are
30 based on assumptions that satisfy contractual provisions, are consistent with prior reported
31 amounts, and comply with the applicable laws of this state. The director may adopt regulations

1 to define the specific form, substance, and standards of the actuarial opinion.

2 (n) The actuarial opinion must

3 (1) be submitted with the annual statement reflecting the valuation of the reserve
4 liabilities;

5 (2) apply to all business in force, including individual and group health insurance
6 plans;

7 (3) be based on standards adopted by the Actuarial Standards Board; and

8 (4) include an assessment as to whether the reserves and related actuarial items
9 held in support of the policies and contracts, when considered in light of the assets held by a
10 company with respect to the reserves and related actuarial items, including investment earnings
11 on the assets and considerations anticipated to be received and retained under policies and
12 contracts, make adequate provision for a company's obligations under a policy or contract
13 including the benefits under and expenses associated with a policy or contract.

14 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
15 director shall accept an opinion filed by the company with the insurance supervisory official of
16 another state if the director determines that the opinion meets the requirements applicable to a
17 company domiciled in this state.

18 (p) The director may adopt regulations to provide a transition period for establishing
19 higher reserves that a qualified actuary may consider necessary in order to render the opinion
20 required under (n) of this section.

21 (q) A qualified actuary who submits an opinion under (m) of this section

22 (1) is not liable for damages to a person, other than the insurance company and
23 the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion
24 except in a case of fraud or wilful misconduct;

25 (2) may be subject to disciplinary action by the director; and

26 (3) shall include a memorandum, in form and substance acceptable to the director,
27 to support the actuarial opinion.

28 (r) If the insurance company fails to provide a supporting memorandum required by
29 (q)(3) of this section within a period specified by regulation or the director determines that the
30 supporting memorandum fails to meet the standards adopted by regulation or is otherwise
31 unacceptable to the director, the director may engage a qualified actuary, at the expense of the

1 insurance company, to review the opinion and the basis for the opinion and to prepare a
2 supporting memorandum as required under (q) of this section.

3 (s) A memorandum in support of an actuarial opinion and other supporting material
4 provided by an insurance company to the director is confidential and may not be made public
5 by the director or another person and is not subject to a civil subpoena, except for the purpose
6 of defending an action seeking damages from a person by reason of an action required by this
7 section. The memorandum or other material may be released by the director with the written
8 consent of the company or to the American Academy of Actuaries upon a request stating that the
9 memorandum or other material is required for the purpose of a disciplinary proceeding and
10 setting out procedures satisfactory to the director for preserving the confidentiality of the
11 memorandum or other material. Once a portion of the memorandum or other material is cited
12 by the company in its marketing, is cited before a governmental agency other than a state
13 insurance department, or is released by the company to the news media, the remainder of the
14 confidential memorandum or other material is no longer confidential.

15 (t) An insurer's aggregate reserves for

16 (1) all life insurance policies, excluding disability and accidental death benefits,
17 issued on or after the effective date of this act, may not be less than the aggregate reserves
18 calculated under (b)(2), (5), (8), and (1) of this section, and the mortality table and rates of
19 interest used in calculating nonforfeiture benefits for the policies; and

20 (2) all policies, contracts, and benefits may not be less than the aggregate reserves
21 determined by a qualified actuary to be necessary to render the opinion required under (m) of this
22 section.

23 * Sec. 25. AS 21.18.110(o) is repealed and reenacted to read:

24 (o) In the case of an actuarial opinion submitted by a foreign or alien company, the
25 director shall accept an opinion filed by the company with the insurance supervisory official of
26 another state that is accredited by the National Association of Insurance Commissioners if the
27 director determines that the opinion meets the requirements applicable to a company domiciled
28 in this state.

29 * Sec. 26. AS 21.18.130 is amended to read:

30 Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than
31 those referred to in AS 21.18.120 or AS 21.21.260, held by an insurer shall be valued, in the

1 discretion of the director, at [THEIR MARKET VALUE, OR AT] their appraised value as
2 determined by a competent appraisal acceptable to the director, or at prices determined by
3 the director as representing their fair market value, all consistent with the current method for the
4 valuation of a security formulated or approved by the National Association of Insurance
5 Commissioners.

6 (b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried
7 at a fixed value in lieu of market value at the discretion of the director and consistent [IN
8 ACCORDANCE] with the method of computation the director approves.

9 * Sec. 27. AS 21.18.130 is amended by adding a new subsection to read:

10 (c) Securities referred to in AS 21.21.260 at any time after the date of investment by an
11 insurer shall be valued on that insurer's quarterly and annual statement at an amount that may
12 not exceed the larger of the following amounts:

13 (1) 100 percent of the market value of the real property or leasehold securing the
14 same as determined by a competent appraisal acceptable to the director or at values determined
15 by the director as representing fair market value of the real property or leasehold;

16 (2) the amount of insurance or guaranty of the loan by the United States or by
17 an agency or instrumentality of the United States; or

18 (3) the amount provided in (1) of this subsection plus the amount by which the
19 excess of the loan over the amount provided in (1) of this subsection is insured or guaranteed by
20 the United States or by an agency or instrumentality of the United States.

21 * Sec. 28. AS 21.18.140(b) is amended to read:

22 (b) Other real property held by an insurer shall [MAY NOT] be valued at the lower of
23 cost or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal.

24 If valuation is based on an appraisal more than three years old, the director may call for and
25 require a new appraisal in order to determine fair market value. The reasonable cost of the
26 appraisal shall be borne by the insurer. if the director has a reasonable belief that the new
27 appraised value will be sufficiently lower than the reported value and will materially reduce
28 policyholder's surplus.

29 * Sec. 29. AS 21.21.050 is amended to read:

30 Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in
31 or hold as admitted assets categories of investments only within applicable limits as follows:

1 (1) an insurer may not, except with the consent of the director, have a
2 combination of investments in or loans upon the security of the obligations, property, or securities
3 of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's
4 assets; for purposes of this paragraph, the value of the investment or loan shall be the cost
5 of the investment or loan to the insurer; this restriction does not apply to

6 (A) general obligations of the United States; or

7 (B) general obligations of a state of the United States that is not insolvent
8 and whose securities are not then in default; or

9 (C) policy loans made under AS 21.21.210;

10 (2) an insurer may not invest in or hold at any one time more than 10 percent of
11 the outstanding voting stock of a corporation, except with the consent of the director given with
12 respect to voting rights of preference stock during default of dividends; this paragraph does not
13 apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer
14 acquired under AS 21.21.170;

15 (3) an insurer, other than title insurer, shall invest and maintain invested funds
16 in an amount not less than the higher of

17 [(A)] the minimum basic capital for stock insurers or basic guarantee
18 surplus for mutual insurers and additional surplus for both stock and mutual insurers
19 required under AS 21.09.070, [;] or

20 [(B)] 50 percent of the total capital and surplus shown on the most recent
21 statement of the insurer's financial condition as filed with the director under
22 AS 21.09.200, but the insurer may not invest or maintain funds except in [ONLY IN]

23 (A) [(i)] cash;

24 (B) [(ii)] the fully insured portion of bank deposits when the insurance is
25 provided by a solvent agency of the United States government or by collateral in the form
26 of the securities provided for under AS 21.21.060 and 21.21.080; [OR]

27 (C) [(iii)] the securities provided for under AS 21.21.060 and 21.21.080;

28 or

29 (D) the securities provided for under AS 21.21.090 issued by this state
30 or a political subdivision of this state, but only if rated Class 1 by the securities
31 valuation office for the period during which the securities are held for the purposes

1 of this section, and only if the insurer invests and maintains not more than 15
2 percent of its total capital and surplus in the securities as shown on the most recent
3 statement of the insurer's financial condition filed with the director under
4 AS 21.09.200;

5 (4) a life insurer shall invest and keep invested its funds in an amount not less
6 than the reserves under its life insurance policies and annuity contracts, other than variable
7 annuities, in force, in cash or the securities or investments provided for under this chapter;

8 (5) except with the director's written consent, an insurer may not have invested
9 at any one time more than 20 percent of its assets in the class of securities described in
10 AS 21.21.140, exclusive of obligations of public utilities;

11 (6) an insurer may invest and have invested at any one time in aggregate amount
12 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and
13 21.21.200, except with the director's written consent; determination of the amount that an insurer
14 has invested in common stocks for the purposes of this paragraph is based on the cost of the
15 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary
16 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;

17 (7) except with the director's written consent, an insurer may not have invested
18 at any one time more than 10 percent of its assets in any one of the class of securities described
19 in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260.

20 * Sec. 30. AS 21.21.170(b) is amended to read:

21 (b) With the director's consent an insurer may acquire and hold the controlling interest
22 in the outstanding voting stock of another stock insurer formed under the laws of this or another
23 state. All stocks under this subsection shall be subject to the limitations on acquisition
24 [LIMITATION AS TO AMOUNT] as provided in AS 21.21.180.

25 * Sec. 31. AS 21.21.180 is repealed and reenacted to read:

26 Sec. 21.21.180. INVESTMENTS IN SUBSIDIARIES. (a) A domestic insurer, either
27 alone or in cooperation with one or more persons, may organize or acquire one or more
28 subsidiaries engaged in the following kinds of business:

29 (1) insurance business authorized by this title;

30 (2) acting as an insurance producer or as an insurance agent for the insurer's
31 parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;

1 (3) investing, reinvesting, or trading in securities for the insurer's own account,
2 that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;

3 (4) management of an investment company subject to or registered under 15
4 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;

5 (5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78
6 (Securities Exchange Act of 1934, as amended);

7 (6) rendering investment advice to a government, government agency, corporation,
8 or other organization or group;

9 (7) rendering other services related to the operations of an insurance business
10 including actuarial, loss prevention, safety engineering, data processing, accounting, claims,
11 appraisal, and collection services;

12 (8) ownership and management of assets that the parent corporation could own
13 or manage;

14 (9) acting as administrative agent for a governmental instrumentality that is
15 performing an insurance function;

16 (10) financing insurance premiums, agents, and other forms of consumer
17 financing;

18 (11) any other business activity determined by the director in writing using the
19 standards set out in this section to be reasonably ancillary to an insurance business; or

20 (12) owning a corporation engaged or organized to engage exclusively in one or
21 more of the businesses specified in this section.

22 (b) A domestic insurer may also

23 (1) invest in securities described in AS 21.21.140 - 21.21.160 of one or more
24 subsidiaries in amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50
25 percent of the insurer's surplus regarding policyholders, if, after the investment, the insurer's
26 surplus regarding policyholders will be reasonable in relation to the insurer's outstanding
27 liabilities and adequate to the insurer's financial needs; in calculating the amount of the
28 investment, investment in domestic or foreign insurance subsidiaries shall be excluded, but the
29 following shall be included:

30 (A) total net moneys or other consideration expended and all obligations
31 assumed in the acquisition or formation of a subsidiary, including all organizational

1 expenses and contributions to capital and surplus of the subsidiary if represented or not
2 represented by the purchase of capital stock or issuance of other securities; and

3 (B) all amounts expended in acquiring additional securities described in
4 AS 21.21.140 - 21.21.160 and all contributions to the capital or surplus of a subsidiary
5 subsequent to the subsidiary's acquisition or formation;

6 (2) invest an amount in securities described in AS 21.21.140 - 21.21.160 of one
7 or more subsidiaries engaged or organized to engage exclusively in the ownership and
8 management of assets authorized as an investment for the insurer if that subsidiary agrees to limit
9 the subsidiary's investment in an asset in a way that the investment does not cause the amount
10 of the total investment of the insurer to exceed the investment limitations specified in (1) of this
11 subsection or AS 21.21.050; for the purpose of this paragraph, the total investment of the insurer
12 includes:

13 (A) a direct investment by the insurer in an asset; and

14 (B) the insurer's proportionate share of an investment in an asset by a
15 subsidiary of the insurer calculated by multiplying the amount of the subsidiary's
16 investment by the percentage of the ownership in the subsidiary; or

17 (3) with the prior written approval of the director, invest a greater amount in those
18 securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the
19 investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's
20 outstanding liabilities and adequate to the insurer's financial needs.

21 (c) A domestic insurer shall determine if an investment meets the applicable requirements
22 under (b) of this section before the investment is made by calculating the applicable investment
23 limitations under AS 21.21.020(d) as though the investment had already been made and by taking
24 into account the then outstanding principal balance on all previous investments under
25 AS 21.21.140 - 21.21.160, calculated at statement value, giving effect to a return of capital
26 invested and not giving effect to dividends.

27 (d) If an insurer ceases to control a subsidiary, it shall dispose of an investment in the
28 subsidiary made under this section within three years from the time of the cessation of control
29 or within a further time that the director prescribes unless, at any time after the investment has
30 been made, the investment meets the requirements for investment under another section of this
31 chapter and the insurer has notified the director regarding the application of another section of

1 this chapter to the investment.

2 * Sec. 32. AS 21.21.255 is amended to read:

3 Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided
4 under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984),
5 securities that are purchased, held, or invested in by an insurer shall be regulated under
6 AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, [AS 21.66.030,] and other applicable
7 provisions of this title.

8 * Sec. 33. AS 21.21.350(b) is amended to read:

9 (b) Before completing investment activities with or through affiliated or controlling
10 persons or completing a transaction of the type listed in AS 21.21.180, an insurer shall fully
11 disclose and document in writing to its board of directors, the committee or committees having
12 responsibility for reviewing the insurer's financial condition under AS 21.22.105(d) or (e),
13 and the committee authorized by the board and charged with the supervision or making of the
14 investment or loan involved, the material facts concerning the affiliation or circumstances of
15 control. An insurer may not complete an investment activity with or through affiliated or
16 controlling persons [,] unless the board of directors, by specific board action, authorizes the
17 transaction and concludes that the transaction complies with (c) and (d) of this section. The vote
18 of the board authorizing the transaction must be recorded in the minutes, on a
19 member-by-member basis, and must indicate each vote approving, disapproving, or abstaining
20 on the transaction.

21 * Sec. 34. AS 21.21 is amended by adding new sections to read:

22 Sec. 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE
23 OBLIGATIONS. (a) A domestic insurer may not acquire, directly or indirectly, a medium grade
24 or lower grade obligation of an institution if, after giving effect to the acquisition,

25 (1) the aggregate amount of all medium grade and lower grade obligations held
26 by the domestic insurer exceeds 20 percent of its admitted assets if not more than

27 (A) 10 percent of its admitted assets consist of obligations rated four, five,
28 or six by the securities valuation office;

29 (B) three percent of its admitted assets consist of obligations rated five or
30 six by the securities valuation office; and

31 (C) one percent of its admitted assets consist of obligations rated six by

1 the securities valuation office; or

2 (2) the aggregate amount of all medium grade or lower grade obligations held by
3 the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the
4 insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.

5 (b) Attaining or exceeding the limit of one category does not preclude an insurer from
6 acquiring an obligation in another category subject to the specific or multi-category limits.

7 (c) A domestic insurer may not invest in medium grade and lower grade obligations
8 issued, guaranteed, or insured by a single institution in an aggregate amount greater than

9 (1) one percent of its admitted assets in medium grade obligations;

10 (2) one-half of one percent of its admitted assets in lower grade obligations; and

11 (3) one percent of its admitted assets in a combination of medium grade or lower
12 grade obligations.

13 (d) The investment limitations in this section apply in addition to the limits on
14 investments under AS 21.21.050 and 21.21.250.

15 (e) The investment limitations in this section and AS 21.21.380(b) shall be calculated
16 after including, as though they were already owned, the medium grade and lower grade
17 obligations that the domestic insurer is committed to acquire at the time of the calculation.

18 Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM
19 GRADE AND LOWER GRADE OBLIGATIONS. (a) AS 21.21.370 does not prohibit a
20 domestic insurer from acquiring an obligation that it has committed to acquire if the insurer
21 would have been permitted to acquire that obligation under AS 21.21.370 on the date on which
22 the insurer committed to purchase that obligation.

23 (b) Notwithstanding AS 21.21.370, a domestic insurer may acquire an obligation of an
24 institution in which the insurer already has an obligation if the obligation is acquired in order to
25 protect an investment previously made in the obligations of the institution, if all the acquired
26 obligations do not exceed one-half of one percent of the insurer's admitted assets.

27 (c) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation
28 created by a restructuring of a medium grade or lower grade obligation that is already held.

29 (d) AS 21.21.370 does not require a domestic insurer to sell or otherwise dispose of an
30 obligation legally acquired before July 1, 1992.

31 Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM

1 GRADE AND LOWER GRADE OBLIGATIONS. (a) The board of directors of a domestic
2 insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets
3 in medium grade and lower grade obligations, shall adopt a written plan for making these
4 investments.

5 (b) The written plan adopted under (a) of this section must contain

6 (1) guidelines for the quality of the issues in which investments are to be made;
7 and

8 (2) diversification standards including standards for issuer, industry, duration,
9 liquidity, and geographic locations.

10 Sec. 21.21.400. DISPOSITION OR WRITE-DOWN OF LOWER GRADE
11 OBLIGATIONS. If the limitation in AS 21.21.370(a)(2) is exceeded and the director determines
12 that the continued holding of the insurer's medium grade and lower grade obligations would be
13 detrimental to the interests of policyholders, the director may issue an order under AS 21.06.100
14 requiring one or more of the following:

15 (1) the disposition of lower grade obligations;

16 (2) the write-down of lower grade obligations to current market value as
17 determined by the securities valuation office or other person upon whom the director may rely;

18 or

19 (3) action under AS 21.09.150.

20 * Sec. 35. AS 21.21.600 is amended by adding new paragraphs to read:

21 (17) "admitted asset" has the meaning given in AS 21.18.900;

22 (18) "aggregate amount" means the aggregate statutory statement value of medium
23 grade and lower grade obligations;

24 (19) "institution" means a corporation, joint stock company, association, trust,
25 business partnership, business joint venture, or similar entity;

26 (20) "lower grade obligation" means an obligation that is rated four, five, or six
27 by the securities valuation office or its successor;

28 (21) "medium grade obligation" means an obligation that is rated three by the
29 securities valuation office or its successor;

30 (22) "securities valuation office" means the organization designated by the
31 National Association of Insurance Commissioners to determine the carrying or admitted asset

1 value of obligations owned by the insurer.

2 * Sec. 36. AS 21.22.030 is amended by adding a new subsection to read:

3 (c) When evaluating the effect of a merger or other acquisition under (a)(2) of this
4 section, the director may consider relevant factors including market shares, volatility of ranking
5 market leaders, number of competitors, concentration, trend of concentration in the industry, and
6 ease of entry into and exit out of the market, but may not consider the standards under
7 AS 21.22.065(d) or (e).

8 * Sec. 37. AS 21.22.060 is amended by adding new subsections to read:

9 (k) An insurer subject to registration under (a) of this section shall register annually by
10 April 1 of each year for the previous calendar year unless, for good cause shown, the director
11 extends the time for registration. The director may require an insurer authorized to do business
12 in the state, that is a member of a holding company system and that is not subject to registration
13 under (a) of this section, to furnish a copy of the registration statement, the summary specified
14 in (l) of this section, or other information filed by the insurer with the insurance regulatory
15 authority of the insurer's state of domicile.

16 (l) An annual registration statement filed under (k) of this section must contain a
17 summary outline of items in the current registration statement representing changes from the prior
18 registration statement.

19 * Sec. 38. AS 21.22 is amended by adding a new section to read:

20 Sec. 21.22.065. ACQUISITIONS INVOLVING CHANGE OF CONTROL. (a) Unless
21 exempted in (j) of this section, this section applies to any acquisition in which there is a change
22 in control of an insurer authorized to do business in this state.

23 (b) If an acquisition violates the standards established in (d) and (f) of this section, the
24 director may enter an order requiring an involved insurer to cease doing business in this state
25 with respect to the line or lines of insurance involved in the violation or denying the application
26 of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of
27 the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive
28 effect of the acquisition within a reasonable time. Based upon a plan or other information
29 submitted, the director shall specify the conditions, if any, under a time period during which the
30 aspects of the acquisition causing a violation of the standards of this section would be remedied
31 and the order vacated or modified. The order is stayed by the insurer's submission of a plan and

1 shall be rescinded if the acquisition is not consummated.

2 (c) An acquisition that meets the requirements under (a) of this section is subject to an
3 order under (b) of this section unless the acquiring person files a preacquisition notification and
4 the waiting period has expired. The person to be acquired may file a preacquisition notification.
5 A preacquisition notification by a person to be acquired may not be filed in place of a
6 preacquisition filing by an acquiring person. The preacquisition notification

7 (1) must be in a form and contain the information prescribed in regulations
8 adopted by the director relating to insurance markets that, under (j)(5) of this section, cause the
9 acquisition not to be exempt from the provisions of this section; the director may require
10 additional material and information the director considers necessary to determine whether the
11 proposed acquisition, if consummated, would violate the competitive standards of this section;

12 (2) may include an opinion of an economist regarding the competitive effect of
13 the acquisition in this state accompanied by a summary of the education and experience
14 indicating the economist's ability to render an informed opinion; and

15 (3) must be followed by a waiting period beginning on the date of receipt by the
16 director of a preacquisition notification and ending on the earlier of the 30th day after the date
17 of receipt or termination of the waiting period by the director unless, before the end of the
18 waiting period, the director requires the submission of additional information relevant to the
19 proposed acquisition, in which event the waiting period shall end on the 30th day after receipt
20 of the additional information by the director or termination of the waiting period by the director,
21 whichever is earlier.

22 (d) The director may enter an order under (b) of this section regarding an acquisition if

23 (1) the insurer fails to file adequate information in compliance with (c) of this
24 section;

25 (2) there is substantial evidence that the acquisition may substantially lessen
26 competition, create a monopoly in a line of insurance in this state or significantly increase an
27 insurer's market concentration; there is substantial evidence when the aggregate market share of
28 any grouping of the largest insurers in the market, from the two largest to the eighth largest, has
29 increased by seven percent or more of the market over a period of time extending from any base
30 year five to 10 years before the acquisition up to the time of the acquisition;

31 (3) after considering an acquisition covered under (a) of this section involving two

1 or more insurers competing in the same market there is evidence of a violation of the competitive
2 standards contained in the following tables:

3 (A) if the market is highly concentrated, the involved insurers possess the
4 following shares of the market:

5	Insurer A	Insurer B
6	4 percent	4 percent or more
7	10 percent	2 percent or more
8	15 percent	1 percent or more;

9 (B) if the market is not highly concentrated, the involved insurers possess
10 the following shares of the market:

11	Insurer A	Insurer B
12	5 percent	5 percent or more
13	10 percent	4 percent or more
14	15 percent	3 percent or more
15	19 percent	1 percent or more.

16 (e) A percentage not shown in the tables contained in (d) of this section may be
17 interpolated proportionately to the percentage that is shown. The insurer with the largest share
18 of the market shall be considered Insurer A. If more than two insurers are involved, a market
19 share that exceeds the total of the two columns in the table by the insurers involved is prima
20 facie evidence of a violation of the competitive standards contained in (d) of this section.

21 (f) Even though an acquisition does not violate the competitive standard under (d) of this
22 section, the director may establish the requisite anticompetitive effect based upon other
23 substantial evidence. Even though an acquisition does violate the competitive standard under (d)
24 of this section, a party may establish the absence of the requisite anticompetitive effect based
25 upon other substantial evidence. Relevant factors in making a determination under (d) of this
26 section include market shares, volatility of ranking of market leaders, number of competitors,
27 concentration, trend of concentration in the industry, and ease of entry into and exit out of the
28 market. The burden of showing substantial evidence of a violation of the competitive standards
29 rests with the director.

30 (g) An order may not be entered under (b) of this section if

31 (1) the acquisition will yield substantial economy of scale or economy in resource

1 utilization that cannot be achieved in another way and the public benefits that would arise from
2 the economy exceed the public benefits that would arise from not lessening competition; or

3 (2) the acquisition will substantially increase the availability of insurance and the
4 public benefits of the increase exceed the public benefits that would arise from not lessening
5 competition.

6 (h) A person who violates a cease and desist order of the director under (b) of this
7 section may, after hearing and on order of the director, be subject to the suspension or revocation
8 of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.

9 (i) An insurer or other person who fails to make a preacquisition filing required by (c)
10 of this section and who also fails to demonstrate a good faith effort to comply with filing
11 requirements shall be subject to a fine of not more than \$50,000.

12 (j) This section does not apply to

13 (1) an acquisition subject to approval or disapproval by the director under
14 AS 21.22.010;

15 (2) a purchase of securities solely for investment purposes if the securities are not
16 used by voting or otherwise to cause or attempt to cause the substantial lessening of competition
17 in an insurance market in this state; if a purchase of securities for investment purposes results
18 in a presumption of control under AS 21.22.200(2), it is not solely for investment purposes unless
19 the insurance supervisory official of the insurer's state of domicile accepts a disclaimer of control
20 or affirmatively finds that control does not exist and the disclaimer action or affirmative finding
21 is communicated by the domiciliary commissioner to the director;

22 (3) the acquisition of a person by another person resulting in a change of control
23 of an insurer when both persons are neither directly nor through affiliates primarily engaged in
24 the business of insurance if preacquisition notification is filed with the director under (c) of this
25 section 30 days before the proposed effective date of the acquisition; however, the preacquisition
26 notification is not required for exclusion if the acquisition would otherwise be excluded under
27 this subsection;

28 (4) the acquisition of an already affiliated person;

29 (5) an acquisition if, as an immediate result of the acquisition,

30 (A) the combined market share of the involved insurers would not exceed
31 five percent of a market;

1 (B) there would not be an increase in a market share of the larger writer;
2 or

3 (C) the combined market share of the involved insurers would not exceed
4 12 percent of a market and the market share of the larger writer would not increase by
5 more than two percent of a market;

6 (6) an acquisition for which a preacquisition notification would be required under
7 this section due solely to the resulting effect on the ocean marine insurance line of business; or

8 (7) an acquisition of an insurer whose domiciliary commissioner affirmatively
9 finds that the insurer is in a failing condition, there are no feasible alternatives to improving this
10 condition, the public benefits of improving the insurer's condition through the acquisition exceed
11 the public benefits that would arise from not lessening competition, and these findings are
12 communicated by the domiciliary commissioner to this state's director.

13 (k) AS 21.22.150 - 21.22.160 and 21.22.180 do not apply to acquisitions covered under
14 this section.

15 * Sec. 39. AS 21.22.080 is amended to read:

16 Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by
17 registered insurers with their affiliates are subject to the following standards:

18 (1) the terms shall be fair and reasonable;

19 (2) charges or fees for services performed shall be reasonable;

20 (3) expenses incurred and payment received shall be allocated to the insurer
21 in conformity with customary insurance accounting practices consistently applied;

22 (4) the books, accounts, and records of each party shall be maintained so as to
23 disclose clearly and accurately the precise nature and details of the transactions including
24 accounting information that is necessary to support the reasonableness of the charges or
25 fees to the respective parties; and

26 (5) [(3)] the insurer's surplus as regards policyholders following any dividends
27 or distributions to shareholder affiliates or performance under a material transaction with an
28 affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its
29 financial needs.

30 * Sec. 40. AS 21.22 is amended by adding a new section to read:

31 Sec. 21.22.085. TRANSACTIONS INVOLVING A DOMESTIC INSURER REQUIRING

1 DIRECTOR REVIEW. (a) The following transactions involving a domestic insurer and a person
2 in its holding company system may not be entered into unless the insurer has notified the director
3 in writing of the insurer's intention to enter into the transaction at least 30 days before the
4 transaction, or a shorter period if allowed by the director, and the director has not disapproved
5 the transaction within the required notice period:

6 (1) a sale, purchase, exchange, loan or extension of credit, guarantee, or
7 investment, provided the transaction is equal to or exceeds

8 (A) with respect to insurers other than life insurers, the lesser of three
9 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
10 policyholder surplus, each calculated under AS 21.21.020(d); or

11 (B) with respect to life insurers, three percent of the insurer's admitted
12 assets calculated under AS 21.21.020(d);

13 (2) a loan or extension of credit to a person who is not an affiliate, where the
14 insurer makes loans or extensions of credit with the agreement or understanding that the proceeds
15 of the transaction, in whole or in substantial part, are to be used to make a loan or extension of
16 credit to, purchase an asset of, or make an investment in an affiliate of the insurer making the
17 loan or extension of credit provided the transaction is equal to or exceeds

18 (A) with respect to insurers other than life insurers, the lesser of three
19 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
20 policyholder surplus, each calculated under AS 21.21.020(d); or

21 (B) with respect to life insurers, three percent of the insurer's admitted
22 assets calculated under AS 21.21.020(d);

23 (3) a reinsurance agreement or modification in which the reinsurance premium
24 or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that
25 pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that
26 may require as consideration the transfer of assets from an insurer to a nonaffiliated if an
27 agreement or understanding exists between the insurer and nonaffiliated that a portion of the
28 assets will be transferred to an affiliate of the insurer;

29 (4) a management agreement, service contract, or cost-sharing arrangement; and

30 (5) a material transaction specified by regulation that the director determines may
31 adversely affect the interests of the insurer's policyholders.

1 (b) Nothing in (a) of this section authorizes or permits a transaction that, in the case of
2 an insurer not a member of the same holding company system, would violate a provision of law.

3 (c) A domestic insurer may not enter into a transaction that is part of a plan or series of
4 similar transactions with persons within the holding company system if the purpose of the
5 separate transaction is to avoid the statutory threshold amount and avoid review that would
6 otherwise occur. If the director determines that this separate transaction is entered into over a
7 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i),
8 21.22.170, AS 21.36.320, and 21.36.360(a).

9 (d) The director, in reviewing a transaction under this section, shall consider whether the
10 transaction complies with the standards provided in AS 21.22.080 and whether the transaction
11 may adversely affect the interests of policyholders.

12 (e) A domestic insurer shall notify the director within 30 days of an investment of a
13 domestic insurer in a corporation if, after the investment, the total investment by the insurance
14 holding company system in a corporation exceeds 10 percent of the corporation's voting
15 securities.

16 * Sec. 41. AS 21.22.090 is amended to read:

17 Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in
18 determining whether an insurer's surplus as regards policyholders is reasonable in relation to the
19 insurer's outstanding liabilities and adequate to its financial needs, the following factors, among
20 others, shall be considered:

21 (1) the size of the insurer as measured by its assets, capital and surplus, reserves,
22 premium writings, insurance in force, and other appropriate criteria;

23 (2) the extent to which the insurer's business is diversified among the several
24 lines of insurance;

25 (3) the number and size of risks insured in each line of business;

26 (4) the extent of the geographical dispersion of the insurer's insured risk;

27 (5) the nature and extent of the insurer's reinsurance program;

28 (6) the quality, diversification, and liquidity of the insurer's investment portfolio;

29 (7) the recent past and projected future trend in the size of the insurer's
30 investment portfolio [SURPLUS AS REGARDS POLICYHOLDERS];

31 (8) the surplus as regards policyholders maintained by other comparable insurers;

- 1 (9) the adequacy of the insurer's reserves; and
2 (10) the quality and liquidity of investments in affiliates [SUBSIDIARIES] made
3 under AS 21.21; the director may treat any such investment as a disallowed asset for purposes
4 of determining the adequacy of surplus as regards policyholders whenever the director determines
5 the investment warrants it.

6 * Sec. 42. AS 21.22.100(a) is amended to read:

7 (a) A domestic insurer [SUBJECT TO REGISTRATION UNDER AS 21.22.060] may
8 not pay any extraordinary dividend or make any other extraordinary distribution to its
9 shareholders until

10 (1) 30 days after the director has received notice of the declaration of the dividend
11 or distribution and has not within that period disapproved its payment; or

12 (2) the director has approved its payment within the 30-day period.

13 * Sec. 43. AS 21.22.100(b) is amended to read:

14 (b) For purposes of this section, an extraordinary dividend or distribution includes a
15 [ANY] dividend or distribution of cash or other property, the fair market value of which together
16 with that of other dividends or distributions made within the preceding 12 months exceeds the
17 lesser [GREATER] of (1) 10 percent of the insurer's surplus as regards policyholders as of
18 December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the
19 insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the
20 12-month period ending December 31 of the preceding year; but does not include pro rata
21 distributions of any class of the insurer's own securities. In determining whether a dividend
22 or distribution is extraordinary, an insurer other than a life insurer may carry forward net
23 income from the previous two calendar years that has not already been paid out as
24 dividends. The carry forward provision shall be computed by taking the net income from
25 the second and third preceding calendar years, not including realized capital gains, less
26 dividends paid in the second and immediate preceding calendar years.

27 * Sec. 44. AS 21.22 is amended by adding a new section to read:

28 Sec. 21.22.105. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO
29 REGISTRATION. (a) Notwithstanding the control of a domestic insurer by any person, the
30 officers and directors of the insurer may not be relieved of an obligation or liability to which the
31 officers and directors would otherwise be subject to by law, and the insurer shall be managed so

1 as to assure the insurer's separate operating identity consistent with this title.

2 (b) This section does not preclude a domestic insurer from having or sharing a common
3 management or cooperative or joint use of personnel, property, or services with one or more
4 other persons under arrangements meeting the standards of AS 21.22.080.

5 (c) Not less than one-third of the directors of a domestic insurer registered under
6 AS 21.22.060 and not less than one-third of the members of each committee of the board of
7 directors of a domestic insurer registered under AS 21.22.060 shall be persons who are not
8 officers or employees of the insurer or of an entity controlling, controlled by, or under common
9 control with the insurer and who are not beneficial owners of a controlling interest in the voting
10 stock of the insurer or an entity. At least one person who is not an officer, employee, or owner
11 of a controlling interest in stock of an insurer or controlling entity must be included in a quorum
12 for the transaction of business at a meeting of the board of directors or a committee of the board
13 of directors.

14 (d) The board of directors of a domestic insurer shall establish one or more committees
15 comprised solely of directors who are not officers or employees of the insurer or of an entity
16 controlling, controlled by, or under common control with the insurer and who are not beneficial
17 owners of a controlling interest in the voting stock of the insurer or an entity. The committee
18 or committees shall have responsibility for recommending the selection of independent certified
19 public accountants, reviewing the insurer's financial condition, the scope and results of the
20 independent audit, and an internal audit, nominating candidates for director for election by
21 shareholders or policyholders, evaluating the performance of officers that are principal officers
22 of the insurer, and recommending to the board of directors the selection and compensation of the
23 principal officers.

24 (e) The provisions of (c) and (d) of this section do not apply to a domestic insurer if the
25 person controlling the insurer is an insurer having a board of directors and committees that meet
26 the requirements of (c) and (d) of this section, or to a domestic insurer that holds a certificate
27 of authority under this title on December 31, 1991.

28 * Sec. 45. AS 21.22.120 is amended to read:

29 Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the
30 information and documents obtained by or disclosed to the director or any other person in the
31 course of an examination or investigation made under AS 21.22.110 and all information reported

1 under AS 21.22.060 and all preacquisition notification information received under
2 AS 21.22.065, shall be given confidential treatment and may not be made public by the director
3 or any other person, except to insurance departments of other states, without the prior written
4 consent of the insurer to which it pertains. However, if the director, after giving the insurer and
5 its affiliates who would be affected by publication of the information notice and opportunity to
6 be heard, determines that the interests of policyholders, shareholders, or the public will be served
7 by the publication of the information, the director may publish all or part of the information in
8 the manner the director considers appropriate.

9 * Sec. 46. AS 21.22.150 is amended by adding a new subsection to read:

10 (c) This section does not apply to a security that constitutes an acquisition covered by
11 AS 21.22.065.

12 * Sec. 47. AS 21.22.160 is amended by adding a new subsection to read:

13 (b) This section does not apply to a security that constitutes an acquisition covered by
14 AS 21.22.065.

15 * Sec. 48. AS 21.22.180 is amended by adding a new subsection to read:

16 (b) This section does not apply to a violation involving a security that constitutes an
17 acquisition covered by AS 21.22.065.

18 * Sec. 49. AS 21.22.200 is amended by adding new paragraphs to read:

19 (11) "acquisition" means an agreement, arrangement, or activity the consummation
20 of which results in a person acquiring directly or indirectly the control of another person, and
21 includes the acquisition of voting securities, assets, bulk reinsurance, and mergers;

22 (12) "highly concentrated" means a market in which the share of the four largest
23 insurers is 75 percent or more of the market;

24 (13) "insurer" has the meaning given in AS 21.90.900 and includes a company
25 or group of companies under common management, ownership, or control;

26 (14) "involved insurer" means an insurer that either acquires or is acquired, is
27 affiliated with an acquirer or acquired, or is the result of a merger;

28 (15) "market" or "insurance market" means direct written insurance premium in
29 this state for a line of business as contained in the annual statement required to be filed by
30 insurers licensed to do business in this state; in determining the relevant product and geographical
31 markets, the director shall give due consideration to, among other things, the definitions or

1 guidelines adopted by the National Association of Insurance Commissioners and to information
2 submitted by parties to the acquisition; in the absence of sufficient information to the contrary,
3 the relevant product market is assumed to be the direct written insurance premium for a line of
4 business, the line being that used in the annual statement required to be filed by insurers doing
5 business in this state, and the relevant geographical market is assumed to be this state;

6 (16) "statement value" means the value that an insurer is instructed by the
7 securities valuation office of the National Association of Insurance Commissioners to carry on
8 the insurer's financial statement and that represents an investment.

9 * Sec. 50. AS 21.27.010 is repealed and reenacted to read:

10 Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not act as or represent to be
11 an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance
12 intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a
13 subject resident, located, or to be performed in this state unless licensed under this chapter. A
14 person may not act as or represent to be a managing general agent, reinsurance intermediary
15 broker, or reinsurance intermediary manager representing an insurer domiciled in this state
16 regarding a risk located outside this state unless licensed by this state.

17 (b) An insurance producer, a managing general agent, a reinsurance intermediary broker,
18 a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications
19 for, procure, place for others, or otherwise transact business for a kind or class of insurance for
20 which the person is not licensed.

21 (c) A person who for a resident of this state, or for a resident of another jurisdiction from
22 a place of business in this state, performs administrative functions, including claims
23 administration and payment, marketing administrative functions, premium accounting, premium
24 billing, coverage verification, underwriting authority, or certificate issuance only in regard to life
25 insurance, disability insurance, or annuities is not required to be licensed as a managing general
26 agent if the person

27 (1) is registered under this chapter as a third-party administrator; or

28 (2) only investigates and adjusts claims and is licensed under this chapter as an
29 independent adjuster.

30 (d) A licensee may not use a fictitious name or alias unless the licensee's legal name and
31 fictitious name or alias are on the license.

1 (e) A person who is an employee of an admitted insurer, who acts within the course and
2 scope of that employment, and within the scope of the insurer's certificate of authority is not
3 required to be additionally licensed under this section.

4 (f) A person who performs management services under a written contract for an admitted
5 insurer is not required to be licensed as a managing general agent, if

6 (1) either

7 (A) the person is a United States manager of the United States branch of
8 an alien admitted insurer; or

9 (B) the person's compensation is not based on the volume of premium
10 written; and

11 (2) the person

12 (A) is a wholly-owned subsidiary of the admitted insurer;

13 (B) wholly owns the admitted insurer;

14 (C) is a wholly-owned subsidiary of the insurance holding company
15 subject to AS 21.22 that owns or controls the admitted insurer.

16 (g) A person who performs management services for an admitted reinsurer is not required
17 to be licensed as a reinsurance intermediary manager if

18 (1) the person's compensation is not based on the volume of premium written and
19 the person

20 (A) is a wholly-owned subsidiary of the admitted insurer;

21 (B) wholly owns the admitted insurer; or

22 (C) is a wholly-owned subsidiary of an insurance holding company subject
23 to AS 21.22 that owns or controls the admitted insurer;

24 (2) the person is a United States manager of the United States branch of an alien
25 admitted insurer; or

26 (3) the person is the manager of a group, association, pool, or organization of
27 insurers that does joint underwriting and that is subject to examination by its resident insurance
28 regulator in a state that

29 (A) the director has determined has enacted provisions substantially similar
30 to those contained in this chapter; and

31 (B) is accredited by the National Association of Insurance Commissioners.

1 (h) This chapter does not apply to a person licensed to practice as an attorney at law
2 while the person is acting as an attorney at law.

3 (i) A person licensed under AS 21.75 as an attorney-in-fact is not required to be
4 additionally licensed under this chapter while acting on behalf of subscribers and within the scope
5 and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under
6 AS 21.75.

7 (j) This section does not apply to a person who

8 (1) is employed on salary or hourly wage by a person licensed under this section
9 solely for the performance of accounting, clerical, stenographic, and similar office duties;

10 (2) only secures and forwards information required for the purposes of group
11 insurance covering the unpaid balance, or remaining payments proposed to be made, in
12 connection with the purchase of merchandise or services, if the person receives no compensation,
13 directly or indirectly, arising out of or in any way relating to the insurance transactions; or

14 (3) is employed on salary by a licensee at the licensee's place of business, is
15 supervised by and reports directly to a licensee in the firm, and who, after explaining that the
16 matter must be reviewed by a licensee, may

17 (A) furnish premium estimates from published or printed lists of standard
18 rates if the person does not advise, counsel, or suggest what coverage may be needed, or
19 otherwise solicit insurance coverage;

20 (B) arrange appointments for a licensee if the person does not solicit
21 insurance coverage;

22 (C) record information from an applicant or policyholder and complete for
23 the licensee's personal review and signature, a certificate of insurance that is not a
24 contract of insurance; the licensee's signature may be by facsimile;

25 (D) inform a policyholder of the type of coverage shown in the licensee's
26 policy record if the person does not advise that an event or hypothetical event is or is not
27 covered; or

28 (E) in the physical presence of the licensee, record information from an
29 applicant or policyholder and complete for a licensee's personal review and personal
30 signature, applications, binders, endorsements, or identification cards if the person
31 discloses to the applicant or policyholder that the applicant or policyholder may review

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 uncontrolling 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