

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7570 SENATE LABOR & COMMERCE

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

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

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

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

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

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

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

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

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

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

1 on-site review.

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

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

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

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

9 (n) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a third-  
10 party administrator caused loss arising out of a violation of AS 21.27.630 - 21.27.650 to an  
11 insurer, the director may order the third-party administrator to reimburse the insurer, the  
12 rehabilitator, or the liquidator of the insurer for the loss. Reimbursement ordered under this  
13 subsection is in addition to any other liability of the third-party administrator and does not affect  
14 the rights of a policyholder, claimant, creditor, or third-party.

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

#### 18 ARTICLE 5. REINSURANCE INTERMEDIARY BROKERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 22 ARTICLE 6. REINSURANCE INTERMEDIARY MANAGERS.

### 23 Sec. 21.27.730. REINSURANCE INTERMEDIARY MANAGER QUALIFICATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.

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

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

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

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

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

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

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

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

1 for each reinsurer that it represents;

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

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

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

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

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

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

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

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

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

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

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

29 (ii) involves a coverage dispute;

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

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

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

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

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

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

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

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

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

21 (14) the reinsurance intermediary manager may not

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

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

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

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

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

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

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

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

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

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

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

30 (e) The reinsurer shall

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

1 processing operations of each reinsurance intermediary manager;

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

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

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

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

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

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

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

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

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

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

1 territory;

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

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

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

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

7 (6) the names and addresses of reinsurers;

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

11 (8) related correspondence and memoranda;

12 (9) proof of placement;

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

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

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

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

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

25 ARTICLE 7. SURPLUS LINES BROKER.

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

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

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

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

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

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

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

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

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

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

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

1 physically accompanies the trainee.

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

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

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

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

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

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

16 (3) gross premium charged;

17 (4) a return premium paid;

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

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

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

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

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

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

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

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

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

28 (14) the application.

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

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

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

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

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

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

11 (5) failure to make a required report;

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

14 (7) failure to maintain a required bond.

#### 15 ARTICLE 8. INDEPENDENT ADJUSTERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 physically accompanies the trainee.

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

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

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

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

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

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

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

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

31 (1) the individual and firm name;

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

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

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

#### 13 ARTICLE 9. DEFINITIONS.

14 Sec. 21.27.900. DEFINITIONS. In this chapter,

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

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

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

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

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

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

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

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

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

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

26 (18) "resident" means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (5) protect the revenue of the state;

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

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

22 (8) maintain reliable insurance markets.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) This section does not apply to

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

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

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

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

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

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

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

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

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

20 (5) reinsurance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the policy.

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

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

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

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

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

18 (c) There is levied upon the obligation, chose in action, or right represented by the  
19 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums  
20 charged for the insurance other than wet marine and transportation insurance and a premium  
21 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and  
22 transportation insurance. The term "premium" includes all premiums, membership fees,  
23 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and  
24 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar  
25 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to  
26 the director. In event of cancellation and rewriting of the insurance contract the additional  
27 premium for premium receipts tax purposes is the premium in excess of the unearned premium  
28 of the cancelled insurance contract. If the tax prescribed by this section is not paid within  
29 the time stated, the tax may be increased by  
30 (1) a late payment fee of \$1,000 or 10 percent of the tax due, whichever is  
31 greater;

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

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

5 \* Sec. 111. AS 21.33.051(d) is repealed and reenacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Sec. 21.33.910. DEFINITIONS. In this chapter,

- 29 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;  
30 (2) "transaction of insurance" means the solicitation, negotiation, procurement,  
31 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16                   (1) is in unsound financial condition;

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

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

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

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

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

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

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

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

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

1 (5) other information required by the director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 \* Sec. 137. AS 21.34.900 is repealed and reenacted to read:

22 Sec. 21.34.900. DEFINITIONS. In this chapter,

23 (1) "capital" means money paid in for stock or other evidence of ownership;

24 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a  
25 surplus lines broker may place surplus lines insurance under AS 21.34.040;

26 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;

27 (4) "kind of insurance" means one of the kinds of insurance defined in  
28 AS 21.12.040 - 21.12.110;

29 (5) "producing broker" means the insurance producer or surplus lines broker  
30 licensed under AS 21.27 dealing directly with the client seeking insurance;

31 (6) "reciprocal state" means a state that the director has determined has enacted

1 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

2 (7) "surplus," as used in the financial requirements of AS 21.34.040, means  
3 money over and above liabilities and capital of the company for the protection of policyholders;

4 (8) "transaction of insurance" means the solicitation, negotiation, procurement,  
5 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;  
6 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or  
7 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of  
8 insurance and arising out of it;

9 (9) "wet marine and transportation insurance" means

10 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,  
11 except vessels of 50 displacement tons or less;

12 (B) insurance of marine builders risks, marine war risks, and contracts of  
13 marine protection and indemnity insurance;

14 (C) insurance of freight and disbursements pertaining to a subject of  
15 insurance coming within this paragraph; and

16 (D) insurance of personal property and interests in personal property, in  
17 course of exportation from or importation into a country or in the course of coastal or  
18 inland water transportation, including transportation by land, water, or air from point of  
19 origin to final destination in connection with any and all risks or perils of navigation,  
20 transit, or transportation, and while being repaired for and while awaiting shipment, and  
21 during any delays, transshipment, or reshipment incident to them.

22 \* Sec. 138. AS 21.36.020 is amended to read:

23 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person  
24 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject  
25 resident, located, or to be performed in this state that is defined in this chapter as, or  
26 determined under this chapter to be, an unfair method of competition or an unfair or deceptive  
27 act or practice in the business of insurance.

28 \* Sec. 139. AS 21.36 is amended by adding a new section to read:

29 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may  
30 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,  
31 financial counselor, or similar specialist engaged in the business of giving financial planning or

1 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when  
2 the person is in fact only engaging in the sale of insurance.

3 (b) A person may not engage in the business of financial planning and solicit the sale  
4 of a product or service on the basis that the person is an insurance salesperson or that a  
5 commission for the sale of an insurance product will be received in addition to a fee for financial  
6 planning without full disclosure to the client before the execution of the agreement required in  
7 (c) of this section.

8 (c) A person licensed under this title may not charge a fee other than a commission for  
9 financial planning unless the fee is based upon a written agreement signed before the  
10 performance of a service under the agreement. The insurance salesperson shall provide the client  
11 a copy of the signed agreement at the time of signing. The agreement must specifically state the  
12 service for which a fee is to be charged and how the fee will be determined or calculated. The  
13 agreement must provide that the client is under no obligation to purchase an insurance product.  
14 The licensee shall retain a copy of the agreement for not less than five years after completion of  
15 services and the agreement shall be available to the director upon request.

16 \* Sec. 140. AS 21.36.150(a) is amended to read:

17 (a) If the director believes that a person engaged in the insurance business is engaging  
18 in this state in an unfair method of competition or in an unfair or deceptive act or practice in the  
19 conduct of the business that is not defined as being unfair or deceptive under this title  
20 [CHAPTER], the director shall hold a hearing on the matter, if the director believes it would be  
21 in the public interest to do so after giving notice of the hearing and of the charges. Upon  
22 conclusion of the hearing the director shall make a written report of the findings of fact relative  
23 to the charges and serve a copy upon the person and any intervenor at the hearing.

24 \* Sec. 141. AS 21.36.150(b) is amended to read:

25 (b) If the report charges a violation of this title [CHAPTER] and if the method of  
26 competition, act, or practice has not been discontinued, the director may, through the attorney  
27 general of this state, at any time after the service of the report, cause an action to be instituted  
28 to enjoin and restrain the person from engaging in the method, act, or practice. In the action the  
29 court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not  
30 be required to give security before the issuance of the order or injunction. If a stenographic  
31 [SIENOGRAPH] record of the proceedings in the hearing before the director was made, a

1 certified transcript, including all evidence taken and the report and findings, shall be received in  
2 evidence in the action.

3 \* Sec. 142. AS 21.36.150 is amended by adding a new subsection to read:

4 (d) In addition to the unfair methods and unfair or deceptive acts or practices expressly  
5 defined in this title, the director may adopt regulations to define other methods of competition  
6 and other acts and practices in the conduct of the business of insurance found by the director to  
7 be unfair or deceptive.

8 \* Sec. 143. AS 21.36.220(c) is amended to read:

9 (c) If an insurer cancels a policy under this section, it shall return or credit any unearned  
10 premium to the agent or broker of record or directly to the insured or premium finance company,  
11 if applicable, before the effective date of cancellation, except that

12 (1) an unearned premium shall be returned or credited within 45 [30] days after  
13 notice of cancellation is given, if cancellation is for

14 (A) nonpayment of premium, including nonpayment of additional  
15 premiums, calculated in accordance with the current rating manual of the insurer, justified  
16 by a physical change in the insured property, a change in its occupancy or use, or a  
17 change in payroll, receipts, values, or other exposure units;

18 (B) conviction of the insured of a crime having as one of its necessary  
19 elements an act increasing a hazard insured against;

20 (C) discovery of fraud or material misrepresentation made by the insured  
21 or a representative of the insured in obtaining the insurance or by the insured in pursuing  
22 a claim under the policy;

23 (D) failure or refusal of the insured to provide the information necessary  
24 to confirm exposure or necessary to determine the policy premium;

25 (E) a reason described in AS 21.36.210(a)(2);

26 (2) the insurer shall perform or waive the audit before the effective date of the  
27 cancellation and return or credit any estimated unearned premium before the effective date of  
28 cancellation if the policy is subject to audit and is cancelled for a reason other than those  
29 described in (1)(A) - (D) of this subsection.

30 \* Sec. 144. AS 21.36.255(a) is amended to read:

31 (a) If an insurance policy is cancelled, rejected, or rescinded by the

1 (1) insurer, the insurer shall return or credit any [REFUND THE] unearned  
2 premium paid to the agent or broker of record, or directly to the insured or premium finance  
3 company, if applicable; or

4 (2) insured, the insurer shall return or credit any unearned premium to the agent  
5 or broker of record or directly [PAID] to the insured or premium finance company, if  
6 applicable, less a cancellation fee not to exceed 7.5 percent of the unearned premium; a  
7 cancellation fee may not be charged unless the fee is clearly stated in the policy; the insurer  
8 shall return or credit the unearned premium less a lawful cancellation fee

9 (A) within 45 days of receipt of the request for cancellation or the  
10 effective date of cancellation, whichever is later, on a policy not subject to audit; or

11 (B) within 45 days of completion of an audit; the insurer shall perform  
12 and complete an audit within 45 days of receipt of the request for cancellation or the  
13 effective date of cancellation, whichever is later, unless the audit cannot reasonably  
14 be completed using due diligence and the insured is advised in writing of the reason  
15 why additional time is necessary to complete the audit and when the audit will be  
16 completed.

17 \* Sec. 145. AS 21.36.310(1) is amended to read:

18 (1) "business or commercial insurance" means insurance other than personal  
19 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title  
20 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN  
21 AS 21.34.900,] or an annuity contract;

22 \* Sec. 146. AS 21.36.320(a) is amended to read:

23 (a) On the complaint of a person or on the motion of the director, the director may  
24 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an  
25 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

26 \* Sec. 147. AS 21.36.320(c) is amended to read:

27 (c) If the director determines that a person violated [ON A FINDING OF A  
28 VIOLATION OF] this chapter, the director shall serve upon the person charged an order  
29 requiring that person to cease and desist from engaging in the act or practice [STOP THE  
30 ACTS OR PRACTICES].

31 \* Sec. 148. AS 21.36.320(d) is amended to read:

1 WORK DRAFT ion to an order issued under (c) of this section, the director may, after a  
 2 (restoration, assess [ALSO ORDER] a penalty of not more than \$1,000 for each  
 3 hearing) or \$10,000 for engaging in a general business practice in violation of this  
 4 violation

5 ch AS 21.36.320(e) is amended to read:

6 \* Sec. 150. (e) If the director determines after a hearing that the person charged knew or should  
 7 have known that the person was in violation of this chapter, in addition to the [A] penalty [IN  
 8 ADDITION TO THAT] prescribed in (d) of this section, a suspension or revocation of the  
 9 person's license and a penalty of not more than \$25,000 [\$1,000] for each violation [ACT] or  
 10 \$250,000 [\$25,000] for engaging in the general business practice in violation of this chapter [,  
 11 OR SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also  
 12 be ordered by the director.

13 \* Sec. 150. AS 21.36.320(f) is amended to read:

14 (f) If the director believes that a person has violated a cease and desist [STOP] order  
 15 issued under (c) of this section, the director may certify the relevant facts to the superior court  
 16 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and  
 17 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist  
 18 [STOP] order has been violated, may order the violator to comply with the order, pay an  
 19 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may  
 20 revoke or suspend the violator's license, and may bar the violator from transacting the  
 21 business of insurance in the future [OR BOTH].

22 \* Sec. 151. AS 21.36.320 is amended by adding a new section to read:

23 (g) In determining the penalty imposed under (d) and (e) of this section, the director shall  
 24 consider the amount of loss caused by the violation and the amount of benefit derived by the  
 25 person by reason of the violation.

26 \* Sec. 152. AS 21.36.350 is amended to read:

27 Sec. 21.36.350. ENFORCEMENT. The director may [OF INSURANCE SHALL] adopt  
 28 regulations to implement, define, and enforce this chapter [AS 21.36.125].

29 \* Sec. 153. AS 21.36.370 is amended to read:

30 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING  
 31 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

1 (d) In addition to an order issued under (c) of this section, the director may, after a  
2 hearing, order restitution, assess [ALSO ORDER] a penalty of not more than \$1,000 for each  
3 violation [ACT] or \$10,000 for engaging in a general business practice in violation of this  
4 chapter.

5 \* Sec. 149. AS 21.36.320(e) is amended to read:

6 (e) If the director determines after a hearing that the person charged knew or should  
7 have known that the person was in violation of this chapter, in addition to the [A] penalty [IN  
8 ADDITION TO THAT] prescribed in (d) of this section, a suspension or revocation of the  
9 person's license and a penalty of not more than \$25,000 [\$1,000] for each violation [ACT] or  
10 \$250,000 [\$25,000] for engaging in the general business practice in violation of this chapter [,  
11 OR SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also  
12 be ordered by the director.

13 \* Sec. 150. AS 21.36.320(f) is amended to read:

14 (f) If the director believes that a person has violated a cease and desist [STOP] order  
15 issued under (c) of this section, the director may certify the relevant facts to the superior court  
16 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and  
17 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist  
18 [STOP] order has been violated, may order the violator to comply with the order, pay an  
19 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may  
20 revoke or suspend the violator's license, and may bar the violator from transacting the  
21 business of insurance in the future [OR BOTH].

22 \* Sec. 151. AS 21.36.320 is amended by adding a new section to read:

23 (g) In determining the penalty imposed under (d) and (e) of this section, the director shall  
24 consider the amount of loss caused by the violation and the amount of benefit derived by the  
25 person by reason of the violation.

26 \* Sec. 152. AS 21.36.350 is amended to read:

27 Sec. 21.36.350. ENFORCEMENT. The director may [OF INSURANCE SHALL] adopt  
28 regulations to implement, define, and enforce this chapter [AS 21.36.125].

29 \* Sec. 153. AS 21.36.370 is amended to read:

30 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING  
31 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

1                   (1)] the charging and collection by surplus line brokers licensed under AS 21.27  
 2                   [AS 21.33] of the amount of applicable state and federal taxes and filing fees under AS 21.34  
 3                   is not considered a premium or charge for insurance [AS 21.34.180 - 21.34.190;

4                   (2) THE CHARGING AND COLLECTION BY A LIFE INSURER OF  
 5                   AMOUNTS ACTUALLY TO BE EXPENDED FOR MEDICAL EXAMINATION OF AN  
 6                   APPLICANT FOR LIFE INSURANCE OR FOR REINSTATEMENT OF A LIFE INSURANCE  
 7                   POLICY].

8 \* Sec. 154. AS 21.42 is amended by adding a new section to read:

9                   AS 21.42.025. INSTITUTIONAL BENEFICIARY INSTEAD OF INSURABLE  
 10                   INTEREST. (a) Except as provided under (e) of this section, a life insurance contract may be  
 11                   entered into in which a charitable organization is designated as the beneficiary or in which the  
 12                   person or organization paying the premium for the insurance has no insurable interest in the life  
 13                   of the individual insured.

14                   (b) To enter into a contract of life insurance described in (a) of this section

15                   (1) the person or organization paying the premium shall make and sign the  
 16                   application for life insurance as owner and irrevocably designate a charitable organization as the  
 17                   beneficiary of the life insurance contract; and

18                   (2) the application shall be signed by the individual whose life is to be insured.

19                   (c) This section does not prohibit any combination of the insured, applicant, premium  
 20                   payer, owner, and beneficiary from being the same person or the insured from modifying the  
 21                   contract.

22                   (d) A contract of life insurance described in (a) of this section that is not for the benefit  
 23                   of a charitable organization described in (e) of this section is valid and binding among the parties  
 24                   in the absence of an insurable interest described in AS 21.42.020.

25                   (e) A contract of life insurance may not be entered into by a charitable organization

26                   (1) that

27                   (A) loans to a controlling person a part of its income or corpus without  
 28                   the receipt of adequate security and a reasonable rate of interest;

29                   (B) pays to a controlling person compensation in excess of a reasonable  
 30                   allowance for salaries or other compensation for personal services actually rendered;

31                   (C) makes a part of its services available on a preferential basis to a

1 controlling person;

2 (D) makes a substantial purchase of securities or other property for more  
3 than adequate consideration in money or money's worth from a controlling person;

4 (E) sells a substantial part of its securities or other property for less than  
5 an adequate consideration in money or money's worth to a controlling person; or

6 (F) engages in another transaction that results in a substantial diversion  
7 of its income or corpus to a controlling person;

8 (2) if a substantial part of its activities consists of providing commercial type of  
9 insurance;

10 (3) that is chartered by or is an instrumentality of the federal government; or

11 (4) if the charter, bylaws, or other governing instrument or a written policy  
12 statement contains a provision that provides for discrimination against a person on the basis of  
13 race, color, or religion.

14 (f) Paragraph (e)(4) of this section does not apply to

15 (1) an auxiliary or feeder organization of a fraternal beneficiary society if the  
16 society is described in 26 U.S.C. 501(c)(8), is exempt from tax under 26 U.S.C. 501(a), and  
17 limits its membership to the members of a particular religion; or

18 (2) a club or feeder organization exempt from tax under 26 U.S.C. 501(a) that in  
19 good faith limits its membership to the members of a particular religion in order to further the  
20 teachings or principles of that religion and not to exclude individuals of a particular race or color.

21 (g) In this section,

22 (1) "charitable organization" means a

23 (A) charitable organization described in 26 U.S.C. 170(b)(1)(A), 26 U.S.C.  
24 170(c)(2) - (5), and 42 U.S.C. 701(c);

25 (B) feeder organization; or

26 (C) organization providing child care;

27 (2) "commercial type of insurance" means all other insurance except

28 (A) insurance provided at substantially below cost to a class of charitable  
29 recipients; or

30 (B) incidental health insurance provided by a health maintenance  
31 organization of a kind customarily provided by the organization;

1 (3) "controlling person" means the creator of a charitable organization, if a trust;  
2 a person who has made a substantial contribution to a charitable organization; a member of the  
3 family, or a successor of an individual who is the creator of the trust or who has made a  
4 substantial contribution to the charitable organization; or a corporation controlled by the creator  
5 or person through ownership, directly or indirectly, of 50 percent or more of the total combined  
6 voting power of all classes of stock entitled to vote or 50 percent or more of the total value of  
7 shares of all classes of stock of the corporation;

8 (4) "feeder organization" means an organization operated on a for profit basis, 95  
9 percent or more of whose profits are donated to one or more charitable organizations;

10 (5) "member of the family" has the meaning given in 26 U.S.C. 267(c)(4);

11 (6) "organization providing child care" means a charitable organization providing  
12 for care of children away from their homes if

13 (A) substantially all of the care provided by the organization is for  
14 purposes of enabling individuals to be gainfully employed; and

15 (B) the services provided by the organization are available to the general  
16 public.

17 \* Sec. 155. AS 21.66.010(a) is amended to read:

18 (a) Before a domestic or foreign title insurance company is entitled to a certificate of  
19 authority to transact a title insurance business in this state it shall have basic capital, additional  
20 surplus when first authorized, and additional maintained surplus as required by  
21 AS 21.09.070 including a deposit as required in AS 21.09.090 [A PAID-UP UNIMPAIRED  
22 CASH CAPITAL EQUAL TO NOT LESS THAN \$250,000, \$100,000 OF WHICH SHALL BE  
23 DEPOSITED WITH THE DIRECTOR OF INSURANCE AS A GUARANTY FUND FOR THE  
24 PROTECTION OF THE INSURED UNDER POLICIES OF TITLE INSURANCE ISSUED BY  
25 THE COMPANY].

26 \* Sec. 156. AS 21.66.010(b) is amended to read:

27 (b) A domestic or foreign title insurance company shall have on deposit with the director  
28 or insurance commissioner of the state of its domicile, before the issuance of any policy of title  
29 insurance in this state, the amount required by AS 21.09.090 for the purpose described in that  
30 section [SUM OF \$100,000 AS A GUARANTEE FUND FOR THE SECURITY AND  
31 PROTECTION OF ITS POLICYHOLDERS OR THEIR BENEFICIARIES WHEREVER

1 SITUATED]. The amount of this deposit shall be increased by the sum of \$50,000 for each state  
2 or territorial subdivision of the United States or the District of Columbia, other than the state of  
3 its domicile, in which it becomes qualified to engage in the business of title insurance, less the  
4 amount required by and deposited in the other states or territorial subdivisions, provided [  
5 HOWEVER,] the deposits shall be for the security and protection of its policyholders or their  
6 beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states  
7 or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further  
8 deposit is required of the title insurance company as a condition of engaging in the business of  
9 title insurance in this state.

10 \* Sec. 157. AS 21.66.020 is amended to read:

11 Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of  
12 each annual statement the title insurance company shall deposit with the director a sum equal to  
13 10 percent of the premiums received by it during the preceding year covering property in this  
14 state, as shown by the annual statement, until the accumulated deposits, added to the sums  
15 originally deposited with the director, as provided in this chapter, total \$750,000 [\$100,000] but  
16 [IN NO EVENT MAY] the title insurance company may not be required to deposit more than  
17 \$50,000 [\$10,000] in any one year.

18 \* Sec. 158. AS 21.66.060 is amended to read:

19 Sec. 21.66.060. DIVIDENDS. A title insurance company may not pay dividends except  
20 from net profits remaining on hand after retaining unimpaired

21 (1) the subscribed capital stock;

22 (2) the amount required to be set aside as unearned premium reserve fund under

23 AS 21.18.073:

24 (3) a sum sufficient to pay current liabilities for operating expenses and taxes, and  
25 losses established or in process of settlement, without impairment of the unearned premium  
26 reserve fund required under AS 21.18.073.

27 \* Sec. 159. AS 21.66.080(a) is amended to read:

28 (a) Every [TITLE INSURANCE] company, on or before March 1 of each year, shall  
29 furnish the director a sworn statement of assets and liabilities, and of all title premiums received  
30 by it during the preceding calendar year, setting out among other things the amounts that  
31 [THREE PERCENT OF ALL GROSS PREMIUMS ON TITLE INSURANCE POLICIES

1 ISSUED BY IT DURING THE YEAR, COVERING PROPERTY IN THIS STATE,] have been  
2 set aside and held by it in an account required under AS 21.18.073 [KNOWN AS THE TITLE  
3 INSURANCE UNEARNED PREMIUM RESERVE FUND, AS PROVIDED IN THIS  
4 CHAPTER]. The reporting format for a given year is the most recently approved National  
5 Association of Insurance Commissioners [COMMISSIONERS'] Annual Financial Statement  
6 blank form and instructions, supplemented for additional information as required by the director.  
7 The director may require the statement to be filed on electronic media. The statement must also  
8 show all unpaid losses and claims upon title insurance policies of which the title insurance  
9 company has received due notice in writing from or on behalf of the insured. With the filing of  
10 the statement the title insurance company shall pay a filing fee set under AS 21.06.250.

11 \* **Sec. 160.** AS 21.66.090(a) is amended to read:

12 (a) Every company, before engaging in a title insurance business in this state, shall apply  
13 to the director for a certificate of authority to transact business under AS 21.09. [THE  
14 COMPANY SHALL SUBMIT WITH THE APPLICATION A STATEMENT SWORN TO BY  
15 THE PROPER OFFICERS OF THE COMPANY SHOWING ITS ASSETS AND LIABILITIES  
16 AND THAT IT HAS COMPLIED WITH THE CAPITAL REQUIREMENTS AND INITIAL  
17 GUARANTEE FUND DEPOSIT PRESCRIBED BY THIS CHAPTER.]

18 \* **Sec. 161.** AS 21.66.110 is amended to read:

19 Sec. 21.66.110. ANNUAL TAX ON TITLE INSURANCE PREMIUMS. Annually each  
20 title insurance company shall pay on or before March 1 [APRIL 1], a tax of one percent of the  
21 amount of gross title insurance premiums received by it including as premium income received  
22 from guaranteed certificates of title and other guarantees of title during the preceding calendar  
23 year covering property in this state, as shown by its annual statement to the director.

24 \* **Sec. 162.** AS 21.66.170(a) is amended to read:

25 (a) A policy or contract of title insurance may not be written until the title insurance  
26 company conducts or has conducted a reasonable search and examination of the title and has  
27 made a determination of insurability of title in accordance with its established underwriting  
28 practices. Evidence of the determination shall be preserved and retained in the files of the title  
29 insurance company or its agent for a period of not less than 15 years after the policy or contract  
30 of title insurance has been issued. In lieu of retaining the original evidence, the title insurance  
31 company or the title insurance limited producer [AGENT], may, in the regular course of

1 business, establish a system by which all or part of these writings are recorded, copied, or  
2 reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or  
3 other process that accurately reproduces or forms a durable medium for reproducing the original.

4 \* Sec. 163. AS 21.66.180 is amended to read:

5 Sec. 21.66.180. GENERAL POWERS. A title insurance company may

6 (1) do business as defined in AS 21.66.480;

7 (2) do any act, directly or through a title insurance limited producer [AGENT],  
8 incidental to making a contract or policy of title insurance, including, but not limited to,  
9 conducting or holding an escrow, settlement, or closing of a transaction; and,

10 (3) provide other services relative or incidental to the sale and transfer of real or  
11 personal property.

12 \* Sec. 164. AS 21.66.210(a) is amended to read:

13 (a) Two or more title insurance companies or two or more title insurance limited  
14 producers, or a combination of title insurance companies and title insurance limited  
15 producers [AND ONE OR MORE TITLE INSURANCE AGENTS] may apply to the director  
16 of insurance to form an association, corporation, or other legal entity, for the purpose of engaging  
17 in the business of preparing abstracts of title searches from public records or from records to be  
18 owned by the entity, upon the basis of which a title insurance limited producer [AGENT] or a  
19 title insurance company will issue title policies. The owners or participants are considered to be  
20 in compliance with the provisions of this section if the title plant of the association, corporation,  
21 or other legal entity complies with the provisions of this section. The application must contain

22 (1) a copy of the proposed articles of incorporation or association and the bylaws  
23 or agreement governing the operation of the entity;

24 (2) a list of the owners or participants;

25 (3) the names and addresses of the persons who will operate the entity, with a  
26 description of their experience and qualifications;

27 (4) the conditions under which ownership or participation in the entity may be  
28 sold or acquired;

29 (5) a statement of whether or not title information will be compiled and sold to  
30 persons other than owners of or participants in the entity;

31 (6) a pro forma balance sheet and other financial information to indicate the

1 sufficiency of financing the entity.

2 \* Sec. 165. AS 21.66.270 is amended to read:

3 Sec. 21.66.270. TITLE INSURANCE LIMITED PRODUCERS [AGENTS] TO BE  
4 LICENSED. A title [TITLE] insurance limited producer [AGENTS] shall be licensed in the  
5 manner provided for [AGENTS OF INSURANCE COMPANIES] in AS 21.27. A title  
6 insurance limited producer may not be licensed to sell insurance other than title insurance.

7 \* Sec. 166. AS 21.66.280 is amended to read:

8 Sec. 21.66.280. TITLE INSURANCE LIMITED PRODUCERS [AGENTS], BOOKS,  
9 AND RECORDS. (a) In addition to any other requirement of this title, a [EACH] title  
10 insurance limited producer licensee [AGENT] shall maintain books of accounts and records and  
11 vouchers pertaining to the business of title insurance in a manner that the director, or an  
12 authorized representative, may readily ascertain whether the licensee [AGENT] has complied with  
13 the provisions of this chapter.

14 (b) A title insurance limited producer licensee [AGENT] may engage in the business  
15 of handling escrows, settlements, and closings in connection with the business of title insurance;  
16 however,

17 (1) the licensee [AGENT] shall maintain a separate record of all receipts and  
18 disbursements of escrow funds and may not commingle the funds with personal funds or with  
19 funds held by the licensee [AGENT] in any other capacity;

20 (2) the licensee [AGENT] shall comply with the standards of solvency that the  
21 director requires; and

22 (3) the licensee [AGENT] shall submit financial statements that the director  
23 requires.

24 (c) In addition to any other penalty provided by law, if [IF] the director determines  
25 that a title insurance limited producer licensee [AN AGENT] has failed to comply with a  
26 provision of this section, the director may, after a hearing, revoke the limited producer license  
27 [OF THE AGENT].

28 \* Sec. 167. AS 21.66.290 is amended to read:

29 Sec. 21.66.290. TITLE INSURANCE LIMITED PRODUCER [AGENT] REPLIES  
30 TO DIRECTOR INQUIRIES. A [EACH] title insurance limited producer [AGENT] shall reply  
31 in writing promptly, with a copy of the reply mailed to each title insurance company for which

1 the licensee [AGENT] is acting, to an inquiry of the director relating to the licensee's  
2 [AGENT'S] acts as a title insurance limited producer [AGENT]. In addition to any other  
3 penalty provided by law, failure [FAILURE] to reply is a ground for revocation of the  
4 [AGENT'S] license. A [IN ADDITION, A] copy of the inquiry shall be sent by the director to  
5 each title insurance company for which the licensee [AGENT] is acting.

6 \* Sec. 168. AS 21.66.300 is amended to read:

7 Sec. 21.66.300. CERTAIN [AGENCY] NAMES PROHIBITED. A title insurance  
8 limited producer [AFTER AUGUST 14, 1974, AN AGENT] for a title insurance company may  
9 not adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee",  
10 unless the words are followed by the words "agent" or "agency" in the same size and type as the  
11 words preceding them. This section does not apply to a title insurance company acting as an  
12 agent for another title insurance company.

13 \* Sec. 169. AS 21.66.310(a) is amended to read:

14 (a) A title insurer, or officer, employee, attorney, or title insurance limited producer  
15 [AGENT, OR SOLICITOR] of a title insurer, may not pay, allow, or give or offer to pay, allow,  
16 or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate,  
17 reduction, or abatement of a rate or charge made incident to the issuance of the title insurance,  
18 a special favor or advantage, money consideration, or other inducement. A charge made incident  
19 to the issuance of the insurance is construed to include, without limitation, escrow, settlement,  
20 and closing charges.

21 \* Sec. 170. AS 21.66.310(c) is amended to read:

22 (c) Nothing in this section prohibits

23 (1) the payment of fees for services actually rendered as a result of a title  
24 insurance transaction; or

25 (2) the payment of a commission to a legally appointed title insurance limited  
26 producer [AGENT] who issues the policy of title insurance.

27 \* Sec. 171. AS 21.66.330 is amended to read:

28 Sec. 21.66.330. EXAMINATION OF RECORDS. If the director has reason to believe  
29 that a title insurance limited producer [AGENT] has violated or is in violation of AS 21.66.310,  
30 the director shall immediately examine the title insurance limited producer's [AGENT'S] books  
31 of account and record and vouchers pertaining to the business of title insurance. The title

1 insurance limited producer [AGENT] shall pay to the director the cost of an examination  
2 conducted under this section.

3 \* Sec. 172. AS 21.66.350 is amended to read:

4 Sec. 21.66.350. DIVISION OF RATES. Nothing in this chapter prohibits the division  
5 of rates and charges between or among a title insurance company and its agent, two or more title  
6 insurance companies, one or more title insurance companies and one or more title insurance  
7 limited producers [AGENTS], or two or more title insurance limited producers [AGENTS,]  
8 if the division of rates and charges does not constitute an unlawful rebate and is not in payment  
9 of a forwarding fee or finder's fee.

10 \* Sec. 173. AS 21.66.370(a) is amended to read:

11 (a) A title insurance company shall file with the director its schedules of rates, manuals  
12 of classifications, rules and plans relating to schedules of rates or manuals of classification, and  
13 every modification of the schedules or manuals that it proposes to use in this state. A filing  
14 under this section must contain the effective dates of the documents filed, and indicate the  
15 character and extent of the coverage contemplated. [A TITLE INSURANCE COMPANY MAY  
16 SATISFY ITS OBLIGATIONS TO MAKE THESE FILINGS BY BECOMING A MEMBER OF,  
17 OR A SUBSCRIBER TO, A LICENSED TITLE INSURANCE RATING ORGANIZATION  
18 THAT MAKES SUCH FILINGS, AND BY AUTHORIZING THE COMMISSIONER TO  
19 ACCEPT THE FILINGS ON ITS BEHALF.]

20 \* Sec. 174. AS 21.66.370(c) is amended to read:

21 (c) Subject to the provisions of (e) of this section, a [EACH] filing shall be on file for  
22 a period of 30 days before it becomes effective. The director may, upon written notice given  
23 within the 30-day period to the person making the filing, extend the waiting period for an  
24 additional period, not to exceed 30 days, in order to complete the review of the filing. Additional  
25 extensions of the waiting period may also be made with the consent of the title insurance  
26 company [OR RATING ORGANIZATION]. Upon written application by the title insurance  
27 company [OR RATING ORGANIZATION], the director, after review of the application, may  
28 authorize a filing or any part of it to become effective upon the expiration of the waiting period  
29 or its extension.

30 \* Sec. 175. AS 21.66.370(f) is amended to read:

31 (f) A title insurance company or title insurance limited producer [AGENT OF A

1 TITLE INSURANCE COMPANY] may not charge a rate for a policy or contract of title  
2 insurance except in accordance with filings or rates that are in effect for the title insurance  
3 company as provided in this chapter.

4 \* Sec. 176. AS 21.66.380(a) is amended to read:

5 (a) A rate filing shall be accompanied by a statement of the title insurance company [OR  
6 TITLE INSURANCE RATING ORGANIZATION] making the filing, setting out the basis on  
7 which the rate was determined, with the rates computed. A filing of rates may be justified by

8 (1) the experience or judgment of the title insurance company [OR TITLE  
9 INSURANCE RATING ORGANIZATION] making the filing;

10 (2) its interpretation of any statistical data relied upon;

11 (3) the experience of other title insurance companies [OR TITLE INSURANCE  
12 RATING ORGANIZATIONS] making the filings; or

13 (4) any other factors that the title insurance company [OR TITLE INSURANCE  
14 RATING ORGANIZATION] considers relevant.

15 \* Sec. 177. AS 21.66.390 is amended to read:

16 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company [THAT MAKES  
17 ITS OWN RATES AND EACH TITLE INSURANCE RATING ORGANIZATION] shall make  
18 rates that are not excessive or inadequate and that do not unfairly discriminate between risks in  
19 this state that involve essentially the same exposure to loss and expense elements, and that give  
20 due consideration to

21 (1) the desirability for stability of rate structures;

22 (2) the necessity of assuring the financial solvency of title insurance companies  
23 in periods of economic depression by encouraging growth in assets of title insurance companies  
24 in periods of high business activity; and

25 (3) the necessity for assuring a reasonable margin of underwriting and operating  
26 profit.

27 (b) A title insurance company [THAT MAKES ITS OWN RATES AND EACH TITLE  
28 INSURANCE RATING ORGANIZATION] shall adopt basic classifications of policies or  
29 contracts of title insurance that [WHICH] shall be used as the basis for rate-making.

30 \* Sec. 178. AS 21.66.400(a) is amended to read:

31 (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that

1 a filing does not meet the requirements of this chapter, the director shall send to the title  
2 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made the filing,  
3 written notice of disapproval of the filing specifying in what respects the director finds the filing  
4 fails to meet the requirements of this chapter and stating that the filing may not become effective.

5 \* **Sec. 179.** AS 21.66.400(b) is amended to read:

6 (b) If at any time after the applicable review period provided for in AS 21.66.370(c) the  
7 director finds that a filing does not meet the requirements of this chapter, the director shall,  
8 before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice,  
9 specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall  
10 be given to each title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]  
11 that made the filing, and if, after the hearing, the director finds that the filing or a part of the  
12 filing does not meet the requirements of this chapter, the director shall issue an order specifying  
13 how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is  
14 considered no longer effective. A title insurance company [OR TITLE INSURANCE RATING  
15 ORGANIZATION] has the right to withdraw a filing or a part of a filing. Copies of the order  
16 issued under this section shall be sent to every title insurance company [AND TITLE  
17 INSURANCE RATING ORGANIZATION] affected. The order does not affect a contract or  
18 policy made or issued before the expiration of the period set out in the order.

19 \* **Sec. 180.** AS 21.66.400(c) is amended to read:

20 (c) A person or organization aggrieved with respect to a filing that is in effect may make  
21 a written application to the director for a hearing on the filing. The title insurance company [OR  
22 TITLE INSURANCE RATING ORGANIZATION] that made the filing may not proceed under  
23 this subsection. The application shall specify in reasonable detail the grounds to be relied on by  
24 the applicant. If the director finds that the application is made in good faith, that the applicant  
25 would be aggrieved if the applicant's grounds are established, and that the applicant's grounds  
26 otherwise justify holding a hearing, the director shall, within 60 days after receipt of the  
27 application, hold a hearing upon not less than 10 days written notice to the applicant and to each  
28 title insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made such  
29 a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the  
30 requirements of this chapter, the director shall issue an order specifying how the filing or a part  
31 of it fails to meet the requirements of this chapter, stating when, within a reasonable period after

1 the order is issued, the filing or a part of it is considered no longer effective. Copies of the order  
2 shall be sent to the applicant and to every affected title insurance company [OR TITLE  
3 INSURANCE RATING ORGANIZATION]. The order does not affect a contract or policy made  
4 or issued before the expiration of the period set out in the order.

5 \* Sec. 181. AS 21.66.400(d) is amended to read:

6 (d) A title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]  
7 to which the director has issued an order made without a hearing may, within 30 days after notice  
8 to it of the order, make a written request to the director for a hearing. The director shall hear  
9 the party or parties within 60 days after receipt of the request and shall give not less than 10 days  
10 written notice of the time and place of the hearing. Within 15 days after the hearing the director  
11 shall affirm, reverse, or modify the previous action, specifying the reasons. Pending the hearing  
12 and decision the director may suspend or postpone the effective date of the previous action.

13 \* Sec. 182. AS 21.66.410(c) is amended to read:

14 (c) In order to more uniformly administer rate regulations, the director and each title  
15 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] may exchange  
16 information and experience data with insurance supervisory officials, title insurance companies,  
17 and title insurance rating organizations in other states, and may consult with them and with each  
18 other with respect to rate making and the application of rating systems.

19 \* Sec. 183. AS 21.66.420 is amended to read:

20 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. A title insurance company  
21 or title insurance limited producer [AGENT] may not wilfully withhold information from, or  
22 knowingly give false or misleading information to the director [OR TO ANY TITLE  
23 INSURANCE RATING ORGANIZATION OF WHICH THE TITLE INSURANCE COMPANY  
24 IS A MEMBER OR SUBSCRIBER] that will affect the rates chargeable under this chapter.

25 \* Sec. 184. AS 21.66.480(4) is amended to read:

26 (4) "rate" means a charge for title insurance risk, abstracting, searching,  
27 examination or determination of insurability, and every other activity, exclusive of escrow,  
28 settlement, or closing charges, whether denominated premium or otherwise, made by a title  
29 insurance company or an agent of a title insurance company to an insured or to an applicant for  
30 insurance, for a policy or contract of title insurance; however, "rate" does not include charges  
31 paid to and retained by an attorney at law, abstractor, surveyor, tax service, or any other person

1 acting in a capacity other than as a title insurance limited producer [AGENT] and on behalf of  
2 a client other than a title insurance company, or charges made for special services, even though  
3 performed in connection with a title insurance policy or contract;

4 \* Sec. 185. AS 21.66.480(7) is amended to read:

5 (7) "title insurance limited producer [AGENT]" means a person, firm,  
6 association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized  
7 in writing by a title insurance company to solicit title insurance, collect premiums, determine  
8 insurability in accordance with the underwriting rules and standards prescribed by the title  
9 insurance company that the licensee [AGENT] represents, and issue policies in its behalf;  
10 however, the term "title insurance limited producer [AGENT]" does not include officers and  
11 salaried employees of a title insurance company;

12 \* Sec. 186. AS 21.66.480(8) is amended to read:

13 (8) "title insurance company" means a domestic company organized under the  
14 provisions of this title for the purpose of carrying on the business of title insurance, or any  
15 foreign title insurance company issued a certificate of authority to transact a title insurance  
16 business in this state and any title insurance company having the power and authority to transact  
17 a title insurance business within this state [AS OF AUGUST 14, 1974].

18 \* Sec. 187. AS 21.69.390 is amended by adding a new subsection to read:

19 (d) To meet the requirements of (a) of this section, a domestic insurer shall keep at its  
20 principal place of business in the state the following records of assets, transactions, and affairs:

21 (1) a general ledger;

22 (2) copies of reports prepared to comply with AS 21.09.200 - 21.09.210;

23 (3) if prepared in the normal course of business, financial statements prepared  
24 under general accepted accounting principals on which a licensed certified public accountant has  
25 expressed an opinion;

26 (4) filings made by a domestic insurer or affiliates of the domestic insurer with  
27 a government agency with which a domestic insurer or affiliates of the domestic insurer's  
28 securities may be registered;

29 (5) a state certificate of authority;

30 (6) filings made under AS 21.21;

31 (7) original policy and claim files for insurance of property or a risk resident or

1 located in the state;

2 (8) a corporate minutes book;

3 (9) articles of incorporation;

4 (10) corporate bylaws;

5 (11) contracts; and

6 (12) other records required by the director by regulation.

7 \* Sec. 188. AS 21.72.120(c) is amended to read:

8 (c) A copy of the annual statement certified by the director must be filed on or before  
9 the first day of March [APRIL] each year by the association in the office of the magistrate in  
10 the judicial district in which the business office of the association is located.

11 \* Sec. 189. AS 21.75.040(b) is amended to read:

12 (b) The attorney-in-fact [ATTORNEY] of a foreign or alien reciprocal insurer, that [,  
13 WHICH INSURER] is authorized to transact insurance in this state, may not, by virtue of  
14 discharge of its duties as the attorney-in-fact [ATTORNEY] with respect to the insurer's  
15 transactions in this state, be considered to be doing business in this state within the meaning of  
16 a law of this state applying to foreign firms or corporations.

17 \* Sec. 190. AS 21.75 is amended by adding a new section to read:

18 Sec. 21.75.045. LICENSING OF ATTORNEYS-IN-FACT. (a) A person may not act  
19 in the capacity of attorney-in-fact for a subscriber regarding a subject that is resident, located,  
20 or to be performed in this state or for a reciprocal insurer licensed to do business in this state  
21 unless the person is licensed under this chapter. The director may adopt regulations that establish  
22 qualifications for being licensed as an attorney-in-fact. The attorney-in-fact for a domestic  
23 reciprocal insurer transacting all of its insurance activities on a subject resident, located, and to  
24 be performed in this state is exempt from licensing under this title if the attorney-in-fact

25 (1) is a wholly-owned subsidiary of the reciprocal; and

26 (2) does not act as attorney-in-fact for another unaffiliated reciprocal insurer.

27 (b) The director may not issue or renew a license under this chapter to a person, or to  
28 be exercised by a person, found by the director to be untrustworthy, incompetent, financially  
29 irresponsible, or who has not established to the satisfaction of the director that the person is  
30 qualified under this chapter.

31 (c) To qualify for issuance or renewal of a license under this chapter, an applicant or

1 licensee shall comply with this title and

2 (1) be a trustworthy person;

3 (2) have active working experience in administrative functions that, in the

4 director's opinion, exhibits the ability to competently perform the administrative functions of an

5 attorney-in-fact;

6 (3) not have committed an act that is a cause for denial, nonrenewal, suspension,

7 or revocation of a license in this state or another jurisdiction;

8 (4) have and maintain a lawfully established place of business physically

9 accessible to the public where the attorney-in-fact principally conducts transactions under the

10 license in this state, or if for a foreign reciprocal, in the state of domicile;

11 (5) disclose to the director all officers, directors, partners, principals, or managers

12 and whether or not they are licensed in this state or another jurisdiction;

13 (6) designate an officer, partner, or principal responsible for the firm's compliance

14 with the insurance statutes and regulations of this state;

15 (7) provide certified financial statements for the prior two years prepared by an

16 independent certified public accountant that establish that the applicant is solvent, that the

17 applicant's system of accounting, internal control, and procedure is operating effectively to

18 provide reasonable assurance that money is promptly accounted for and paid to the person

19 entitled to the money, and any other information that the director may require to review the

20 current financial condition of the applicant;

21 (8) provide to the director documents necessary to verify statements contained in

22 or in connection with the application; and

23 (9) notify the director within 30 days in writing by certified mail of a change in

24 officer, director, partner, principal, or manager; place of business; mailing address; telephone

25 number; suspension or revocation of an insurance license by another state or jurisdiction; or a

26 conviction of a misdemeanor or felony of the attorney-in-fact, its officers, directors, partners,

27 owners, or employees.

28 (d) The director may adopt regulations establishing education requirements, experience

29 requirements, or examination requirements for applicants or licensees under this chapter.

30 (e) The director may require that an attorney-in-fact maintain an errors and omissions

31 insurance policy acceptable to the director.

1 (f) If the director finds that the applicant or licensee is qualified and that application,  
2 license, or renewal fees set under AS 21.06.250 have been paid, the director may issue or renew  
3 the license.

4 (g) A license issued under this chapter shall be renewed each year by the attorney-in-fact  
5 when the annual statement is filed under AS 21.75.130.

6 (h) An attorney-in-fact shall be subject to hearings and orders on violations; denial,  
7 nonrenewal, suspension, or revocation of license; penalties; and surrender of a license under the  
8 procedures of AS 21.27.405 - 21.27.460.

9 \* Sec. 191. AS 21.75.060(b) is amended to read:

10 (b) The proposed attorney-in-fact [ATTORNEY] shall fulfill the requirements of and  
11 shall execute and file with the director when applying for a certificate of authority, a declaration  
12 setting out

13 (1) the name of the insurer;

14 (2) the location of the insurer's principal office, which shall be the same as that  
15 of the attorney-in-fact [ATTORNEY] and shall be maintained in this state;

16 (3) the kinds of insurance proposed to be transacted;

17 (4) the names and addresses of the original subscribers;

18 (5) the designation and appointment of the proposed attorney-in-fact  
19 [ATTORNEY] and a copy of the power of attorney;

20 (6) the names and addresses of the officers and directors of the attorney-in-fact  
21 [ATTORNEY], if a corporation, or its members, if a firm;

22 (7) the powers of the subscribers' advisory committee, and the names and terms  
23 of office of the members;

24 (8) that all money paid to the reciprocal insurer shall, after deducting any sum  
25 payable to the attorney-in-fact [ATTORNEY], be held in the name of the insurer and for  
26 the purposes specified in the subscribers' agreement;

27 (9) a copy of the subscribers' agreement;

28 (10) a statement that each of the original subscribers has in good faith applied for  
29 insurance of a kind proposed to be transacted, and that the insurer has received from each  
30 subscriber the full premium or premium deposit required for the policy applied for, for  
31 a term of not less than six months at an adequate rate filed with and approved by the

1 director;

2 (11) a statement of the financial condition of the insurer, a schedule of its assets,  
3 and a statement that the surplus as required by AS 21.75.050 is on hand;

4 (12) a copy of each policy, endorsement, and application form it then proposes  
5 to issue or use.

6 \* Sec. 192. AS 21.75.060(c) is amended to read:

7 (c) The declaration shall be acknowledged by the attorney-in-fact [ATTORNEY] in the  
8 manner required for the acknowledgment of deeds.

9 \* Sec. 193. AS 21.75.080 is repealed and reenacted to read:

10 Sec. 21.75.080. AUTHORITY OF ATTORNEY-IN-FACT. (a) A subscriber's agreement  
11 providing for an advisory committee consistent with AS 21.75.170 shall be executed by each  
12 subscriber and shall grant authority to the attorney-in-fact to manage the affairs of the reciprocal  
13 insurer.

14 (b) The duties of the attorney-in-fact shall be specified in the subscriber's agreement.  
15 The agreement shall be approved by the director and amendments shall be approved by the  
16 director and the advisory committee. The agreement must, at a minimum, provide that

17 (1) the attorney-in-fact shall provide written notice of and make the necessary  
18 arrangements for the election, in person or by proxy, of the members of the advisory committee;  
19 the cost of notice, ballot, or proxy for a meeting and the cost of a meeting that may be called for  
20 an election shall be paid by the reciprocal insurer;

21 (2) the attorney-in-fact shall provide written notice to the members of the advisory  
22 committee of not less than 10 business days for a regular meeting or a special meeting called  
23 under AS 21.75.170(e); the cost of notice shall be paid by the reciprocal insurer;

24 (3) the advisory committee may, upon majority vote of its members at a regular  
25 or special meeting and upon written notice of the vote to the director and the attorney-in-fact,  
26 recommend termination of the attorney-in-fact for a stated cause and the appointment of a new  
27 attorney-in-fact;

28 (4) termination of the attorney-in-fact shall require the approval of a two-thirds  
29 majority of the subscribers present in person or by proxy at a meeting called for that purpose;  
30 the attorney-in-fact shall provide written notice to all subscribers by certified mail not less than  
31 30 days before the meeting; the notice must include the recommendation of termination and

1 replacement drafted by the advisory committee and other appropriate documents drafted by the  
2 attorney-in-fact; a copy of all documents mailed and certification of mailing to all subscribers  
3 must be provided to all members of the advisory committee; the cost of notice and proxy for the  
4 meeting shall be paid by the reciprocal insurer; at least 25 percent of all subscribers shall  
5 constitute a quorum for reciprocal insurers with less than 10,000 subscribers; 2,500 subscribers  
6 or five percent of all subscribers, whichever is greater, shall constitute a quorum for all other  
7 reciprocals;

8 (5) the assets of the reciprocal insurer and its subscribers shall be invested under  
9 AS 21.21; investment guidelines shall be approved by the advisory committee and shall be  
10 properly accounted for on the financial records of the reciprocal insurer as being held for or on  
11 behalf of the subscribers; the cash assets of the reciprocal insurer and its subscribers not  
12 otherwise invested in short-term securities, covering policy obligations arising out of policies  
13 issued, or issued for delivery in the United States shall be held in one or more appropriately  
14 identified accounts in banks that are members of the Federal Reserve System; these accounts  
15 shall be drawn on by the attorney-in-fact or by employees or representatives of the reciprocal  
16 insurer authorized by the attorney-in-fact for payments on behalf of the reciprocal insurer;

17 (6) if the attorney-in-fact is acting for more than one reciprocal insurer, separate  
18 records and accounts shall be maintained for each reciprocal;

19 (7) the attorney-in-fact may not assign responsibilities detailed in the subscriber's  
20 agreement in whole or in part without prior approval of the advisory committee and the director;

21 (8) the attorney-in-fact shall

22 (A) establish and maintain underwriting procedures and manuals that state  
23 the rates and conditions for the acceptance or rejection of risks;

24 (B) make a report to the advisory committee at each regular meeting of  
25 the committee on the financial condition of the reciprocal insurer and all material  
26 transactions entered into during the period since the last meeting;

27 (C) annually provide to each member of the advisory committee

28 (i) on or before March 2, a copy of the reciprocal insurer's annual  
29 statement and the accompanying statement of actuarial opinion filed with the  
30 director under AS 21.75.130; and

31 (ii) on or before June 1, a copy of a statement prepared by an

1 independent certified public accountant addressing the financial condition and  
2 solvency of the attorney-in-fact;

3 (D) maintain a financially solvent condition;

4 (9) the forms, amounts, and formulas of compensation the attorney-in-fact will  
5 receive for services rendered are specified;

6 (10) the books, accounts, and records of the reciprocal insurer, its subscribers, and  
7 the attorney-in-fact are maintained to clearly and accurately disclose the nature and details of  
8 each transaction, including all notes, workpapers, documents, and similar material in sufficient  
9 detail that relevant events, dates, and persons participating can be identified and information  
10 necessary to determine that the compensation received by or owing to the attorney-in-fact  
11 conforms to the subscriber's agreement; the books, accounts, and records of the reciprocal insurer  
12 are the sole property of the reciprocal insurer;

13 (11) if the subscriber's agreement provides that any of the attorney-in-fact's  
14 compensation is contingent upon the reciprocal insurer's profits, that compensation may not be  
15 determined and paid until at least five years after the premiums on casualty insurance are earned,  
16 at least one year after the premiums are earned on any other kind of insurance, and not until the  
17 adequacy of loss reserves on the remaining claims, known and unknown, have been verified  
18 under (8) of this subsection; and

19 (12) the attorney-in-fact shall conduct the affairs of the reciprocal insurer as  
20 required under this title.

21 (c) Unless subject to AS 21.22, a material transaction between the reciprocal insurer, its  
22 subscribers, the attorney-in-fact, and an affiliate of the attorney-in-fact may not be entered into  
23 unless it has been filed with the director of the reciprocal insurer's state of domicile, if accredited  
24 by the National Association of Insurance Commissioners, or with the director of this state, if not  
25 accredited, at least 30 days before its effective date and the director of the accredited state has  
26 not disapproved it; however, a transaction involving five percent or more of admitted assets is  
27 subject to prior approval of the director of the reciprocal insurer's state of domicile and the  
28 transaction must meet the following standards:

29 (1) the terms shall be fair and equitable;

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

31 (3) expenses incurred and payments received shall be allocated to the reciprocal

1 insurer on an equitable basis in conformity with statutory insurance accounting practices being  
2 consistently applied; and

3 (4) the books, accounts, and records of each party shall be maintained to disclose  
4 clearly and accurately the precise nature and details of the transaction, including accounting  
5 information that is necessary to support the reasonableness of the charges or fees to the respective  
6 parties.

7 (d) A subscriber's agreement containing the duties of the attorney-in-fact shall be  
8 provided by the attorney-in-fact to all subscribers. Renewing subscribers shall be informed that  
9 their failure to return a signed rejection of the subscriber's agreement within 30 days after the  
10 renewal date will be considered acceptance of the subscriber's agreement.

11 \* Sec. 194. AS 21.75.090 is amended to read:

12 Sec. 21.75.090. MODIFICATIONS. Modifications of the terms of the subscribers'  
13 agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by  
14 the attorney-in-fact [ATTORNEY] and the subscribers' advisory committee. A modification  
15 may not be effective retroactively, or apply to an insurance contract issued before the  
16 modification.

17 \* Sec. 195. AS 21.75.100(a) is amended to read:

18 (a) Concurrently with the filing of the declaration provided in AS 21.75.060, the  
19 attorney-in-fact [ATTORNEY] of a domestic reciprocal insurer shall file with the director a  
20 bond in favor of this state for the benefit of all persons damaged as a result of a breach by the  
21 attorney-in-fact [ATTORNEY] of the conditions of the bond as set out in (b) of this section.  
22 The bond shall be executed by the attorney-in-fact [ATTORNEY] and by an authorized  
23 corporate surety, shall meet the requirements established under AS 21.27.190 and shall be  
24 subject to the director's approval.

25 \* Sec. 196. AS 21.75.100(b) is amended to read:

26 (b) The bond shall be in the [PENAL] sum of \$100,000 [\$25,000], aggregate in form,  
27 conditioned that the attorney-in-fact [ATTORNEY] will faithfully account for all money and  
28 other property of the insurer coming into the hands of the attorney-in-fact [ATTORNEY] and  
29 that the attorney-in-fact [ATTORNEY] will not withdraw or appropriate to personal use from  
30 the funds of the insurer, money or property to which the attorney-in-fact [ATTORNEY] is not  
31 entitled under the subscriber's agreement [POWER OF ATTORNEY].

1 \* **Sec. 197.** AS 21.75.100 is amended by adding a new subsection to read:

2 (d) The director may require the attorney-in-fact, unless wholly owned by the reciprocal  
3 insurer, to maintain an errors and omissions policy issued by an admitted insurer acceptable to  
4 the director providing coverage in an amount and issued by an insurer approved by the director.  
5 This requirement is satisfied if the attorney-in-fact maintains an errors and omissions policy to  
6 satisfy the laws of another state in an amount approved by the director.

7 \* **Sec. 198.** AS 21.75.110 is amended to read:

8 Sec. 21.75.110. ACTION ON BOND. Action on the attorney-in-fact's [ATTORNEY'S]  
9 bond or to recover against a deposit made in lieu of the bond [THEREOF] may be brought at  
10 any time by one or more subscribers suffering loss through a violation of its conditions, or by  
11 a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and  
12 become part of the insurer's funds. The total aggregate liability of the surety shall be limited to  
13 the amount of the penalty of the bond.

14 \* **Sec. 199.** AS 21.75 is amended by adding a new section to read:

15 Sec. 21.75.115. EXAMINATION OF AN ATTORNEY-IN-FACT. An attorney-in-fact  
16 of a reciprocal insurer is subject to examination by order of the director under AS 21.06.120 and  
17 21.06.140 - 21.06.160 for the purpose of determining compliance with this title relating to the  
18 operations of the reciprocal insurer or its attorney-in-fact that the director determines cannot be  
19 obtained by examination of the reciprocal insurer. The cost of the examination shall be paid by  
20 the attorney-in-fact.

21 \* **Sec. 200.** AS 21.75.120(a) is amended to read:

22 (a) Legal process shall be served upon a domestic reciprocal insurer by serving the  
23 insurer's attorney-in-fact [ATTORNEY] at the principal offices of the attorney-in-fact  
24 [ATTORNEY] or by serving the director as the insurer's process agent under AS 21.09.180 and  
25 21.09.190.

26 \* **Sec. 201.** AS 21.75.130(a) is amended to read:

27 (a) The annual statement of a reciprocal insurer shall be made by its attorney-in-fact  
28 [ATTORNEY] and filed with the director, as provided in AS 21.09.200.

29 \* **Sec. 202.** AS 21.75.140 is amended to read:

30 Sec. 21.75.140. CONTRIBUTIONS TO INSURER. The attorney-in-fact [ATTORNEY]  
31 or other parties may advance to a domestic reciprocal insurer upon reasonable terms the funds

1 it may require from time to time in its operations. Sums advanced may not be treated as a  
2 liability of the insurer, and, except upon liquidation of the insurer, may not be withdrawn or  
3 repaid except out of the insurer's realized earned surplus in excess of its minimum required  
4 surplus. A withdrawal or repayment may not be made without the advance approval of the  
5 director. This section does not apply to bank loans or to loans for which security is given.

6 \* Sec. 203. AS 21.75.150 is amended to read:

7 Sec. 21.75.150. DETERMINATION OF FINANCIAL CONDITION. In determining  
8 the financial condition of a reciprocal insurer the director shall apply the following rules:

9 (1) the same reserves as are required of incorporated insurers issuing  
10 nonassessable policies on a reserve basis shall be charged as liabilities;

11 (2) the surplus deposits of subscribers shall be allowed as assets, except the  
12 premium deposits delinquent for 90 days shall first be charged against the surplus deposit;

13 (3) the surplus deposits of subscribers may [SHALL] not be charged as a liability;

14 (4) all premium deposits delinquent less than 90 days shall be allowed as assets;

15 (5) an assessment levied upon subscribers, and not collected, may not be allowed  
16 as an asset;

17 (6) the contingent liability of subscribers may not be allowed as an asset;

18 (7) the computation of reserves shall be based upon premium deposits other than  
19 membership fees and without deductions for expenses and the compensation of the attorney-in-  
20 fact [ATTORNEY].

21 \* Sec. 204. AS 21.75.170 is repealed and reenacted to read:

22 Sec. 21.75.170. SUBSCRIBER'S ADVISORY COMMITTEE. (a) The subscriber's  
23 advisory committee shall meet at least annually and shall consist of not less than nine individuals  
24 elected by the subscribers, at least two-thirds of whom are subscribers or officers or directors of  
25 subscriber corporations and, except for a reciprocal insurer that wholly owns its attorney-in-fact,  
26 not more than one-third of whom may be

27 (1) the attorney-in-fact or an employee, officer, director, affiliate, or a person  
28 having a financial interest in the attorney-in-fact; or

29 (2) a person representing the attorney-in-fact or an employee, officer, director,  
30 affiliate, or other person having a financial interest in the attorney-in-fact; a person shall be  
31 treated as having a financial interest in the attorney-in-fact if the person

1 (A) owns, directly or indirectly, more than one percent of the outstanding  
2 stock in the attorney-in-fact;

3 (B) has an outstanding loan from the attorney-in-fact; or

4 (C) earns a commission or other compensation as a producer for the  
5 reciprocal insurer.

6 (b) A member of the subscriber's advisory committee may be elected to a term of office  
7 of not less than one year nor more than four years. A member may be reelected for an unlimited  
8 number of terms. Terms of office may be staggered to provide for continuity.

9 (c) The chair of the committee shall be elected by the members of the committee and the  
10 committee shall adopt rules consistent with the purposes of the committee.

11 (d) The attorney-in-fact shall appoint a secretary.

12 (e) Special meetings of the committee may be called by the attorney-in-fact, the chair  
13 of the committee, three members of the committee, or a signed petition of at least one percent  
14 of the subscribers as of the most recent annual report of the reciprocal insurer.

15 (f) The committee shall

16 (1) supervise the finances of the reciprocal insurer;

17 (2) supervise the reciprocal insurer's operations to assure conformity with the  
18 subscriber's agreement;

19 (3) procure the audit of the accounts and records of the reciprocal insurer and of  
20 the attorney-in-fact at the expense of the reciprocal insurer; and

21 (4) have additional powers and functions that may be conferred by the  
22 subscriber's agreement.

23 \* Sec. 205. AS 21.75.200(a) is amended to read:

24 (a) Assessments may from time to time be levied upon subscribers of a domestic  
25 reciprocal insurer liable [THEREFOR] under the terms of their policies by the attorney-in-fact  
26 [ATTORNEY] upon approval in advance by the subscribers' advisory committee and the director,  
27 or by the director in liquidation of the insurer.

28 \* Sec. 206. AS 21.75.210 is amended to read:

29 Sec. 21.75.210. TIME LIMIT FOR ASSESSMENTS. A [EACH] subscriber of a  
30 domestic reciprocal insurer having contingent liability is liable for and shall pay the subscriber's  
31 share of any assessment, as computed and limited under [IN ACCORDANCE WITH] this

1 chapter, if

2 (1) while the subscriber's policy is in force or within one year after its  
3 termination, the subscriber is notified by either the attorney-in-fact [ATTORNEY] or the director  
4 of an intention to levy the assessment; [,] or

5 (2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator  
6 of the insurer should not be appointed is issued while the subscriber's policy is in force or within  
7 one year after its termination.

8 \* Sec. 207. AS 21.75.230(a) is amended to read:

9 (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the  
10 minimum capital and surplus required of a domestic stock insurer authorized to transact like  
11 kinds of insurance, upon application of the attorney-in-fact [ATTORNEY] and as approved by  
12 the subscribers' advisory committee, the director shall issue a certificate authorizing the insurer  
13 to extinguish the contingent liability of subscribers under its policies then in force in this state,  
14 and to omit provisions imposing contingent liability in all policies delivered or issued for delivery  
15 in this state for as long as all the surplus remains unimpaired.

16 \* Sec. 208. AS 21.75.250 is amended to read:

17 Sec. 21.75.250. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a  
18 domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy  
19 obligations, the return of contributions of the attorney-in-fact [ATTORNEY] or other persons  
20 to its surplus made as provided in AS 21.75.140, and the return of an unused premium, savings,  
21 or credits then standing on subscribers' account, shall be distributed to its subscribers who were  
22 subscribers within the 12 months before the last termination of its certificate of authority,  
23 according to a reasonable formula that the director may approve.

24 \* Sec. 209. AS 21.75.270 is amended to read:

25 Sec. 21.75.270. FINANCIAL IMPAIRMENT; DETERMINATION OF  
26 INSOLVENCY [IMPAIRED RECIPROCALLS]. (a) If the assets of a reciprocal insurer are at  
27 any time insufficient to discharge its liabilities, other than a liability on account of funds  
28 contributed by the attorney-in-fact [ATTORNEY] or others, and to maintain the required  
29 surplus, its attorney-in-fact [ATTORNEY] shall immediately make up the deficiency or levy an  
30 assessment upon the subscribers for the amount needed to make up the deficiency; but subject  
31 to the limitation set out in the subscriber's agreement [POWER OF ATTORNEY OR POLICY].

1 (b) If the attorney-in-fact [ATTORNEY] fails to make up the deficiency or to make the  
2 assessment within 30 days after the director orders the attorney-in-fact [ATTORNEY] to do so,  
3 or if the deficiency is not fully made up within 60 days after the date the assessment was made,  
4 the insurer shall be considered insolvent and shall be proceeded against as authorized by this title.

5 (c) If liquidation of an insurer is ordered, an assessment shall be levied upon the  
6 subscriber for an amount, subject to limits as provided by this chapter, that the director  
7 determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds  
8 contributed by the attorney-in-fact [ATTORNEY] or other persons, but including the reasonable  
9 cost of the liquidation.

10 \* **Sec. 210.** AS 21.75.270 is amended by adding a new subsection to read:

11 (d) If liquidation of a domestic reciprocal insurer is ordered, the receiver appointed under  
12 the order has a right to recover on behalf of the reciprocal insurer a payment in the form of a  
13 bonus, termination settlement, or extraordinary lump-sum compensation adjustment made by the  
14 reciprocal insurer or its subscribers to the attorney-in-fact if the distribution or payment is made  
15 during the 12 months preceding the order of liquidation, unless it can be shown that the payment  
16 was lawful and reasonable and that the reciprocal insurer did not know and, using due diligence,  
17 could not have known that the distribution might adversely affect the ability of the reciprocal  
18 insurer to fulfill its subscriber's contractual obligation.

19 \* **Sec. 211.** AS 21.75 is amended by adding a new section to read:

20 Sec. 21.75.345. DEFINITION. In this chapter, a "material transaction" means a  
21 transaction, other than a claim payment, involving more than one-half of one percent of the  
22 reciprocal insurer's admitted assets as of December 31 of the prior year.

23 \* **Sec. 212.** AS 21.78 is amended by adding a new section to read:

24 Sec. 21.78.325. RECOVERY FROM AFFILIATES. (a) If an order for liquidation or  
25 rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has  
26 a right to recover on behalf of the insurer (1) from a parent corporation or holding company or  
27 person or affiliate who otherwise controlled the insurer, the amount of distributions, other than  
28 a distribution of shares of the same class of stock, paid by the insurer on the insurer's capital  
29 stock; or (2) a payment in the form of a bonus, termination settlement, or extraordinary lump sum  
30 salary adjustment made by the insurer or the insurer's subsidiary to a director, officer, or  
31 employee. If the distribution or payment is made during the 12 months preceding the petition

1 for liquidation, conservation, or rehabilitation, the distribution or payment is subject to the  
2 limitations of (b) - (d) of this section.

3 (b) A distribution may not be recovered if the parent or affiliate shows that when paid  
4 the distribution was lawful and reasonable and that the insurer did not know and could not  
5 reasonably have known that the distribution might adversely affect the ability of the insurer to  
6 fulfill its contractual obligations.

7 (c) A person who was a parent corporation or holding company or a person who  
8 otherwise controlled the insurer or affiliate at the time the distribution was paid is liable up to  
9 the amount of the distribution or payment that the person received. If two or more persons are  
10 liable with respect to the same distribution, the persons are jointly and severally liable.

11 (d) The maximum amount recoverable under this section is the amount needed in excess  
12 of all other available assets of the impaired or insolvent insurer to pay the contractual obligations  
13 of the impaired or insolvent insurer and to reimburse any guaranty funds that expended funds or  
14 incurred expenses or may expend funds or may incur expenses in connection with the impaired  
15 or insolvent insurer.

16 (e) To the extent that a person liable under (c) of this section is insolvent or otherwise  
17 fails to pay a claim due under (c) of this section, the person's parent corporation or holding  
18 company or person who otherwise controlled the parent corporation or holding company at the  
19 time the distribution was paid is jointly and severally liable for the resulting deficiency in the  
20 amount recovered from the parent corporation or holding company or the person who otherwise  
21 controlled the parent corporation or holding company.

22 \* Sec. 213. AS 21.84.010 is amended to read:

23 Sec. 21.84.010. CHAPTER EXCLUSIVE. Except as otherwise provided, societies shall  
24 be governed by this chapter and shall be exempt from all other provisions of the insurance laws  
25 of this state, not only in governmental relations with the state, but for every other purpose. [A  
26 LAW ENACTED AFTER JULY 1, 1966, MAY NOT APPLY TO SOCIETIES UNLESS THEY  
27 ARE EXPRESSLY DESIGNATED IN THE LAW.]

28 \* Sec. 214. AS 21.84.350(a) is amended to read:

29 (a) As a part of the annual statement required under AS 21.84.340, each society shall,  
30 before the second day of March, file with the director a valuation of its certificates in force on  
31 the preceding December 31, provided, the director may, for cause shown, extend the time for

1 filing the valuation for not more than two calendar months. The report of valuation must  
2 include an opinion of a qualified actuary as to whether the reserves and related actuarial  
3 items held in support of the certificates in force are computed appropriately, are based on  
4 assumptions that satisfy contractual provisions, are consistent with prior reported amounts,  
5 and comply with applicable laws of this state. The report of valuation shall show, as reserve  
6 liabilities, the difference between the present mid-year value of the promised benefits provided  
7 in the certificates of the society in force and the present mid-year value of the future net  
8 premiums as the same are in practice actually collected, not including any value for the right to  
9 make extra assessments and not including any amount by which the present mid-year value of  
10 future net premiums exceeds the present mid-year value of promised benefits on individual  
11 certificates. At the option of a society, in lieu of the above, the valuation may show the net  
12 tabular value. The net tabular value on certificates issued before July 1, 1967, shall be  
13 determined under [IN ACCORDANCE WITH] the law applicable before July 1, 1966, and on  
14 certificates issued on or after July 1, 1967, may not be less than the reserves determined  
15 according to the Commissioner's Reserve Valuation Method as defined in this section. If the  
16 premium charged is less than the tabular net premium according to the basis of valuation used,  
17 an additional reserve equal to the present value of the deficiency in the premiums shall be set up  
18 and maintained as a liability. The reserve liabilities shall be properly adjusted if the mid-year  
19 or tabular values are not appropriate.

20 \* Sec. 215. AS 21.84.480(b) is amended to read:

21 (b) A society, by itself or any other party, and a fraternal benefit society limited  
22 producer [AN AGENT OR SOLICITOR], personally or by any other party, may not offer,  
23 promise, allow, give, set off, or pay, directly or indirectly, a valuable consideration or inducement  
24 to or for insurance on a risk authorized to be taken by the society that [, WHICH] is not  
25 specified in the certificate. A member may not receive or accept, directly or indirectly, a rebate  
26 of premium or part of a premium, or a fraternal benefit society limited producer's [AGENT'S  
27 OR SOLICITOR'S] commission payable on a certificate, or receive or accept a favor or  
28 advantage or share in the dividends or other benefits to accrue on, or any valuable consideration  
29 or inducement not specified in the contract of insurance.

30 \* Sec. 216. AS 21.84.590 is amended to read:

31 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions

1 contained in this chapter, the following provisions of this title apply to fraternal benefit societies  
 2 to the extent applicable and not in conflict with the express provisions of this chapter and the  
 3 reasonable implications of this chapter:

4 (1) AS 21.03

5 (2) AS 21.06

6 (3) AS 21.09.050 and 21.09.100

7 (4) AS 21.09.200 and 21.09.205

8 (5) AS 21.18

9 (6) AS 21.21

10 (7) AS 21.27

11 (8) AS 21.33

12 (9) [(5)] AS 21.36

13 (10) [(6)] AS 21.42.290 and 21.42.355

14 (11) [(7)] AS 21.53

15 (12) [(8)] AS 21.69.370 and 21.69.640

16 (13) [(9)] AS 21.78

17 (14) [(10)] AS 21.89.060.

18 \* Sec. 217. AS 21.84 is amended by adding a new section to read:

19 Sec. 21.84.900. DEFINITIONS. In this chapter,

20 (1) "fraternal benefit society" means an incorporated society, order, or supreme  
 21 lodge, without capital stock, including one exempted under AS 21.84.020(a), whether  
 22 incorporated or not, conducted solely for the benefit of its members and their beneficiaries and  
 23 not for profit, operated on a lodge system with ritualistic form of work, having a representative  
 24 form of government, and that makes provision for the payment of benefits under this chapter;

25 (2) "lodge system" means a society having a supreme legislative or governing  
 26 body and subordinate lodges or branches by whatever name known, into which members are  
 27 elected, initiated, or admitted under its constitution, laws, ritual, and rules; subordinate lodges or  
 28 branches are required by law of the society to hold regular meetings at least once in each month;

29 (3) "premiums" means rates or other required contribution by whatever name  
 30 known;

31 (4) "representative form of government" means a society in which

1 (A) there is provision in its constitution or laws for a supreme legislative  
2 or governing body, composed of representatives elected either by the members or by  
3 delegates elected directly or indirectly by the members, together with other members of  
4 the body prescribed by the society's constitution and laws;

5 (B) the representatives elected constitute a majority in number and have  
6 not less than two-thirds of the votes or less than the votes required to amend its  
7 constitution and laws;

8 (C) the meetings of the supreme legislative or governing body and the  
9 election of officers, representatives, or delegates are held as often as once in four calendar  
10 years;

11 (D) the society has a board of directors charged with the responsibility for  
12 managing its affairs in the interim between meetings of its supreme legislative or  
13 governing body, subject to control by the body and having powers and duties delegated  
14 to it in the constitution or laws of the society;

15 (E) the board of directors is elected by the supreme legislative or  
16 governing body, except in case of filling a vacancy in the interim between meetings of  
17 the body;

18 (F) the officers are elected either by the supreme legislative or governing  
19 body or by the board of directors; and

20 (G) the members, officers, representatives, or delegates may not vote by  
21 proxy;

22 (5) "society" unless otherwise indicated, means fraternal benefit society.

23 \* Sec. 218. AS 21.89.025(a) is amended to read:

24 (a) An insurer shall provide an appropriate reduction in the premium charged for a  
25 personal automobile [MOTOR VEHICLE CASUALTY] insurance policy when the principal  
26 operator of the motor vehicle covered by the insurance policy

27 (1) is 55 years of age or older;

28 (2) at renewal requests the insurer to provide the reduction;

29 (3) has had no chargeable accidents as set by established underwriting  
30 guidelines in use by the insurer or moving motor vehicle citations within three years  
31 preceding the request for the discount;

1                   (4) provides the insurer with proof satisfactory to the director that the operator  
2           has within the three years before requesting the reduction taken and successfully completed a  
3           motor vehicle accident prevention course approved by the Department of Public Safety under  
4           AS 28.05.035; and

5                   (5) [(4)] did not take and complete the accident prevention course described in  
6           (4) [(3)] of this subsection as a result of an order or sentence imposed by a court.

7   \* **Sec. 219.** AS 21.89.025(c) is amended to read:

8                   (c) The reduced rate provided for an operator under (a) of this section may not extend  
9           beyond three years after the last day of the operator's most recently successfully completed motor  
10          vehicle accident prevention course described in (a)(4) [(a)(3)] of this section.

11 \* **Sec. 220.** AS 21.89.025 is amended by adding a new subsection to read:

12                   (d) The director may establish by regulation the manner in which insurers inform  
13          applicants and insureds of the rate reduction available under this section.

14 \* **Sec. 221.** AS 21.89 is amended by adding a new section to read:

15                   Sec. 21.89.035. **MANDATORY APPRAISAL.** A motor vehicle or similar policy, a  
16          policy providing property coverage, or any other policy providing first party property, casualty,  
17          or inland marine coverage, issued or delivered in this state, must include an appraisal clause  
18          providing a contractual means to resolve a dispute between the insured and the insurer over the  
19          value of a covered first party loss for real property, personal property, business property, or  
20          similar risks. If the insured and the insurer fail to agree on the amount of a covered first party  
21          loss, either may make written demand upon the other to submit the dispute for appraisal. Within  
22          10 days of the written demand, the insured and insurer must notify the other of the competent  
23          appraiser each has selected. The two appraisers will promptly choose a competent and impartial  
24          umpire. Not later than 15 days after the umpire has been chosen, unless the time period is  
25          extended by the umpire, each appraiser will separately state in writing the amount of the loss.  
26          If the appraisers submit a written report of agreement on the amount of the loss, the agreed  
27          amount will be binding upon the insured and insurer. If the appraisers fail to agree, the  
28          appraisers will promptly submit their differences to the umpire. A decision agreed to by one of  
29          the appraisers and the umpire will be binding upon the insured and insurer. All expenses and  
30          fees, not including counsel or adjuster fees, incurred because of the appraisal shall be paid as  
31          determined by the umpire. Except as specifically provided, nothing in this section is intended

1 to or shall in any manner limit or restrict the rights of insureds or insurers or confer any rights  
2 to an insured or insurer.

3 \* Sec. 222. AS 21.90.900 is amended to read:

4 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires  
5 otherwise,

6 (1) "admitted insurer" means an authorized insurer ["ADJUSTER" MEANS  
7 A PERSON WHO, FOR COMPENSATION AS AN INDEPENDENT CONTRACTOR OR  
8 AS AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, OR FOR FEE OR  
9 COMMISSION, INVESTIGATES AND ADJUSTS CLAIMS ARISING UNDER INSURANCE  
10 CONTRACTS ON BEHALF OF THE INSURER, BUT DOES NOT INCLUDE AN ATTORNEY  
11 AT LAW WHO ADJUSTS INSURANCE LOSSES FROM TIME TO TIME INCIDENTAL TO  
12 THE PRACTICE OF LAW OR A SALARIED EMPLOYEE OF AN INSURER];

13 (2) "agent" means a person appointed by an insurer to solicit applications for  
14 insurance or annuities on its behalf, and if authorized to do so, to effectuate and countersign  
15 insurance contracts, except life or disability insurance or annuities, and to collect premiums on  
16 insurance or annuities;

17 (3) "alien insurer" means an insurer formed under the laws of a country other than  
18 the United States of America, its states, districts, territories, and commonwealths;

19 (4) "attorney-in-fact" means a person designated and appointed by the  
20 subscribers of a reciprocal insurer to act for and bind the subscribers in transactions  
21 relating to or arising out of the operations of a reciprocal insurer, subject to the limitations  
22 that may be lawfully provided;

23 (5) "authorized insurer" means an insurer authorized by a certificate of authority  
24 issued by the director to transact insurance in this state;

25 (6) [(5)] "broker" means a person who is not an agent of the insurer and who, on  
26 behalf of the insured, for compensation as an independent contractor by commission or fee,  
27 solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance of  
28 insurance or reinsurance; or in any manner aids in the solicitation, negotiation, procurement,  
29 renewal, or continuance of insurance or reinsurance, for insureds or prospective insureds not  
30 including the broker;

31 (7) [(6)] "commissioner" means the commissioner of commerce and economic

1 development;

2 (8) [(7)] "court" means superior court;

3 (9) [(8)] "director" means the director of the division of insurance;

4 (10) [(9)] "division" means the division of insurance, Department of Commerce  
5 and Economic Development;

6 (11) [(10)] "domestic insurer" means an insurer formed under the laws of this  
7 state;

8 (12) "evergreen clause" means a contract clause that provides that the  
9 contract is automatically renewed unless notice to the contrary is given by one of the parties  
10 to the contract;

11 (13) "examiner" means an individual or firm that has been authorized by the  
12 director to conduct an examination under this title;

13 (14) "facultative reinsurance" means a contract of reinsurance for individual  
14 risks where the insurer retains the ability to accept or reject each risk offered by the ceding  
15 company;

16 (15) [(11)] "firm" means an organization of two or more licensees acting in  
17 association with each other, either in a partnership, corporation, or otherwise, or an organization  
18 in which a single licensee has less than 50 percent ownership interest in the organization;

19 (16) [(12)] "foreign insurer" means an insurer formed under the laws of a  
20 jurisdiction other than this state and includes an alien insurer;

21 (17) [(13)] "GENERAL AGENT" MEANS A PERSON, FIRM, OR  
22 CORPORATION THAT

23 (A) HAS AUTHORITY TO EXERCISE GENERAL SUPERVISION  
24 OVER THE BUSINESS, OR ANY PART OF THE BUSINESS, OF ONE OR MORE  
25 AUTHORIZED INSURERS IN THIS STATE, WITH THE AUTHORITY TO APPOINT  
26 AGENTS FOR THE INSURER AND TO TERMINATE THE APPOINTMENT; AND

27 (B) FOR COMPENSATION FROM AN AUTHORIZED INSURER  
28 PERFORMS ADMINISTRATIVE FUNCTIONS NORMALLY PERFORMED BY THE  
29 INSURER INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,  
30 MARKETING ADMINISTRATION, AGENT APPOINTMENT, PREMIUM  
31 ACCOUNTING, PREMIUM BILLING, COVERAGE VERIFICATION, FINAL

1 UNDERWRITING AUTHORITY, AND CERTIFICATE ISSUANCE; "GENERAL  
2 AGENT" INCLUDES A THIRD-PARTY ADMINISTRATOR;

3 (14) "impaired" or "impairment" means that

4 (A) an insurer's policyholder surplus is greater than zero but less than that  
5 required by AS 21.09.070 for the authority to transact the kinds of insurance being  
6 transacted; or

7 (B) an insurer is being operated in a manner that has caused or might  
8 cause irreparable loss and injury to the insurer or to the public;

9 (18) [(15)] "independent adjuster" means a person who, for compensation as an  
10 independent contractor or as an employee of an independent contractor, for fee or  
11 commission, investigates and adjusts losses or claims arising under insurance contracts on  
12 behalf of an insurer;

13 (19) "independently procured insurance" means insurance procured directly  
14 from a nonadmitted insurer directly by an insured, but does not include insurance lawfully  
15 procured through a surplus lines broker under AS 21.34 [AN ADJUSTER REPRESENTING  
16 THE INTERESTS OF THE INSURER];

17 (20) [(16)] "industrial life insurance" means that form of life insurance written  
18 under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted  
19 on the face as part of the descriptive matter, and under which premiums are payable monthly or  
20 more often;

21 (21) [(17)] "insolvent" or "insolvency" means that an insurer's policyholder surplus  
22 is less than or equal to zero;

23 (22) [(18)] "insurance" means a contract whereby one undertakes to indemnify  
24 another or pay or provide a specified or determinable amount or benefit upon determinable  
25 contingencies;

26 (23) "insurance producer" means a person who solicits, negotiates, effects,  
27 procures, or delivers a policy of insurance, or to the extent authorized by the insurer,  
28 renews, continues, or binds a policy of insurance;

29 (24) [(19)] "insurer" includes a person engaged as indemnitor, surety, or contractor  
30 in the business of entering into contracts of insurance or of annuity;

31 (25) [(20)] "licensee" means a person or firm licensed as provided in AS 21.27

1 [OR AS 21.34];

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

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

5 (B) performs administrative functions normally performed by the  
6 insurer including claims administration and payment, marketing administration,  
7 agent appointment, premium accounting, premium billing, coverage verification, final  
8 underwriting authority, and certificate issuance;

9 (27) "nonadmitted insurer" means an unauthorized insurer;

10 (28) [(21)] "person" has the meaning given in AS 01.10.060 and includes an  
11 insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in  
12 AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged  
13 in the business of transacting insurance, including agents, brokers, and claims adjusters;

14 (29) [(22)] "policy" means the written contract of or written agreement for or  
15 effecting insurance, by whatever name called, and includes all clauses, riders, endorsements, and  
16 papers attached to it and a part of it;

17 (30) [(23)] "policyholder surplus" means

18 (A) for a stock insurer, the sum of its capital, as represented by the  
19 aggregate par value to its outstanding capital stock, and its surplus, if any;

20 (B) for a mutual insurer, its surplus, both basic guaranteed and additional,  
21 if any;

22 (C) for an insurer other than a stock or mutual insurer, the net worth of  
23 the insurer, calculated as its recorded assets less its liabilities, as determined by the  
24 accounting criteria set out in this title;

25 (31) [(24)] "premium" means the consideration for insurance, by whatever name  
26 called, and by whatever method paid or collected, including an assessment, or membership,  
27 policy, survey, inspection, service or similar fee or charge made in consideration for an insurance  
28 contract;

29 (32) "reinsurance intermediary" means a person who acts as a producer in  
30 soliciting, negotiating, or procuring the making of a reinsurance contract or binder on  
31 behalf of a ceding admitted insurer or acts as a producer in accepting a reinsurance

1 contract or binder on behalf of an assuming admitted insurer:

2 (33) "reinsurance intermediary broker" means a person who solicits,  
3 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding admitted  
4 insurer without the authority or power to bind reinsurance on behalf of the insurer:

5 (34) "reinsurance intermediary manager" means a person including an  
6 insurer who has authority to bind or manage all or part of the assumed reinsurance  
7 business of an admitted reinsurer, including the management of a separate division,  
8 department, or underwriting office, and who acts as an agent for the reinsurer [(25)

9 "SOLICITOR" MEANS AN INDIVIDUAL AUTHORIZED BY AN AGENT OR BROKER TO  
10 SOLICIT APPLICATIONS FOR INSURANCE AS A REPRESENTATIVE OF THE AGENT  
11 OR BROKER AND TO COLLECT PREMIUMS IN CONNECTION WITH THE INSURANCE];

12 (35) [(26)] "state" means a state, District of Columbia, territory, commonwealth,  
13 or possession of the United States of America;

14 (36) "surplus lines broker" means a person licensed under AS 21.27 to place  
15 insurance in this state or relative to a subject resident, located, or to be performed in this  
16 state with eligible surplus lines insurers under AS 21.34;

17 (37) "surplus lines insurance" means any insurance in this state or relative  
18 to a subject resident, located, or to be performed in this state that is permitted under  
19 AS 21.34 to be placed through a surplus lines broker licensed under AS 21.27 with  
20 nonadmitted insurers eligible to accept insurance other than reinsurance, wet marine and  
21 transportation insurance, insurance independently procured, life insurance, and an annuity  
22 contract;

23 (38) "third-party administrator" means a person who for residents of this  
24 state, or for residents of another jurisdiction from a place of business in this state, performs  
25 administrative functions including claims administration and payment, marketing  
26 administrative functions, premium accounting, premium billing, coverage verification,  
27 underwriting authority, or certificate issuance in regard to life insurance, disability  
28 insurance, or annuities;

29 (39) [(27)] "transact" with respect to insurance includes

30 (A) solicitation and inducement;

31 (B) preliminary negotiations;

- 1 (C) effectuation of a contract of insurance;  
2 (D) transaction of matters subsequent to effectuation of the contract of  
3 insurance and arising out of it;

4 (40) [(28)] "unauthorized insurer" means an insurer not authorized to transact  
5 insurance in this state.

6 \* Sec. 223. AS 28.05.035 is amended to read:

7 Sec. 28.05.035. APPROVAL OF ACCIDENT PREVENTION COURSES. For the  
8 purposes of AS 21.89.025(a)(4) [AS 21.89.025(a)(3)], the commissioner may approve driver  
9 education courses intended to prevent motor vehicle accidents and promote safe driving practices.

10 \* Sec. 224. AS 21.06.130(b); AS 21.27.050, 21.27.070, 21.27.090, 21.27.095, 21.27.120, 21.27.200,  
11 21.27.210, 21.27.240, 21.27.250, 21.27.260, 21.27.280, 21.27.310, 21.27.320, 21.27.360(g), 21.27.400,  
12 21.27.450; AS 21.33.061(e), 21.33.061(i), 21.33.065(c); AS 21.34.140, 21.34.160, 21.34.200(b),  
13 21.34.210; AS 21.66.030, 21.66.040, 21.66.050, 21.66.100, 21.66.120(b), 21.66.130, 21.66.140,  
14 21.66.160, 21.66.260, 21.66.401, 21.66.402, 21.66.403, 21.66.430, 21.66.440; AS 21.75.040(a),  
15 21.75.100(c); AS 21.84.290, 21.84.410, 21.84.420, 21.84.430, 21.84.440, 21.84.450, 21.84.460,  
16 21.84.560, 21.84.570, 21.84.580; and AS 21.90.910 are repealed.

17 \* Sec. 225. APPLICABILITY OF AS 21.18.110(m). The actuarial opinion required under  
18 AS 21.18.110(m), as enacted by sec. 24 of this Act, shall be submitted with the annual statement  
19 beginning with the year ending December 31, 1993.

20 \* Sec. 226. Sections 2, 20, 25, 61, 62, 95, 96, and 190 of this Act take effect January 1, 1994.

21 \* Sec. 227. Except as provided in sec. 226 of this Act, this Act takes effect July 1, 1992.