

ALASKA LEGISLATURE COMMITTEE FILES

1993-1994

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HOUSE RULES

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

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

The amendment to this section removes the outdated method for determining unearned premium on property/casualty policies and requires a prorata determination of unearned premium at any point in time.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

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

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

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

The amendment to this section removes the outdated method for determining loss reserves on liability and workers compensation policies and allows accounting recognition of determined and estimated losses.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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a civil action to recover damages from reinsurance intermediary managers.

SURPLUS LINES INSURERS

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

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

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

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

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

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

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

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

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

TRADE PRACTICES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 56. AS 21.35.360(k). Criminal Insurance Acts, page 39.

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

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

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

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

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

RATE AND POLICY FILINGS

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

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

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

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

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

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

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

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

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

CONSUMER CREDIT INSURANCE

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

Section 63. AS 21.57.010. Purpose, page 41.

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

Section 64. AS 21.57.020. Applicability, page 41.

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

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

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

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

page 41.

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

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

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

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

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

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

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

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

Section 70. AS 21.57.070. Requirements for Evidence of

Insurance, page 47.

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

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

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

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

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

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

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

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

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

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

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

Section 76. AS 21.57.150. Penalties, page 51.

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

Section 77. AS 21.57.160. Definitions, page 52.

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

REDOMESTICATION AND VOLUNTARY SURRENDER OF CERTIFICATE OF AUTHORITY

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

Section 78. AS 21.69.645. Redcmestication, page 54

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

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

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

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

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

director.

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

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

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

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

DOMESTIC INSURER ORGANIZATIONS AND PROCEDURES

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

Section 79. AS 21.72.125. Quarterly Statements, page 55

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MISCELLANEOUS SECTIONS, DEFINITIONS, REPEALERS AND EFFECTIVE DATES

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

Section 87. AS 21.89.030. Payment, page 57.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 90. Repeal, page 59.

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

Section 91. Repeal, page 59.

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

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

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

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

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

Section 94. Effective Date, page 59.

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

Section 95. Effective Date, page 59.

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

Section 96. Effective Date, page 59.

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

Section 97. Effective Date, page 59.

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

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Ford
5/7/94

Proposed
Rules C.S.

HOUSE CS FOR CS FOR SENATE BILL NO. 362()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

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

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 06.20.260(a) is amended to read:

10 (a) A further or other charge or amount for an examination, service, brokerage
11 commission, expense, fee, bonus, or other thing may not be directly or indirectly
12 charged, contracted for, or received except

13 (1) lawful fees actually paid out by the licensee to a public officer for

1 filing, recording, or releasing any instrument securing the loan, or for transferring
2 certificate of title to a motor vehicle securing the lien or noting a lien on that
3 certificate;

4 (2) premiums actually paid out for insurance on any one or combination
5 of the following: pledged property of the borrower, or consumer credit [LIFE]
6 insurance; in this paragraph "consumer credit insurance" has the meaning given
7 in AS 21.57.160 [ON THE LIFE OF ONE OR MORE BORROWERS, CREDIT LOSS
8 OF INCOME INSURANCE, OR CREDIT DISABILITY INSURANCE TO PROVIDE
9 INDEMNITY FOR PAYMENTS BECOMING DUE ON THE INDEBTEDNESS];

10 (3) taxable costs and expenses to which the licensee becomes entitled
11 under general law in any court proceedings to collect a loan or to realize on the
12 security after default;

13 (4) reasonable fees paid by a licensee for appraisals, surveys, and title
14 insurance or reports if the loan is secured by an interest in real estate;

15 (5) a late payment fee of not more than 10 percent of the payment that
16 is due or \$15, whichever is less.

17 * Sec. 2. AS 06.20.287(a) is amended to read:

18 (a) A licensee may obtain consumer credit [LIFE, CREDIT DISABILITY,]
19 and property insurance on open-end loans under this chapter. The consumer credit
20 [LIFE AND CREDIT DISABILITY] insurance obtained by a licensee shall satisfy the
21 requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy
22 the requirements of AS 21.39 and AS 21.42. The licensee shall comply with
23 AS 21.36.160 and 21.36.165 during all transactions with borrowers involving
24 consumer credit [LIFE, CREDIT DISABILITY] and property insurance.

25 * Sec. 3. AS 21.03.010 is amended by adding a new subsection to read:

26 (c) A person who transacts insurance in this state, or relative to a subject
27 resident, located, or to be performed in this state as or on behalf of a risk retention
28 group or purchasing group formed under and in compliance with 15 U.S.C. 3901 -
29 3906 (Liability Risk Retention Act), shall comply with the applicable provisions of this
30 title.

31 * Sec. 4. AS 21.06.080 is amended by adding a new subsection to read:

1 (e) If the director determines that a catastrophe has occurred in this state and
2 in good faith believes that the governor or the President of the United States has issued
3 or is about to issue a declaration of disaster, the director may take the action that the
4 director considers necessary to assure that a contract of insurance already issued will
5 be honored under the terms of the contract. Actions that the director may take include
6 emergency orders permitting the immediate licensing of adjusters to facilitate handling
7 of claims, permitting a licensee to open or close an office, permitting a licensee to
8 move or remove a record as required by the existence of the catastrophe, or permitting
9 the issuance by a carrier of checks or drafts drawn on an out-of-state bank in payment
10 of a claim. Until a declaration of the disaster has been lifted, the director may take
11 action to respond to a disaster without a hearing. An action taken under this
12 subsection may not remain in effect more than six months from the date that the
13 director determines that a catastrophe has occurred unless, after a hearing, the director
14 determines that the action is still necessary to respond to the disaster.

15 * Sec. 5. AS 21.06.150(g) is amended to read:

16 (g) The director may withhold a document, information, account, record,
17 examination, or report from the public inspection for as long as the director finds the
18 withholding is necessary to protect a person against unwarranted injury or is in the
19 public interest. The director may close an examination hearing to the public when
20 the director finds the closure is necessary to protect a person against unwarranted
21 injury or is in the public interest. The director may publish the examination report
22 or a summary of it in a newspaper in the state if the director determines that the
23 publication is in the public interest.

24 * Sec. 6. AS 21.09.110 is amended to read:

25 Sec. 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
26 apply for an original certificate of authority an insurer shall file with the director its
27 application, [() accompanied by the applicable fees set under AS 21.06.250, ()]
28 showing its name, location of its home office, or principal office in the United States
29 [() if an alien insurer ()], kinds of insurance to be transacted, date of organization or
30 incorporation, form of organization, state or country of domicile, and additional
31 information that the director may reasonably require, together with the following

1 documents, as applicable:

2 (1) if a foreign insurer, a copy of its corporate charter or articles of
3 incorporation, with all amendments certified by the public officer with whom the
4 originals are on file in the state or country of domicile;

5 (2) if a reciprocal insurer, copies of the power of attorney of its
6 attorney-in-fact and of its subscribers' agreement, if any, certified by its
7 attorney-in-fact;

8 (3) a copy of its financial statement as of the preceding December 31,
9 and all subsequent quarterly financial statements, sworn to by at least two executive
10 officers of the insurer, or certified by the public insurance supervisory official of the
11 insurer's state of domicile or of entry into the United States;

12 (4) a copy of the report of last examination, if any, made of the insurer,
13 certified by the insurance supervisory official of its state of domicile or of entry into
14 the United States;

15 (5) appointment of the director under AS 21.09.180, as its attorney to
16 receive service of legal process;

17 (6) if a foreign or alien insurer, a certificate of the public official
18 having supervision of insurance in its state or country of domicile, or state of entry
19 into the United States, showing that it is authorized to transact the kinds of insurance
20 proposed to be transacted in this state;

21 (7) if an alien insurer, a copy of the appointment and authority of its
22 United States manager, certified by its officer having custody of its records; and

23 (8) if a foreign insurer, a certificate as to deposit if it is to be tendered
24 under AS 21.09.090 [;

25 (9) SPECIMEN COPIES OF POLICIES PROPOSED TO BE
26 OFFERED IN THIS STATE IF THEN AVAILABLE, TOGETHER WITH
27 PREMIUMS OR PREMIUM RATES APPLICABLE IF THEN KNOWN, OR A
28 DECLARATION THAT THE RATES AS APPLICABLE WILL BE THOSE
29 PROMULGATED BY DESIGNATED RATING ORGANIZATIONS AUTHORIZED
30 TO FILE RATES IN THIS STATE ON BEHALF OF THE INSURER OR BY THE
31 INSURER].

1 * Sec. 7. AS 21.09.110 is amended by adding a new subsection to read:

2 (b) Policy forms and rates that require approval under AS 21.39 or AS 21.42
3 shall be submitted under AS 21.39.040(j) or AS 21.42.120(g) and may not be
4 submitted with the application for a certificate of authority.

5 * Sec. 8. AS 21.09.130(b) is amended to read:

6 (b) If not continued by the insurer, its certificate of authority shall be
7 suspended [EXPIRES] at midnight on June 30 following the failure of the insurer to
8 continue it in force. The certificate of authority shall expire on June 30 one year
9 following its suspension due to failure to continue the certificate of authority. The
10 director shall promptly notify the insurer of the occurrence of a failure that may result
11 in suspension [RESULTING IN IMPENDING EXPIRATION] of its certificate of
12 authority.

13 * Sec. 9. AS 21.09 is amended by adding a new section to read:

14 Sec. 21.09.135. VOLUNTARY SURRENDER OF CERTIFICATE OF
15 AUTHORITY. (a) A foreign admitted insurer may apply for voluntary surrender of
16 its certificate of authority and the director may accept the application, if the foreign
17 admitted insurer

18 (1) is in compliance with the applicable sections of this title, or the
19 director waives in writing each condition of noncompliance;

20 (2) provides written confirmation that obligations incurred before the
21 voluntary surrender of the certificate of authority shall be paid to guarantee funds or
22 insurance pools established by law; and

23 (3) is domiciled in a state that is

24 (A) accredited by the National Association of Insurance
25 Commissioners at the time of the request for voluntary surrender; or

26 (B) not accredited by the National Association of Insurance
27 Commissioners at the time of the request and agrees in writing to be subject
28 to

29 (i) AS 21.09.200 and 21.09.205 for a period of two
30 years, including payment of any fee related to filing information with
31 the director; and

1 (ii) any other provision of this title that may be required
2 in writing by the director and for the period of time the director may
3 specify.

4 (b) If a foreign admitted insurer who surrenders a certificate of authority
5 ceases to exist, all business written and in force relative to a risk resident, located, or
6 to be performed in this state shall be lawfully cancelled or reinsured. A reinsurance
7 agreement covering all or a part of a risk described in this subsection shall be
8 approved by the director before accepting the certificate of authority for surrender if
9 the agreement meets the following criteria:

10 (1) insurance coverage has not deteriorated from the policies existing
11 at the time of the transfer;

12 (2) the assuming insurer is of equal or better financial standing; and

13 (3) the assuming insurer is admitted to do business in this state, unless
14 this requirement is waived by the director.

15 * Sec. 10. AS 21.09.200(f) is amended to read:

16 (f) In addition to the requirements of (a) of this section, an authorized [A
17 DOMESTIC] insurer shall file its annual statement with the National Association of
18 Insurance Commissioners on electronic media acceptable to the association by the
19 due date established by the association, and shall pay the applicable filing fee. The
20 director may waive the filing requirement if the insurer only transacts business
21 in this state and only accepts risks relative to a subject resident, located, or to be
22 performed in this state. An insurer that fails to comply with this subsection is
23 subject to the penalties specified in (e) of this section, calculated from the filing and
24 fee due date established by the National Association of Insurance Commissioners.

25 * Sec. 11. AS 21.09.205 is amended by adding a new subsection to read:

26 (d) In addition to the requirements of (a) of this section, an authorized insurer
27 shall file its quarterly statement with the National Association of Insurance
28 Commissioners on electronic media acceptable to the association by the due date
29 established by the association, and shall pay the applicable filing fee. The director
30 may waive the filing requirement if the insurer only transacts business in this state and
31 only accepts risks relative to a subject resident, located, or to be performed in this

1 state. An insurer that fails to comply with this subsection is subject to the penalties
2 specified in (c) of this section, calculated from the filing and fee due date established
3 by the National Association of Insurance Commissioners.

4 * Sec. 12. AS 21.09.210 is amended by adding new subsections to read:

5 (j) If, within three years after the date the tax under this section was due, an
6 insurer discovers a mistake or misinterpretation that resulted in an overpayment of the
7 tax in an amount exceeding \$250 in any one calendar year, the insurer may make a
8 written request to the director for a refund. If the director determines a valid mistake
9 or misinterpretation has occurred, the director shall refund to the insurer the amount
10 of the excess tax by granting, at the director's discretion, a monetary refund or
11 premium tax credit. A premium tax credit shall be used in the next calendar year to
12 the extent possible and any unused credit shall be paid as a monetary refund. A
13 premium tax credit may not reduce the payable tax, calculated without use of the
14 credit, to less than zero.

15 (k) A premium tax credit granted under (j) of this section may not carry over
16 as an attribute in a transaction under AS 21.69.610, 21.69.620, AS 21.78, or a similar
17 transaction entered into by a foreign insurer.

18 (l) In this section, "premium tax credit" means an amount that an insurer may
19 use as an offset against a premium tax payment.

20 * Sec. 13. AS 21.09 is amended by adding new sections to read:

21 Sec. 21.09.290. RISK RETENTION GROUPS. (a) A risk retention group
22 formed in this state shall

23 (1) comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act);
24 and

25 (2) qualify for and hold in good standing a certificate of authority under
26 this chapter, limited to liability insurance only.

27 (b) A risk retention group shall submit with its application for a certificate of
28 authority

29 (1) the identity of

30 (A) the initial members of the risk retention group;

31 (B) all persons who organized the risk retention group;

1 (C) all persons who will provide administrative services to the
2 risk retention group;

3 (D) all persons who will influence or control the activities of
4 the risk retention group;

5 (2) the amount and nature of initial capitalization;

6 (3) a plan of operation or a feasibility study that includes the coverage,
7 deductible, coverage limit, rate, and rating classification system for the type or class
8 of liability insurance the group intends to offer; and

9 (4) the states in which the risk retention group intends to operate.

10 (c) At least 30 days before a domestic risk retention group implements a
11 material change or revision to an approved plan of operation or feasibility study, the
12 material change or revision shall be filed with the director. A material change or
13 revision may not be implemented unless the domestic risk retention group receives the
14 director's written approval. In this subsection, "material change or revision" includes
15 an offering of an additional type or class of liability insurance.

16 (d) In this section,

17 (1) "liability" means legal liability for damages, including costs of
18 defense, legal costs and fees, and other claims expenses, because of injury to another
19 person, damage to property, or other damage or loss to a person resulting from or
20 arising out of a business, whether profit or nonprofit, trade, product, service, including
21 a professional service, or an activity of a state or local government, or an agency or
22 political subdivision of a state or local government; "liability" does not include
23 personal risk liability or employer's liability with respect to its employees other than
24 legal liability under 45 U.S.C. 51 (Federal Employers' Liability Act);

25 (2) "personal risk liability" means liability for damages because of
26 injury to a person, damage to property, or other loss or damage resulting from a
27 personal, familial, or household responsibility or activity and that is not a responsibility
28 or activity described under (1) of this subsection.

29 Sec. 21.09.300. DISCLOSURE OF MATERIAL TRANSACTIONS. (a) A
30 domestic insurer shall file a report with the director disclosing a material acquisition
31 and disposition of assets or a material nonrenewal, cancellation, or revision of ceded

1 reinsurance agreements unless the acquisition and disposition of assets or material
2 nonrenewal, cancellation, or revision of ceded reinsurance agreements have been
3 submitted to the director for review, approval, or information purposes as required by
4 this title.

5 (b) The report required under (a) of this section is due 15 days after the end
6 of the calendar month in which a reportable transaction occurs.

7 (c) Except as provided in this section, a report obtained by or disclosed to the
8 director under this section is confidential, is not subject to subpoena, and may not be
9 made public by the director, or another person, without the prior written consent of the
10 insurer submitting the report. A report under this section may be disclosed to an
11 insurance regulatory agency of another state or to the National Association of
12 Insurance Commissioners, with notice of the disclosure sent to the insurer. If the
13 director, after giving an insurer notice and an opportunity to be heard, determines that
14 the interest of policyholders, shareholders, or the public will be served by publication
15 of the report, the director may publish all or any part of the report in a manner the
16 director determines appropriate.

17 (d) A domestic insurer's report of an acquisition or disposition of an asset

18 (1) shall be made under (a) of this section if the acquisition or
19 disposition is material; for purposes of this subsection, an acquisition or disposition,
20 or the aggregate of a series of related acquisitions or related dispositions during any
21 30-day period is material if it is nonrecurring, not in the ordinary course of business,
22 and involves more than five percent of the reporting insurer's total admitted assets as
23 reported in its most recent financial statement required by law that is filed with the
24 division;

25 (2) shall be made on asset acquisition, including a purchase, lease,
26 exchange, merger, consolidation, succession, or other acquisition other than the

27 (A) construction or development of real property by or for the
28 reporting insurer; or

29 (B) acquisition of material for construction or development of
30 real property;

31 (3) shall be made on asset disposition including a sale, lease, exchange,

1 merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors,
2 or abandonment;

3 (4) must include information on the

4 (A) date of transaction;

5 (B) manner of acquisition or disposition;

6 (C) description of the assets involved;

7 (D) nature and amount of the consideration given or received;

8 (E) purpose of, or reason for, the transaction;

9 (F) manner by which the amount of consideration was
10 determined;

11 (G) gain or loss recognized or realized as a result of the
12 transaction; and

13 (H) names of persons from whom the assets were acquired or
14 to whom the assets were disposed.

15 (e) A domestic insurer's report of nonrenewal, cancellation, or revision of a
16 ceded reinsurance agreement

17 (1) shall be made under (a) of this section if the nonrenewal,
18 cancellation, or revision is material; for purposes of this subsection, a material
19 nonrenewal, cancellation, or revision is one that affects (A) for property and casualty
20 business, including accident and health business when written as property and casualty
21 business, more than 50 percent of an insurer's ceded written premium; or (B) for life,
22 annuity, and accident and health business, more than 50 percent of the total reserve
23 credit taken for business ceded, on an annualized basis as indicated in the insurer's
24 most recently filed statutory statement; however, a filing is not required if the insurer's
25 ceded written premium or the total reserve credit taken for business ceded represents,
26 on an annual basis, less than 10 percent of direct written premiums and assumed
27 written premiums or 10 percent of the statutory reserve requirement before a cession;

28 (2) shall be filed without regard to which party has initiated the
29 nonrenewal, cancellation, or revision of ceded reinsurance whenever any of the
30 following conditions exist:

31 (A) the entire cession has been cancelled, nonrenewed, or

1 revised and ceded indemnity and loss adjustment expense reserves after a
2 nonrenewal, cancellation, or revision represent less than 50 percent of the
3 comparable reserves that would have been ceded had the nonrenewal,
4 cancellation, or revision not occurred;

5 (B) an admitted or accredited reinsurer has been replaced on an
6 existing cession by an unauthorized reinsurer; however, a report shall be filed
7 only if the result of the revision affects more than 10 percent of the cession;
8 or

9 (C) collateral requirements previously established for
10 unauthorized reinsurers have been reduced; however, a report shall be filed
11 only if the result of the revision affects more than 10 percent of the cession;
12 and

13 (3) must include

14 (A) the effective date of the nonrenewal, cancellation, or
15 revision;

16 (B) a description of the transaction with an identification of the
17 initiator of the transaction;

18 (C) the purpose of, or reason for, the transaction; and

19 (D) if applicable, the identity of the replacement reinsurers.

20 (f) An insurer is required to report under (a) of this section on a
21 nonconsolidated basis unless the insurer is part of a consolidated group of insurers that
22 utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the
23 solvency and integrity of the insurer's reserves and the insurer ceded substantially all
24 of its direct and assumed business to the pool. An insurer is presumed to have ceded
25 substantially all of its direct and assumed business to a pool if the insurer has less than
26 \$1,000,000 total direct written premiums and assumed written premiums during a
27 calendar year that is not subject to a pooling arrangement and the net income of the
28 business not subject to the pooling arrangement represents less than five percent of the
29 insurer's capital and surplus.

30 Sec. 21.09.310. AUTHORIZATION OF UNITED STATES BRANCHES OF
31 ALIEN INSURERS AND GENERAL REQUIREMENTS. (a) This section applies

1 to all United States branches of alien insurers using this state as a state of entry to
2 transact the business of insurance in the United States. Except as provided elsewhere
3 in this title, a United States branch is subject to all state laws applicable to an insurer
4 domiciled in this state.

5 (b) An alien insurer may apply for a certificate of authority to use this state
6 as a state of entry to transact the business of insurance in the United States by

7 (1) qualifying as an insurer licensed to do business in this state;

8 (2) establishing a trust under a trust agreement approved in writing by
9 the director with a United States bank acceptable to the director in an amount not less
10 than the minimum basic capital or basic guarantee surplus and additional maintained
11 surplus required under AS 21.09.070;

12 (3) submitting a copy of its charter and bylaws, if any, currently in
13 force, and other materials necessary to show the kind of business it is authorized to
14 transact in its domiciliary jurisdiction; documents submitted under this paragraph must
15 be attested to as accurate and complete by the insurance supervisory official in the
16 domiciliary jurisdiction, and must include an English translation if in a language other
17 than English;

18 (4) submitting a full statement, subscribed and affirmed as true by two
19 officers or equivalent responsible representatives in a manner that the director
20 prescribes, of its financial condition as of the close of its latest fiscal year, showing
21 its assets, liabilities, income disbursements, business transacted, and other facts
22 required to be shown in its annual statement, as reported to the insurance supervisory
23 official in its domiciliary jurisdiction; all documents submitted under this paragraph
24 must include an English translation if in a language other than English;

25 (5) submitting to an examination under AS 21.06.120(b) at its principal
26 office within the United States, and elsewhere if necessary, unless the director accepts
27 a report of the insurer's last examination and the report has been certified by the
28 insurance supervisory official of the insurer's domiciliary jurisdiction; and

29 (6) payment of fees established under AS 21.06.250.

30 (c) Before issuing or renewing a certificate of authority for a United States
31 branch, the director may require satisfactory proof that the insurer does not intend to

1 transact insurance business in violation of the provisions of this title or that is not
2 authorized by its charter. Proof required under this subsection may include the alien
3 insurer's charter, an agreement evidenced by a duly certified resolution of its board of
4 directors, or other proof that the director may require.

5 (d) The director may renew a certificate of authority for a United States branch
6 if satisfied, by proof the director may require, that the insurer is not delinquent with
7 respect to a requirement or qualification imposed by this title and that its continuance
8 to transact the business of insurance in this state will not be hazardous or prejudicial
9 to the best interest of the people of this state.

10 (e) A United States branch may not receive or renew a certificate of authority
11 in this state

12 (1) to transact a kind of insurance or a combination of kinds of
13 insurance that are not permitted to be transacted by domestic insurers in this state;

14 (2) if it transacts business other than the business of insurance
15 anywhere else within the United States unless the business, in the opinion of the
16 director, is necessarily or properly incidental to the kind of insurance that it is
17 authorized to transact in this state;

18 (3) if it fails to keep full and correct entries of its transactions; records
19 of entries shall at all times be maintained in its principal office within this state; or

20 (4) if it fails to comply with a requirement or limitation of this title that
21 it is not exempted from by another provision of this title and that is applicable to
22 similar domestic insurers and if, in the judgment of the director, the requirement or
23 limitation is necessary to protect the interest of the policyholders.

24 (f) A United States branch that transacts a kind or combination of kinds of
25 insurance outside this state that is not permitted to be done in this state by similar
26 domestic insurers may not have a certificate of authority issued or renewed in this state
27 unless, in the judgment of the director, the transaction of that kind of insurance is not
28 prejudicial to the best interest of the people of this state.

29 (g) A United States branch shall maintain assets in a trust account in an
30 amount not less than the United States branch's reserves and other liabilities, plus the
31 minimum basic capital or basic guaranteed surplus and additional maintained surplus

1 required under AS 21.09.070.

2 (h) A written trust agreement must contain provisions that

3 (1) vest legal title to trusteed assets in the trustees, and their lawfully
4 appointed successors;

5 (2) require that all assets deposited in the trust be continuously kept
6 within the United States;

7 (3) provide for substitution of a new trustee in case of a vacancy by
8 death, resignation, or other reason, subject to the prior written approval of the director;

9 (4) require that the trustee continuously maintain a record sufficient to
10 identify the assets of the trust fund;

11 (5) require that trusteed assets consist only of cash, investments eligible
12 for investment of the funds of domestic insurers, and accrued interest on the assets, if
13 collectible by the trustee, subject to the limits on investment of funds by domestic
14 insurers under this title;

15 (6) require that the trust be for the exclusive benefit, security, and
16 protection of the policyholders, or policyholders and creditors, of the United States
17 branch in the United States and that the trust be maintained as long as there is an
18 outstanding liability of the alien insurer arising out of its transaction of insurance in
19 the United States; and

20 (7) provide that withdrawal of an asset may not be made or permitted
21 by a trustee without the prior written approval of the director except

22 (A) to make deposits required by law in a state for the security
23 or benefit of all policyholders, or policyholders and creditors, of the United
24 States branch in the United States;

25 (B) to withdraw funds deposited in another state under (A) of
26 this paragraph if

27 (i) the written trust agreement requires prior written
28 approval of the insurance supervising official of that other state;

29 (ii) written notice of the nature and extent of the
30 withdrawal is provided to the director within 30 days of the withdrawal;
31 and

1 (iii) the total trustee assets remaining are in excess of
2 the total assets required to be maintained in trust under (g) of this
3 section;

4 (C) upon the specific written direction of the United States
5 manager, who is duly authorized and is acting under either general or specific
6 written authority previously given or delegated by the board of directors, to
7 substitute other assets as permitted by this title if the substituted assets are of
8 at least equal value and quality to those withdrawn;

9 (D) to transfer assets to an official liquidator or rehabilitator
10 under an order of a court of competent jurisdiction; or

11 (E) if provided under the terms of the written trust agreement,
12 to pay over to the United States manager of the United States branch, upon
13 request, income, dividends, or interest accumulations of the assets of the trust
14 fund that are in excess of the total assets required to be maintained in trust
15 under (g) of this section.

16 (i) A written trust agreement and all amendments to it shall be authenticated
17 in a form and manner that the director may prescribe and may not take effect until
18 approved by the director. The director may not approve a trust agreement unless the
19 director makes a written finding that

20 (1) the written trust agreement or its amendments are sufficient in form
21 and in conformity with law;

22 (2) a person designated as a trustee is eligible to act in that capacity;
23 and

24 (3) the written trust agreement is adequate to protect the interests of the
25 beneficiaries of the trust.

26 (j) The director may approve written modifications of, or variations in, a
27 written trust agreement upon a finding that the proposed changes are not prejudicial
28 to the interests of the people of this state or the United States policyholders and
29 creditors of the United States branch.

30 (k) The director may conduct examinations of the trustee assets of an
31 authorized United States branch at the insurer's expense and may require the trustee

1 or trustees to file a statement, in a form as prescribed by the director, certifying the
2 assets and amounts of the trust fund.

3 (l) The director, upon finding that the requisites for the approval of the trust
4 agreement no longer exist, may issue an order that withdraws approval of a written
5 trust agreement and amendments to it. An order issued under this subsection takes
6 effect 10 days after being issued.

7 (m) In addition to all other actions permitted under this title, refusal or neglect
8 of a trustee to comply with the requirements of this title is a cause for suspension or
9 revocation of the United States branch's certificate of authority or the liquidation of
10 the alien insurer's United States branch.

11 (n) Annual statements under AS 21.09.200 and quarterly statements under
12 AS 21.09.205 (1) may only relate to insurance transactions and affairs within the
13 United States, assets held by or for the United States branch for the protection of
14 policyholders and creditors within the United States, and liabilities incurred against
15 those assets; and (2) may not contain a statement in regard to assets and business
16 transacted in a place not described in this subsection. The annual and quarterly
17 statements shall be signed and verified by the United States manager, attorney-in-fact,
18 or a duly empowered assistant United States manager of the United States branch.

19 (o) In a form prescribed by the director, an authorized United States branch
20 shall file with its annual and quarterly statements a statement of trustee surplus
21 covering the same time period. The trustee surplus shall consist of the aggregate
22 value of the United States branch's general state deposits and assets deposited with a
23 trustee under this section, plus accrued interest income if the interest were collected
24 by the states for the trustees, less the aggregate net amount of all its reserves and other
25 liabilities in the United States as determined under this subsection. The items of
26 securities and other property held under trust deeds shall be certified by the United
27 States trustee. To determine the net amount of the United States branch's liabilities
28 in the United States to be reported in the statement of trustee surplus, the United
29 States branch shall adjust its total liabilities reported on its accompanying annual or
30 quarterly statement as follows:

31 (1) by adding back liabilities used to offset admitted assets reported in

1 the accompanying annual or quarterly statement; and

2 (2) by deducting

3 (A) unearned premiums on agent's balances or uncollected
4 premiums not more than 90 days past due;

5 (B) reinsurance on losses with authorized insurers, less unpaid
6 reinsurance premiums;

7 (C) reinsurance recoverables on paid losses from unauthorized
8 insurers that are included as an asset in the annual statement, but only to the
9 extent a liability for unauthorized recoverables as described in this paragraph
10 are included in the liabilities report in the trustee surplus statement;

11 (D) special state deposits held for the exclusive benefit of
12 policyholders, or policyholders and creditors, of a particular state not exceeding
13 net liabilities reported for that state;

14 (E) secured accrued retrospective premiums;

15 (F) if a life insurer,

16 (i) the amount of its policy loans to policyholders within
17 the United States, not exceeding the amount of legal reserve required
18 on an affected policy; and

19 (ii) the net amount of uncollected and deferred
20 premiums; and

21 (G) other nontrustee assets, upon a written finding by the
22 director that the other nontrustee assets secure liabilities in a substantially
23 similar manner to those permitted under this subsection.

24 (p) In addition to the annual and quarterly statements and the statements of
25 trustee surplus, the director may require additional information relating to total
26 business or assets, or any portion of them, of the alien insurer or its United States
27 branch.

28 (q) In addition to the general statement of the financial condition of the United
29 States branch, a report of examination must include a trustee surplus statement as of
30 the date of the examination.

31 (r) In this section,

1 (1) "trusteed assets" are the assets maintained in a trust account under
2 (g) of this section;

3 (2) "United States branch" means the business unit through which
4 business is transacted within the United States by an alien insurer and the assets and
5 liabilities of the insurer within the United States applicable to that business.

6 * Sec. 14. AS 21.09.310(b) is repealed and reenacted to read:

7 (b) An alien insurer may apply for a certificate of authority to use this state
8 as a state of entry to transact the business of insurance in the United States by

9 (1) qualifying as an insurer licensed to do business in this state; and

10 (2) establishing a trust under a trust agreement approved in writing by
11 the director with a United States bank acceptable to the director in an amount not less
12 than the greater of

13 (A) the minimum basic capital or basic guarantee surplus and
14 additional maintained surplus required under AS 21.09.070; or

15 (B) the authorized control level risk based capital under
16 AS 21.14;

17 (3) submitting a copy of its charter and bylaws, if any, currently in
18 force, and other documents necessary to show the kind of business it is authorized to
19 transact in its domiciliary jurisdiction; documents submitted under this paragraph must
20 be attested to as accurate and complete by the insurance supervisory official in the
21 domiciliary jurisdiction, and must include an English translation, if in a language other
22 than English;

23 (4) submitting a full statement, subscribed and affirmed as true by two
24 officers or equivalent responsible representatives in a manner that the director
25 prescribes, of its financial condition as of the close of its latest fiscal year, showing
26 its assets, liabilities, income disbursements, business transacted, and other facts
27 required to be shown in its annual statement, as reported to the insurance supervisory
28 official in its domiciliary jurisdiction; all documents submitted under this paragraph
29 must include an English translation if in a language other than English;

30 (5) submitting to an examination under AS 21.06.120(b) at its principal
31 office within the United States, and elsewhere if necessary, unless the director accepts

1 a report of the insurer's recent examination and the report has been certified by the
2 insurance supervisory official of the insurer's domiciliary jurisdiction; and

3 (6) payment of fees established under AS 21.06.250.

4 * Sec. 15. AS 21.09.310(g) is repealed and reenacted to read:

5 (g) A United States branch shall maintain assets in a trust account in an
6 amount not less than the United States branch's reserves and other liabilities, plus the
7 greater of

8 (1) the minimum basic capital or basic guaranteed surplus and
9 additional maintained surplus required under AS 21.09.070; or

10 (2) the authorized control level risk based capital under AS 21.14.

11 * Sec. 16. AS 21.12.020(a) is amended to read:

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

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

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

19 (A) files evidence of submission [SUBMITS] to this state's
20 jurisdiction, submits to this state's authority to examine its books and records
21 under AS 21.06.120, is licensed to transact insurance or reinsurance in at least
22 one state that is accredited by the National Association of Insurance
23 Commissioners, or, in the case of a United States branch of an alien
24 admitted insurer, is entered through and licensed to transact insurance or
25 reinsurance in at least one state that is accredited by the National
26 Association of Insurance Commissioners; [AND FILES ANNUALLY WITH
27 THE DIRECTOR A COPY OF THE REINSURER'S ANNUAL STATEMENT
28 FILED WITH THE INSURANCE DEPARTMENT OF THE REINSURER'S
29 STATE OF DOMICILE AND A COPY OF THE REINSURER'S MOST
30 RECENT AUDITED FINANCIAL STATEMENT; OR]

31 (B) [IN THE CASE OF A UNITED STATES BRANCH OF

1 AN ALIEN ASSUMING INSURER, IS ENTERED THROUGH, AND
2 LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN, AT
3 LEAST ONE STATE ACCREDITED BY THE NATIONAL ASSOCIATION
4 OF INSURANCE COMMISSIONERS, FILES ANNUALLY WITH THE
5 DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT
6 IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS
7 STATE OF DOMICILE, AND] maintains at least \$20,000,000 in policyholder
8 surplus and whose accreditation has not been denied by the director within
9 90 days of application to the director, or maintains less than \$20,000,000
10 in policyholder surplus and whose application for accreditation has been
11 approved by the director; and

12 (C) files annually with the director a copy of the reinsurer's
13 annual financial statement filed with the insurance department of the
14 reinsurer's state of domicile or state of entry [THE SURPLUS
15 REQUIREMENTS IN THIS SUBPARAGRAPH DO NOT APPLY TO
16 REINSURANCE CEDED AND ASSUMED UNDER A POOLING
17 ARRANGEMENT AMONG INSURERS IN THE SAME HOLDING
18 COMPANY SYSTEM];

19 (3) assuming insurer that is domiciled in a state, or in the case of a
20 United States branch of an alien assuming insurer, is entered through a state accredited
21 by the National Association of Insurance Commissioners that employs standards
22 regarding credit for reinsurance ceded substantially similar to those applicable under
23 (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus
24 of at least \$20,000,000, and the assuming insurer submits to the authority of this state
25 to examine its books and records; the surplus requirements in this paragraph do not
26 apply to reinsurance ceded and assumed under a pooling arrangement among insurers
27 in the same holding company system;

28 (4) assuming alien insurer that

29 (A) maintains a trust fund in a qualified United States financial
30 institution for the payment of the valid claims of its United States policyholders
31 and ceding insurers, and their assigns and successors in interest, that conforms

1 to the following requirements:

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

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

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

24 (iv) in the case of a group, including incorporated and
25 [OF] individual unincorporated insurers, the trust shall consist of trust
26 money representing the group's liabilities attributable to business
27 written in the United States and, in addition, include a trust surplus not
28 less than \$100,000,000; the incorporated members of the group may
29 not be engaged in any business other than underwriting as a
30 member of the group and are subject to the same level of solvency
31 regulation and control by the group's domiciliary regulator as are

1 the unincorporated members; the group shall make available to the
2 director an annual certification of the solvency of each insurer [OF
3 THE INDIVIDUAL UNINCORPORATED INSURERS] by the group's
4 domiciliary regulator and by an independent certified public accountant,
5 or, for a Canadian or British insurer, an independent Canadian or
6 British chartered accountant;

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

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

30 (5) assuming insurer that does not meet the requirements of (1) - (4)
31 of this subsection, but only with respect to the insurance of risks located in

1 jurisdictions where the reinsurance is required by applicable law or regulation of that
2 jurisdiction.

3 * Sec. 17. AS 21.18.060(b) is amended to read:

4 (b) The director may require that the reserves be equal to the unearned
5 portions of the gross premiums in force after deducting applicable reinsurance in
6 solvent insurers as computed on each respective risk from the policy's date of issue.
7 [EXCEPT AS REQUIRED BY THE DIRECTOR UNDER THIS SUBSECTION, THE
8 PORTIONS OF THE GROSS PREMIUM IN FORCE, LESS APPLICABLE
9 REINSURANCE IN SOLVENT INSURERS, TO BE HELD AS AN UNEARNED
10 PREMIUM RESERVE SHALL BE COMPUTED ACCORDING TO THE
11 FOLLOWING TABLE:

12 TERM FOR WHICH POLICY	RESERVE FOR UNEARNED
13 WAS WRITTEN	PREMIUM
14 1 YEAR OR LESS	1/2
15 2 YEARS	1ST YEAR 3/4
	2ND YEAR 1/4
17 3 YEARS	1ST YEAR 5/6
	2ND YEAR 1/2
	3RD YEAR 1/6
20 4 YEARS	1ST YEAR 7/8
	2ND YEAR 5/8
	3RD YEAR 3/8
	4TH YEAR 1/8
24 5 YEARS	1ST YEAR 9/10
	2ND YEAR 7/10
	3RD YEAR 1/2
	4TH YEAR 3/10
	5TH YEAR 1/10
29 OVER 5 YEARS	PRO RATA.]

30 * Sec. 18. AS 21.18.060(c) is amended to read:

31 (c) An [IN LIEU OF COMPUTATION ACCORDING TO THE TABLE IN

1 (b) OF THIS SECTION, THE] insurer shall [AT ITS OPTION MAY] compute all of
2 the reserves on a monthly or more frequent pro rata basis.

3 * Sec. 19. AS 21.18.090 is amended to read:

4 Sec. 21.18.090. LOSS RESERVES, LIABILITY INSURANCE, AND
5 WORKERS' COMPENSATION. Where required in the form of annual statement
6 required of the insurer, the reserve for outstanding losses under insurance against loss
7 or damage from accident to or injuries suffered by an employee or other person and
8 for which the insured is liable shall be computed as follows:

9 (1) for all liability claims under policies written more than three
10 years before the end of the calendar year covered by the annual statement, the
11 reserve shall be the undiscounted value of the determined and the estimated
12 future payments [SUITS BEING DEFENDED UNDER POLICIES WRITTEN MORE
13 THAN

14 (A) 10 YEARS BEFORE THE DATE THE STATEMENT IS
15 MADE, \$1,500 FOR EACH SUIT;

16 (B) FIVE OR MORE AND LESS THAN 10 YEARS BEFORE
17 THE STATEMENT IS MADE, \$1,000 FOR EACH SUIT;

18 (C) THREE OR MORE AND LESS THAN FIVE YEARS
19 BEFORE THE STATEMENT IS MADE, \$850 FOR EACH SUIT];

20 (2) for all liability policies written during the three years immediately
21 preceding the date the statement is made, the reserve shall be the greater of 60
22 percent of the earned liability premiums of each of the three years less all losses and
23 expense payments made under liability policies written in the corresponding years or
24 the undiscounted value of the known and unknown claims; [BUT THE RESERVE,
25 FOR THE FIRST OF THE THREE YEARS, SHALL BE NOT LESS THAN \$750
26 FOR EACH OUTSTANDING LIABILITY SUIT ON THE YEAR'S POLICIES];

27 (3) for all workers' compensation claims under policies written more
28 than three years before the end of the calendar year covered by the annual
29 statement [IS MADE], the reserve may not [SHALL] be less than the present value
30 at four per cent interest of the determined and the estimated future payments;

31 (4) for all workers' compensation claims under policies written in the

1 three years immediately preceding the end of the calendar year covered by [DATE]
2 the annual statement [IS MADE], the reserve may not [SHALL] be less than 65
3 percent of the earned workers' compensation premiums of each of the three years, less
4 all loss and loss expense payments made in connection with the claims under policies
5 written in the corresponding years; [BUT IN THE FIRST YEAR OF THE
6 THREE-YEAR PERIOD,] the reserve may not [SHALL] be [NOT] less than the
7 present value at four [4] percent interest of the determined and the estimated unpaid
8 compensation claims under policies written during the three-year period [YEAR].

9 * Sec. 20. AS 21.21.250(a) is amended to read:

10 (a) An insurer may make loans or investments not otherwise expressly
11 permitted under this chapter, in aggregate amount not over five percent of the insurer's
12 assets and not over one percent of the insurer's assets for [OF] any one loan or
13 investment, if the loan or investment fulfills the requirements of AS 21.21.030, and
14 otherwise qualifies as a sound investment. However, a loan or investment may not be
15 represented by

16 (1) an item described in AS 21.18.030, or a loan or investment
17 otherwise expressly prohibited;

18 (2) agents' balances, or amounts advanced to or owing by agents or
19 former agents of the insurer, whether or not secured; except policy loans, mortgage
20 loans, and collateral loans otherwise authorized under this chapter;

21 (3) a category of loans or investments eligible under other provisions
22 of this chapter; or

23 (4) an asset theretofore acquired or held by the insurer under any other
24 category of loans or investments eligible under this chapter.

25 * Sec. 21. AS 21.21.370(a) is amended to read:

26 (a) A domestic insurer may [NOT] acquire, directly or indirectly, a medium
27 grade or lower grade obligation of an institution if, after giving effect to the
28 acquisition,

29 (1) the aggregate amount of all medium grade and lower grade
30 obligations held by the domestic insurer does not exceed [EXCEEDS] 20 percent of
31 its admitted assets and if not more than

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

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

5 (C) one percent of its admitted assets consist of obligations
6 rated six by the securities valuation office; and [OR]

7 (2) the aggregate amount of all medium grade and [OR] lower grade
8 obligations held by the domestic insurer does not exceed [EXCEEDS] 30 percent of
9 its policyholders' surplus account as shown by the insurer's most recent report filed
10 under AS 21.06.150, AS 21.09.200, or 21.09.205.

11 * Sec. 22. AS 21.22.010(g) is amended to read:

12 (g) The provisions of this section do not apply to

13 (1) an offer of, request for, invitation for, or agreement regarding [,
14 OR] acquisition of a voting security that, immediately before the consummation of the
15 offer, request, invitation, agreement, or acquisition, was not issued and outstanding; or

16 (2) an offer, request, invitation, agreement, or acquisition that the
17 director by order may exempt as not having been made or entered into for the purpose
18 and not having the effect of changing or influencing the control of the domestic
19 insurer.

20 * Sec. 23. AS 21.22.030 is amended by adding a new subsection to read:

21 (d) The director may retain at the acquiring person's expense an attorney,
22 actuary, accountant, or other expert not otherwise a part of the director's staff, if
23 reasonably necessary to assist the director in reviewing the proposed acquisition of
24 control.

25 * Sec. 24. AS 21.22.060(b) is amended to read:

26 (b) Every insurer subject to registration shall file a registration statement on
27 a form provided by the director, that must contain current information about

28 (1) the capital structure, general financial condition, ownership, and
29 management of the insurer and any person controlling the insurer;

30 (2) the identity of every member of the insurance holding company
31 system;

1 (3) the following agreements in force, relationships subsisting, and
2 transactions currently outstanding between the insurer and its affiliates:

3 (A) loans, other investments, or purchases, sales, or exchanges
4 of securities of the affiliates by the insurer or of the insurer by its affiliates;

5 (B) purchases, sales, or exchanges of assets;

6 (C) transactions not in the ordinary course of business;

7 (D) guarantees or undertakings for the benefit of an affiliate that
8 result in an actual contingent exposure of the insurer's assets to liability, other
9 than insurance contracts entered into in the ordinary course of the insurer's
10 business;

11 (E) all management and service contracts and all cost-sharing
12 arrangements [, OTHER THAN COST ALLOCATION ARRANGEMENTS
13 BASED UPON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES];
14 and

15 (F) reinsurance agreements [COVERING ALL OR
16 SUBSTANTIALLY ALL OF ONE OR MORE LINES OF INSURANCE OF
17 THE CEDING COMPANY]; and

18 (4) other matters concerning transactions between registered insurers
19 and any affiliates that may be included from time to time in a registration form
20 adopted or approved by the director.

21 * Sec. 25. AS 21.22.060(c) is amended to read:

22 (c) The director may permit an authorized insurer that is a member of a
23 holding company system subject to registration under the laws or regulations of its
24 state of domicile that are in the opinion of the director substantially similar to those
25 contained in this chapter to satisfy the requirements of (a) of this section by filing a
26 statement in accordance with the laws of its state of domicile [EXCEPT THAT THE
27 DIRECTOR MAY AT ANY TIME REQUIRE A COPY OF THAT STATEMENT BE
28 FILED WITH THE DIRECTOR].

29 * Sec. 26. AS 21.22.060(d) is amended to read:

30 (d) Information [NO INFORMATION] need not be disclosed on the
31 registration statement filed under (b) of this section if that information is not material

1 for the purposes of this section. Unless the director by regulation or order provides
2 otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments,
3 involving one-half of one percent or less of an insurer's admitted assets or five percent
4 or less of the policyholder's surplus as of the 31st day of December of the calendar
5 year in which the transaction took place are not considered material for purposes of
6 this section.

7 * Sec. 27. AS 21.22.060(k) is amended to read:

8 (k) An insurer subject to registration under (a) of this section shall register
9 annually by April 1 of each year for the previous calendar year unless, for good cause
10 shown, the director extends the time for registration. The director may require an
11 insurer [AUTHORIZED TO DO BUSINESS IN THE STATE, THAT IS A MEMBER
12 OF A HOLDING COMPANY SYSTEM AND] that is allowed to register as
13 provided [NOT SUBJECT TO REGISTRATION] under (c) [(a)] of this section, to
14 furnish a copy of

15 (1) the registration statement;

16 (2) [,] the summary specified in (l) of this section; [,] or

17 (3) other information filed by the insurer with the insurance regulatory
18 authority of the insurer's state of domicile.

19 * Sec. 28. AS 21.27.010(a) is amended to read:

20 (a) Except as provided otherwise in this chapter, a [A] person may not act
21 as or represent to be an insurance producer, managing general agent, reinsurance
22 intermediary broker, reinsurance intermediary manager, surplus lines broker, or
23 independent adjuster in this state or relative to a subject resident, located, or to be
24 performed in this state unless licensed under this chapter. A person may not act as or
25 represent to be a managing general agent, reinsurance intermediary broker, or
26 reinsurance intermediary manager representing an insurer domiciled in this state
27 regarding a risk located outside this state unless licensed by this state.

28 * Sec. 29. AS 21.27.020 is amended by adding a new subsection to read:

29 (f) The director may

30 (1) adopt regulations establishing additional education or experience
31 requirements for applicants or licensees under this chapter upon due consideration of

1 the availability and accessibility of education and training opportunities in rural areas
2 of the state; and

3 (2) make arrangements, including contracting with an outside agency,
4 for administrative services.

5 * Sec. 30. AS 21.27.025(a) is amended to read:

6 (a) A licensee shall notify the director within 30 days in writing by certified
7 mail of a change in residence, employment that is licensed under this chapter, place
8 of business, legal name, fictitious name or alias, mailing address, or phone number;
9 a suspension, [OR] revocation, or disciplinary action of a license by another state or
10 jurisdiction; or a conviction of a misdemeanor or felony.

11 * Sec. 31. AS 21.27.060(d) is amended to read:

12 (d) This section does not apply to an applicant

13 (1) for a limited license under AS 21.27.150(1), (2), or (6);

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

18 (3) whose license in its [THE] resident jurisdiction requires the same
19 qualifications as the license applied for in this state if the license in all jurisdictions
20 is in good standing [AND ITS RESIDENT JURISDICTION IS ACCREDITED BY
21 THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS].

22 * Sec. 32. AS 21.27.100 is amended by adding a new subsection to read:

23 (e) An individual in a firm who acts solely on behalf of a firm that is
24 appointed as an agent on behalf of an admitted insurer under this section, may not be
25 required to also have an appointment if the individual in the firm is licensed with that
26 firm.

27 * Sec. 33. AS 21.27.130 is amended to read:

28 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license shall be
29 in the form the director prescribes and must set out

30 (1) the name and [MAILING] address of the licensee, and, if the
31 licensee is required to have a place of business, the physical address of the place of

1 business;

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

3 (3) the kind or class of insurance the licensee is licensed to handle;

4 (4) the effective date and expiration date of the license;

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

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

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

8 business; and

9 (8) other information required by the director.

10 * Sec. 34. AS 21.27.360(b) is amended to read:

11 (b) All money, except that made payable to the insurer, representing premium
12 taxes and fees, premiums or return premiums received by the licensee, shall be
13 received in the fiduciary account of the licensee and shall be promptly accounted for
14 and paid to the person entitled to the money. The fiduciary account shall be located
15 in this state unless the licensee is licensed as a nonresident under AS 21.27.270.

16 For purposes of this section, the fiduciary account of the firm shall be considered the
17 fiduciary account of an individual licensee acting on behalf of the firm and shall be
18 the responsibility of the firm. Money deposited into a fiduciary account may not be
19 commingled or otherwise combined with other money, except as allowed under (d) of
20 this section and AS 21.27.365.

21 * Sec. 35. AS 21.27.380(a) is amended to read:

22 (a) Except as provided in this title, the director may renew a license biennially
23 on a date set by the director if the licensee continues to be qualified under this chapter
24 and on or before the close of business of the renewal date, meets all renewal
25 requirements established by regulation and pays the [IF] renewal license fees set
26 under AS 21.06.250 for each license to [ARE RECEIVED BY] the director [ON OR
27 BEFORE THE CLOSE OF BUSINESS OF THE RENEWAL DATE]. A licensee is
28 responsible for knowing the date that a license lapses and for renewing a license before
29 expiration. The director shall mail a renewal notice to the licensee's current address
30 on file with the director 30 days before the renewal date.

31 * Sec. 36. AS 21.27.420 is amended by adding a new subsection to read:

1 (c) With the consent of an applicant or licensee, the director may issue or
2 renew a license with restrictions upon the scope of the person's license or may
3 otherwise restrict or condition the activities of the licensee if the director determines
4 that the person has violated the provisions of this title or to protect the public from
5 injury or potential injury.

6 * Sec. 37. AS 21.27.530 is amended to read:

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

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

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

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

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

23 (5) except for an applicant or licensee who represents to be and acts
24 solely on behalf of admitted insurers as an agent and who does not receive money
25 required to be received in the fiduciary account of the licensee, shall file with the
26 application and maintain in force while licensed a bond in the amount of \$10,000,
27 unless a greater amount is required by another provision of this title; a licensee who
28 maintains more than one place of business may satisfy the bond requirement with
29 a single bond.

30 * Sec. 38. AS 21.27.570(a)(3)(B) is amended to read:

31 (B) the controlling insurance producer shall render accounts to

1 the controlled insurer detailing all transactions, including information in the
2 accounts necessary to support compensation, commissions, charges, and other
3 fees received by, or owing to, the controlling producer;

4 * Sec. 39. AS 21.27.620(j) is amended to read:

5 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240
6 that a managing general agent caused loss or damage arising out of a violation of
7 AS 21.27.590 - 21.27.630 to an insurer, the director may order the managing general
8 agent to make restitution to the insurer, receiver, [THE] rehabilitator, or [THE]
9 liquidator of the insurer for the loss. Restitution ordered under this subsection is in
10 addition to any other liability of the managing general agent and does not affect the
11 rights of a policy holder, claimant, creditor, or third party. The director may, at the
12 request of the insurer, maintain or bring a civil action brought by or on behalf
13 of the insurer and its policyholders and creditors for recovery of compensatory
14 damages for the benefit of the insurer and its policyholders and creditors or seek
15 other appropriate relief. If an order of rehabilitation or liquidation of the insurer
16 has been entered under AS 21.78, the receiver appointed under the order
17 determines that a person has not materially complied with AS 21.27.590 -
18 21.27.630 or an order of the director, and the insurer suffers loss or damage from
19 the noncompliance, the receiver may bring a civil action for the recovery of
20 damages or other appropriate sanctions for the benefit of the insurer.

21 * Sec. 40. AS 21.27.690(b) is amended to read:

22 (b) An [A DOMESTIC] insurer may use a nonresident reinsurance
23 intermediary broker who is not licensed under this chapter if the person is licensed in
24 good standing as a resident reinsurance intermediary broker by an insurance regulator
25 of another state that is accredited by the National Association of Insurance
26 Commissioners. Upon written request, the director may grant written permission for
27 a domestic insurer to use an alien reinsurance intermediary broker not licensed by and
28 without a place of business in a jurisdiction subject to accreditation by the National
29 Association of Insurance Commissioners if the alien reinsurance intermediary broker
30 is licensed in good standing by its domiciliary insurance regulator. The domestic
31 insurer and unlicensed reinsurance intermediary broker are subject to all other

1 requirements of this section.

2 * Sec. 41. AS 21.27.690(e) is amended to read:

3 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240
4 that a reinsurance intermediary broker caused losses or damage arising out of a
5 violation of AS 21.27.670 - 21.27.700 to an insurer or reinsurer, the director may order
6 the reinsurance intermediary broker to make restitution to the insurer, reinsurer,
7 receiver, rehabilitator, or liquidator of the insurer or reinsurer for the net losses
8 incurred by the insurer or reinsurer. Restitution ordered under this subsection is in
9 addition to any other liability of the reinsurance intermediary broker and does not
10 affect the rights of a policyholder, claimant, creditor, or third party. The director
11 may, at the request of the insurer, maintain or bring a civil action brought by or
12 on behalf of the reinsurer or insurer and its policyholders and creditors for
13 recovery of compensatory damages for the benefit of the reinsurer or insurer and
14 its policyholders and creditors or seek other appropriate relief. If an order of
15 rehabilitation or liquidation of the insurer has been entered under AS 21.78, the
16 receiver appointed under the order determines that a person has not materially
17 complied with AS 21.27.670 - 21.27.700 or an order of the director, and the
18 insurer suffers loss or damage from the noncompliance, the receiver may bring
19 a civil action for the recovery of damages or other appropriate sanctions for the
20 benefit of the insurer.

21 * Sec. 42. AS 21.27.760(j) is amended to read:

22 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240
23 that a reinsurance intermediary manager caused losses or damage arising out of a
24 violation of AS 21.27.730 - 21.27.770 to an insurer or reinsurer, the director may order
25 the reinsurance intermediary manager to make restitution to the insurer, reinsurer,
26 receiver, rehabilitator, or liquidator of the insurer or reinsurer for the net losses
27 incurred by the insurer or reinsurer. Restitution ordered under this subsection is in
28 addition to any other liability of the reinsurance intermediary manager and does not
29 affect the rights of a policyholder, claimant, creditor, or third party. The director
30 may, at the request of the insurer, maintain or bring a civil action brought by or
31 on behalf of the reinsurer or insurer and its policyholders and creditors for

1 recovery of compensatory damages for the benefit of the reinsurer or insurer and
2 its policyholders and creditors or seek other appropriate relief. If an order of
3 rehabilitation or liquidation of the insurer has been entered under AS 21.78, the
4 receiver appointed under the order determines that a person has not materially
5 complied with AS 21.27.730 - 21.27.770 or an order of the director, and the
6 insurer suffers loss or damage from the noncompliance, the receiver may bring
7 a civil action for the recovery of damages or other appropriate sanctions for the
8 benefit of the insurer.

9 * Sec. 43. AS 21.34.040(c)(4) is amended to read:

10 (4) a Lloyd's or other similar group including incorporated and
11 individual unincorporated underwriters, [GROUP OF ALIEN INDIVIDUAL
12 INSURERS] may qualify if it maintains a trust fund in an amount not less than
13 \$50,000,000, as security to the full amount, for the protection of all its policy holders
14 and creditors of each member of the group in the United States; the incorporated
15 members may not be engaged in any business other than underwriting as a
16 member of the group and shall be subject to the same level of solvency regulation
17 and control by the group's domiciliary regulator as are the unincorporated
18 members; the trust fund must consist of instruments of substantially the same
19 character and quality as those that are eligible investments for the capital and statutory
20 reserves of admitted insurers authorized to write like kinds of insurance in this state
21 or of irrevocable, clean, and unconditional letters of credit; the trust fund must have
22 an expiration date that at no time is less than five years;

23 * Sec. 44. AS 21.34.080(c) is amended to read:

24 (c) A producing broker shall execute and deliver to the surplus lines broker not
25 later than the end of each month on a form prescribed by the director, and a surplus
26 lines broker shall file with the director with the report required by (a) of this section
27 or with the surplus lines association with the evidence of insurance required by (b) of
28 this section, for surplus lines insurance first placed or renewed in the preceding
29 calendar month, an affidavit that shall be open to public inspection, as to the diligent
30 efforts to place the coverage with admitted insurers, and the results of those efforts.
31 The affidavit must contain a statement by the producing broker that the insured was

1 expressly informed in writing before the [PLACEMENT OF THE SURPLUS LINES]
2 insurance contract or coverage was bound that the surplus lines insurer with whom
3 the insurance was to be placed is not licensed in this state, is not subject to this state's
4 supervision, and, in the event of the insolvency of the surplus lines insurer, losses will
5 not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

6 * Sec. 45. AS 21.34.110 is amended to read:

7 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY
8 INSURED. (a) A contract of insurance placed by a surplus lines broker under this
9 chapter is not binding upon the insured and a premium charged is not due and payable
10 until

11 (1) the surplus lines broker has notified the insured in writing, a copy
12 of which shall be maintained by the licensee with the records of the contract, available
13 for examination, that the insurer with which the surplus lines broker places the
14 insurance does not hold a certificate of authority issued by this state and is not subject
15 to its supervision, and in the event of the insolvency of the surplus lines insurer, losses
16 will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act); or

17 (2) the surplus lines broker has obtained the affidavit of the
18 producing broker that the notice required under AS 21.34.080(c) has been given
19 to the insured; a licensee shall maintain a copy of the affidavit with the record of
20 the contract available for examination.

21 (b) Nothing in this section may be construed as nullifying [SHALL
22 NULLIFY] an agreement by an insurer to provide insurance.

23 * Sec. 46. AS 21.34.190(a) is amended to read:

24 (a) The fee for filing the statement under AS 21.34.180(b) is an amount equal
25 to one percent on gross premium charged less any return premiums during the
26 preceding calendar year [QUARTER]. The surplus lines broker shall pay the fee at
27 the time of filing of the statement.

28 * Sec. 47. AS 21.36.120(d) is amended to read:

29 (d) Nothing in this section may be construed as prohibiting the payment of
30 commissions or other compensation to persons duly transacting business under
31 AS 21.27 [LICENSED AGENTS OR SOLICITORS], or as prohibiting an insurer from

1 allowing or returning to its participating policyholders, members, or subscribers, lawful
2 dividends, savings, or unabsorbed premium deposits.

3 * Sec. 48. AS 21.36.195 is amended to read:

4 Sec. 21.36.195. SURPLUS LINES BROKERS AND INSURANCE
5 PRODUCERS; PROHIBITED ACTS. A surplus lines broker or an insurance
6 producer may not fail to provide evidence [THE EVIDENCES] of insurance,
7 affidavits, filings, or reports, or fail to maintain the records, or fail to pay the taxes and
8 fees, required under AS 21.34.

9 * Sec. 49. AS 21.36.235(a) is amended to read:

10 (a) Except as provided in AS 21.36.305 [AS 21.36.420], if the renewal
11 premium is increased more than 10 percent for a reason other than an increase in
12 coverage or exposure base, or if after renewal there will be a material restriction or
13 reduction in coverage not specifically requested by the insured, written notice shall be
14 mailed to the insured and to the agent or broker of record as required by AS 21.36.260

15 (1) at least 20 days before expiration of a personal insurance policy;

16 or

17 (2) at least 45 days before expiration of a business or commercial
18 policy.

19 * Sec. 50. AS 21.36.290 is amended to read:

20 Sec. 21.36.290. POLICY PERIOD. Except as described in (b) of this
21 section, a [A] policy with a policy period or term of less than 12 months shall, for the
22 purposes of AS 21.36.210 - 21.36.310, be considered to be written for a policy period
23 or term of 12 months except in case of cancellation under any of the circumstances
24 specified in AS 21.36.210, and a policy written for a term longer than one year or a
25 policy with no fixed expiration date shall be considered to be written for successive
26 policy periods or terms of one year and termination by an insurer effective on an
27 anniversary date of the policy shall be considered a failure to renew.

28 * Sec. 51. AS 21.36.290 is amended by adding a new subsection to read:

29 (b) For determining the appropriate rate or premium, a personal automobile
30 insurance policy with a policy period or term of less than six months shall, for the
31 purposes of AS 21.36.210 - 21.36.310, be considered to be written for a policy period

1 or term of six months.

2 * Sec. 52. AS 21.36 is amended by adding a new section to read:

3 Sec. 21.36.305. PREMIUM INCREASES ON PERSONAL AUTOMOBILE
4 INSURANCE POLICIES. (a) An insurer may not increase the premium on a personal
5 automobile insurance policy unless the increase applies to all insureds of the same
6 class.

7 (b) An insurer may not increase the premium or add a surcharge to a personal
8 automobile insurance policy because of the issuance of a citation for a moving traffic
9 violation unless the insured or another person who resides in the insured's household
10 and is covered by the policy has been convicted of the violation or has entered a plea
11 of no contest to the violation.

12 (c) The director shall adopt regulations to determine circumstances under
13 which an insurer may increase the premium or add a surcharge to a personal
14 automobile insurance policy.

15 (d) An insurer that increases the premium or adds a surcharge to a personal
16 automobile insurance policy may only make the increase or surcharge effective on the
17 renewal date of the policy.

18 (e) An insurer that increases the premium or adds a surcharge to a personal
19 automobile insurance policy shall give written notice of the increase or surcharge at
20 least 20 days before it takes effect, stating the reason for the charge and the right of
21 appeal under AS 21.39.090. This subsection does not apply to

22 (1) premium increase resulting from a change requested by an insured,
23 if the insured is notified at the time the request is made that the amount of the
24 insured's premium will change as a result of the requested policy change; or

25 (2) rate approved by the director if the insurer gives written notice of
26 a premium increase to the insured at least 20 days before the renewal date of the
27 affected policy.

28 * Sec. 53. AS 21.36.360(i) is amended to read:

29 (i) A criminal insurance act is committed by a person [AN INSURER] doing
30 business in this state or relative to a subject resident, located, or to be performed
31 in this state who knowingly

1 (1) writes, places, or causes to be written or placed in this state or
2 relative to a subject resident, located, or to be performed in this state a policy,
3 duplicate policy, or contract of insurance of any kind or character, or general or
4 floating policy upon persons or property resident, situated, or located in this state, from
5 or through a person not authorized to transact business under AS 21.27 or a risk
6 retention group or purchasing group not registered under AS 21.89.070
7 [BROKER, AGENT, SURPLUS LINE BROKER, OR PERSON WHO HAS NOT
8 SECURED A GENERAL AGENT LICENSE IN THIS STATE]; or

9 (2) pays a commission or other form of remuneration to a person, firm,
10 or organization for the writing or placing of insurance coverage in this state or relative
11 to a subject resident, located, or to be performed in this state unless that person,
12 firm, or organization is authorized under AS 21.27 to transact [HOLDS A LICENSE
13 ISSUED BY THE DIRECTOR FOR] the kind or class of insurance written or placed,
14 or, in the case of a risk retention group or purchasing group, is registered under
15 AS 21.89.070.

16 * Sec. 54. AS 21.36.360(j) is amended to read:

17 (j) A criminal insurance act is committed by a person in this state or relative
18 to a subject resident, located, or to be performed in this state who acts as an
19 insurance producer, managing general agent, third-party administrator,
20 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
21 broker [SOLICITOR], or independent adjuster without being licensed by the director
22 as required under this title or as a risk retention group or purchasing group
23 without being registered as required under AS 21.89.070. A criminal insurance act
24 is committed by an insurance producer, managing general agent, third-party
25 administrator, reinsurance intermediary broker, reinsurance intermediary
26 manager, or surplus lines broker [OR SOLICITOR] who solicits or takes application
27 for, procures, or places for others any insurance for which the person is not licensed
28 as required under AS 21.27 or for which the license of the person has been
29 suspended or revoked. A criminal insurance act is committed by a person in this
30 state or relative to a subject resident, located, or to be performed in this state who
31 acts as or on behalf of a risk retention group or a purchasing group that is not

1 registered under AS 21.89.070 [THIS SUBSECTION DOES NOT APPLY TO A
2 PERSON DESCRIBED IN AS 21.90.910 OR TO A PERSON SECURING AND
3 FORWARDING INFORMATION REQUIRED FOR THE PURPOSE OF A GROUP
4 INSURANCE COVERING THE UNPAID BALANCE OR REMAINING PAYMENTS
5 PROPOSED TO BE MADE IN CONNECTION WITH THE PURCHASE OF
6 MERCHANDISE OR SERVICES IF NO COMMISSION OR OTHER
7 COMPENSATION IS PAYABLE ON ACCOUNT OF THE INSURANCE TO THE
8 PERSON].

9 * Sec. 55. AS 21.36.360(k) is amended to read:

10 (k) A criminal insurance act is committed by an insurance producer,
11 managing general agent, [GENERAL AGENT,] third-party administrator,
12 reinsurance intermediary broker, reinsurance intermediary manager, or surplus
13 lines broker [OR SOLICITOR] who knowingly compensates or offers to compensate
14 in any manner a person other than an insurance producer, managing [AGENT,]
15 general agent, third-party administrator, reinsurance intermediary broker,
16 reinsurance intermediary manager, or surplus lines broker [OR SOLICITOR]
17 licensed as required under this title in this or another jurisdiction [STATE OR
18 PROVINCE], for procuring or in any manner helping to procure applications for or to
19 place insurance in this state. A criminal insurance act is committed by a person in
20 this state or relative to a subject resident, located, or to be performed in this state
21 who acts as or on behalf of a risk retention group or a purchasing group that is
22 not registered under AS 21.89.070. This subsection does not apply to the payment
23 of compensation that is not contingent upon volume of business transacted in the form
24 of salaries to the regular employees of the agent, general agent, broker, or solicitor.

25 * Sec. 56. AS 21.36.360(n) is amended to read:

26 (n) A criminal insurance act is committed by an agent, managing general
27 agent, third-party administrator, reinsurance intermediary broker, reinsurance
28 intermediary manager, or other representative of an insurer involved in the procuring
29 or issuance of an insurance contract who intentionally fails to report to the insurer the
30 exact amount of consideration charged as premium for the contract and to maintain
31 records showing that information.

1 * **Sec. 57.** AS 21.36.380 is amended to read:

2 Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim form must contain a
3 statement that states in substance the following: "A person who knowingly and with
4 intent to injure, defraud, or deceive an insurance company files a claim containing
5 false, incomplete, or misleading information may be prosecuted under state law [IS
6 GUILTY OF A FELONY]." A lack of the statement on a claim form does not
7 constitute a defense to prosecution under this title.

8 * **Sec. 58.** AS 21.39.040 is amended by adding new subsections to read:

9 (j) An insurer who has submitted an application for a certificate of authority
10 under AS 21.09.110 and a filing of policy forms under AS 21.42.120 may file a
11 proposed rating system as described in this section. The director's approval of the
12 rating system is contingent upon the issuance of a certificate of authority under
13 AS 21.09.120.

14 (k) The director may adopt regulations detailing the format and content of a
15 rating system filing under this section.

16 * **Sec. 59.** AS 21.39 is amended by adding a new section to read:

17 Sec. 21.39.055. CANCELLATION OF APPROVED FILING. The voluntary
18 surrender of a certificate of authority or the failure of the surrendering admitted foreign
19 insurer to continue a certificate of authority in force has the effect of cancelling an
20 approval that the insurer may have received under this chapter, unless the approval has
21 been affirmed by the director at the time of the surrender or noncontinuation of the
22 certificate of authority.

23 * **Sec. 60.** AS 21.42.120 is amended by adding new subsections to read:

24 (f) This section does not apply to a type of insurance subject to AS 21.57.

25 (g) An insurer who has submitted an application for a certificate of authority
26 under AS 21.09.110 may file a proposed policy form as described in this section. The
27 director's approval of the policy form is contingent upon the issuance of a certificate
28 of authority under AS 21.09.120.

29 (h) The director may adopt regulations detailing the format and content of the
30 filing of a policy form under this section.

31 * **Sec. 61.** AS 21.42.345 is amended by adding a new subsection to read:

1 (b) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver,
2 or renew an individual or group disability insurance policy for medical coverage on
3 an expense incurred basis in the state, or a hospital or medical service corporation
4 authorized under AS 21.87 to offer or renew an individual or group subscriber's
5 contract for medical coverage in the state, shall offer coverage for family members,
6 including newly born children, adopted children, or children placed for adoption and
7 is subject to the conditions in (a) of this section, regardless of the marital status of the
8 covered person.

9 * Sec. 62. AS 21.57.010 is amended to read:

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

14 * Sec. 63. AS 21.57.020 is repealed and reenacted to read:

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

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

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

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

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

25 (3) insurance for which no identifiable charge is made to the debtor;

26 or

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

28 * Sec. 64. AS 21.57.030 is repealed and reenacted to read:

29 Sec. 21.57.030. AUTHORIZED TYPES OF CONSUMER CREDIT
30 INSURANCE. A type of consumer credit insurance defined in AS 21.57.160 may be
31 written separately or in combination with other types of consumer credit insurance on

1 an individual or group basis.

2 * Sec. 65. AS 21.57.040 is repealed and reenacted to read:

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

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

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

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

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

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

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

18 (B) the actual net debt if the actual net debt is greater than the
19 scheduled net debt but less than or equal to the scheduled net debt plus two
20 months of payments; or

21 (C) the scheduled net debt plus two months of payments if the
22 actual net debt is greater than the scheduled net debt plus two months of
23 payments;

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

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

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

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

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

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

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

9 (ii) evidence of individual insurability has not been
10 required during that six-month period.

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

13 (c) The total amount of periodic indemnity payable in the event of disability
14 or unemployment, as defined in the policy, may not exceed the sum of the periodic
15 scheduled unpaid installments of the gross debt. The amount of a periodic indemnity
16 payment may not exceed the original gross debt divided by the number of periodic
17 installments.

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

23 * Sec. 66. AS 21.57.050 is repealed and reenacted to read:

24 Sec. 21.57.050. DURATION OF COVERAGE. (a) The effective date of
25 coverage for

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

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

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

9 (b) A charge for insurance may not be made to the debtor and retained by the
10 creditor or insurer for a time before commencement of the consumer credit insurance
11 to which the charge is related.

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

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

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

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

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

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

27 (e) If insurance coverage terminates before the scheduled termination of the
28 insurance, the insurer shall make an appropriate refund or credit to the debtor. The
29 refund or credit must consist of the unearned insurance charge paid by the debtor for
30 insurance after the date of the termination, except that a refund is not required of a
31 charge made for insurance if the insurance is terminated by performance of the

1 insurer's obligation with respect to the insurance.

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

7 * Sec. 67. AS 21.57 is amended by adding a new section to read:

8 Sec. 21.57.055. DISCLOSURE TO DEBTORS. (a) Before a debtor elects to
9 purchase consumer credit insurance in connection with a credit transaction, the insurer
10 shall disclose the following in writing to the debtor:

11 (1) the purchase of consumer credit insurance is optional and not a
12 condition of obtaining credit approval;

13 (2) if more than one kind of consumer credit insurance is being made
14 available to the debtor, whether the debtor can purchase the insurance separately or the
15 multiple coverage only as a package;

16 (3) the conditions of eligibility;

17 (4) if the debtor has other insurance that covers the risk, the debtor may
18 not want or need credit insurance;

19 (5) if the creditor requires consumer credit insurance as additional
20 security for a debt, the debtor has the option of furnishing the required amount of
21 insurance through existing policies owned or procured by the debtor or of procuring
22 and furnishing the required insurance through an insurer authorized to transact
23 insurance business in this state;

24 (6) the effective date of the coverage;

25 (7) the debtor may cancel the coverage within the first 30 days after
26 receiving the individual policy or group certificate and have a premium paid by the
27 debtor refunded or credited; thereafter, the debtor may cancel the policy at any time
28 during the term of the loan and receive a refund of unearned premium;

29 (8) a brief description of the coverage, including

30 (A) the amount;

31 (B) the term;

- 1 (C) any exceptions, limitations, or exclusions;
2 (D) the insured event;
3 (E) any waiting or elimination period;
4 (F) any deductible;
5 (G) any applicable waiver of premium provision;
6 (H) to whom the benefits would be paid; and
7 (I) the premium rate for a coverage or for multiple coverage in
8 a package;

9 (9) if the premium or insurance charge is financed, it is subject to
10 finance charges at the rate applicable to the credit transaction or at another specified
11 rate; and

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

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

16 (1) in connection with consumer credit insurance offered
17 contemporaneously with the extension of credit or offered through direct mail
18 advertisements, the disclosure shall be presented to the consumer in a clear and
19 conspicuous manner; or

20 (2) in conjunction with the offer of credit insurance subsequent to the
21 extension of credit by other than direct mail advertisements, the initial disclosure may
22 be provided orally as long as written disclosure is provided to the debtor not later than
23 10 days after the offer or the date any other written material is provided to the debtor,
24 whichever occurs first.

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

29 * Sec. 68. AS 21.57.060 is repealed and reenacted to read:

30 Sec. 21.57.060. PROVISIONS OF POLICIES AND CERTIFICATES OF
31 INSURANCE. (a) Consumer credit insurance shall be evidenced by an individual

1 policy or a group certificate of insurance.

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

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

5 (2) the name of the debtor;

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

9 (4) a full description of the coverage including the amount, the term,
10 and any exceptions, limitations, or exclusions;

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

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

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

20 * Sec. 69. AS 21.57.070 is repealed and reenacted to read:

21 Sec. 21.57.070. REQUIREMENTS FOR EVIDENCE OF INSURANCE. (a)
22 Unless the individual policy or group certificate of insurance is delivered to the debtor
23 at the time the debt is incurred or when the debtor elects to purchase coverage, a copy
24 of the application for the policy or a notice of proposed insurance, signed by the
25 debtor and setting out (1) the name and home office address of the insurer, (2) the
26 name of the debtor, (3) the premium rate to be paid by the debtor for the insurance,
27 and (4) the amount, term, and a brief description of the coverage provided, shall be
28 delivered to the debtor at the time the debt is incurred or the election to purchase
29 coverage is made. The copy of the application for or notice of proposed insurance
30 must refer exclusively to insurance coverage and must be separate and apart from the
31 loan, sale, other credit statement of account, instrument, or agreement, unless the

1 information required by this subsection is prominently set out in it. Upon acceptance
2 of the insurance by the insurer and within 30 days of the date upon which the debt is
3 incurred or the election to purchase coverage is made, the insurer shall deliver the
4 individual policy or group certificate of insurance to the debtor. The application or
5 notice of proposed insurance must state that upon acceptance by the insurer, the
6 insurance shall become effective as provided in AS 21.57.050(a).

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

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

17 (d) If the named insurer does not accept the risk, the debtor shall receive a
18 policy or certificate of insurance listing the name and home office address of the
19 substituted insurer and the amount of the premium to be charged. If the amount of
20 premium is less than the amount in the notice of proposed insurance, the insurer shall
21 issue an appropriate refund within 30 days. If the risk is not accepted by an insurer,
22 a premium paid by the debtor shall be refunded or credited to the debtor within 30
23 days of the date of application.

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

30 (f) An individual policy or group certificate delivered in conjunction with an
31 open-end consumer credit agreement shall continue from its effective date through the

1 term of the agreement unless the individual policy or group certificate is terminated
2 under its terms at an earlier date.

3 * Sec. 70. AS 21.57.080 is repealed and reenacted to read:

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

9 (b) A document required to be filed under (a) of this section must be on file
10 for a waiting period of 30 days before it is used or becomes effective, unless the
11 director gives prior written approval. This period may be extended for an additional
12 30 days if the director gives written notice within the waiting period to the insurer
13 making the filing. The director shall disapprove a filing if the premium rate charged
14 is not reasonable in relation to benefits or if it contains provisions that are unjust,
15 unfair, inequitable, misleading, deceptive, encourage misrepresentation of the policy,
16 or are contrary to a provision of this title or a regulation adopted under this title. A
17 filing is considered to be approved unless it is disapproved by the director within the
18 waiting period.

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

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

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

30 (f) If a group policy of consumer credit insurance (1) has been delivered in
31 this state before July 1, 1994, or (2) has been or is delivered in another state before

1 or after July 1, 1994, the insurer shall be required to file only the group certificate and
2 notice of proposed insurance delivered or issued for delivery in this state as specified
3 in AS 21.57.060(b) and 21.57.070(a).

4 (g) Consumer credit insurance forms used for insurance described under (f) of
5 this section shall be approved by the director if they conform with the requirements
6 specified in this section and if the schedules of premium rates applicable to the
7 insurance evidenced by the certificate or notice are in accordance with the insurer's
8 schedules of premium rates filed with the director. An item required to be filed under
9 (a) of this section shall also be filed as specified in this chapter unless the item relates
10 to a group policy that is delivered in another state and the director has determined that
11 the other state has substantially similar statutes or regulations to this chapter. Upon
12 this determination, the items required to be filed under (a) of this section shall be filed
13 for informational purposes. If the director subsequently determines that the
14 informational filing is not in compliance with the requirements of this chapter, the
15 insurer may not use the insurance policy, form, certificate, notice of proposed
16 insurance, disclosure notice, advertisement, application for insurance, endorsement, or
17 rider.

18 * Sec. 71. AS 21.57.090 is amended to read:

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

25 (b) An [EACH] individual policy or group certificate must provide for a
26 refund in the event of termination of [THAT IF] the insurance [IS TERMINATED]
27 before the scheduled maturity date of the insurance and upon notice to the insurer.
28 The [INDEBTEDNESS, ANY] refund of an amount paid by the debtor for insurance
29 shall be paid or credited promptly to the person entitled to it; provided, however, that
30 the director shall prescribe a minimum refund and a [NO] refund that would be less
31 than the minimum need not be made. A refund formula that an insurer desires to

1 use must provide refunds that are at least as favorable to the debtor as refunds
2 based on the rule of anticipation. The formula to be used in computing refunds shall
3 be filed with and approved by the director.

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

9 (d) The amount charged to a debtor for consumer credit [LIFE OR CREDIT
10 DISABILITY] insurance may not exceed the premium charged by the insurer, as
11 computed at the time the charge to the debtor is determined.

12 * Sec. 72. AS 21.57.090 is amended by adding a new subsection to read:

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

15 * Sec. 73. AS 21.57.120 is amended to read:

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

23 * Sec. 74. AS 21.57 is amended by adding a new section to read:

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

29 * Sec. 75. AS 21.57.150 is repealed and reenacted to read:

30 Sec. 21.57.150. PENALTIES. (a) In addition to any other penalty provided
31 by law, a person licensed under AS 21.27 that the director determines under

1 AS 21.06.170 - 21.06.240 has violated the provisions of this chapter is subject to

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

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

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

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

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

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

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

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

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

23 (2) denial of a license.

24 * Sec. 76. AS 21.57.160 is repealed and reenacted to read:

25 Sec. 21.57.160. DEFINITIONS. In this chapter,

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

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

- 1 (3) "consumer credit insurance" means credit life insurance, credit
2 disability insurance, or credit unemployment insurance;
- 3 (4) "credit disability insurance" means insurance on a debtor to provide
4 indemnity for payments or debt becoming due on a specific loan or other credit
5 transaction while the debtor is disabled;
- 6 (5) "credit life insurance" means insurance on the life of a debtor under
7 or in connection with all or a part of a specific loan or other credit transaction;
- 8 (6) "credit unemployment insurance" means insurance on a debtor to
9 provide indemnity for payments or debt becoming due on a specific loan or other
10 credit transaction while the debtor is involuntarily unemployed;
- 11 (7) "credit transaction" means a transaction by which the repayment for
12 money loaned or a loan commitment made or payment for goods, services, or
13 properties sold or leased is made at a future date;
- 14 (8) "creditor" means a person who lends money or who sells or leases
15 goods, services, property, rights, or privileges, for which payment is arranged through
16 a credit transaction, and includes a person who is a successor to the right, title, or
17 interest of the lender, seller, or lessor,
- 18 (9) "debtor" means a person who borrows money, or purchases or
19 leases goods, services, property, rights, or privileges for which payment is arranged
20 through a credit transaction;
- 21 (10) "educational credit transaction commitment" means a binding
22 agreement to loan money up to a fixed amount as needed for educational purposes;
- 23 (11) "gross debt" means the total of the remaining payments owed to
24 the creditor by the debtor;
- 25 (12) "identifiable charge" means a charge for consumer credit insurance
26 that is made to a debtor having the benefit of the insurance, including a charge for
27 insurance that is disclosed in the consumer credit agreement or other instrument
28 furnished to the debtor, and any difference in the finance, interest, service, or other
29 similar charge made to a debtor in a like circumstance, except for their insured or
30 noninsured status;
- 31 (13) "net debt" means the amount necessary to liquidate the remaining

1 debt in a single lump sum payment, excluding all unearned finance charges;

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

4 (A) the creditor reasonably contemplates repeated transactions;

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

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

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

14 * Sec. 77. AS 21.69 is amended by adding new sections to read:

15 Sec. 21.69.645. REDOMESTICATION. (a) An insurer organized under the
16 laws of another state and admitted to do business in this state may become a domestic
17 insurer of this state by complying with the requirements of this title relative to the
18 organization and licensing of a domestic insurer and by designating its principal place
19 of business at a place in this state.

20 (b) A domestic insurer may, upon approval of the director, transfer its domicile
21 to another state in which it is admitted to transact the business of insurance. Upon a
22 transfer as described in this subsection, the insurer shall cease to be a domestic insurer
23 of this state, but shall be considered admitted to this state. The insurer shall meet the
24 qualifications to remain admitted to this state for a period of three years or, if ordered
25 by the director, a longer period. The director may approve a proposed transfer unless
26 the transfer is not in the interest of the policyholders of the insurer or the insurance
27 marketplace of this state.

28 (c) Upon transfer of domestic status to or from this state, the certificate of
29 authority, appointments under AS 21.27.100, rates, and other items that the director
30 allows, and that are in existence at the time the insurer is licensed to transact the
31 business of insurance in this state, shall continue in full force and effect and the

1 insurer shall remain duly qualified to transact the business of insurance in this state.
2 Outstanding policies of a transferring insurer shall remain in full force and effect and
3 shall be endorsed with the new name of the company, its new location, and any other
4 information the director may require. A transferring insurer shall notify the director
5 of the details of the proposed transfer 30 days before the effective date of the transfer
6 and shall promptly file any resulting amendments to corporate documents filed or
7 required to be filed with the director.

8 (d) A transfer of domestic status by merger, consolidation, or any other lawful
9 method of combination must meet the requirements of AS 21.69.590 or 21.69.600.
10 The certificate of authority, appointments under AS 21.27.100, rates, and other items
11 that the director allows, and that are in existence at the time the insurer is licensed to
12 transact the business of insurance in this state, shall continue in full force and effect
13 and the insurer shall remain duly qualified to transact the business of insurance in this
14 state. Outstanding policies of a domestic insurer being merged, consolidated, or
15 otherwise combined shall remain in full force and effect and shall be endorsed with
16 the new name of the company, its new location, and any other information the director
17 may require.

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

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

23 Sec. 21.69.648. VOLUNTARY SURRENDER OF CERTIFICATE OF
24 AUTHORITY. To voluntarily surrender the certificate of authority of a domestic
25 insurer, a request shall be made to the director to extinguish the certificate of authority
26 six months before the planned effective date of the extinguishment of the charter.
27 Before the request is granted, the director shall conduct an examination under
28 AS 21.06.120. The examination shall be completed within 12 months before the
29 effective date of an extinguishment and all issues contained in the examination report
30 must be resolved to the satisfaction of the director. Insurance business of the domestic
31 insurer shall be cancelled or reinsured as required under AS 21.69.610 or 21.69.620.

1 * Sec. 78. AS 21.72 is amended by adding a new section to read:

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

6 * Sec. 79. AS 21.75 is amended by adding a new section to read:

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

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

13 * Sec. 80. AS 21.75.170(e) is amended to read:

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

18 * Sec. 81. AS 21.75.170 is amended by adding a new subsection to read:

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

25 * Sec. 82. AS 21.79.900(6) is amended to read:

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

- 1 (A) a health maintenance organization licensed under
2 AS 21.86;
3 (B) a fraternal benefit society licensed under AS 21.84;
4 (C) a mandatory state pooling plan;
5 (D) a mutual assessment company or an entity that operates on
6 an assessment basis;
7 (E) an insurance exchange licensed under AS 21.75; or
8 (F) a nonprofit hospital or medical service organization
9 licensed under AS 21.87;

10 * Sec. 83. AS 21.80.020 is amended by adding a new subsection to read:

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

13 * Sec. 84. AS 21.84.340 is amended by adding a new subsection to read:

14 (d) The director may require a society to file quarterly financial statements.
15 If quarterly financial statements are required, the statements must follow for a given
16 quarter the reporting specified in the quarterly financial statement blank form and
17 instructions most recently approved by the National Association of Insurance
18 Commissioners.

19 * Sec. 85. AS 21.86.080 is amended by adding new subsections to read:

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

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

26 * Sec. 86. AS 21.87 is amended by adding a new section to read:

27 Sec. 21.87.135. PREFERRED PROVIDER PROGRAMS. A hospital or
28 medical service corporation may offer a preferred provider service agreement to a
29 provider or hospital licensed in this state. A provider or hospital willing to meet the
30 terms and conditions of the preferred provider service agreement may not be excluded
31 from treatment as a preferred provider. A subscriber's contract containing a preferred

1 provider program must provide for payment for a service provided by a nonpreferred
2 provider or hospital.

3 * Sec. 87. AS 21.89.030 is amended to read:

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

8 * Sec. 88. AS 21.89 is amended by adding new sections to read:

9 Sec. 21.89.070. ELECTRONIC DATA TRANSFER. The director may adopt
10 regulations to facilitate electronic data transfer. Electronic data transferred under
11 regulations may, at the discretion of the director, be in place of another method of
12 filing or communication otherwise required under this title.

13 Sec. 21.89.080. RISK RETENTION GROUPS AND PURCHASING GROUPS.

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

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

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

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

28 (e) A risk retention group or purchasing group that is not in compliance with
29 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) is not eligible for registration or
30 annual continuation of its registration.

31 (f) Failure to comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention

1 Act) is a violation of this title.

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

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

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

9 (h) The director may adopt regulations on the operation and reporting
10 requirements of a risk retention group that are not in conflict with 15 U.S.C 3901 -
11 3906 (Liability Risk Retention Act).

12 Sec. 21.89.090. APPOINTMENT OF INDEPENDENT COUNSEL;
13 CONFLICTS OF INTEREST. (a) If an insurer has a duty to defend an insured under
14 a policy of insurance and a conflict of interest arises that imposes a duty on the insurer
15 to provide independent counsel to the insured, the insurer shall provide independent
16 counsel to the insured unless the insured in writing waives the right to independent
17 counsel. An insurance policy may contain a provision that provides a method of
18 selecting independent counsel if the provision complies with this section.

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

21 (1) a claim of punitive damages;

22 (2) a claim of damages in excess of the policy limits;

23 (3) claims or facts in a civil action for which the insurer denies
24 coverage; however, this paragraph does not apply if the insurer reserves the insurer's
25 rights on the issue for which coverage is denied and the outcome of that coverage
26 issue can be controlled by counsel initially retained by the insurer for the defense of
27 the claim.

28 (c) If the insured selects independent counsel at the insurer's expense, the
29 insurer may require that the independent counsel have at least five years of experience
30 in civil litigation, including substantial defense experience in the subject at issue in the
31 civil action, and malpractice insurance. Unless otherwise provided in the insurance

1 policy, the obligation of the insurer to pay the fee charged by the independent counsel
2 is limited to the rate that would actually be paid by the insurer to an attorney in the
3 ordinary course of business in the defense of a similar civil action in the community
4 in which the claim arose or is being defended. A dispute between the insurer and
5 insured regarding attorney fees that is not resolved by the insurance policy or this
6 section shall be resolved by arbitration under AS 09.43.

7 (d) If the insured selects independent counsel at the insurer's expense, the
8 independent counsel and the insured shall consult with the insurer on all matters
9 relating to the civil action and shall disclose to the insurer in a timely manner all
10 information relevant to the civil action, except information that is privileged and
11 relevant to disputed coverage. A claim of privilege is subject to review in the
12 appropriate court. Information disclosed by the independent counsel or the insured
13 does not waive another party's right to assert privilege.

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

16 I have been advised of my right to select independent counsel
17 to represent me in this lawsuit. I have considered this matter
18 fully and at this time I am waiving my right to select
19 independent counsel. I have authorized my insurer to select a
20 defense counsel to represent me in this lawsuit.

21 (f) If an insured selects independent counsel under this section, both the
22 counsel representing the insurer and independent counsel representing the insured shall
23 be allowed to participate in all aspects of the civil action. Counsel for the insurer and
24 insured shall cooperate fully in exchanging information that is consistent with ethical
25 and legal obligations to the insured. Nothing in this section relieves the insured of the
26 duty to cooperate fully with the insurer as required by the terms of the insurance
27 policy.

28 * Sec. 89. AS 21.90.900(26) is amended to read:

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

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

1 (B) performs administrative functions normally performed by
2 the insurer including claims administration and payment, marketing
3 administration, agent appointment, premium accounting, premium billing,
4 coverage verification, final underwriting authority, or [AND] certificate
5 issuance;

6 * Sec. 90. AS 21.27.650(f)(3) and AS 21.36.420 are repealed.

7 * Sec. 91. AS 21.57.110 and 21.57.170 are repealed.

8 * Sec. 92. AS 21.09.300(c), enacted in sec. 13 of this Act, has the effect of amending
9 Alaska Rule of Civil Procedure 45, by providing that certain insurer reports of material
10 transactions are not subject to subpoena.

11 * Sec. 93. TRANSITION. This Act applies to a policy of insurance that is entered into
12 or renewed on or after the effective date of the relevant provision of this Act.

13 * Sec. 94. Sections 14 and 15 of this Act take effect only if legislation is passed by the
14 Eighteenth Alaska State Legislature and becomes law that establishes risk based capital
15 requirements for insurers.

16 * Sec. 95. If secs. 14 and 15 of this Act take effect, they take effect on the effective date
17 of the legislation described in sec. 94 of this Act.

18 * Sec. 96. Sections 62 - 76 and 91 of this Act take effect October 1, 1994.

19 * Sec. 97. Except as provided in secs. 95 and 96 of this Act, this Act takes effect Ju y 1,
20 1994.

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CORRECTION

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