

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8321 SENATE JUDICIARY**

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 33. 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 21.36.360(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. Redomestication, 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 the 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(a) 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.

Proposed Legislation	Existing Statutes	Comments
* Section 1. AS 06.20.260(a) is amended to read:		Editorial changes.
(a) A further or other charge or amount for an examination, service, brokerage commission, expense, fee, bonus, or other thing may not be directly or indirectly charged, contracted for, or received except	(a) No further or other charge or amount for any examinations, service, brokerage commission, expense fee, bonus, or other thing shall be directly or indirectly charged, contracted for, or received except.	
(1) lawful fees actually paid out by the licensee to a public officer for filing recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or nothing on that certificate;	(1) lawful fees, actually paid out by the licensee to a public officer for filing, recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or noting a lien on that certificate;	
(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, or consumer credit [LIFE] insurance; in this paragraph "consumer credit insurance" has the meaning given in AS 21.57.160 [ON THE LIFE OF ONE OR MORE BORROWERS, CREDIT LOSS OF INCOME INSURANCE, OR CREDIT DISABILITY INSURANCE TO PROVIDE INDEMNITY FOR PAYMENTS BECOMING DUE ON THE INDEBTEDNESS];	(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrowers, credit loss of income insurance, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;	
(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;	(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;	
(4) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate;	(4) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate;	
(5) a late payment fee of not more than 10 percent of the payment that is due or \$15, whichever is less.	(5) a late payment fee of not more than 10 percent of the payment that is due or \$15, whichever is less.	
* Sec. 2. AS 06.20.287(a) is amended to read:		Editorial changes.

COMPARISON: PROPOSED LEGISLATION & EXISTING STATUTES

Proposed Legislation	Existing Statutes	Comments
<p>(a) A licensee may obtain <u>consumer credit [LIFE, CREDIT DISABILITY,] and property insurance on open-end loan under this chapter. The consumer credit [LIFE AND CREDIT DISABILITY] insurance obtained by a licensee shall satisfy the requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers involving consumer credit [LIFE, CREDIT DISABILITY] and property insurance.</u></p>	<p>(a) A licensee may obtain credit life, credit disability, and property insurance on open-end loans under this chapter. The credit life and credit disability insurance obtained by a licensee shall satisfy the requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers involving credit life, credit disability and property insurance.</p>	
<p>* Section 3. AS 21.03.010 is amended by adding a new subsection to read:</p>		<p>Amends this section to explicitly extend the Scope of Code to include risk retention groups and purchasing groups as requested by the NAIC accreditation team.</p>
<p>(c) A person who transacts insurance in this state, or relative to a subject resident, located, or to be performed in this state as or on behalf of a risk retention group or purchasing group formed under and in compliance with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) and any amendments to it, shall comply with the applicable provisions of this title.</p>		
<p>* Sec. 4. AS 21.06.080 is amended by adding a new subsection to read:</p>		<p>This new subsection adds to the director's general powers and duties the ability to respond to a catastrophe.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(e) If the director determines that a catastrophe has occurred in this state and in good faith believes that the Governor or the President of the United States has issued or is about to issue a declaration of disaster, the director may take any action that the director deems necessary to respond to the disaster in order to assure the continuity and stability of the insurance market in this state, to protect policyholders and the public, or to prevent aggravation of the disaster including issuing an emergency order temporarily suspending specific provisions of this title. Until the declaration of the disaster has been lifted, the director may take action to respond to the disaster without a hearing. An action taken under this subsection may not remain in effect more than six months from the date that the director determines that a catastrophe has occurred unless, after a hearing, the director determines that an action is still necessary to respond to the disaster.</p>		
<p>* Sec. 5. AS 21.06.150(g) is amended to read:</p>		<p>The amendment to this subsection allows the director to close a hearing on an examination if the director finds that the closure is necessary to protect someone from unwarranted injury or is in the public interest.</p>
<p>(g) The director may withhold a document, information, account, record, examination, or report from the public inspection for as long as the director finds the withholding is necessary to protect a person against unwarranted injury or is in the public interest. <u>The director may close an examination hearing to the public when the director finds the closure is necessary to protect a person against unwarranted injury or is in the public interest.</u> The director may publish the examination report or a summary of it in a newspaper in the state if the director determines that the publication is in the public interest.</p>	<p>(g) The director may withhold a document, information, account, record, examination, or report from the public inspection for as long as the director finds the withholding is necessary to protect a person against unwarranted injury or is in the public interest. The director may publish the examination report or a summary of it in a newspaper in the state if the director determines that the publication is in the public interest.</p>	

Proposed Legislation	Existing Statutes	Comments
<p>*Sec. 6. AS 21.09.110 is amended to read:</p>		<p>The amendment to this section removes the requirement that insurers applying for their Certificate of Authority (COA) submit specimen copies of their policy forms and rates with their COA application, and instead specifies that these policy forms and rates should be submitted under new sections AS 21.39.040(j) or 21.42.120(g).</p>
<p>Sec. 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To apply for an original certificate of authority an insurer shall file with the director its application, [(] accompanied by the applicable fees set under AS 21.06.250,)] showing its name, location of its home office or principal office in the United States [(]if an alien insurer)], kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and additional information that the director may reasonably require, together with the following documents, as applicable:</p>	<p>SECTION 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To apply for an original certificate of authority an insurer shall file with the director its application (accompanied by the applicable fees set under AS 21.06.250) showing its name, location of its home office or principal office in the United States (if an alien insurer), kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and additional information that the director may reasonably require, together with the following documents, as applicable:</p>	<p>N/C</p>
<p>(1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments certified by the public officer with whom the originals are on file in the state or country of domicile;</p>	<p>(1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments certified by the public officer with whom the originals are on file in the state or country of domicile;</p>	<p>N/C</p>
<p>(2) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;</p>	<p>(2) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;</p>	<p>N/C</p>
<p>(3) a copy of its financial statement as of the preceding December 31, and all subsequent quarterly financial statements, sworn to by at least two executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;</p>	<p>(3) a copy of its financial statement as of the preceding December 31, and all subsequent quarterly financial statements, sworn to by at least two executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;</p>	<p>N/C</p>

Proposed Legislation	Existing Statutes	Comments
(4) a copy of the report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;	(4) a copy of the report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;	N/C
(5) appointment of the director under AS 21.09.180, as its attorney to receive service of legal process;	(5) appointment of the director under AS 21.09.180, as its attorney to receive service of legal process;	N/C
(6) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state;	(6) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state;	N/C
(7) if an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records; <u>and</u>	(7) if an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records;	Editorial changes
(8) if a foreign insurer, a certificate as to deposit if it is to be tendered under AS 21.09.090[;	(8) if a foreign insurer, a certificate as to deposit if it is to be tendered under AS 21.09.090;	Editorial changes
(9) SPECIMEN COPIES OF POLICIES PROPOSED TO BE OFFERED IN THIS STATE IF THEN AVAILABLE, TOGETHER WITH PREMIUMS OR PREMIUM RATES APPLICABLE IF THEN KNOWN, OR A DECLARATION THAT THE RATES AS APPLICABLE WILL BE THOSE PROMULGATED BY DESIGNATED RATING ORGANIZATIONS AUTHORIZED TO FILE RATES IN THIS STATE ON BEHALF OF THE INSURER OR BY THE INSURER].	(9) specimen copies of policies proposed to be offered in this state if then available, together with premiums or premium rates applicable if then known, or a declaration that the rates as applicable will be those promulgated by designated rating organizations authorized to file rates in this state on behalf of the insurer or by the insurer.	Deleted. This section is replaced by the subsection below.

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 7. AS 21.09.110 is amended by adding a new subsection to read:</p>		<p>The addition of a new subsection requires that policy form and rate filings by submitted for approval under the appropriate statutes in Chapter 39 and 42 and that the filings may not be submitted with the application for certificate of authority.</p>
<p>(b) Policy forms and rates that require approval under AS 21.39 or AS 21.42 shall be submitted under AS 21.39.040(j) or 21.42.120(g) and may not be submitted with the application for certificate of authority.</p>		
<p>* Sec. 8. AS 21.09.130 (b) is amended to read:</p>		<p>The amendment to this subsection provides for a suspension of the certificate of authority instead of cancellation if the insurer fails to file the forms or pay the fee to continue the certificate of authority. This change is to prevent insurers from ending regulation by Alaska Division of Insurance when issues regarding insurance operations may still be outstanding. It provides a one year suspension period.</p>
<p>(b) If not continued by the insurer, its certificate of authority <u>shall be suspended [EXPIRES] at midnight on June 30 following the failure of the insurer to continue it in force. The certificate of authority shall expire on June 30 one year following its suspension due to failure to continue the certificate of authority.</u> The director shall promptly notify the insurer of the occurrence of a failure <u>that may result in suspension [RESULTING IN IMPENDING EXPIRATION]</u> of its certificate of authority.</p>	<p>(b) If not continued by the insurer, its certificate of authority expires at midnight on June 30 following the failure of the insurer to continue it in force. The director shall promptly notify the insurer of the occurrence of a failure resulting in impending expiration of its certificate of authority.</p>	
<p>* Sec. 9. AS 21.09 is amended by adding a new section to read:</p>		<p>This is a new section which provides a process for an insurer to voluntarily surrender their certificate of authority from Alaska. To surrender the insurer must be in compliance with Alaska</p>

Proposed Legislation	Existing Statutes	Comments
<p>Sec. 21.09.135. VOLUNTARY SURRENDER OF CERTIFICATE OF AUTHORITY. (a) A foreign admitted insurer may apply for voluntarily surrender of its certificate of authority and the director may accept such application, if the foreign admitted insurer</p>		
<p>(1) is in compliance with all applicable sections of AS 21, or the director waives in writing each condition of noncompliance;</p>		
<p>(2) provides a written confirmation that any obligations incurred prior to the voluntary surrender of the certificate of authority will be paid to guarantee funds and insurance pools established by Alaska Statute; and</p>		
<p>(3) is domiciled in a state that</p>		
<p>(A) is accredited by the National Association of Insurance Commissioners at the time of the request for voluntary surrender; or</p>		
<p>(B) is not accredited by the National Association of Insurance Commissioners at the time of the request and agrees in writing to be subject to</p>		
<p>(i) AS 21.09.200 and 21.09.205 for a period of two years, including payment of any fee related to filing information with the director; and</p>		
<p>(ii) any other selection required in writing by the director for any period of time the director may specify.</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(b) If a foreign admitted insurer who surrenders a certificate of authority ceases to exist, all business written and in force relative to a risk resident, located, or to be performed in this state shall be lawfully cancelled or reinsured. A reinsurance agreement covering all or a part of a risk described in this subsection shall be approved by the director before accepting the certificate of authority for surrender if it meets the following criteria:</p>		
<p>(1) insurance coverage has not deteriorated from the policies existing at the time of the transfer;</p>		
<p>(2) the assuming insurer is of equal or better financial standing; and</p>		
<p>(3) the assuming insurer is admitted to do business in this state, unless this requirement is waived by the director.</p>		
<p>* Sec. 10. AS 21.09.200(f) is amended to read:</p>		<p>The amendment to this subsection requires the filing of annual financial statements with the National Association of Insurance Commissioners (NAIC) by all licensed insurers instead of just domestic insurers. Also provides that the filings must be on electronic media acceptable to the NAIC.</p>
<p>(f) In addition to the requirements of (a) of this section, <b>an authorized [A DOMESTIC] insurer shall file its annual statement with the National Association of Insurance Commissioners on electronic media acceptable to the association</b> by the due date established by the association, and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (e) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>	<p>(f) In addition to the requirements of (a) of this section, a domestic insurer shall file its annual statement with the National Association of Insurance Commissioners by the due date established by the association, and shall pay the applicable filing fee. An insurer that fails to comply with this subsection is subject to the penalties specified in (e) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>	

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 11. AS 21.09.205 is amended by adding a new subsection to read:</p>		
<p>(d) In addition to the requirements of (a) of this section, an authorized insurer shall file its quarterly statement with the National Association of Insurance Commissioners on electronic media acceptable to the association by the due date established by the association, and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (c) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.</p>		<p>This is a new subsection which requires that a licensed insurer file quarterly financial statements with the National Association of Insurance Commissioners (NAIC), on acceptable electronic media, and pay the applicable filing fee. Failure to comply will result in penalties.</p>
<p>* Sec. 12. AS 21.09.210 is amended by adding new subsections to read:</p>		<p>The following new subsections discuss the procedures for obtaining a refund or credit for overpayment of premium taxes by an insurer.</p>
<p>(j) If, within three years of the date the tax under this section was due, an insurer discovers a mistake of fact, an error in calculation, or a misinterpretation of law that resulted in an overpayment of the tax in an amount exceeding \$250 in any one calendar year, the insurer may make a written request to the director for a refund. If the director determines the validity of the mistake, error, or misinterpretation, the director shall refund to the insurer the amount of the excess by granting, at the director's discretion, a monetary refund or premium tax credit. A premium tax credit shall be used in the next calendar year to the fullest extent possible and each succeeding year until no credit remains. A premium tax credit shall not reduce the payable tax, calculated without use of the credit, to less than zero.</p>		<p>Subsection (j) allows for the payment of a premium tax refund when an insurer discovers that it has made an overpayment due to an error in calculation, mistake of fact, or misinterpretation of law. It (1) limits the time in which the refund must be discovered to three years; (2) sets the minimum amount of a refund which can be requested at \$250; and (3) gives the director discretion in payment of a monetary refund or a premium tax credit.</p>
<p>(k) A premium tax credit may not carry over as an attribute in a transaction under AS 21.69.610, 21.69.620, 21.78; or similar transaction entered into by a foreign insurer.</p>		<p>Subsection (k) was written to avoid trafficking of the premium tax credit. It prohibits the transfer or carryover of the credit in reinsurance transactions or receiverships.</p>

Proposed Legislation	Existing Statutes	Comments
(1) In this section "premium tax credit" means an amount that an insurer may use as an offset against a premium tax payment.		Subsection (1) defines a premium tax credit.
* Sec. 13. AS 21.09 is amended by adding a new section to read:		
Sec. 21.09.290. RISK RETENTION GROUPS. (a) A risk retention group formed in this state shall (1) comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act); and		Subsection (a) sets out the requirements for being licensed as a risk retention group in this state.
(2) qualify for and hold in good standing a certificate of authority under this chapter, limited to liability insurance only.		
(b) A risk retention group shall submit with its application for a certificate of authority		Subsection (b) lists the items that must be submitted with an application for certificate of authority.
(1) the identity of		
(A) the initial members of the risk retention group;		
(B) all persons who organized the risk retention group;		
(C) all persons who will provide administrative services to the risk retention group;		
(D) all persons who will influence or control the activities of the risk retention group;		
(2) the amount and nature of initial capitalization;		
(3) a plan of operation or a feasibility study that includes the coverage, deductible, coverage limit, rate, and rating classification system for each type or class of liability insurance the group intends to offer; and		
(4) the states in which the risk retention group intends to operate.		

Proposed Legislation	Existing Statutes	Comments
<p>(c) At least 30 days before a domestic risk retention group implements a material change or revision to an approved plan of operation or feasibility study, the material change or revision shall be filed with the director. A material change or revision may not be implemented unless the domestic risk retention group receives the director's written approval. In this subsection, "material change or revision" includes an offering of an additional type or class of liability insurance.</p>		<p>Subsection (c) requires the risk retention group to notify 30 days in advance any material change to its plan of operation and must receive the director's written approval of the change.</p>
<p>(d) In this section,</p>		<p>Subsection (d) provides definitions of terms used in this section.</p>
<p>(1) "liability" means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injury to another person, damage to property, or other damage or loss to a person resulting from or arising out of a business, whether profit or nonprofit, trade, product, service, including a professional service, premises, or operation; or any activity of a state or local government, or an agency or political subdivision of a state or local government; "liability" does not include personal risk liability or employer's liability with respect to its employees other than legal liability under the 45 U.S.C. 51 (Federal Employers' Liability Act);</p>		
<p>(2) "personal risk liability" means liability for damages because of injury to a person, damage to property, or other loss or damage resulting from a personal, familial, or household responsibility or activity, rather than from a responsibility or activity referred to in (1) of this section.</p>		

Proposed Legislation	Existing Statutes	Comments
<p>Sec. 21.09.300. DISCLOSURE OF MATERIAL TRANSACTIONS. (a) A domestic insurer shall file a report with the director disclosing material acquisition and disposition of assets or a material nonrenewal, cancellation, or revision of ceded reinsurance agreements unless the acquisition and disposition of assets or material nonrenewal, cancellation, or revision of ceded reinsurance agreements have been submitted to the director for review, approval, or information purposes as required by this title.</p>		<p>Subsection (a) requires disclosure of material acquisition or disposition of assets or material nonrenewal, cancellation, or revision of ceded reinsurance agreements unless the transactions have been submitted pursuant to other provisions of the statute.</p>
<p>(b) The report required in (a) of this section is due 15 days after the end of the calendar month in which any reportable transaction occurs. A complete copy of the report, including any exhibits or other attachments filed as a part of the report, shall be filed with the National Association of Insurance Commissioners.</p>		<p>Subsection (b) requires the report be filed 15 days after the end of the calendar month in which the transaction occurs.</p>
<p>(c) Except as provided in this section, a report obtained by or disclosed to the director under this section is confidential, is not subject to subpoena and may not be made public by the director, the National Association of Insurance Commissioners, or any other person, without the prior written consent of the insurer submitting the report. If the director, after giving an insurer notice and an opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will served by publication of the report, the director may publish all or any part of the report in a manner the director determines appropriate.</p>		<p>Subsection (c) requires that a copy of the report also be filed with the National Association of Insurance Commissioners (NAIC). The subsection requires that the report be given confidential treatment by the division, the NAIC, or any other person, except sharing with insurance departments of other states, unless the insurer gives prior written consent or unless the director determines it is in the interest of policyholders, shareholders, or the public to publish the report and gives the insurer notice and an opportunity to be heard.</p>
<p>(d) A domestic insurer's report of an acquisition or disposition of an asset</p>		<p>Subsection (d) gives the requirements for reporting transactions of material acquisition or disposition of assets.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(1) shall be made under (a) of this section if the acquisition or disposition is material; for purposes of this subsection, an acquisition or disposition, or the aggregate of a series of related acquisitions or related dispositions during any 30-day period is material if it is nonrecurring, not in the ordinary course of business, and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory financial statement filed with the division;</p>		<p>Paragraph (d)(1) requires that only material transactions be reported and defines material.</p>
<p>(2) must be made on asset acquisition including each purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of material for such purpose.</p>		<p>Paragraph (d)(2) requires that asset acquisition and dispositions be reported other than the development of real property for the insurer or acquisition of material for such development.</p>
<p>(3) must be made on asset disposition including each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors or otherwise, abandonment, destruction, or other disposition;</p>		
<p>(4) must include information on the</p>		<p>Paragraph (d)(3) lists the information required in the disclosure notice to the division: date, manner of acquisition or disposition, description of asset, consideration given or received, purpose, manner of determining amount of consideration, gain or loss recognized or realized, names of persons involved.</p>
<p>(A) date of transaction;</p>		
<p>(B) manner of acquisition or disposition;</p>		
<p>(C) description of the assets involved;</p>		
<p>(D) nature and amount of the consideration given or received;</p>		
<p>(E) purpose of, or reason for, the transaction;</p>		

Proposed Legislation	Existing Statutes	Comments
(F) manner by which the amount of consideration was determined;		
(G) gain or loss recognized or realized as a result of the transaction; and		
(H) names of persons from whom the assets were acquired or to whom the assets were disposed.		
(e) A domestic insurer's report of nonrenewal, cancellation, or revision of a ceded reinsurance agreement		Subsection (e) gives the requirements for reporting transactions of material nonrenewal, cancellation or revision of a ceded reinsurance agreement.
(1) shall be made under (a) of this section if the nonrenewal, cancellation, or revision is material; for purposes of this section, a material nonrenewal, cancellation, or revision is one that affects (A) for property and casualty business, including accident and health business when written as property and casualty business, more than 50 percent of an insurer's ceded written premium; or (B) for life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis as indicated in the insurer's most recently filed statutory statement; however, a filing is not required if the insurer's ceded written premium or the total reserve credit taken for business ceded represents, on an annual basis, less than 10 percent of direct written premiums and assumed written premiums or 10 percent of the statutory reserve requirement before a cession;		Paragraph (e)(1) requires that only material transactions be reported and defines material.
(2) shall be filed without regard to which party has initiated the nonrenewal, cancellation, or revision of ceded reinsurance whenever any of the following conditions exist:		Paragraph (e) (2) requires that the filing must be made regardless of who initiates the transaction in certain circumstances.

Proposed Legislation	Existing Statutes	Comments
<p>(A) the entire cession has been canceled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves after a nonrenewal, cancellation, or revision represent less than 50 percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred;</p>		
<p>(B) an admitted or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer, however, a report shall be filed only if the result of the revision affects more than 10 percent of the cession; or</p>		
<p>(C) collateral requirements previously established for unauthorized reinsurers have been reduced, however, a report shall be filed only if the result of the revision affects more than 10 percent of the cession; and</p>		
<p>(3) must include:</p>		<p>Paragraph (e) (3) lists the information required in the disclosure notice to the division: effective date, description of the transaction, initiator of the transaction, purpose or reason, if applicable, the identity of the replacement reinsurer.</p>
<p>(A) effective date of the nonrenewal, cancellation, or revision;</p>		
<p>(B) description of the transaction with an identification of the initiator of the transaction;</p>		
<p>(C) purpose of, or reason for, the transaction; and</p>		
<p>(D) if applicable, the identity of the replacement reinsurers.</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(f) An insurer is required to report in (a) of this section on a non-consolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is presumed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct written premiums and assumed written premiums during a calendar year that is not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.</p>		<p>Subsection (f) requires that the report be made on a non-consolidated basis unless the insurer is part of a consolidated group which pools substantially all of its insurance losses. The subsection defines "substantially all".</p>
<p>Sec. 21.09.310. AUTHORIZATION OF U.S. BRANCHES OF ALIEN INSURERS AND GENERAL REQUIREMENTS. (a) This section applies to all U.S. branches of alien insurers using this state as a state of entry to transact the business of insurance in the United States. Except as provided elsewhere in this title, the United States branch is subject to all state laws applicable to an insurer domiciled in this state.</p>		<p>Subsection (a) states what companies to which this section applies and requires that the U.S. branch will be subject to all laws applicable to an Alaska domiciled insurance company.</p>
<p>(b) An alien insurer may apply for a certificate of authority to use this state as a state of entry to transact the business of insurance in the United States by</p>		<p>Subsection (b) sets out the requirements for applying to use this state as a state of entry.</p>
<p>(1) qualifying as an insurer licensed to do business in this state; and</p>		
<p>(2) establishing a trust under a trust agreement approved in writing by the director with a United States bank acceptable to the director in an amount no less than the minimum basic capital or basic guarantee surplus and additional maintained surplus required under AS 21.09.070;</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(3) submitting a copy of its charter and bylaws, if any, currently in force, and other documents necessary to show the kind of business which it is authorized to transact in its domiciliary jurisdiction; materials submitted under this paragraph must be attested to as accurate and complete by the insurance supervisory official in the domiciliary jurisdiction, and must include an English translation if in a language other than English;</p>		
<p>(4) submitting a full statement, subscribed and affirmed as true by two officers or equivalent responsible representatives in such manner as the director prescribes, of its financial condition as of the close of its latest fiscal year, showing its assets, liabilities, income disbursements, business transacted, and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its domiciliary jurisdiction; all documents submitted under this paragraph must include an English translation if in a language other than English;</p>		
<p>(5) submitting to an examination under AS 21.06.120(b) at its principal office within the United States, and elsewhere if necessary, unless the director accepts a full report of the last recent examination certified by the insurance supervisory official of the insurer's domiciliary jurisdiction; and</p>		
<p>(6) payment of fees established under AS 21.06.250.</p>		
<p>(c) Before issuing or renewing a certificate of authority to any United States branch, the director may require satisfactory proof that the insurer does not intend to transact business of insurance in violation of the provisions of this title or that is not authorized by its charter. Proof required under this subsection may include the alien insurer's charter, an agreement evidenced by a duly certified resolution of its board of directors, or other proof that the director may require,</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(d) The director may renew a certificate of authority for a United States branch if satisfied, by proof the director may require, that the insurer is not delinquent with respect to a requirement or qualification imposed by this title and that its continuance to transact the business of insurance in this state will not be hazardous or prejudicial to the best interest of the people of this state.</p>		<p>Subsection (d) allows the director to require evidence from the board of directors that the insurer will not violate Alaska law or its charter.</p>
<p>(e) A United States branch may not receive or renewed a certificate of authority in this state</p>		<p>Subsection (e) allows the director to renew a certificate of authority for a U.S. branch if the U.S. branch meets the requirements for renewal.</p>
<p>(1) to transact a kind of insurance or a combination of kinds of insurance that are not permitted to be transacted by domestic insurers in this state;</p>		
<p>(2) if it transacts business other than the business of insurance anywhere else within the United States unless the business, in the opinion of the director, is necessarily or properly incidental to the kind of insurance that it is authorized to transact in this state;</p>		
<p>(3) if it fails to keep full and correct entries of its transactions; records of entries shall at all times be maintained in its principal office within this state; or</p>		
<p>(4) if it fails to comply with a requirement or limitation of this title that is not exempted from by another provision of this title and that is applicable to similar domestic insurers and if, in the judgment of the director, the requirement or limitation is necessary to protect the interest of the policyholders;</p>		
<p>(f) A United States branch that transacts a kind or combination of kinds of insurance outside this state that is not permitted to be done in this state by similar domestic insurers may not have a certificate of authority issued or renewed in this state unless, in the judgment of the director, the transaction of that kind of insurance is not prejudicial to the best interest of the people of this state.</p>		<p>Subsection (f) lists the conditions of the U.S. branch which if they existed would prohibit the director from issuing or renewing a certificate of authority.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(g) A United States branch shall maintain assets in the trust account in an amount not less than the United States branch's reserves and other liabilities, plus the minimum basic capital or basic guarantee surplus and additional maintained surplus required under AS 21.09.070.</p>		<p>Subsection (g) prohibits the U.S. branch insurer from transacting business outside of Alaska that is not permitted in Alaska unless such restriction would be prejudicial to the best interest of the Alaska public.</p>
<p>(h) A written trust agreement must contain provisions that</p>		<p>Subsection (h) requires the U.S. branch to maintain assets in a trust account in an amount no less than the U.S. branches reserves and other liabilities and minimum basic capital and surplus.</p>
<p>(1) vest legal title to trustee assets in the trustees, and their lawfully appointed successors;</p>		
<p>(2) require that all assets deposited in the trust must be continuously kept within the United States;</p>		
<p>(3) provide for substitution of a new trustee or trustees in case of a vacancy by death, resignation, or other reason, subject to the prior written approval of the director;</p>		
<p>(4) require that the trustee continuously maintain a record sufficient to identify the assets of the trust fund;</p>		
<p>(5) require that the trustee assets consist only of cash, investments eligible for investment of the funds of domestic insurers, and accrued interest on assets, if collectible by the trustee, subject to the limits on investment of the funds by domestic insurers under this title;</p>		
<p>(6) require that the trust be for the exclusive benefit, security, and protection of the policyholders, or policyholders and creditors, of the United States branch in the United States and that the trust be maintained as long as there is an outstanding liability of the alien insurer arising out of its transaction of insurance in the United States; and</p>		

Proposed Legislation	Existing Statutes	Comments
(7) provide that withdrawals of an asset may not be made or permitted by a trustee without the prior written approval of the director except		
(A) to make deposits required by law in a state for the security or benefit of all policyholders, or policyholders and creditors, of the United States branch in the United States;		
(B) to withdraw funds deposited in another state under (A) of this paragraph if		
(i) the written trust agreement requires prior written approval of the insurance supervising official of that other state;		
(ii) written notice of the nature and extent of the withdrawal is provided to the director within 30 days of the withdrawal; and		
(iii) the total trustee assets remaining are in excess of the total trustee assets required to be maintained under (g) of this section;		
(C) upon the specific written direction of the United States manager, who is duly authorized and is acting under either general or specific written authority previously given or delegated by the board of directors, to substitute other assets as permitted by this title if of at least equal value and quality to those withdrawn; or		
(D) to transfer assets to an official liquidator or rehabilitator under an order of a court of competent jurisdiction; or		

Proposed Legislation	Existing Statutes	Comments
<p>(E) if provided under the terms of the written trust agreement, to pay over to the United States manager of the United States branch, upon request, income, dividends, or interest accumulations of the assets of the trust fund that are in excess of the total trustee assets required to be maintained under (g) of this section.</p>		
<p>(i) The written trust agreement and all amendments to it shall be authenticated in a form and manner as the director may prescribe and may not take effect until approved by the director. The director may not approve a trust agreement unless the director makes a written finding that</p>		<p>Subsection (i) lists the requirements for the written trust agreement which must exist for the U.S. branch to conduct business in the United States.</p>
<p>(1) the written trust agreement or its amendments are sufficient in form and in conformity with law;</p>		
<p>(2) a person designated as a trustee is eligible to act in that capacity; and</p>		
<p>(3) the written trust agreement is adequate to protect the interests of the beneficiaries of the trust.</p>		
<p>(j) The director may approve written modifications of, or variations in, a written trust agreement upon a finding that the proposed changes are not prejudicial to the interests of the people of this state or the United States policyholders and creditors of the United States branch.</p>		<p>Subsection (j) states that the trust agreement shall be in the form required by the director and not be effective until approved by the director.</p>
<p>(k) The director may conduct examinations of the trustee assets of any authorized United States branch at the insurer's expense and may require the trustee or trustees to file a statement, in a form as prescribed by the director, certifying the assets and amounts of the trust fund.</p>		<p>Subsection (k) states that the director may approve written modifications of the written trust agreement.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(l) The director, upon finding that the requisites for the approval no longer exist, may issue an order that withdraws approval of the written trust agreement and any amendments to it. An order issued under this subsection takes effect 10 days after being issued.</p>		<p>Subsection (l) allows the director to conduct examinations of trusteed assets and may require the trustee to file statements as to the trust fund.</p>
<p>(m) In addition to all other actions permitted under this title, refusal, or neglect of a trustee to comply with the requirements of this title is a cause for suspension or revocation of the United States branch's certificate of authority or the liquidation of the alien insurer's United States branch.</p>		<p>Subsection (m) allows the director to withdraw approval of the trust agreement, effective in 10 days, if the requirements for the agreement do not now exist.</p>
<p>(n) Annual statements under AS 21.09.200 and quarterly statements under AS 21.09.205; (1) may only relate to insurance transactions and affairs within the United States, assets held by or for the United States branch for the protection of policyholders and creditors within the United States, and liabilities incurred against those assets; may not contain a statement in regard to assets and business transacted in a place not described in this subsection. The annual and quarterly statements shall be signed and verified by the United States manager, attorney-in-fact, or a duly empowered assistant United States manager, of the United States branch.</p>		<p>Subsection (n) allows that refusal or neglect of the statute requirements is cause for suspension or revocation of the certificate of authority.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(o) In a form prescribed by the director, each authorized United States branch shall file with its annual and quarterly statements a statement of trustee surplus covering the same time period. The trustee surplus shall consist of the aggregate value of the United States branch's general state deposits and assets deposited with a trustee under this section, plus accrued interest income if the interest were collected by the states for the trustees, less the aggregate net amount of all its reserves and other liabilities in the United States as determined under this subsection. The items of securities and other property held under trust deeds shall be certified by the United States trustee. To determine the net amount of the United States branch's liabilities in the United States to be reported in the statement of trustee surplus, the United States branch shall adjust its total liabilities reported on its accompanying annual or quarterly statement as follows:</p>		<p>Subsection (o) requires that annual and quarterly financial statements relate only to transactions within the United States and states who must sign the statement.</p>
<p>(1) by adding back liabilities used to offset admitted assets reported in the accompanying annual or quarterly statement; and</p>		
<p>(2) by deducting</p>		
<p>(A) unearned premiums on agent's balances or uncollected premiums not more than 90 days past due;</p>		
<p>(B) reinsurance on losses with authorized insurers, less unpaid reinsurance premiums;</p>		
<p>(C) reinsurance recoverables on paid losses from unauthorized insurers that are included as an asset in the annual statement, but only to the extent a liability for unauthorized recoverables as described in this paragraph are included in the liabilities report in the trustee surplus statement;</p>		

Proposed Legislation	Existing Statutes	Comments
(D) special state deposits held for the exclusive benefit of policyholders, or policyholders and creditors, of a particular state not exceeding net liabilities reported for that state;		
(E) secured accrued retrospective premiums;		
(F) if a life insurer		
(i) the amount of its policy loans to policyholders within the United States, not exceeding the amount of legal reserve required on each affected policy; and		
(ii) the net amount of uncollected and deferred premiums; and		
(G) other non-trusted assets, upon a written finding by the director that the other non-trusted assets secure liabilities in a substantially similar manner to those permitted under this subsection.		
(p) In addition to the annual and quarterly statements and the statements of trusted surplus, the director may require additional information relating to total business or assets, or any portion of them, of the alien insurer or its United States branch.		Subsection (p) requires that a statement of trusted surplus be filed with the annual and quarterly financial statement and gives the requirements for that statement.
(q) In addition to the general statement of the financial condition of the United States branch, a report of examination must include a trusted surplus statement as of the date of the examination.		Subsection (q) allows the director to require additional information on the business of the alien insurer or its U.S. branch.
(r) In this section,		Subsection (r) requires that a report of examination of the U.S. branch include a trusted surplus statement.
(1) "trusted assets" are the assets maintained in a trust account under (g) of this section;		Subsection (s) adds definitions of the terms "trusted assets" and "United States branch"

Proposed Legislation	Existing Statutes	Comments
<p>(2) "United States branch" means the business unit through which business is transacted within the United States by an alien insurer and the assets and liabilities of the insurer within the United States applicable to that business.</p>		
<p>* Sec. 14. AS 21.09.310(b) is repealed and reenacted to read:</p>		<p>The repeal and reenactment of this subsection included in Section 13 is to add that a trust account must be in an amount not less than minimum capital and surplus nor less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.</p>
<p>(b) A alien insurer may apply for a certificate of authority to use this state as a state of entry to transact the business of insurance in the United States by</p>		
<p>(1) qualifying as an insurer licensed to do business in this state; and</p>		
<p>(2) establishing a trust under a trust agreement approved in writing by the director with a United States bank acceptable to the director in an amount no less than the greater of</p>		
<p>(A) the minimum basic capital or basic guarantee surplus and additional maintained surplus required under AS 21.09.070; or</p>		
<p>(B) the authorized control level risk based capital under AS 21.14;</p>		
<p>(3) submitting a copy of its charter and bylaws, if any, currently in force, and other documents necessary to show the kind of business which it is authorized to transact in its domiciliary jurisdiction; documents submitted under this paragraph must be attested to as accurate and complete by the insurance supervisory official in its domiciliary jurisdiction, and must include an English translation if in a language other than English;</p>		

Proposed Legislation	Existing Statutes	Comments
<p>(4) submitting a full statement, subscribed and affirmed as true by two officers or equivalent responsible representatives in a manner that the director prescribes, of its financial condition as of the close of its latest fiscal year, showing its assets liabilities, income disbursements, business transacted, and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its domiciliary jurisdiction; all documents submitted under this paragraph must include an English translation if in a language other than English;</p>		
<p>(5) submitting to an examination under AS 21.06.120(b) at its principal office within the United States, and elsewhere if necessary, unless the director accepts a full report of the insurer's recent examination and the report has been certified by the insurance supervisory official of the insurer's domiciliary jurisdiction; and</p>		
<p>(5) payment of fees established under AS 21.06.250.</p>		
<p>* Sec. 15. AS 21.09.310(g) is amended to read:</p>		<p>The repeal and reenactment of this subsection included in Section 13 is to add that the trustee assets maintained may not be less than minimum capital and surplus or less than the risk based capital number. This section would become effective when risk based capital legislation is adopted.</p>
<p>(g) A United States branch shall maintain assets in the trust account in an amount not less than the United States branch's reserves and other liabilities plus the greater of</p>		
<p>(1) the minimum basic capital or basic guarantee surplus and additional maintained surplus required under AS 21.09.070; or</p>		

Proposed Legislation	Existing Statutes	Comments
<p>* Soc. 16. AS 21.12.020 (a) is amended to read:</p>		<p>The amendments to this subsection are to make corrections for errors made when this section was most recently adopted in 1992. The amendments require that for a US branch of a non-US reinsurer to become accredited they must be licensed in at least one state that is accredited by the National Association of Insurance Commissioners (NAIC). Accreditation is a program of the NAIC which reviews state insurance divisions to determine if they meet a set of standards considered to be the minimum necessary for effective regulation. Other amendments recognize the addition of incorporated members to group insurers (such as 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.</p>
<p>(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an</p>	<p>(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an</p>	
<p>(1) assuming insurer that is licensed to transact insurance or reinsurance in this state;</p>	<p>(1) assuming insurer that is licensed to transact insurance or reinsurance in this state;</p>	
<p>(2) assuming insurer that is accredited as a reinsurer in this state, an accredited reinsurer is one that</p>	<p>(2) assuming insurer that is accredited as a reinsurer in this state; an accredited reinsurer is one that</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(A) <u>files evidence of submission [SUBMITS] to this state's jurisdiction, submits to this state's authority to examine its books and records under AS 21.06.120, is licensed to transact insurance or reinsurance in at least one state that is accredited by the National Association of Insurance Commissioners, or, in the case of a United States branch of an alien admitted insurer, is entered through and licensed to transact insurance or reinsurance in at least one state that is accredited by the National Association of Insurance Commissioners; [AND FILES ANNUALLY WITH THE DIRECTOR A COPY OF THE REINSURER'S ANNUAL STATEMENT FILED WITH THE INSURANCE DEPARTMENT OF THE REINSURER'S STATE OF DOMICILE AND A COPY OF THE REINSURER'S MOST RECENT AUDITED FINANCIAL STATEMENT; OR]</u></p>	<p>(A) submits to this state's jurisdiction, submits to this state's authority to examine its books and records, is licensed to transact insurance or reinsurance in at least one state that is accredited by the National Association of Insurance Commissioners, and files annually with the director a copy of the reinsurer's annual statement filed with the insurance department of the reinsurer's state of domicile and a copy of the reinsurer's most recent audited financial statement; or</p>	
<p>(B) [IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IS ENTERED THROUGH, AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE FILES ANNUALLY WITH THE DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS STATE OF DOMICILE, AND] maintains at least \$20,000,000 in policyholder surplus <u>and whose accreditation has not been denied by the director within 90 days of application to the director, or maintains less than \$20,000,000 in policyholder surplus and whose application for accreditation has been approved by the director; and</u></p>	<p>(B) in the case of a United States branch of an alien assuming insurer, is entered through, and licensed to transact insurance or reinsurance in, at least one state accredited by the National Association of Insurance Commissioners, files annually with the director a copy of its annual financial statement that is filed with the insurance regulatory agency of its state of domicile, and maintains at least \$20,000,000 in policyholder surplus; the surplus requirements in this subparagraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(C) files annually with the director a copy of the reinsurer's annual financial statement filed with the insurance department of the reinsurer's state of domicile or state of entry; [THE SURPLUS REQUIREMENTS IN THIS SUBPARAGRAPH DO NOT APPLY TO REINSURANCE CEDED AND ASSUMED UNDER A POOLING ARRANGEMENT AMONG INSURERS IN THE SAME HOLDING COMPANY SYSTEM];</p>		
<p>(3) assuming insurer that is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state that is accredited by the National Association of Insurance Commissioners that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	<p>(3) assuming insurer that is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state accredited by the National Association of Insurance Commissioners that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;</p>	
<p>(4) assuming alien insurer that</p>	<p>(4) assuming alien insurer that</p>	
<p>(A) maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest, that conforms to the following requirements:</p>	<p>(A) maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest, that conforms to the following requirements:</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(i) the trust shall be established in a form approved by the director; the trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director; the trust must remain in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;</p>	<p>(i) the trust shall be established in a form approved by the director; the trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director; the trust must remain in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;</p>	
<p>(ii) on or before March 1 of each year the trustees shall report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;</p>	<p>(ii) on or before March 1 of each year the trustees shall report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(iii) in the case of a single assuming insurer, the trust shall consist of trust money representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trust surplus of not less than \$20,000,000; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by the insurer's domiciliary regulator and by an independent public accountant;</p>	<p>(iii) in the case of a single assuming insurer, the trust shall consist of trust money representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trust surplus of not less than \$20,000,000; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by the insurer's domiciliary regulator and by an independent public accountant;</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(iv) in the case of a group, <u>including incorporated and [OF] individual unincorporated insurers, the trust shall consist of trust money representing the group's liabilities attributable to business written in the United States and, in addition, include a trust surplus not less than \$100,000,000; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; the group shall make available to the director an annual certification of the solvency of each insurer [OF THE INDIVIDUAL UNINCORPORATED INSURERS] by the group's domiciliary regulator and by an independent certified public account, or, for a Canadian or British insurer, an independent Canadian or British chartered accountant;</u></p>	<p>(iv) in the case of a group of individual unincorporated insurers, the trust shall consist of trust money representing the group's liabilities attributable to business written in the United States and, in addition, include a trust surplus not less than \$100,000,000; the group shall make available to the director an annual certification of the solvency of each of the individual unincorporated insurers by the group's domiciliary regulator and by an independent certified public accountant;</p>	

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

Proposed Legislation	Existing Statutes	Comments
<p>(B) reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund;</p>	<p>(B) reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund; (5) assuming insurer that does not meet the requirements of (1) - (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.</p>	
<p>(5) assuming insurer that does not meet the requirements of (1) - (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.</p>		
<p>* Sec. 17. AS 21.18.060(b) is amended to read:</p>		<p>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.</p>
<p>(b) The director may require that the reserves be equal to the unearned portions of the gross premiums in force after deducting applicable reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue. <b>[EXCEPT AS REQUIRED BY THE DIRECTOR UNDER THIS SUBSECTION, THE PORTIONS OF THE GROSS PREMIUM IN FORCE, LESS APPLICABLE REINSURANCE INSOLVENT INSURERS, TO BE HELD AS AN UNEARNED PREMIUM RESERVE SHALL BE COMPUTED ACCORDING TO THE FOLLOWING TABLE:</b></p>	<p>(b) The director may require that the reserves be equal to the unearned portions of the gross premiums in force after deducting applicable reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue. Except as required by the director under this subsection, the portions of the gross premium in force, less applicable reinsurance in solvent insurers, to be held as an unearned premium reserve shall be computed according to the following table:</p>	

Proposed Legislation	Existing Statutes	Comments
<p>TERM FOR WHICH POLICY RESERVE FOR UNEARNED WAS WRITTEN PREMIUM</p> <p>1 YEAR OR LESS ..... 1/2</p> <p>2 YEARS</p> <p>1ST YEAR ..... 3/4</p> <p>2ND YEAR ..... 1/4</p> <p>3 YEARS</p> <p>1ST YEAR ..... 5/6</p> <p>2ND YEAR ..... 1/2</p> <p>3RD YEAR ..... 1/6</p> <p>4 YEARS</p> <p>1ST YEAR ..... 7/8</p> <p>2ND YEAR ..... 5/8</p> <p>3RD YEAR ..... 3/8</p> <p>4TH YEAR ..... 1/8</p> <p>5 YEARS</p> <p>1ST YEAR ..... 9/10</p> <p>2ND YEAR ..... 7/10</p> <p>3RD YEAR ..... 1/2</p> <p>4TH YEAR ..... 3/10</p> <p>5TH YEAR ..... 1/10</p> <p>OVER 5 YEARS ..... PRO RATA.]</p>	<p>Term for Which Policy Was Written Reserve for Unearned Premium</p> <p>1 year or less ..... 1/2</p> <p>2 years</p> <p>1st year ..... 3/4</p> <p>2nd year ..... 1/4</p> <p>3 years</p> <p>1st year ..... 5/6</p> <p>2nd year ..... 1/2</p> <p>3rd year ..... 1/6</p> <p>4 years</p> <p>1st year ..... 7/8</p> <p>2nd year ..... 5/8</p> <p>3rd year ..... 3/8</p> <p>4th year ..... 1/8</p> <p>5 years</p> <p>1st year ..... 9/10</p> <p>2nd year ..... 7/10</p> <p>3rd year ..... 1/2</p> <p>4th year ..... 3/10</p> <p>5th year ..... 1/10</p> <p>Over 5 years ..... pro rata.</p>	
<p>* Sec. 18. AS 21.18.060(c) is amended to read:</p>		<p>The amendment to this section clarifies that insurers must compute all reserves on a basis at least as frequent as monthly.</p>
<p>(c) An [IN THE LIEU OF COMPUTATION ACCORDING TO THE TABLE IN (b) OF THIS SECTION, THE] insurer shall [AT ITS OPTION MAY] compute all of the reserves on a monthly or more frequent pro rata basis.</p>		
<p>* Sec. 19. AS 21.18.090 is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>Sec. 21.18.090. LOSS RESERVES, LIABILITY INSURANCE, AND WORKERS' COMPENSATION. Where required in the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable shall be computed as follows:</p>	<p>SECTION 21.18.090. LOSS RESERVES, LIABILITY INSURANCE, AND WORKERS' COMPENSATION. Where required in the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable shall be computed as follows:</p>	
<p>(1) for all liability <u>claims under policies written more than three years before the end of the calendar year covered by the annual statement, the reserve shall be the undiscounted value of the determined and the estimated future payments</u> [SUITS BEING DEFENDED UNDER POLICIES WRITTEN MORE THAN</p>	<p>(1) for all liability suits being defended under policies written more than</p>	
<p>(A) 10 YEARS BEFORE THE DATE THE STATEMENT IS MADE, \$1,500 FOR EACH SUIT;</p>	<p>(A) 10 years before the date the statement is made, \$1,500 for each suit;</p>	
<p>(B) FIVE OR MORE AND LESS THAN 10 YEARS BEFORE THE STATEMENT IS MADE, \$1,000 FOR EACH SUIT; AND</p>	<p>(B) five or more and less than 10 years before the statement is made, \$1,000 for each suit;</p>	
<p>(C) THREE OR MORE AND LESS THAN FIVE YEARS BEFORE THE STATEMENT IS MADE, \$850 FOR EACH SUIT;</p>	<p>(C) three or more and less than five years before the statement is made, \$850 for each suit;</p>	
<p>(2) for all liability policies written during the three years immediately preceding the end of the calendar year covered by the annual statement, the reserve shall be <u>the greater of 60 percent of the earned liability premiums of each of the three years less all losses and expense payments made under liability policies written in the corresponding years or the undiscounted value of the known and unknown claims</u> [BUT THE RESERVE, FOR THE FIRST OF THE THREE YEARS, SHALL BE NOT LESS THAN \$750 FOR EACH OUTSTANDING LIABILITY SUIT ON THE YEAR'S POLICIES];</p>	<p>(2) for all liability policies written during the three years immediately preceding the date the statement is made, the reserve shall be 60 per cent of the earned liability premiums of each of the three years less all losses and expense payments made under liability policies written in the corresponding years; but the reserve, for the first of the three years, shall be not less than \$750 for each outstanding liability suit on the year's policies;</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(3) for all workers' compensation claims under policies written more than three years before <u>the end of the calendar year covered by the annual statement [IS MADE]</u>, the reserve <u>may not [SHALL] be less than</u> the present value at four percent interest of the determined and the estimated future payments;</p>	<p>(3) for all workers' compensation claims under policies written more than three years before the statement is made, the reserve shall be the present value at four per cent interest of the determined and the estimated future payments;</p>	
<p>(4) for all workers' compensation claims under policies written in the three years immediately preceding the <u>end of the calendar year covered by [DATE] the annual statement [IS MADE]</u>, the reserve <u>may not [SHALL] be less than</u> 65 percent of the earned workers' compensation premiums of each of the three years, less all loss and loss expense payments made in connection with the claims under policies written in the corresponding years; <u>[BUT IN THE FIRST YEAR OF THE THREE-YEAR PERIOD,]</u> the reserve <u>may not [SHALL] be [NOT] less than</u> the present value at <u>four [4]</u> percent interest of the determined and the estimated unpaid compensation claims under policies written during the <u>three-year period</u>.</p>	<p>(4) for all workers' compensation claims under policies written in the three years immediately preceding the date the statement is made, the reserve shall be 65 per cent of the earned compensation premiums of each of the three years, less all loss and loss expense payments made in connection with the claims under policies written in the corresponding years; but in the first year of the three-year period, the reserve shall be not less than the present value at 4 per cent interest of the determined and the estimated unpaid compensation claims under policies written during the year.</p>	
<p>* Sec. 20. AS 21.21.250(a) is amended to read:</p>		<p>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.</p>
<p>(a) An insurer may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amount not over five percent of the insurer's assets and not over one percent of the <u>insurer's assets for [OF]</u> any one loan or investment, if the loan or investment fulfills the requirements of AS 21.21.030, and otherwise qualifies as a sound investment. However, a loan or investment may not be represented by</p>	<p>SECTION 21.21.250. MISCELLANEOUS INVESTMENTS. (a) An insurer may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amount not over five per cent of the insurer's assets and not over one per cent of the assets of any one loan or investment, if the loan or investment fulfills the requirements of AS 21.21.030, and otherwise qualifies as a sound investment. However, a loan or investment may not be represented by</p>	
<p>(1) an item described in AS 21.28.030, or a loan or investment otherwise expressly prohibited;</p>	<p>(1) an item described in AS 21.18.030, or a loan or investment otherwise expressly prohibited;</p>	

Proposed Legislation	Existing Statutes	Comments
(2) agents' balances, or amounts advanced to or owing by agents or former agents of the insurer, whether or not secured; except policy loans, mortgage loans, and collateral loans otherwise authorized under this chapter;	(2) agents' balances, or amounts advanced to or owing by agents or former agents of the insurer, whether or not secured; except policy loans, mortgage loans, and collateral loans otherwise authorized under this chapter;	
(3) a category of loans or investments eligible under other provisions of this chapter; <u>or</u>	(3) a category of loans or investments eligible under other provisions of this chapter;	
(4) an asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this chapter.	(4) an asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this chapter.	
* Sec. 21. AS 21.21.370(a) is amended to read:		The amendment to this section is a change to clarify the meaning and application of the investment limitations on medium and lower grade bonds.
(a) A domestic insurer may [NOT] acquire, directly or indirectly, a medium grade or lower grade obligation or an institution if, after giving effect to the acquisition,	<b>SECTION 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE OBLIGATIONS.</b> (a) A domestic insurer may not acquire, directly or indirectly, a medium grade or lower grade obligation of an institution if, after giving effect to the acquisition,	
(1) the aggregate amount of all medium grade and lower grade obligations held by the domestic insurer <u>does not exceed</u> [EXCEEDS] 20 percent of its admitted assets <u>and if not more than</u>	(1) the aggregate amount of all medium grade and lower grade obligations held by the domestic insurer exceeds 20 percent of its admitted assets if not more than	
(A) 10 percent of its admitted assets consist of obligations rated four, five, or six by the securities valuation office;	(A) 10 percent of its admitted assets consist of obligations rated four, five, or six by the securities valuation office;	
(B) three percent of its admitted assets consist of obligations rated five or six by the securities valuation office; and	(B) three percent of its admitted assets consist of obligations rated five or six by the securities valuation office; and	

Proposed Legislation	Existing Statutes	Comments
(C) one percent of its admitted assets consist of obligations rated six by the securities valuation office; <u>and</u> [OR]	(C) one percent of its admitted assets consist of obligations rated six by the securities valuation office; or	
(2) the aggregate amount of all medium grade <u>and</u> [OR] lower grade obligations held by the domestic insurer <u>does not exceed</u> [EXCEEDS] 30 percent of its policyholders' surplus account as shown by the insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or AS 21.09.205.	(2) the aggregate amount of all medium grade or lower grade obligations held by the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.	
* Sec. 22. AS 21.22.010(g) is amended to read:		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.
(g) The provisions of this section do not apply to	(g) The provisions of this section do not apply to	
(1) an offer of, request for, invitation for, <u>or</u> agreement regarding[, OR] acquisition of a voting security that, immediately before the consummation of the offer, request, invitation, agreement, or acquisition, was not issued and outstanding; or	(1) an offer of, request for, invitation for, agreement regarding, or acquisition of a voting security that, immediately before the consummation of the offer, request, invitation, agreement, or acquisition, was not issued and outstanding; or	
(2) an offer, request, invitation, agreement, or acquisition that the director by order may exempt as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of the domestic insurer.	(2) an offer, request, invitation, agreement, or acquisition that the director by order may exempt as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of the domestic insurer.	
* Sec. 23. AS 21.22.030(a) is amended to read:		The amendment to this subsection adds to the list of conditions which, if present, allows the director to disapprove the merger of acquisition of control of an insurer. The condition added is if the acquisition is likely to be hazardous or prejudicial to the public.

Proposed Legislation	Existing Statutes	Comments
<p>(a) The director shall approve a merger or other acquisition of control referred to in AS 21.22.010 unless, after a public hearing the director issues an order with findings of fact and conclusions of law which finds that</p>	<p>(a) The director shall approve a merger or other acquisition of control referred to in AS 21.22.010 unless, after a public hearing the director finds that</p>	
<p>(1) after the change of control, the domestic insurer referred to in AS 21.22.010 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;</p>	<p>(1) after the change of control, the domestic insurer referred to in AS 21.22.010 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;</p>	
<p>(2) the effect of the merger or other acquisitions of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly in this state;</p>	<p>(2) the effect of the merger or other acquisitions of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly in this state;</p>	
<p>(3) the financial condition of an acquiring party is such that it might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;</p>	<p>(3) the financial condition of an acquiring party is such that it might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with the acquiring party;</p>	
<p>(4) the terms of the offer, request, invitation, agreement, or acquisition referred to in AS 21.22.010 are unfair and unreasonable to the security holders of the insurer;</p>	<p>(4) the terms of the offer, request, invitation, agreement, or acquisition referred to in AS 21.22.010 are unfair and unreasonable to the securityholders of the insurer;</p>	
<p>(5) the plans or proposals that the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; [OR]</p>	<p>(5) the plans or proposals that the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; or</p>	

Proposed Legislation	Existing Statutes	Comments
<p>(6) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; <u>or</u></p>	<p>(6) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.</p>	
<p><u>(7) the acquisition is likely to be hazardous or prejudicial to the insurance buying public.</u></p>		
<p>* Sec. 24. AS 21.22.030 is amended by adding a new subsection to read:</p>		<p>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.</p>
<p>(d) The director may retain at the acquiring person's expense any attorney, actuary, accountant, or other expert not otherwise a part of the director's staff, if reasonably necessary to assist the director in reviewing the proposed acquisition of control.</p>		
<p>* Sec. 25. AS 21.22.060(b) is amended to read:</p>		<p>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.</p>
<p>(b) Every insurer subject to registration shall file a registration statement on a form provided by the director, that must contain current information about</p>	<p>(b) Every insurer subject to registration shall file a registration statement on a form provided by the director, that must contain current information about</p>	
<p>(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;</p>	<p>(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;</p>	
<p>(2) the identity of every member of the insurance holding company system;</p>	<p>(2) the identity of every member of the insurance holding company system;</p>	

Proposed Legislation	Existing Statutes	Comments
(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:	(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:	
(A) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;	(A) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;	
(B) purchases, sales, or exchanges of assets;	(B) purchases, sales, or exchanges of assets;	
(C) transactions not in the ordinary course of business;	(C) transactions not in the ordinary course of business;	
(D) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;	(D) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;	
(E) all management and service contracts and all cost sharing arrangements[, OTHER THAN COST ALLOCATION ARRANGEMENTS BASED UPON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES]; and	(E) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and	
(F) reinsurance agreements [COVERING ALL OR SUBSTANTIALLY ALL OF ONE OR MORE LINES OF INSURANCE OF THE CEDING COMPANY]; and	(F) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company;	
(4) other matters concerning transactions between registered insurers and any affiliates that may be included from time to time in a registration form adopted or approved by the director	(4) other matters concerning transactions between registered insurers and any affiliates that may be included from time to time in a registration form adopted or approved by the director.	

Proposed Legislation	Existing Statutes	Comments
<p>* <b>Sec. 26.</b> AS 21.22.060(c) is amended to read:</p>		<p>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.</p>
<p>(c) The director may permit an authorized insurer that is a member of a holding company system subject to registration under the laws or regulations of its state of domicile that are in the opinion of the director substantially similar to those contained in this chapter to satisfy the requirements of (a) of this section by filing a statement in accordance with the laws of its state of domicile [EXCEPT THAT THE DIRECTOR MAY AT ANY TIME REQUIRE A COPY OF THAT STATEMENT BE FILED WITH THE DIRECTOR].</p>	<p>(c) The director may permit an authorized insurer that is a member of a holding company system subject to registration under the laws or regulations of its state of domicile that are in the opinion of the director substantially similar to those contained in this chapter to satisfy the requirements of (a) of this section by filing a statement in accordance with the laws of its state of domicile except that the director may at any time require a copy of that statement be filed with the director.</p>	
<p>* <b>Sec. 27.</b> AS 21.22.060(d) is amended to read:</p>		<p>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.</p>
<p>(d) <b>Information</b> [NO INFORMATION] need <b>not</b> be disclosed on the registration statement filed under (b) of this section if that information is not material for the purposes of this section. Unless the director by regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one percent <b>or less</b> of an insurer's admitted assets or five percent <b>or less</b> of the policyholder's surplus as of the 31st day of December of the calendar year in which the transaction took place are not considered material for purposes of this section.</p>	<p>(d) No information need be disclosed on the registration statement filed under (b) of this section if that information is not material for the purposes of this section. Unless the director by regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one per cent of an insurer's admitted assets or five per cent of the policyholder's surplus as of the 31st day of December of the calendar year in which the transaction took place are not considered material for purposes of this section.</p>	
<p>* <b>Sec. 28.</b> AS 21.22.060(k) is amended to read:</p>		<p>The amendment to this subsection is to correct the subsection reference and clarify the director's authority to require filing by authorized insurers.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(k) An insurer subject to registration under (a) of this section shall register annually by April 1 of each year for the previous calendar year unless, for good cause shown, the director extends the time for registration. The director may require an insurer that is <b>allowed to register as provided</b> [NOT SUBJECT TO REGISTRATION] under (c) [(a)] of this section, to furnish a copy of</p>	<p>(k) An insurer subject to registration under (a) of this section shall register annually by April 1 of each year for the previous calendar year unless, for good cause shown, the director extends the time for registration. The director may require an insurer authorized to do business in the state, that is a member of a holding company system and that is not subject to registration under (a) of this section, to furnish a copy of the registration statement, the summary specified in (l) of this section, or other information filed by the insurer with the insurance regulatory authority of the insurer's state of domicile.</p>	
<p>(1) the registration statement;</p>		
<p>(2) [,] the summary specified in (l) of this section; [,] or</p>		
<p>(3) other information filed by the insurer with the insurance regulatory authority of the insurer's state of domicile.</p>		
<p>* Sec. 29. AS 21.27.010(a) is amended to read:</p>		<p>Amendment to this section is primarily editorial in nature and clarifies exceptions to general producer licensing requirements under AS 21.27.</p>
<p>(a) <b>Except as expressly provided elsewhere in this chapter, a</b> [A] person may not act as or represent to be an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a subject resident, located, or to be performed in this state unless licensed under this chapter. A person may not act as or represent to be a managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager representing an insurer domiciled in this state regarding a risk located outside this state unless licensed by this state.</p>	<p>(a) A person may not act as or represent to be an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a subject resident, located, or to be performed in this state unless licensed under this chapter. A person may not act as or represent to be a managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager representing an insurer domiciled in this state regarding a risk located outside this state unless licensed by this state.</p>	

Proposed Legislation	Existing Statutes	Comments
* Sec. 30. AS 21.27.020 is amended by adding new subsections to read:		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.
(f) The director may		
(1) adopt regulations establishing additional education or experience requirements for applicants or licensees under this chapter.		
(2) make arrangements, including contracting with an outside agency, for administration services.		
* Sec. 31. AS 21.27.025(a) is amended to read:		Amendments to this subsection require a licensee to report to the division a change of name or any disciplinary action taken by another jurisdiction.
(a) A licensee shall notify the director within 30 days in writing by certified mail of a change in residence, employment that is licensed under this chapter, place of business, <u>legal name, fictitious name or alias</u> , mailing address, or phone number; a suspension, [OR] revocation, <u>or disciplinary action</u> of a license by another state or jurisdiction; or a conviction of a misdemeanor or felony.	(a) A licensee shall notify the director within 30 days in writing by certified mail of a change in residence, employment that is licensed under this chapter, place of business, mailing address, or phone number; a suspension or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or felony.	
* Sec. 32. AS 21.27.060(d) is amended to read:		Amendment to this subsection would allow the director, at the director's discretion, to reestablish testing for certain limited licensees.
(d) This section does not apply, to an applicant	(d) This section does not apply to an applicant	
(1) for a limited license under AS 21.27.150(1), (2), or (6);	(1) for a limited license under AS 21.27.150;	

Proposed Legislation	Existing Statutes	Comments
<p>(2) who, at any time within the two-year period immediately preceding the date the current pending application is received by the division, had been licensed in good standing in this state under a license requiring substantially similar qualifications as required by the license applied for; or</p>	<p>(2) who, at any time within the two-year period immediately preceding the date the current pending application is received by the division, had been licensed in good standing in this state under a license requiring substantially similar qualifications as required by the license applied for; or</p>	
<p>(3) whose license in <del>its</del> [THE] resident jurisdiction requires the same qualifications as the license applied for in this state if the license in all jurisdictions is in good standing.</p>	<p>(3) whose license in the resident jurisdiction requires the same qualifications as the license applied for in this state if the license in all jurisdictions is in good standing and its resident jurisdiction is accredited by the National Association of Insurance Commissioners.</p>	
<p>* Sec. 33. AS 21.27.100 is amended by adding a new subsection to read:</p>		<p>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.</p>
<p>(e) An individual in a firm who acts solely on behalf of a firm that is appointed as an agent on behalf of an admitted insurer under this section may not be required to also have an appointment if the individual in the firm is licensed with that firm.</p>		
<p>* Sec. 34. AS 21.27.130 is amended to read:</p>		<p>Amendment to this section is primarily editorial in nature and clarifies the type of licensee address to be shown on a license.</p>
<p>Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license shall be in the form the director prescribes and must set out</p>	<p>SECTION 21.27.130. FORM AND CONTENT OF LICENSES. A license must be in the form the director prescribes and must set out</p>	
<p>(1) the name and [MAILING] address of the licensee, and, if the licensee is required to have a place of business, the physical address of the place of business;</p>	<p>(1) the name and mailing address of the licensee, and if the licensee is required to have a place of business, the physical address of the place of business;</p>	
<p>(2) if for a firm, the name of the principal or manager of the firm;</p>	<p>(2) if for a firm, the name of the principal or manager of the firm;</p>	

Proposed Legislation	Existing Statutes	Comments
(3) the kind or class of insurance the licensee is licensed to handle;	(3) the kind or class of insurance the licensee is licensed to handle;	
(4) the effective date and expiration date of the license;	(4) the effective date and expiration date of the license;	
(5) the condition under which the license is granted;	(5) the condition under which the license is granted;	
(6) the date of issuance of the license:	(6) the date of issuance of the license;	
(7) each fictitious name and alias under which the licensee may do business; and	(7) each fictitious name and alias under which the licensee may do business; and	
(8) other information required by the director.	(8) other information required by the director.	
* Sec. 35. AS 21.27.360(b) is amended to read:		Amendment to this subsection requires a resident licensee to maintain its fiduciary accounts in Alaska.
(b) All money, except that made payable to the insurer, representing premium taxes and fees, premiums or return premiums received by the licensee, shall be received in the fiduciary account of the licensee and shall be promptly accounted for and paid to the person entitled to the money. <u>The fiduciary account shall be located in this state unless the licensee is licensed as a nonresident under AS 21.27.270.</u> For purposes of this section, the fiduciary account of the firm shall be considered the fiduciary account of an individual licensee acting on behalf of the firm and shall be the responsibility of the firm. Money deposited into a fiduciary account may not be commingled or otherwise combined with other money, except as allowed under (d) of this section and AS 21.27.365.	(b) All money, except that made payable to the insurer, representing premium taxes and fees, premiums or return premiums received by the licensee, shall be received in the fiduciary account of the licensee and shall be promptly accounted for and paid to the person entitled to the money. For purposes of this section, the fiduciary account of the firm shall be considered the fiduciary account of an individual licensee acting on behalf of the firm and shall be the responsibility of the firm. Money deposited into a fiduciary account may not be commingled or otherwise combined with other money, except as allowed under (d) of this section and AS 21.27.365.	

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 36. AS 21.27.380(a) is amended to read:</p>		<p>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.</p>
<p>(a) Except as provided in this title, the director may renew a license biennially on a date set by the director if the licensee continues to be qualified under this chapter <b>and on or before the close of business of the renewal date, meets all renewal requirements established by regulation and pays the</b> (IF) renewal license fees set under AS 21.06.250 for each license to [ARE RECEIVED BY] the director [ON OR BEFORE THE CLOSE OF BUSINESS OF THE RENEWAL DATE]. A licensee is responsible for knowing the date that a license lapses and for renewing a license before expiration. The director shall mail a renewal notice to the licensee's current address on file with the director 30 days before the renewal date.</p>	<p>(a) Except as provided in this title, the director may renew a license biennially on a date set by the director if the licensee continues to be qualified under this chapter and if renewal license fees set under AS 21.06.250 for each license are received by the director on or before the close of business of the renewal date. A licensee is responsible for knowing the date that a license lapses and for renewing a license before expiration. The director shall mail a renewal notice to the licensee's current address on file with the director 30 days before the renewal date.</p>	
<p>* Sec. 37. AS 21.27.420 is amended by adding a new subsection to read:</p>		<p>Adds a new subsection that provides additional licensing flexibility by allowing a license to be issued or renewed with conditions.</p>
<p>(c) With the consent of an applicant or licensee, the director may issue or renew a license with restrictions upon the scope of the person's license or may otherwise restrict or condition the activities of the licensee if the director determines that the person has violated the provisions of this title or to protect the public from injury or potential injury.</p>		
<p>* Sec. 38. AS 21.27.530 is amended to read:</p>		<p>Amendment to this paragraph is primarily editorial in nature and clarifies that a single bond may cover multiple locations for a single licensee.</p>
<p>Sec. 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of an insurance producer license, and applicant of licensee</p>	<p>SECTION 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of an insurance producer license, an applicant or licensee</p>	

Proposed Legislation	Existing Statutes	Comments
(1) must possess the competence necessary to fulfill the responsibilities of an insurance producer;	(1) must possess the competence necessary to fulfill the responsibilities of an insurance producer;	
(2) if previously licensed in good standing in this state as an insurance producer, must not have had a license suspended or revoked within the previous four calendar years;	(2) if previously licensed in good standing in this state as an insurance producer, must not have had a license suspended or revoked within the previous four calendar years;	
(3) for a fraternal society limited insurance producer license, shall file with the application a statement by an officer or director of the appointing fraternal society that affirms that the society has satisfied itself that the applicant is trustworthy and competent to act as its insurance agent;	(3) for a fraternal society limited insurance producer license, shall file with the application a statement by an officer or director of the appointing fraternal society that affirms that the society has satisfied itself that the applicant is trustworthy and competent to act as its insurance agent;	
(4) for a license with a scope that includes variable contracts, must either be currently registered with the federal Securities and Exchange Commission as a broker-dealer or personally take and pass, to the satisfaction of the director, tests of the knowledge and competence of the applicant concerning securities; and	(4) for a license with a scope that includes variable contracts, must either be currently registered with the federal Securities and Exchange Commission as a broker-dealer or personally take and pass, to the satisfaction of the director, tests of the knowledge and competence of the applicant concerning securities; and	
(5) except for an applicant or licensee who represents to be and acts solely on behalf of admitted insurers as an agent and who does not receive money required to be received in the fiduciary account of the licensee, shall file with the applicant and maintain in force while licensed a bond in the amount of \$10,000, unless a greater amount is required by another provision of this title; <u>a licensee who maintains more than one place of business may satisfy the bond requirement with a single bond.</u>	(5) except for an applicant or licensee who represents to be and acts solely on behalf of admitted insurers as an agent and who does not receive money required to be received in the fiduciary account of the licensee, shall file with the application and maintain in force while licensed a bond in the amount of \$10,000, unless a greater amount is required by another provision of this title.	
* Sec. 39. AS 21.27.50(a)(3)(B) is amended to read:		Amendment to this paragraph is primarily editorial in nature and clarifies by adding punctuation suggested by the NAIC accreditation team.

Proposed Legislation	Existing Statutes	Comments
<p>(B) the controlling insurance producer shall render accounts to the controlled insurer detailing all transactions, including information <b>in the accounts</b> necessary to support compensation, commissions, charges, and other fees received by, or owing to, the controlling producer;</p>	<p>(B) the controlling insurance producer shall render accounts to the controlled insurer detailing all transactions including information necessary to support compensation, commissions, charges, and other fees received by, or owing to, the controlling producer;</p>	
<p>* Sec. 40. AS 21.27.620(j) is amended to read:</p>		<p>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.</p>
<p>(j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a managing general agent caused loss or <b>damage</b> arising out of violation of AS 21.27.590 - 21.27.630 to an insurer, the director may order the managing general agent to make restitution to the insurer, <b>receiver, [THE] rehabilitator, or [THE] liquidator</b> of the insurer for the loss. Restitution ordered under this subsection is in addition to any other liability of the managing general agent and does not affect the rights of a policyholder, claimant, creditor, or third party. <b><u>The director may maintain or bring a civil action brought by or on behalf of the insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the insurer and its policyholders and creditors or seek other appropriate relief. If an order of rehabilitation or liquidation of the insurer has been entered under AS 21.78, the receiver appointed under the order determines that a person has not materially complied with AS 21.27.590 - 21.27.630 or an order of the director, and the insurer suffers loss or damage from the noncompliance, the receiver may bring a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.</u></b></p>	<p>(j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a managing general agent caused loss arising out of a violation of AS 21.27.590 - 21.27.630 to an insurer, the director may order the managing general agent to make restitution to the insurer, the rehabilitator, or the liquidator of the insurer for the loss. Restitution ordered under this subsection is in addition to any other liability of the managing general agent and does not affect the rights of a policy holder, claimant, creditor, or third party.</p>	

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 41. AS 21.27.690(b) is amended to read:</p>		<p>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.</p>
<p>(b) <u>An</u> [A DOMESTIC] insurer may use a nonresident reinsurance intermediary broker who is not licensed under this chapter if the person is licensed in good standing as a resident reinsurance intermediary broker by an insurance regulator of another state that is accredited by the National Association of Insurance Commissioners. Upon written request, the director may grant written permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed by and without a place of business in a jurisdiction subject to accreditation by the National Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed reinsurance intermediary broker are subject to all other requirements of this section.</p>	<p>(b) A domestic insurer may use a nonresident reinsurance intermediary broker who is not licensed under this chapter if the person is licensed in good standing as a resident reinsurance intermediary broker by an insurance regulator of another state that is accredited by the National Association of Insurance Commissioners. Upon written request, the director may grant written permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed by and without a place of business in a jurisdiction subject to accreditation by the National Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed reinsurance intermediary broker are subject to all other requirements of this section.</p>	
<p>* Sec. 42. AS 21.27.690(e) is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a reinsurance intermediary broker caused losses or damage arising out of violation of AS 21.27.670 - 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker to make restitution to the insurer, reinsurer, receiver, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection is in addition to any other liability of the reinsurance intermediary broker and does not affect the rights of a policyholder, claimant, creditor, or third party. <u>The director may maintain or bring a civil action brought by or on behalf of the reinsurer or insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the reinsurer or insurer and its policyholders and creditors or seek other appropriate relief. If an order of rehabilitation or liquidation of the insurer has been entered under AS 21.78, the receiver appointed under the order determines that a person has not materially complied with AS 21.27.670 - 21.27.700 or an order of the director, and the insurer suffers loss or damage from the noncompliance, the receiver may bring a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.</u></p>	<p>(e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a reinsurance intermediary broker caused losses arising out of a violation of AS 21.27.670 - 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection is in addition to any other liability of the reinsurance intermediary broker and does not affect the rights of a policyholder, claimant, creditor, or third party.</p>	
<p>* Sec. 43. AS 21.27.760(j) is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a reinsurance intermediary manager caused losses or damage arising out of violation of AS 21.27.730 - 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager to make restitution to the insurer, reinsurer, receiver, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection is in addition to any other liability of the reinsurance intermediary manager and does not affect the rights of a policyholder, claimant, creditor, or third party. <u>The director may maintain or bring a civil action brought by or on behalf of the reinsurer or insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the reinsurer or insurer and its policyholders and creditors or seek other appropriate relief. If an order of rehabilitation or liquidation of the insurer has been entered under AS 21.78, the receiver appointed under the order determines that a person has not materially complied with AS 21.27.730 - 21.27.770 or an order of the director, and the insurer suffers loss or damage from the noncompliance, the receiver may bring a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.</u></p>	<p>(j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a reinsurance intermediary manager caused losses arising out of a violation of AS 21.27.730 - 21.27.770 to an insurer or reinsurer, the director may order the reinsurance intermediary manager to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection is in addition to any other liability of the reinsurance intermediary manager and does not affect the rights of a policyholder, claimant, creditor, or third party.</p>	
<p>* Sec. 44. AS 21.34.040(c)(4) is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(4) a Lloyd's or other similar <b>group including incorporated and individual unincorporated underwriters, [GROUP OF ALIEN INDIVIDUAL INSURERS]</b> may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to the full amount, for the protection of all its policyholders and creditors of each member of the group in the United States; <b>the incorporated members may not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members;</b> the trust fund must consist of instruments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date that at no time is less than five years;</p>	<p>(4) a Lloyd's or other similar unincorporated group of alien individual insurers may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to the full amount, for the protection of all its policy holders and creditors of each member of the group in the United States; the trust fund must consist of instruments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date that at no time is less than five years;</p>	
<p>* Sec. 45. AS 21.34.080(c) is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>(c) A producing broker shall execute and deliver to the surplus lines broker not later than the end of each month on a form prescribed by the director, and a surplus lines broker shall file with the director with the report required by (a) of this section or with the surplus lines association with the evidence of insurance required by (b) of this section, for surplus lines insurance first placed or renewed in the preceding calendar month, an affidavit that shall be open to public inspection, as to the diligent efforts to place the coverage with admitted insurers, and the results of those efforts. The affidavit must contain a statement by the <u>producing</u> broker that the insured was expressly informed in writing before the <b>[PLACEMENT OF THE SURPLUS LINES INSURANCE]</b> insurance <u>contract or coverage was bound</u> that the surplus lines insurer with whom the insurance was to be placed is not licensed in this state, is not subject to this state's supervision, and, in the event of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).</p>	<p>(c) A producing broker shall execute and deliver to the surplus lines broker not later than the end of each month on a form prescribed by the director, and a surplus lines broker shall file with the director with the report required by (a) of this section or with the surplus lines association with the evidence of insurance required by (b) of this section, for surplus lines insurance first placed or renewed in the preceding calendar month, an affidavit that shall be open to public inspection, as to the diligent efforts to place the coverage with admitted insurers, and the results of those efforts. The affidavit must contain a statement by the broker that the insured was expressly informed in writing before placement of the surplus lines insurance that the surplus lines insurer with whom the insurance was to be placed is not licensed in this state, is not subject to this state's supervision, and in the event of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).</p>	
<p>* Sec. 46. AS 21.34.110 is amended to read:</p>		<p>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.</p>

Proposed Legislation	Existing Statutes	Comments
<p>Sec. AS 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. (a) A contract of insurance placed by a surplus lines broker under this chapter is not binding upon the insured and a premium charged is not due and payable until</p>	<p>SECTION 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A contract of insurance placed by a surplus lines broker under this chapter is not binding upon the insured and a premium charged is not due and payable until the surplus lines broker has notified the insured in writing, a copy of which shall be maintained by the licensee with the records of the contract, available for examination, that the insurer with which the surplus lines broker places the insurance does not hold a certificate of authority issued by this state and is not subject to its supervision, and in the event of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act). Nothing in this section shall nullify an agreement by an insurer to provide insurance.</p>	
<p>(1) the surplus lines broker has notified the insured in writing, a copy of which shall be maintained by the licensee with the records of the contract, available for examination, that the insurer with which the surplus lines broker places the insurance does not hold a certificate of authority issued by this state and is not subject to its supervision, and in the event of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act); or,</p>		
<p>(2) <u>the surplus lines broker has obtained the affidavit of the producing broker that the notice required under AS 21.34.080(c) has been given to the insured; each licensee shall maintain a copy of the affidavit with the record of the contract available for examination.</u></p>		
<p>(b) <u>Nothing in this section may be construed as nullifying</u> [SHALL NULLIFY] an agreement by an insurer to provide insurance.</p>		

Proposed Legislation	Existing Statutes	Comments
<p>* Sec. 47. AS 21.34.190(a) is amended to read:</p>		<p>The amendment to this subsection provides that the calculations for determining the filing fee should be based on the calendar year rather than quarterly.</p>
<p>(a) The fee for filing the statement under AS 21.34.180(b) is an amount equal to one percent on gross premium charged less any return premiums during the preceding calendar year [QUARTER]. The surplus lines broker shall pay the fee at the time of filing of the statement.</p>	<p>(a) The fee for filing the statement under AS 21.34.180(b) is an amount equal to one percent on gross premium charged less any return premiums during the preceding calendar quarter. The surplus lines broker shall pay the fee at the time of filing of the statement.</p>	
<p>* Sec. 48. AS 21.36.120(d) is amended to read:</p>		<p>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.</p>
<p>(d) Nothing in this section may be construed as prohibiting the payment of commissions or other compensation to <u>persons duly transacting business under AS 21.27 [LICENSED AGENTS OR SOLICITORS]</u>, or as prohibiting an insurer from allowing or returning to its participating policyholders, members, or subscribers, lawful dividends, savings, or unabsorbed premium deposits.</p>	<p>(d) Nothing in this section may be construed as prohibiting the payment of commissions or other compensation to duly licensed agents or solicitors, or as prohibiting an insurer from allowing or returning to its participating policyholders, members, or subscribers, lawful dividends, savings, or unabsorbed premium deposits.</p>	
<p>* Sec. 49. AS 21.36.195 is amended to read:</p>		<p>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.</p>
<p><b>Sec. 21.36.195. SURPLUS LINES BROKERS AND INSURANCE PRODUCERS: PROHIBITED ACTS.</b> A surplus lines broker or <u>an insurance producer</u> may not fail to provide <u>evidence [THE EVIDENCES]</u> of insurance, affidavits, filings, or reports, or fail to maintain the records, or fail to pay the taxes and fees, required under AS 21.34.</p>	<p><b>SECTION 21.36.195. SURPLUS LINES BROKERS; PROHIBITED ACTS.</b> A surplus lines broker may not fail to provide the evidences of insurance, affidavits, filings, or reports, or fail to maintain the records, or fail to pay the taxes and fees, required under AS 21.34.</p>	
<p>* Sec. 50. AS 21.36.235(a) is amended to read:</p>		<p>This is a change in the statute cite to accommodate the moving of AS 21.36.420 to AS 21.36.305.</p>