

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

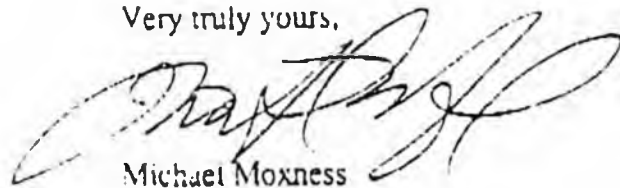
8697 HOUSE • LABOR & COMMERCE •

Senator Tim Kelly
February 10, 1995
Page 2

Repealing AS 01 57 will not save a lot of money, but it will save some. It will not help Carrs much, but it might reduce the costs of some little guys trying to get into the business. But most importantly, no legislator can truthfully stand up and call him or herself a fiscal conservative and then allow programs like this to sit untouched while schools, water systems and law enforcement departments go unfunded.

We urge your support for SB 25.

Very truly yours,



Michael Moxness

MM/mjc

January 21, 1995

Senator Dave Donley
State Capitol, Room 11
Juneau, AK 99801-1182

Dear Senator Donley:

We at Carrs agree with and applaud the new legislature's announced intention of promoting responsible, simple and effective state regulation. Going hand-in-hand with this program is the effort to eliminate costly and unnecessary regulation.

I would like to call your attention to the existence of Chapter 57 of Title 3 of the Alaska Statutes. (copy enclosed) It requires that any party engaged in the business of buying or selling vegetables obtain a vegetable dealer's license from the state. In addition, to a \$25 annual fee, the party must also obtain and keep in force a \$5,000 bond. If this were intended to promote public safety through health regulations, this license/bonding requirement would make some sense. However, there are no health or safety standards in the law at all. The sole operative provision in the chapter makes it an "unfair trade practice" for someone buying vegetables to fail to pay for them. As you know, labelling the failure to pay a bill as an "unfair trade practice" permits the state attorney general's office to intervene on behalf of the unpaid seller.

In other words, the sole function of this whole licensing/bonding scheme is to use the state's attorneys to enforce commercial contracts between growers and dealers. In these days of shrinking state revenues, it seems absurd that the state should administer a program dedicated solely to the enforcement of a special brand of private contracts. Even if this were a good idea, I would point out that according to the people administering this program, its enforcement provision have never been invoked. In other words, the state continues to administer a program forcing anyone buying vegetables to purchase a license and a bond just to be sure the vegetable grower gets paid, AND the state has never even used the program.

Last fall, we received a letter from the Division of Agriculture, asking for our thoughts on increasing the bonding requirement and adding new penalties for non-compliance. Here is a program that serves no purpose and that has never been used, and someone wants to increase the cost of it. Carrs has always maintained its license and bond, but this frankly seems an absolute waste of both our and the state's time.

In view of the your stated goal of reducing unnecessary state expense and eliminating excess regulation, I would respectfully request that you consider repeal of this entire chapter.

Sincerely,



Mark R. Williams
President & CEO

JOHNNY ELLIS
SENATOR



STATE CAPITOL, ROOM 9
SITKA, ALASKA 99801-1182
PHONE: (907) 465-3704
FAX: (907) 465-2529

ALASKA STATE LEGISLATURE
SENATE

January 25, 1995

Mr. Mark R. Williams
President and Chief Operating Officer
Carr Gottstein Foods Co.
6411 "A" Street
Anchorage, Alaska 99518

Dear Mr. Williams,

As you may be aware, Senator Dave Donley has introduced SB 25 this session. SB 25 would repeal AS 03.57 which now requires a \$25 license for vegetable dealers. SB 25 has been referred to the Labor and Commerce Committee, chaired by Senator Kelly.

I am in full support of this legislation and through my membership on the Administrative Regulation Review Committee, chaired by Senator Phillips, I intend to help Senator Donley pass this bill. I have already brought up the need for repealing these regulations in this committee, and will be making a full presentation soon.

I would appreciate your assistance in passing this legislation. Staff from the Administrative Regulation Review Committee will be contacting you to testify either in person or by teleconference. Furthermore, any encouragement you could give Senators Kelly and Phillips would help.

Sincerely,

A handwritten signature in cursive script that reads "Johnny Ellis".

Johnny Ellis

February 1, 1994

Senator Dave Donley
State Senate
State Capitol, Room 11
Juneau, Alaska 99801-1182

Dear Senator Donley,

Chapter 57 of Title 3 of the Alaska Statutes (copy enclosed) requires that any party engaged in the business of buying or selling vegetables obtain a vegetable dealer's license from the state. In addition to a \$25 annual fee, the party must also obtain and keep in force a \$5,000 bond. If this were intended to promote public safety through health regulations, this license/bonding requirement would make some sense. However, there are no public health or safety rules in the law at all. The sole operative provision in the chapter makes it an "unfair trade practice" to fail to pay, unreasonably reject, or fail to deliver vegetables.

In other words, the sole function of this whole chapter is to use the state's power to enforce commercial contracts between growers and dealers. In these days of shrinking state revenues, it seems absurd that the state should administer a licensing and bonding scheme dedicated solely to the enforcement of private contracts. Other than forcing businesses to get one more license, I would ask if its enforcement provision have even been invoked. Does the state attorney general's office really have the time to intervene in contractual disputes between food dealers? Would the state come to our aid if one of our customers refused to pay us?

We recently received the enclosed letter from the Division of Agriculture, asking for our thoughts on increasing the bonding requirement and the addition of new penalties for non-compliance. Carrs has always maintained its license, but it frankly seems an absolute waste of both our and the state's time.

In view of your stated goal of reducing unnecessary state expense and eliminating excess regulation, I would respectfully request that you consider repeal of this entire chapter.

Sincerely,

Mark R. Williams

Mark R. Williams
President & COO

Enclosures

*Suggests repeal
of whole statute
Chapter 57*

04/28/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:15:04

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:50632 SCHEDULED FOR:04/28/95 15:00 TO 17:00

FOR:ANC

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 263	DICK	CATTANACH	TESTIFY	
HB 109	JIM	ROWE	ATA	TESTIFY ✓
HB 217	JOE	JOSEPHSON	TESTIFY ✓	
HB 217	MARTI	HUGHES	TESTIFY ✓	
HB 217	KATHI	GILLESPIE	TESTIFY ✓	
1.3 217	JOHN	GILLESPIE	TESTIFY ✓	

04/28/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:11:39

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:MAT

TCN:50632 SCHEDULED FOR:04/28/95 15:00 TO 17:00

FOR:MAT

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION:MATSU

SB 25	MR	ED	KERN	TESTIFY ✓
HB 217	MR	BOB	DOYLE	TESTIFY ✓
HB 217	MR	JOHN	CYP	TESTIFY ✓
HB 217	MS	LUCY	HOPE	TESTIFY

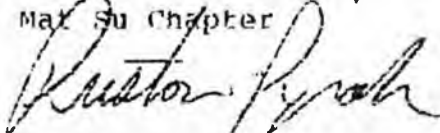
**The Alaska Farm Bureau
Alaska Farmers & Stockgrowers
Association, Inc.
Mat-Su Chapter**

April 27, 1995

The Mat Su Chapter of the Alaska Farm Bureau opposes the passage of SB25 and HB134. This legislation would do away with the requirement for licensing and bonding of buyers of vegetables in Alaska. It can only hurt Alaska producers. This law presently costs the State of Alaska nothing and guarantees that the backgrounds of vegetable buyers will be checked out by the bonding company before they can be licensed by the State.

HB133 advocates prompt payment to truckers and CS for HB140 is a bill pertaining to bonding of fish buyers. We find it hard to understand why, since both of these bills are reasonable, bonding to pay farmers is unreasonable.

ALASKA FARM BUREAU,
Mat Su Chapter



Preston Pyrah,
President

The Alaska Farm Bureau
Alaska Farmers & Stockgrowers
 Association, Inc.
Mat-Su Chapter

Whereas the MAT-SU Chapter of the Alaska Farm Bureau has given consideration to the three bills in the House and Senate to repeal AS 03.57; and,

Whereas we recognize that the above mentioned Statute has many deficits; and,

Whereas we believe that the total repeal of the bill leaves some growers extremely exposed economically; and,

Whereas we do not believe the original intent of the bill was to punish primary dealers who pay promptly; and,

Whereas we do not believe the original intent was to involve growers as primary dealers; and,

Whereas the amount of bond is not sufficient for today's quantities and dollars; and,

Whereas the original bill had no penalties nor mechanics for enforcement; and,

Whereas the Mat-Su Chapter of the Alaska Farm Bureau believes that the attached amendments to AS 03.57 bring the relief to both primary dealers and growers who were implicated in the original version of the bill while insuring that the growers either get paid promptly or are guaranteed by the bond;

Now therefore be it resolved that we respectfully request that our legislators take it upon themselves to incorporate the suggested amendments into AS 03.57 by appropriate legislative action.

Passed unanimously on this 23rd day of February, 1995.

President Preston Pyrah.

Preston Pyrah
2/24/95

Circulation:
 Senator Lyda Green
 Rep. Scott Ogan,
 Rep. Victor Kohring,
 Rep. Beverly Massick
 Assembly Member Robert Wells
 Victor Kohring,
 Beverly Massick

03.57.010 AGRICULTURE AND ANIMALS 03.57.030

Chapter 57. Vegetables of Alaska Origin.

A statute about payment to vegetable growers and unfair trade practices.*

Section	Section
10. License required	30. Unfair trade practices
20. Bond required	40. Definitions
	<u>50. Enforcement</u>

Sec. 03.57.010 License required.

- (a) No person may engage in business as a primary dealer in vegetables unless he has obtained a license.
 (b) The annual fee for the license is \$25. The director of the Division of Agriculture of the Department of Natural Resources shall grant a license to each person who pays the fee.
 (c) The license shall be posted at the place where the dealer conducts his business. (1 ch 74 SLA 1967)

Sec. 03.57.020. Bond required. Each primary dealer is required to obtain and file with the director of the Division of Agriculture of the Department of Natural Resources a bond in the amount of \$50,000. The bond shall be conditioned on the faithful performance of the legal duties of the dealer as set out in this chapter and the payment for vegetables purchased by him. The bond is payable to the person injured to the extent of the damages. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of the bond. The surety may cancel the bond upon giving 30 days' notice in writing to the director and thereafter shall be relieved of any liability for a breach of condition occurring after the effective date of cancellation. (1 ch 74 SLA 1967)

Sec. 03.57.030. Unfair trade practices.

- (a) It is a breach of a primary dealer's legal duties to engage in the following unfair trade practices whether or not he is bonded and licensed:

- (1) failure to pay growers within 30 days after receipt of vegetables unless otherwise agreed upon at time of purchase in accordance with a contract or agreed purchase price;
- (2) failure to account truly and accurately for all vegetables handled as a broker or on consignment or joint account;
- (3) rejection without reasonable cause of vegetables purchased or contracted to be handled on consignment;
- (4) dumping, discarding, or destroying vegetables on consignment without reasonable cause, or reinspection by the director or his agent;
- (5) failure to deliver in accordance with the terms of a contract, without reasonable cause;
- (6) discriminating or deceptive practices in weighing, packaging, or handling vegetables bought or sold;
- (7) misrepresentation of the grade, quantity, condition, weight, count, or state of origin of vegetables.

- (b) A primary dealer shall keep accurate records of his transactions. The records shall be retained for 18 months and subject to examination by the director. (1 ch 74 SLA 1967)

Sec. 03.57.040 Definitions. In this chapter:

- (1) "vegetables" means fresh vegetables of Alaska origin, including vegetables packed in ice;
- (2) "primary dealer" means a person engaged in the business of buying from a grower and selling vegetables in intrastate, interstate, or foreign commerce, except:
 - (A) growers selling vegetables of their own raising;
 - (B) growers/processors selling vegetables which are grown under contract with other growers;
 - (C) grower associations or co-ops selling vegetables grown by members;
 - (D) retailers;
 - (E) primary dealers of vegetables who pay C.O.D. or post (or payment checks within 5 working days after delivery);
 - (F) primary dealers who make occasional purchases of vegetables not totaling more than \$1000 per month;
 - (G) a frozen food broker who acts as an independent agent negotiating sales for the vendor and whose only sales of perishable agriculture commodities consist of frozen vegetables, and;
 - (H) dealers handling vegetables from other dealers or brokers and not directly from a grower.
- (3) "broker" means a person engaged in the business of negotiating sales and purchases of vegetables on behalf of the seller or the purchaser. (1 ch 74 SLA 1967)

***Sec. 03.57.050 Enforcement.**

- (a) If the department determines that a person is violating a provision of this chapter, the department shall order the person to stop the violation and to refrain from future violations.
 (b) If a person violates this chapter or an order issued under (a) of this section, the person is:
 - (1) liable to the state for a civil fine that does not exceed the total of \$1000 plus the state's estimated costs of investigating and taking appropriate administrative and enforcement actions for the violation;
 - (2) liable to the state for an additional civil penalty not to exceed the value of the unpaid vegetable inventory obtained in violation of this chapter.
 (c) The provisions of this section are in addition to the remedies available under AS 45.60.471 - 45.60.501.

*NEW TEXT IS BOLD AND UNDERLINED

S B

4 3



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

SPONSOR STATEMENT

Loren Lemman
4/30/96

SENATE BILL 43

"An Act relating to Architects, Engineers and Land Surveyors..."

SB 43 makes two changes to AS 08.48 requested by the Board of Registration for Architects, Engineers and Land Surveyors.

The first change provides ability for the Board to discipline improper representation by non-registrants. This is a change suggested to the board by the Department of Law. The second change is an update to the definition of land surveying.

Finally, the bill provides for a "retired engineer" status. This was requested by several engineers who are no longer active in the engineering profession. The Board supports this request.

I urge your support of this bill.

FISCAL NOTE

0. 1

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: CSSB 43(L&C)

(S) Publish Date: 3/12/96

Revision Date: _____
 Title: An Act relating to registration by the Board of Registration for Architects, Engineers, and Land Surveyors;....
 Sponsor: Senator Leman
 Requestor: Senate Labor & Commerce

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 43(L&C) makes amendments to the meaning of practicing or offering to practice in the architects, engineers, and land surveyors statutes; and creates a registration for retired status. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: March 8, 1996
 Date: 3-8-96

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S B

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9-LS0467G/

Ford

3/30/95

CS FOR SENATE BILL NO. 53(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulation of risk retention or purchasing groups; to
 2 preemption of the regulation of insurance agents and insurance producers; to
 3 the general powers of the director of the division of insurance; to insurance
 4 examination hearings; to insurer certificates of authority; to annual and quarterly
 5 statements, taxes, and prohibited acts of insurers; to reinsurance credit allowed
 6 a domestic insurer; to risk based capital for insurers; to insurer assets and
 7 liabilities; to insurer investments; to insurance holding companies; to regulation,
 8 licensing, and examination of insurance producers, managing general agents,
 9 third-party administrators, brokers, independent adjusters, and reinsurance
 10 intermediary managers; to surplus lines insurance; to insurance trade practices
 11 and criminal insurance acts; to premium increases in automobile insurance; to
 12 insurance rating; to assigned risk pools; to filing and approval of certain

1 insurance policy forms; to required insurance coverage for acupuncture, nurse
2 midwives' services, mammography, and phenylketonuria; to health insurance
3 provided by small employers; to transfer of an insurer's status as a domestic
4 insurer; to quarterly statements of benevolent associations, fraternal benefit
5 societies, and health maintenance organizations; to reciprocal insurers; to the
6 definition of 'member insurer' for purposes of the Alaska Life and Disability
7 Insurance Guaranty Association; to electronic insurance data transfer and
8 insurance funds transfer; to the definitions of 'managing general agent' and
9 'person' applicable to insurance law; to automobile assigned risk plans; placing
10 a person employed by the division of insurance as an actuary or assistant
11 actuary into the exempt service; amending Alaska Rule of Civil Procedure 45;
12 and providing for an effective date."

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

14 * Section 1. AS 21.03.010 is amended by adding a new subsection to read:

15 (c) A person who transacts insurance in this state, or relative to a subject
16 resident, located, or to be performed in this state as or on behalf of a risk retention
17 group or purchasing group formed under and in compliance with 15 U.S.C. 3901 -
18 3906 (Liability Risk Retention Act), shall comply with the provisions of this title not
19 preempted by federal law.

20 * Sec. 2. AS 21.03.060 is amended to read:

21 Sec. 21.03.060. PRE-EMPTION. The state hereby pre-empts the field of
22 regulating insurers and their managing general agents, insurance producers
23 [AGENTS], and representatives. All political subdivisions of the state, including home
24 rule boroughs or cities, are prohibited from requiring of an insurer, managing general
25 agent, insurance producer [AGENT], or representative regulated under this title an
26 authorization, permit, or registration of any kind for conducting transactions lawful
27 under the authority granted by the state under this title.

1 * Sec. 3. AS 21.06.080 is amended by adding a new subsection to read:

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

16 * Sec. 4. AS 21.06.120(c) is amended to read:

17 (c) In place of an examination by the director, the director may accept a full
18 report of the last recent examination of a foreign or alien insurer, certified to by the
19 insurance supervisory official of another state, territory, commonwealth, or district of
20 the United States. The director may require that the [IF]

21 (1) [THE] insurance regulatory agency conducting the examination be,
22 [WAS] at the time of the examination, accredited by the National Association of
23 Insurance Commissioners;

24 (2) [THE] examination be [IS] performed under the supervision of an
25 insurance regulatory agency accredited by the National Association of Insurance
26 Commissioners; and the supervising examiner, after a review of the examination work
27 papers and report, state [STATES] under oath that the examination and report comply
28 with the standards and procedures required by their accredited state insurance
29 regulatory agency; or

30 (3) [THE] examiner conducting the examination be [WAS] employed
31 by an insurance regulatory agency accredited at the time of the examination by the

1 National Association of Insurance Commissioners and that the examiner, after review
2 of the examination work papers and report, state [STATES] under oath that the
3 examination and report comply with the standards and procedures required by the
4 accredited insurance regulatory agency.

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

6 (g) The director may withhold a document, information, account, record,
7 examination, or report from the public inspection for as long as the director finds the
8 withholding is necessary to protect a person against unwarranted injury or is in the
9 public interest. The director may close an examination hearing to the public when
10 the director finds the closure is necessary to protect a person against unwarranted
11 injury or is in the public interest. The director may publish the examination report
12 or a summary of it in a newspaper in the state if the director determines that the
13 publication is in the public interest.

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

15 Sec. 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
16 apply for an original certificate of authority an insurer shall file with the director its
17 application, [(] accompanied by the applicable fees set under AS 21.06.250, [)]
18 showing its name, location of its home office, or principal office in the United States
19 [(] if an alien insurer [)], kinds of insurance to be transacted, date of organization or
20 incorporation, form of organization, state or country of domicile, and additional
21 information that the director may reasonably require, together with the following
22 documents, as applicable:

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

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

29 (3) a copy of its financial statement as of the preceding December 31,
30 and all subsequent quarterly financial statements, sworn to by at least two executive
31 officers of the insurer, or certified by the public insurance supervisory official of the

1 insurer's state of domicile or of entry into the United States;

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

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

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

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

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

15 (9) SPECIMEN COPIES OF POLICIES PROPOSED TO BE
16 OFFERED IN THIS STATE IF THEN AVAILABLE, TOGETHER WITH
17 PREMIUMS OR PREMIUM RATES APPLICABLE IF THEN KNOWN, OR A
18 DECLARATION THAT THE RATES AS APPLICABLE WILL BE THOSE
19 PROMULGATED BY DESIGNATED RATING ORGANIZATIONS AUTHORIZED
20 TO FILE RATES IN THIS STATE ON BEHALF OF THE INSURER OR BY THE
21 INSURER].

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

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

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

27 (b) If not continued by the insurer, its certificate of authority **shall be**
28 **suspended** [EXPIRES] at midnight on June 30 following the failure of the insurer to
29 continue it in force. **The certificate of authority shall expire on June 30 one year**
30 **following its suspension due to failure to continue the certificate of authority.** The
31 director shall promptly notify the insurer of the occurrence of a failure **that may result**

1 in suspension [RESULTING IN IMPENDING EXPIRATION] of its certificate of
2 authority.

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

4 Sec. 21.09.135. VOLUNTARY SURRENDER OF CERTIFICATE OF
5 AUTHORITY. (a) A foreign admitted insurer may apply for voluntary surrender of
6 its certificate of authority and the director may accept the application, if the foreign
7 admitted insurer

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

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

13 (3) is domiciled in a state that is

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

16 (B) not accredited by the National Association of Insurance
17 Commissioners at the time of the request and agrees in writing to be subject
18 to

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

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

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

31 (1) insurance coverage has not deteriorated from the policies existing

1 at the time of the transfer;

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

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

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

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

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

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

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

26 (k) If, within three years after the date the tax under this section was due, an
27 insurer discovers a mistake or misinterpretation that resulted in an overpayment of the
28 tax in an amount exceeding \$250 in any one calendar year, the insurer may make a
29 written request to the director for a refund. If the director determines a valid mistake
30 or misinterpretation has occurred, the director shall refund to the insurer the amount
31 of the excess tax by granting, at the director's discretion, a monetary refund or

1 premium tax credit. A premium tax credit shall be used in the next calendar year to
2 the extent possible and any unused credit shall be paid as a monetary refund. A
3 premium tax credit may not reduce the payable tax, calculated without use of the
4 credit, to less than zero.

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

8 (m) In this section, "premium tax credit" means an amount that an insurer may
9 use as an offset against a premium tax payment.

10 * Sec. 13. AS 21.09.250 is amended to read:

11 Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in this state
12 may not make, write, place, or cause to be made, written, or placed in this state a
13 policy, duplicate policy, or contract of insurance of any kind or character, or general
14 or floating policy upon persons or property resident, situated, or located in this state,
15 from or through a [BROKER, AGENT, GENERAL AGENT, SURPLUS LINE
16 BROKER, OR] person required to be licensed who has not secured a license in this
17 state. An insurer may not pay a commission or any form of remuneration to a person,
18 firm, or organization for the writing or placing of insurance coverage in this state
19 unless that person, firm, or organization holds a license issued by the director.

20 * Sec. 14. AS 21.09 is amended by adding new sections to read:

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

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

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

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

29 (1) the identity of

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

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

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

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

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

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

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

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

16 (d) In this section,

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (4) must include information on the

4 (A) date of transaction;

5 (B) manner of acquisition or disposition;

6 (C) description of the assets involved;

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) must include

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

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

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

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

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

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

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

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

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

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

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

13 (B) the authorized control level risk based capital under
14 AS 21.14;

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

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

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

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

2 (c) Before issuing or renewing a certificate of authority for a United States
3 branch, the director may require satisfactory proof that the insurer does not intend to
4 transact insurance business in violation of the provisions of this title or that is not
5 authorized by its charter. Proof required under this subsection may include the alien
6 insurer's charter, an agreement evidenced by a duly certified resolution of its board of
7 directors, or other proof that the director may require.

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

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

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

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

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

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

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

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

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

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

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

8 (1) vest legal title to trust assets in the trustees, and their lawfully
9 appointed successors;

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

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

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

16 (5) require that trust assets consist only of cash, investments eligible
17 for investment of the funds of domestic insurers, and accrued interest on the assets, if
18 collectible by the trustee, subject to the limits on investment of funds by domestic
19 insurers under this title;

20 (6) require that the trust be for the exclusive benefit, security, and
21 protection of the policyholders, or policyholders and creditors, of the United States
22 branch in the United States and that the trust be maintained as long as there is an
23 outstanding liability of the alien insurer arising out of its transaction of insurance in
24 the United States; and

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

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

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

- 1 (i) the written trust agreement requires prior written
2 approval of the insurance supervising official of that other state;
- 3 (ii) written notice of the nature and extent of the
4 withdrawal is provided to the director within 30 days of the withdrawal;
5 and
- 6 (iii) the total trustee assets remaining are in excess of
7 the total assets required to be maintained in trust under (g) of this
8 section;
- 9 (C) upon the specific written direction of the United States
10 manager, who is duly authorized and is acting under either general or specific
11 written authority previously given or delegated by the board of directors, to
12 substitute other assets as permitted by this title if the substituted assets are of
13 at least equal value and quality to those withdrawn;
- 14 (D) to transfer assets to an official liquidator or rehabilitator
15 under an order of a court of competent jurisdiction; or
- 16 (E) if provided under the terms of the written trust agreement,
17 to pay over to the United States manager of the United States branch, upon
18 request, income, dividends, or interest accumulations of the assets of the trust
19 fund that are in excess of the total assets required to be maintained in trust
20 under (g) of this section.
- 21 (i) A written trust agreement and all amendments to it shall be authenticated
22 in a form and manner that the director may prescribe and may not take effect until
23 approved by the director. The director may not approve a trust agreement unless the
24 director makes a written finding that
- 25 (1) the written trust agreement or its amendments are sufficient in form
26 and in conformity with law;
- 27 (2) a person designated as a trustee is eligible to act in that capacity;
28 and
- 29 (3) the written trust agreement is adequate to protect the interests of the
30 beneficiaries of the trust.
- 31 (j) The director may approve written modifications of, or variations in, a

1 written trust agreement upon a finding that the proposed changes are not prejudicial
2 to the interests of the people of this state or the United States policyholders and
3 creditors of the United States branch.

4 (k) The director may conduct examinations of the trustee assets of an
5 authorized United States branch at the insurer's expense and may require the trustee
6 or trustees to file a statement, in a form as prescribed by the director, certifying the
7 assets and amounts of the trust fund.

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

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

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

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

1 States trustee. To determine the net amount of the United States branch's liabilities in
2 the United States to be reported in the statement of trusted surplus, the United States
3 branch shall adjust its total liabilities reported on its accompanying annual or quarterly
4 statement as follows:

5 (1) by adding back liabilities used to offset admitted assets reported in
6 the accompanying annual or quarterly statement; and

7 (2) by deducting

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

10 (B) reinsurance on losses with authorized insurers, less unpaid
11 reinsurance premiums;

12 (C) reinsurance recoverables on paid losses from unauthorized
13 insurers that are included as an asset in the annual statement, but only to the
14 extent a liability for unauthorized recoverables as described in this paragraph
15 are included in the liabilities report in the trusted surplus statement;

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

19 (E) secured accrued retrospective premiums;

20 (F) if a life insurer,

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

24 (ii) the net amount of uncollected and deferred
25 premiums; and

26 (G) other nontrusted assets, upon a written finding by the
27 director that the other nontrusted assets secure liabilities in a substantially
28 similar manner to those permitted under this subsection.

29 (p) In addition to the annual and quarterly statements and the statements of
30 trusted surplus, the director may require additional information relating to total
31 business or assets, or any portion of them, of the alien insurer or its United States

1 branch.

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

5 (r) In this section.

6 (1) "trustee assets" are the assets maintained in a trust account under
7 (g) of this section:

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

11 * Sec. 15. AS 21.12.020(a) is amended to read:

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

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

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

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

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

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

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

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

28 (4) assuming alien insurer that

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

1 to the following requirements:

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

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

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

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

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

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

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

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

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

3 * Sec. 16. AS 21.12.020(g) is amended to read:

4 (g) An [A LIFE] insurer may receive credit for reinsurance transactions if the
5 reinsurance agreement meets all applicable requirements established by the director.

6 * Sec. 17. AS 21.14.040 is amended to read:

7 Sec. 21.14.040. AUTHORIZED CONTROL LEVEL EVENT. If an authorized
8 control level event occurs, the director shall take the action necessary

- 9 (1) under AS 21.14.030(a) [AS 21.14.030(b)] against the insurer; or
- 10 (2) to place the insurer under regulatory control under AS 21.78 if,
- 11 after a hearing under AS 21.06.180 - 21.06.240, the director determines it to be in the
- 12 best interest of the policyholders and creditors of the insurer, and of the public.

13 * Sec. 18. AS 21.18.060(b) is amended to read:

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

22 TERM FOR WHICH POLICY	RESERVE FOR UNEARNED
23 WAS WRITTEN	PREMIUM
24 1 YEAR OR LESS	1/2
25 2 YEARS	1ST YEAR 3/4
	2ND YEAR 1/4
27 3 YEARS	1ST YEAR 5/6
	2ND YEAR 1/2
	3RD YEAR 1/6
30 4 YEARS	1ST YEAR 7/8
	2ND YEAR 5/8

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5 YEARS	1ST YEAR 9/10
	2ND YEAR 7/10
	3RD YEAR 1/2
	4TH YEAR 3/10
	5TH YEAR 1/10
OVER 5 YEARS	PRO RATA.]

* Sec. 19. AS 21.18.060(c) is amended to read:

(c) An [IN 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.

* Sec. 20. AS 21.18.090 is amended to read:

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:

(1) for all liability 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 [SUITS BEING DEFENDED UNDER POLICIES WRITTEN MORE THAN

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

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

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

(2) for all liability policies written during the three years immediately preceding the date the statement is made, the reserve shall be the greater of 60

1 percent of the earned liability premiums of each of the three years less all losses and
2 expense payments made under liability policies written in the corresponding years or
3 the undiscounted value of the known and unknown claims; [BUT THE RESERVE,
4 FOR THE FIRST OF THE THREE YEARS, SHALL BE NOT LESS THAN \$750
5 FOR EACH OUTSTANDING LIABILITY SUIT ON THE YEAR'S POLICIES];

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

10 (4) for all workers' compensation claims under policies written in the
11 three years immediately preceding the end of the calendar year covered by [DATE]
12 the annual statement [IS MADE], the reserve may not [SHALL] be less than 65
13 percent of the earned workers' compensation premiums of each of the three years, less
14 all loss and loss expense payments made in connection with the claims under policies
15 written in the corresponding years: [BUT IN THE FIRST YEAR OF THE
16 THREE-YEAR PERIOD.] the reserve may not [SHALL] be [NOT] less than the
17 present value at four [4] percent interest of the determined and the estimated unpaid
18 compensation claims under policies written during the three-year period [YEAR].

19 * Sec. 21. AS 21.18.110(a) is amended to read:

20 (a) The director shall annually value, or cause to be valued, the reserve
21 liabilities (hereinafter called reserves) for all outstanding life insurance policies and
22 annuity and pure endowment contracts of every life insurer doing business in this state,
23 and may certify the amount of the reserves, specifying the mortality table or tables,
24 rate or rates of interest, and methods (net level premium method or other) used in the
25 calculation of the reserves. In calculating the reserves, the director may use group
26 methods and approximate averages for fractions of a year or otherwise. For an alien
27 insurer, the valuation shall be limited to its insurance transactions in the United States.
28 For the purpose of making the valuation the director may employ a competent actuary
29 who shall be paid by the insurer for which the service is rendered [; BUT A
30 DOMESTIC INSURER MAY MAKE THE VALUATION AND IT MAY BE
31 RECEIVED BY THE DIRECTOR UPON SATISFACTORY PROOF OF ITS

1 CORRECTNESS]. For a foreign or alien insurer, the director may accept, in [IN]
2 lieu of the valuation of the reserves required of a foreign or alien insurer, [THE
3 DIRECTOR MAY ACCEPT] a valuation made, or caused to be made, by the
4 insurance supervisory official of a state or other jurisdiction if the valuation complies
5 with the minimum standard provided in this section and if the official of the state or
6 jurisdiction accepts as sufficient and valid for all legal purposes the certificate of
7 valuation of the director when the certificate states the valuation was made in a
8 specified manner in which the aggregate reserves would be at least as large as if they
9 had been computed in the manner prescribed by the law of that state or jurisdiction.
10 An insurer that at any time adopted a standard of valuation producing greater aggregate
11 reserves than those calculated according to the minimum standard provided in this
12 section may, with the approval of the director, adopt a lower standard of valuation, but
13 not lower than the minimum provided in this section.

14 * Sec. 22. AS 21.18.110(n) is amended to read:

15 (n) The actuarial opinion must

16 (1) be submitted with the annual statement reflecting the valuation of
17 the reserve liabilities;

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

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

22 (4) unless exempted by regulation, include an assessment as to
23 whether the reserves and related actuarial items held in support of the policies and
24 contracts, when considered in light of the assets held by an insurer with respect to the
25 reserves and related actuarial items, including investment earnings on the assets and
26 considerations anticipated to be received and retained under policies and contracts,
27 make adequate provision for an insurer's obligations under a policy or contract
28 including the benefits under and expenses associated with a policy or contract.

29 * Sec. 23. AS 21.18.110(q) is amended to read:

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

31 (1) is not liable for damages to a person, other than the insurance

1 company and the director. for an act, error, omission, decision, or conduct with respect
2 to the actuary's opinion except in a case of fraud or wilful misconduct;

3 (2) is subject to disciplinary action by the director; and

4 (3) shall prepare [INCLUDE] a memorandum, in form and substance
5 acceptable to the director. to support the actuarial opinion.

6 * Sec. 24. AS 21.18.110(r) is amended to read:

7 (r) If the insurer fails to provide a supporting memorandum as requested by
8 the director [REQUIRED BY (q)(3) OF THIS SECTION] within a period specified
9 by regulation or the director determines that the supporting memorandum fails to meet
10 the standards adopted by regulation or is otherwise unacceptable to the director, the
11 director may engage a qualified actuary, at the expense of the insurer, to review the
12 opinion and the basis for the opinion and to prepare a supporting memorandum as
13 required under (q) of this section.

14 * Sec. 25. AS 21.21.230 is amended to read:

15 Sec. 21.21.230. SAVINGS AND LOAN. To the extent that the account is
16 insured by the Federal Deposit [SAVINGS AND LOAN] Insurance Corporation, an
17 insurer may invest in share or savings accounts of savings and loan and building and
18 loan associations.

19 * Sec. 26. AS 21.21.250(a) is amended to read:

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

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

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

31 (3) a category of loans or investments eligible under other provisions

1 of this chapter; or

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

4 * Sec. 27. AS 21.21.370(a) is amended to read:

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

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

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

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

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

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

21 * Sec. 28. AS 21.22.010(g) is amended to read:

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

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

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

30 * Sec. 29. AS 21.22.030 is amended by adding a new subsection to read:

31 (d) The director may retain at the acquiring person's expense an attorney,

1 actuary, accountant, or other expert not otherwise a part of the director's staff, if
2 reasonably necessary to assist the director in reviewing the proposed acquisition of
3 control.

4 * Sec. 30. AS 21.22.060(b) is amended to read:

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

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

9 (2) the identity of every member of the insurance holding company
10 system;

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

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

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

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

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

21 (E) all management and service contracts and all cost-sharing
22 arrangements [, OTHER THAN COST ALLOCATION ARRANGEMENTS
23 BASED UPON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES];

24 and

25 (F) reinsurance agreements [COVERING ALL OR
26 SUBSTANTIALLY ALL OF ONE OR MORE LINES OF INSURANCE OF
27 THE CEDING COMPANY]; and

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

31 * Sec. 31. AS 21.22.060(c) is amended to read:

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

8 * Sec. 32. AS 21.22.060(d) is amended to read:

9 (d) Information [NO INFORMATION] need not be disclosed on the
10 registration statement filed under (b) of this section if that information is not material
11 for the purposes of this section. Unless the director by regulation or order provides
12 otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments,
13 involving one-half of one percent or less of an insurer's admitted assets or five percent
14 or less of the policyholder's surplus as of the 31st day of December of the calendar
15 year in which the transaction took place are not considered material for purposes of
16 this section.

17 * Sec. 33. AS 21.22.060(k) is amended to read:

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

25 (1) the registration statement;

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

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

29 * Sec. 34. AS 21.27.010(a) is amended to read:

30 (a) Except as provided otherwise in this chapter, a [A] person may not act
31 as or represent to be an insurance producer, managing general agent, reinsurance

1 intermediary broker, reinsurance intermediary manager, surplus lines broker, or
2 independent adjuster in this state or relative to a subject resident, located, or to be
3 performed in this state unless licensed under this chapter. A person may not act as or
4 represent to be a managing general agent, reinsurance intermediary broker, or
5 reinsurance intermediary manager representing an insurer domiciled in this state
6 regarding a risk located outside this state unless licensed by this state.

7 * Sec. 35. AS 21.27.020 is amended by adding new subsections to read:

8 (f) The director may adopt regulations establishing additional education or
9 experience requirements for applicants or licensees under this chapter upon due
10 consideration of the availability and accessibility of education and training
11 opportunities in rural areas of the state. Regulations adopted under this subsection are
12 subject to the following provisions:

13 (1) additional educational or experience requirements may not apply to
14 a licensee who has been licensed by the division of insurance before January 1, 1980;

15 (2) a licensee shall complete at least 24 credit hours of approved
16 continuing education courses during each two-year license period;

17 (3) if a licensee has accumulated more credit hours than required under
18 (2) of this subsection by the end of the license period, a maximum of eight hours may
19 be carried over to meet the requirements of (2) of this subsection in the next license
20 period;

21 (4) a program or seminar may not be approved as an acceptable
22 continuing education program unless it is a formal program of learning that contributes
23 to the professional competence of the licensee; individual study programs or
24 correspondence courses may be used to fulfill continuing education requirements if
25 approved by the director;

26 (5) a nonresident licensee is exempt from the requirements of this
27 subsection if the licensee submits evidence satisfactory to the director that the licensee
28 has satisfied any continuing education requirements of the licensee's domiciliary state.

29 (g) The director shall establish a continuing education advisory committee.
30 The committee consists of one representative from the division of insurance, one life
31 and disability insurance representative, one limited lines insurance representative, one

1 property and casualty insurance representative, and one independent insurance adjuster
2 representative. Each committee representative from the insurance industry must
3 possess a valid, current insurance license issued in this state for the field to be
4 represented.

5 (h) The director may make arrangements, including contracting with an outside
6 agency, for administrative services.

7 * Sec. 36. AS 21.27.025(a) is amended to read:

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

13 * Sec. 37. AS 21.27.060(d) is amended to read:

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

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

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

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

24 * Sec. 38. AS 21.27.100 is amended by adding a new subsection to read:

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

29 * Sec. 39. AS 21.27.130 is amended to read:

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

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

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

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

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

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

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

9 (7) each fictitious name and alias under which the licensee may do
10 business; and

11 (8) other information required by the director.

12 * Sec. 40. AS 21.27.360(b) is amended to read:

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

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

23 * Sec. 41. AS 21.27.380(a) is amended to read:

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

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

2 * Sec. 42. AS 21.27.420 is amended by adding a new subsection to read:

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

8 * Sec. 43. AS 21.27.530 is amended to read:

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

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

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

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

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

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

1 * Sec. 44. AS 21.27.570(a)(3)(B) is amended to read:

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

6 * Sec. 45. AS 21.27.620(j) is amended to read:

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

23 * Sec. 46. AS 21.27.690(b) is amended to read:

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

1 is licensed in good standing by its domiciliary insurance regulator. The domestic
2 insurer and unlicensed reinsurance intermediary broker are subject to all other
3 requirements of this section.

4 * Sec. 47. AS 21.27.690(e) is amended to read:

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

23 * Sec. 48. AS 21.27.760(j) is amended to read:

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

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

11 * Sec. 49. AS 21.34.040(c)(4) is amended to read:

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

25 * Sec. 50. AS 21.34.080(c) is amended to read:

26 (c) A producing broker shall execute and deliver to the surplus lines broker not
27 later than the end of each month on a form prescribed by the director, and a surplus
28 lines broker shall file with the director with the report required by (a) of this section
29 or with the surplus lines association with the evidence of insurance required by (b) of
30 this section, for surplus lines insurance first placed or renewed in the preceding
31 calendar month, an affidavit that shall be open to public inspection, as to the diligent

1 efforts to place the coverage with admitted insurers, and the results of those efforts.
2 The affidavit must contain a statement by the producing broker that the insured was
3 expressly informed in writing before the [PLACEMENT OF THE SURPLUS LINES]
4 insurance contract or coverage was bound that the surplus lines insurer with whom
5 the insurance was to be placed is not licensed in this state, is not subject to this state's
6 supervision, and, in the event of the insolvency of the surplus lines insurer, losses will
7 not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

8 * Sec. 51. AS 21.34.110 is amended to read:

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

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

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

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

25 * Sec. 52. AS 21.34.190(a) is amended to read:

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

30 * Sec. 53. AS 21.36.120(d) is amended to read:

31 (d) Nothing in this section may be construed as prohibiting the payment of

1 commissions or other compensation to persons duly transacting business under
2 AS 21.27 [LICENSED AGENTS OR SOLICITORS], or as prohibiting an insurer from
3 allowing or returning to its participating policyholders, members, or subscribers, lawful
4 dividends, savings, or unabsorbed premium deposits.

5 * Sec. 54. AS 21.36.160 is amended to read:

6 Sec. 21.36.160. RIGHT OF DEBTOR OR BORROWER TO SELECT
7 INSURANCE PRODUCER [AGENT, BROKER,] AND INSURER. If property
8 insurance is required in connection with a debt or loan, the debtor or borrower has the
9 reasonable right to select the insurance producer [AGENT, BROKER,] and insurer
10 through whom the insurance is to be placed if (1) the insurance is provided for the
11 protection of the creditor's or lender's interest in the property at the commencement of
12 the risk; or (2) in the case of renewal of insurance, the renewal policy is delivered to
13 the creditor or lender no later than 30 days before the renewal date.

14 * Sec. 55. AS 21.36.195 is amended to read:

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

20 * Sec. 56. AS 21.36.235(a) is amended to read:

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

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

27 or

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

30 * Sec. 57. AS 21.36.290 is amended to read:

31 Sec. 21.36.290. POLICY PERIOD. Event as described in (b) of this

1 section, a [A] policy with a policy period or term of less than 12 months shall, for the
2 purposes of AS 21.36.210 - 21.36.310, be considered to be written for a policy period
3 or term of 12 months except in case of cancellation under any of the circumstances
4 specified in AS 21.36.210, and a policy written for a term longer than one year or a
5 policy with no fixed expiration date shall be considered to be written for successive
6 policy periods or terms of one year and termination by an insurer effective on an
7 anniversary date of the policy shall be considered a failure to renew.

8 * Sec. 58. AS 21.36.290 is amended by adding a new subsection to read:

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

13 * Sec. 59. AS 21.36 is amended by adding a new section to read:

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

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

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

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

29 (e) An insurer that increases the premium or adds a surcharge to a personal
30 automobile insurance policy shall give written notice of the increase or surcharge at
31 least 20 days before it takes effect, stating the reason for the change and the right of

1 appeal under AS 21.39.090. This subsection does not apply to

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

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

8 * Sec. 60. AS 21.36.360(i) is amended to read:

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

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

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

27 * Sec. 61. AS 21.36.360(j) is amended to read:

28 (j) A criminal insurance act is committed by a person in this state or relative
29 to a subject resident, located, or to be performed in this state who acts as an
30 insurance producer, managing general agent, third-party administrator,
31 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines

1 broker [SOLICITOR], or independent adjuster without being licensed by the director
2 as required under this title or as a risk retention group or purchasing group
3 without being registered as required under AS 21.89.070. A criminal insurance act
4 is committed by an insurance producer, managing general agent, third-party
5 administrator, reinsurance intermediary broker, reinsurance intermediary
6 manager, or surplus lines broker [OR SOLICITOR] who solicits or takes application
7 for, procures, or places for others any insurance for which the person is not licensed
8 as required under AS 21.27 or for which the license of the person has been
9 suspended or revoked. A criminal insurance act is committed by a person in this
10 state or relative to a subject resident, located, or to be performed in this state who
11 acts as or on behalf of a risk retention group or a purchasing group that is not
12 registered under AS 21.89.070 [THIS SUBSECTION DOES NOT APPLY TO A
13 PERSON DESCRIBED IN AS 21.90.910 OR TO A PERSON SECURING AND
14 FORWARDING INFORMATION REQUIRED FOR THE PURPOSE OF A GROUP
15 INSURANCE COVERING THE UNPAID BALANCE OR REMAINING PAYMENTS
16 PROPOSED TO BE MADE IN CONNECTION WITH THE PURCHASE OF
17 MERCHANDISE OR SERVICES IF NO COMMISSION OR OTHER
18 COMPENSATION IS PAYABLE ON ACCOUNT OF THE INSURANCE TO THE
19 PERSON].

20 * Sec. 62. AS 21.36.360(k) is amended to read:

21 (k) A criminal insurance act is committed by an insurance producer,
22 managing general agent, [GENERAL AGENT,] third-party administrator,
23 reinsurance intermediary broker, reinsurance intermediary manager, or surplus
24 lines broker [OR SOLICITOR] who knowingly compensates or offers to compensate
25 in any manner a person other than an insurance producer, managing [AGENT,]
26 general agent, third-party administrator, reinsurance intermediary broker,
27 reinsurance intermediary manager, or surplus lines broker [OR SOLICITOR]
28 licensed as required under this title in this or another jurisdiction [STATE OR
29 PROVINCE], for procuring or in any manner helping to procure applications for or to
30 place insurance in this state. A criminal insurance act is committed by a person in
31 this state or relative to a subject resident, located, or to be performed in this state

1 who acts as or on behalf of a risk retention group or a purchasing group that is
2 not registered under AS 21.89.070. This subsection does not apply to the payment
3 of compensation that is not contingent upon volume of business transacted in the form
4 of salaries to the regular employees of the insurance producer, managing general
5 agent, third-party administrator, reinsurance intermediary [GENERAL AGENT,]
6 broker, reinsurance intermediary manager, or surplus lines broker [OR
7 SOLICITOR].

8 * Sec. 63. AS 21.36.360(n) is amended to read:

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

15 * Sec. 64. AS 21.36.360(p) is amended to read:

16 (p) A fraudulent insurance act is committed by a person who
17 (1) violates a provision of this title or a regulation issued under it;
18 (2) falsely makes, completes, or alters a certificate of insurance or
19 other document relating to insurance;
20 (3) knowingly possesses a forged certificate of insurance or other
21 document relating to insurance; or
22 (4) knowingly issues a forged certificate of insurance or other
23 document relating to insurance.

24 * Sec. 65. AS 21.36.360(q) is amended to read:

25 (q) A fraudulent or criminal insurance act described in
26 (1) (b) of this section that is committed to obtain \$10,000 or more is
27 a class B felony;
28 (2) (c) or (d) of this section is a class B felony;
29 (3) (b) of this section that is committed to obtain \$500 or more but less
30 than \$10,000 is a class C felony;
31 (4) (e), (f), (g), or (h), of this section is a class C felony;

1 (5) (b) of this section that is committed to obtain less than \$500 is a
2 class A misdemeanor;

3 (6) (i), (j), (k), (l), (m), or (n) of this section is a class A misdemeanor;

4 (7) (o) of this section is a class B misdemeanor; [AND]

5 (8) (p)(1) [(p)] of this section is a class B misdemeanor unless another
6 specific penalty is provided for the violation of the provision; and

7 (9) (p)(2) - (4) of this section may be prosecuted under AS 11.46.

8 * Sec. 66. AS 21.36.380 is amended to read:

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

15 * Sec. 67. AS 21.39.040 is amended by adding new subsections to read:

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

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

23 * Sec. 68. AS 21.39 is amended by adding a new section to read:

24 Sec. 21.39.055. CANCELLATION OF APPROVED FILING. The voluntary
25 surrender of a certificate of authority or the failure of the surrendering admitted foreign
26 insurer to continue a certificate of authority in force has the effect of cancelling an
27 approval that the insurer may have received under this chapter, unless the approval has
28 been affirmed by the director at the time of the surrender or noncontinuation of the
29 certificate of authority.

30 * Sec. 69. AS 21.39.155(a) is amended to read:

31 (a) The director may require insurers [CARRIERS], except a reciprocal

1 insurer formed by and insuring only a group of municipalities or nonprofit public
2 utilities under AS 21.75 or a reciprocal insurer formed under AS 21.75 to provide
3 marine insurance, [OR A JOINT INSURANCE ARRANGEMENT FORMED UNDER
4 AS 21.76.] as a condition of writing a line of insurance dealing with medical
5 malpractice or workers' compensation, to participate in an assigned risk pool if the
6 director finds that mandatory carrier participation is in the public interest.

7 * Sec. 70. AS 21.42.120 is amended by adding new subsections to read:

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

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

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

15 * Sec. 71. AS 21.42.345 is amended by adding a new subsection to read:

16 (b) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver,
17 or renew an individual or group disability insurance policy for medical coverage on
18 an expense incurred basis in the state, a hospital or medical service corporation
19 authorized under AS 21.87 to offer or renew an individual or group subscriber's
20 contract for medical coverage in the state, or a health maintenance organization
21 authorized under AS 21.86 to offer an enrollee contract to provide health care services
22 on a prepaid basis shall offer coverage for family members, including newly born
23 children, adopted children, or children placed for adoption and is subject to the
24 conditions in (a) of this section, regardless of the marital status of the covered person.

25 * Sec. 72. AS 21.42.353 is amended to read:

26 Sec. 21.42.353. COVERAGE FOR COSTS OF ACUPUNCTURE
27 TREATMENT. An insurer authorized under AS 21.09 to offer, issue for delivery,
28 deliver, or renew a disability insurance policy in the state, [OR] a hospital or medical
29 service corporation authorized under AS 21.37 to offer or renew a subscriber's contract,
30 or a health maintenance organization authorized under AS 21.86 to offer an
31 enrollee contract to provide health care services on a prepaid basis may offer

1 coverage for services of an acupuncturist licensed under AS 08.06 if the policy or
2 contract covers acupuncture treatment by a health care provider who is subject to other
3 provisions of AS 08.

4 * Sec. 73. AS 21.42.355 is amended to read:

5 Sec. 21.42.355. COVERAGE FOR COST OF SERVICES PROVIDED BY
6 NURSE MIDWIVES. (a) If an individual or group disability insurance policy,
7 subscriber's contract, enrollee contract, or fraternal benefit society certificate provides
8 indemnity for the cost of services of a physician provided to women during pregnancy,
9 childbirth, and the period after childbirth, indemnity in a reasonable amount shall also
10 be provided for the cost of an advanced nurse practitioner who provides the same
11 services. Indemnity may be provided under this subsection only if the advanced nurse
12 practitioner is certified to practice as a nurse midwife in accordance with regulations
13 adopted under AS 08.68.100(a), and the services provided are within the scope of
14 practice authorized by that certification.

15 (b) If an individual or group disability insurance policy, [A] subscriber's
16 contract, enrollee contract, or fraternal benefit society certificate provides for
17 furnishing those services required of a physician in the care of women during
18 pregnancy, childbirth, and the period after childbirth, the contract shall also provide
19 that an advanced nurse practitioner may furnish those same services instead of a
20 physician. Services may be provided under this subsection only if the advanced nurse
21 practitioner is certified to practice as a nurse midwife in accordance with regulations
22 adopted under AS 08.68.100(a), and the services provided are within the scope of
23 practice authorized by that certification.

24 * Sec. 74. AS 21.42.375(a) is amended to read:

25 (a) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver,
26 or renew an individual or group disability insurance policy for medical coverage on
27 an expense incurred basis in the state, [OR] a hospital or medical service corporation
28 authorized under AS 21.87 to offer or renew a subscriber's contract for medical
29 coverage in the state, or a health maintenance organization authorized under
30 AS 21.86 to offer an enrollee contract to provide health care services on a prepaid
31 basis shall provide coverage for low-dose mammography screening under the schedule

1 described in (b) of this section if the policy or contract covers mastectomies and
2 prosthetic devices and reconstructive surgery incident to mastectomies.

3 * Sec. 75. AS 21.42.380 is amended to read:

4 Sec. 21.42.380. COVERAGE FOR TREATMENT OF PHENYLKETONURIA.

5 (a) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver, or
6 renew an individual or a group disability insurance policy for major medical coverage
7 on an expense-incurred basis in the state, [OR] a hospital or medical service
8 corporation authorized under AS 21.87 to offer or renew a group contract for major
9 medical coverage in the state, or a health maintenance organization authorized
10 under AS 21.86 to offer an enrollee contract to provide health care services on a
11 prepaid basis shall [MUST] provide coverage for the formulas necessary for the
12 treatment of phenylketonuria. This subsection does not apply to

13 (1) a Medicare supplement insurance policy;

14 (2) long-term care insurance;

15 (3) an insurance policy regulated under 5 U.S.C. 8901 - 8914 or 42
16 U.S.C. 1395mm;

17 (4) an insurance policy that provides services or reimbursement
18 exclusively for optometric or vision care, dental or orthodontic care, podiatric,
19 ambulance, mental health, or chiropractic care;

20 (5) an insurance policy that the director has, in writing, determined
21 should be excluded from this subsection.

22 (b) The insurer, hospital or medical service corporation, or health
23 maintenance organization providing coverage under this section may impose
24 reasonable contract limitations but may not refuse coverage based on a preexisting
25 condition of phenylketonuria or require that the insured or subscriber pay a higher
26 deductible or copayment for the cost of treating phenylketonuria than for the cost of
27 treating another condition or illness.

28 (c) In this section,

29 (1) "copayment" means the portion of the cost to be paid by the
30 insured, [OR] subscriber, or enrollee in excess of the deductible;

31 (2) "cost" means the lowest of the following:

1 (A) the actual charge for the treatment received for
2 phenylketonuria;

3 (B) the usual, customary, and reasonable charge for the
4 treatment as determined by the contract of coverage; or

5 (C) the charge agreed to by contract between the provider and
6 the insurer, hospital [SERVICE CORPORATION,] or medical service
7 corporation, or health maintenance organization;

8 (3) "deductible" means the portion of covered costs that must be
9 incurred before benefits become payable;

10 (4) "long-term care insurance" has the meaning given in AS 21.53.200;

11 (5) "major medical coverage" means a disability insurance contract,
12 [OR] a subscriber contract, or an enrollee contract that provides benefits for hospital
13 and medical care with potential lifetime maximum benefits for the insured, [OR]
14 subscriber, or enrollee of at least \$10,000.

15 * Sec. 76. AS 21.56.180(c) is amended to read:

16 (c) Except as provided in this subsection, a small employer insurer may not,
17 directly or indirectly, enter into a contract, agreement, or arrangement with an
18 insurance producer [AGENT, BROKER], managing general agent, or third-party
19 administrator that provides for or results in the compensation paid to an insurance
20 producer [AGENT OR BROKER] for the sale of a health benefit plan to be varied
21 because of the health status, claims experience, industry, occupation, or geographic
22 location of the small employer. This subsection does not apply to a compensation
23 arrangement that provides compensation to an insurance producer [AGENT,
24 BROKER], managing general agent, or third-party administrator on the basis of a
25 percentage of premium, provided that the percentage does not vary because of the
26 health status, claims experience, industry, occupation, or geographic area of the small
27 employer.

28 * Sec. 77. AS 21.56.180(d) is amended to read:

29 (d) A small employer insurer

30 (1) shall provide reasonable compensation, as provided under the plan
31 of operation of the program, to an insurance producer [AGENT, BROKER],

1 managing general agent, or third-party administrator, if any, for the sale of a basic or
2 standard health benefit plan;

3 (2) or insurance producer [AGENT, BROKER], managing general
4 agent, or third-party administrator may not induce or otherwise encourage a small
5 employer to separate or otherwise exclude an employee from health coverage or
6 benefits provided in connection with the employee's employment;

7 (3) may only deny an application for coverage from a small employer
8 in writing and if the reasons for the denial are stated.

9 * Sec. 78. AS 21.69 is amended by adding new sections to read:

10 Sec. 21.69.645. REDOMESTICATION. (a) An insurer organized under the
11 laws of another state and admitted to do business in this state may become a domestic
12 insurer of this state by complying with the requirements of this title relative to the
13 organization and licensing of a domestic insurer and by designating its principal place
14 of business at a place in this state.

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

23 (c) Upon transfer of domestic status to or from this state, the certificate of
24 authority, appointments under AS 21.27.100, rates, and other items that the director
25 allows, and that are in existence at the time the insurer is licensed to transact the
26 business of insurance in this state, shall continue in full force and effect and the
27 insurer shall remain duly qualified to transact the business of insurance in this state.
28 Outstanding policies of a transferring insurer shall remain in full force and effect and
29 shall be endorsed with the new name of the company, its new location, and any other
30 information the director may require. A transferring insurer shall notify the director
31 of the details of the proposed transfer 30 days before the effective date of the transfer

1 and shall promptly file any resulting amendments to corporate documents filed or
2 required to be filed with the director.

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

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

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

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

27 * Sec. 79. AS 21.72 is amended by adding a new section to read:

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

1 * Sec. 80. AS 21.75 is amended by adding a new section to read:

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

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

8 * Sec. 81. AS 21.75.170(e) is amended to read:

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

13 * Sec. 82. AS 21.75.170 is amended by adding a new subsection to read:

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

20 * Sec. 83. AS 21.78.130(g) is amended to read:

21 (g) If it appears to the receiver that there has been a violation of civil or
22 criminal law, or breach of a contractual or fiduciary obligation detrimental to the
23 insurer by an officer, manager, insurance producer [AGENT, BROKER], employee,
24 or other person, the receiver may pursue all appropriate legal remedies on behalf of
25 the insurer.

26 * Sec. 84. AS 21.78.271(a) is amended to read:

27 (a) An

28 (1) insurance producer [AGENT, BROKER], premium finance
29 company, or any other person, other than the insured, responsible for the payment of
30 a premium is obligated to pay an unpaid earned premium due the insurer at the time
31 of the declaration of insolvency, as shown on the records of the insurer; neither a

1 credit nor a setoff is allowed to an insurance producer [AGENT, BROKER,] or
2 premium finance company for an amount advanced to the insurer by the insurance
3 producer [AGENT, BROKER,] or premium finance company on behalf of, but in the
4 absence of a payment by, the insured;

5 (2) insured is obligated to pay an unpaid earned premium due the
6 insurer at the time of the declaration of insolvency, as shown on the records of the
7 insurer.

8 * Sec. 85. AS 21.79.900(6) is amended to read:

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

15 (A) a health maintenance organization licensed under
16 AS 21.86;

17 (B) a fraternal benefit society licensed under AS 21.84;

18 (C) a mandatory state pooling plan;

19 (D) a mutual assessment company or an entity that operates on
20 an assessment basis;

21 (E) an insurance exchange licensed under AS 21.75; or

22 (F) a nonprofit hospital or medical service organization
23 licensed under AS 21.87;

24 * Sec. 86. AS 21.80.020 is amended by adding a new subsection to read:

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

27 * Sec. 87. AS 21.84.340 is amended by adding a new subsection to read:

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

1 Commissioners.

2 * **Sec. 88.** AS 21.86.080 is amended by adding new subsections to read:

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

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

9 * **Sec. 89.** AS 21.89.030 is amended to read:

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

14 * **Sec. 90.** AS 21.89 is amended by adding new sections to read:

15 Sec. 21.89.080. ELECTRONIC DATA TRANSFER. The director may adopt
16 regulations to facilitate electronic data transfer. Electronic data transferred under
17 regulations may, at the discretion of the director, be in place of another method of
18 filing or communication otherwise required under this title.

19 Sec. 21.89.090. RISK RETENTION GROUPS AND PURCHASING GROUPS.

20 (a) A risk retention group or a purchasing group formed under and in compliance with
21 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) shall register with the director
22 and shall at all times transact business in compliance with federal law and with the
23 laws of this state that are not preempted by federal law.

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

27 (c) A risk retention group or a purchasing group may continue its registration
28 if it is in compliance with federal law. Payment of an annual continuation fee
29 established under AS 21.06.250 shall be submitted with the continuation application.

30 (d) A risk retention group holding a valid certificate of authority as a domestic
31 insurer or a purchasing group duly licensed under AS 21.27 as a resident license is not

1 required to be additionally registered under this section.

2 (e) In addition to any other penalty provided by law, a person that the director
3 determines under AS 21.06.170 - 21.06.240 has violated a provision of this title
4 relative to a risk retention group or a purchasing group is subject to a civil penalty of
5 not more than \$10,000 for a violation or, if the director determines that the person
6 wilfully violated a provision of this title, a civil penalty of not more than \$25,000 for
7 a violation.

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

11 * Sec. 91. AS 21.90.900(26) is amended to read:

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

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

15 (B) performs administrative functions normally performed by
16 the insurer including claims administration and payment, marketing
17 administration, agent appointment, premium accounting, premium billing,
18 coverage verification, final underwriting authority, or [AND] certificate
19 issuance;

20 * Sec. 92. AS 21.90.900(28) is amended to read:

21 (28) "person" has the meaning given in AS 01.10.060 and includes an
22 insurer, Lloyd's, fraternal benefit society, medical service, or hospital service plan as
23 defined in AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other
24 legal entity engaged in the business of transacting insurance [, INCLUDING AGENTS,
25 BROKERS, AND CLAIMS ADJUSTERS];

26 * Sec. 93. AS 28.20.580 is amended to read:

27 Sec. 28.20.580. ASSIGNED RISK PLANS. After consultation with the
28 insurance companies authorized to issue motor vehicle liability policies in this state,
29 the director of the division of insurance shall approve a reasonable plan, fair to the
30 insurers and equitable to their policyholders, for the apportionment among these
31 companies of applicants for motor vehicle policies and other vehicle coverages who

1 are in good faith entitled to but are unable to procure policies through ordinary
2 methods. When a plan is approved, all the insurance companies shall subscribe to it
3 and participate in it, except a reciprocal insurer formed by and only insuring a
4 group of municipalities or nonprofit utilities under AS 21.75, or a reciprocal
5 insurer formed under AS 21.75 to provide marine insurance. An applicant for an
6 assigned risk policy, a person insured under an assigned risk plan, and an insurance
7 company affected may appeal to the commissioner of commerce and economic
8 development from a ruling or decision of the authority designated to operate the plan.
9 Failure to adopt an assigned risk plan does not relieve any person from responsibility
10 under this chapter.

11 * Sec. 94. AS 39.25.110 is amended by adding a new paragraph to read:

12 (30) a person employed as an actuary or assistant actuary by the
13 division of insurance in the Department of Commerce and Economic Development.

14 * Sec. 95. AS 21.18.110(b)(3); AS 21.27.650(f)(3); and AS 21.36.420 are repealed.

15 * Sec. 96. AS 21.09.300(c), enacted in sec. 14 of this Act, has the effect of amending
16 Alaska Rule of Civil Procedure 45, by providing that certain insurer reports of material
17 transactions are not subject to subpoena.

18 * Sec. 97. TRANSITION. This Act applies to a policy of insurance that is entered into
19 or renewed on or after the effective date of the relevant provision of this Act.

20 * Sec. 98. Sections 69 and 93 of this Act are retroactive to January 1, 1983.

21 * Sec. 99. Except as provided in sec. 98 of this Act, this Act takes effect July 1, 1995.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 53

Revision Date: _____
 Title: Omnibus insurance Reform
 Sponsor: Senate Labor and Commerce Committee
 Requestor: Same

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Operations
 COMPONENT SERIAL NO. _____ #354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES	
----------------------	--

CHANGE IN REVENUES	
--------------------	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 95) cost: \$ 00

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by:	<u>Joan Brown, Administrative Officer</u>	Phone: <u>465-2597</u>
Division:	<u>Insurance</u>	Date: <u>2/10/95</u>
Approved by Commissioner:	<u>William L. Hensley</u>	Date: _____
Agency:	<u>Commerce and Economic Development</u>	

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CS SB 53 (JUD)
Insurance Omnibus Reform

Sectional Analysis by the
Department of Commerce and Economic Development,
Division of Insurance

DIRECTOR OF INSURANCE

Sections 1 through 13 include authority to respond to a catastrophe, procedures on examination reports, procedures on applying for and not continuing a certificate of authority of an insurer, filing of financial statements, procedures on premium tax refunds and credit, and amendments correcting licensing and credit insurance terminology. Many of these changes are suggestions from the NAIC Accreditation Team visit in October 1992. Others are to provide authority and procedures in areas where none existed before.

Section 1. AS 21.03.010(c). Insurance regulated, page 2.

This new subsection explicitly extends the Scope of Code to include risk retention groups and purchasing groups as requested by the NAIC accreditation team.

Section 2. AS 21.03.060. Preemption, page 2.

The amendments to this section correct licensing terminology.

Section 3. AS 21.06.080(e). General powers, duties, page 3.

This new subsection adds the ability to respond to a catastrophe to the director's general powers and duties.

Section 4. AS 21.06.120(c). Examination of Insurers, page 3.

The amendments to this section give the director discretion in whether to accept an examination report from a state not accredited by the NAIC and would give the director clear authority to require extra examination supervision if a state was performing substandard examinations.

Section 5. AS 21.06.150(g). Examination reports, page 4.

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.

Section 6. AS 21.09.110. Application for certificate of

authority, page 4.

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 specifies that these policy forms and rates should be submitted under sections AS 21.39.040(j) or 21.42.120(g).

Section 7. AS 21.09.110(b). Application for certificate of authority, page 5.

This new subsection prohibits submission of policy forms and rates with the Certificate of Authority application and requires policy forms and rates be submitted under sections AS 21.39.040(j) or 21.42.120(g).

Section 8. AS 21.09.130(b). Continuance, expiration, reinstatement, and amendment of certificate, page 5.

The amendments to this subsection provide 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.

Section 9. AS 21.09.135. Voluntary surrender of certificate of authority, page 6.

This new section provides a process for an insurer domiciled in another state to voluntarily surrender their certificate of authority from Alaska. To surrender, the insurer must be in compliance with Alaska law, agree to pay obligations to guarantee funds or state insurance pools, and any Alaska business is lawfully canceled or reinsured.

Section 10. AS 21.09.200(f). Annual statement, page 7.

The amendments to this subsection require the filing of annual financial statements with the National Association of Insurance Commissioners (NAIC) by all licensed insurers instead of just domestic insurers. The amendments provide that the filings must be on electronic media acceptable to the NAIC and that the director may waive this requirement if the insurer only transacts business in this state or only on risks located in this state.

Section 11. AS 21.09.205(d). Quarterly statements, page 7.

This new subsection 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. The filing requirement may be waived if the insurer only transacts business in this state or only on risks located in this state.

Section 12. AS 21.09.210. Tax, page 7.

The following new subsections discuss the procedures for obtaining a refund or credit for overpayment of premium taxes by an insurer.

Subsection (k) 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.

Subsection (l) was written to avoid marketing of the premium tax credit. It prohibits the transfer or carryover of the credit in reinsurance transactions or receiverships.

Subsection (m) defines a premium tax credit.

Section 13. AS 21.09.250. Prohibited acts, page 8.

The amendments to this section remove specific license terms and replaces them with a general reference to person required to be licensed.

RISK RETENTION GROUPS, DISCLOSURE OF MATERIAL TRANSACTIONS, AND AUTHORIZATION OF UNITED STATES BRANCHES OF ALIEN INSURERS

Section 14 deals with risk retention groups, disclosure of material transactions, and U.S. branches of alien insurers using Alaska as a port of entry.

The addition of AS 21.09.290 allows a risk retention group to be formed as a domestic insurer in Alaska consistent with the NAIC Model Risk Retention Act. The federal Liability Risk Retention Act of 1986 amended and expanded the Product Liability Risk Retention Act of 1981 creating entities called risk retention groups to increase the availability of commercial liability insurance.

The addition of AS 21.09.300 to statute requires the filing of

information on material asset transactions and material changes in ceded reinsurance transactions. Ceded reinsurance is the transfer of risk from an insurer to another insurer by contract, usually resulting in the sharing of claim liability, marketing expenses, etc. Ceded reinsurance contracts are negotiated and can take many forms depending on the need for the reinsurance. A material change in a ceded reinsurance agreement may have significant financial effects for an insurance company. The basis for this section is the NAIC Disclosure of Material Transactions Model Act which must be adopted to maintain accreditation.

The addition of AS 21.09.310 provides authority and procedures for an insurer organized in a country outside of the United States to establish a U.S. branch in Alaska for operating throughout the United States. This new section establishes Alaska as a state of entry by adopting the NAIC State of Entry Model Law.

Section 14. AS 21.09. Authorization of insurers and general requirements, page 8.

These new sections set out requirements for domestic risk retention groups, the filing of statements regarding material transactions, and the regulation of U.S. branches of alien insurers using Alaska as a port of entry.

AS 21.09.290. Risk retention groups, page 8.

Subsection (a) sets out the requirements for being licensed as a risk retention group in this state.

Subsection (b) lists the items that must be submitted with an application for certificate of authority.

Subsection (c) requires the risk retention group to notify the director 30 days in advance of any material change to its plan of operation and must receive the director's written approval of the change.

Subsection (d) provides definitions of terms used in this section.

AS 21.09.300. Disclosure of material transactions, page 10.

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.

Subsection (b) requires the report be filed 15 days after the end of the calendar month in which the transaction occurs.

Subsection (c) requires that the report be given confidential treatment by the division and any other person without prior written consent from the insurer. The report may be shared with insurance departments of other states or the NAIC with notice of disclosure sent to the insurer. The report may be published if the director determines it is in the interest of policyholders, shareholders, or the public after giving the insurer notice and an opportunity to be heard.

Subsection (d) gives the requirements for reporting transactions of material acquisition or disposition of assets.

Paragraph (d)(1) requires that only material transactions be reported and defines material.

Paragraph (d)(2) requires that asset acquisition include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the development of real property for the insurer or acquisition of material for such development.

Paragraph (d)(3) requires that asset disposition include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

Paragraph (d)(4) 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, and names of persons involved.

Subsection (e) gives the requirements for reporting transactions of material nonrenewal, cancellation, or revision of a ceded reinsurance agreement.

Paragraph (e)(1) requires that only material transactions be reported and defines material.

Paragraph (e)(2) requires that the filing must be made regardless of who initiates the transaction in certain circumstances.

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, and if applicable, the identity of the replacement reinsurer.

Subsection (f) requires that the report be made on a nonconsolidated basis unless the insurer is part of a consolidated group which pools substantially all of its insurance losses. The subsection defines "substantially all".

AS 21.09.310. Authorization of United States branches of alien insurers and general requirements, page 13.

Subsection (a) states to which companies this section applies.

Subsection (b) requires that the U.S. branch qualify under all laws applicable to an Alaska domiciled insurance company, establish a trust, submit required documents, undergoing an examination, and pay the required fee.

Subsection (c) allows the director to require evidence from the board of directors that the insurer will not violate Alaska law or its charter.

Subsection (d) allows the director to renew a certificate of authority for a U.S. branch if the U.S. branch meets the requirements for renewal.

Subsection (e) lists the conditions of the U.S. branch which, if they existed, would prohibit the director from issuing or renewing a certificate of authority.

Subsection (f) allows the director to not issue or not renew a certificate of authority of the U.S. branch insurer if the insurer is transacting business outside of Alaska that is not permitted in Alaska unless such activities would not be prejudicial to the best interest of the Alaska public.

Subsection (g) 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 plus minimum basic capital and surplus or risk based capital, whichever is greater.

Subsection (h) lists the requirements for the written trust agreement which must exist for the U.S. branch to conduct business in the United States.

Subsection (i) states that the trust agreement shall be in the form required by the director and not be effective until approved by the director.

Subsection (j) states that the director may approve written modifications of the written trust agreement.

Subsection (k) allows the director to conduct examinations of trustee assets and may require the trustee to file statements as to the trust fund.

Subsection (l) allows the director to withdraw approval of the trust agreement, effective in 10 days, if the requirements for the agreement do not now exist.

Subsection (m) allows that refusal or neglect of the trustee to comply with statute requirements is cause for suspension or revocation of the certificate of authority.

Subsection (n) requires that annual and quarterly financial statements relate only to transactions within the United States and states who must sign the statement.

Subsection (o) requires that a statement of trustee surplus be filed with the annual and quarterly financial statement and gives the requirements for that statement.

Subsection (p) allows the director to require additional information on the business of the non-U.S. insurer or its U.S. branch.

Subsection (q) requires that a report of examination of the U.S. branch include a trustee surplus statement.

Subsection (r) defines terms used in the new section AS 21.09.310.

FINANCIAL REQUIREMENTS AND FILINGS OF INSURERS

Sections 15 through 33 include corrections to requirements for recognizing reinsurance credits in financial statements, clarification of requirements for reinsurance transactions, updating of sections on unearned premium and loss reserves, clarification of reporting requirements for actuaries, clarification of investment limitations, correction of language regarding tender offers and authority to hire experts, and clarification of information required in the holding company registration statement.

Section 15. AS 21.12.020(a). Reinsurance credits allowed a domestic ceding insurer, page 19.

The amendments to this subsection correct errors made when this section was adopted in 1992. The amendments require that for a U.S. branch of a non-U.S. reinsurer to become accredited as a reinsurer they must be licensed in at least one state that is accredited by the National Association of Insurance Commissioners (NAIC). State 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.

Section 16. AS 21.12.020(q). Reinsurance credits allowed a domestic ceding insurer, page 23.

The amendment to this subsection gives clear authority for the director to establish requirements for all reinsurance transactions which are necessary under the NAIC accreditation program.

Section 17. AS 21.14.040. Authorized control level event, page 23.

The amendment to this section is a correction of a drafting error in a citation included in the original bill adopting the risk based capital requirements.

Section 18. AS 21.18.060(b). Unearned premium reserve, page 23.

The amendment to this subsection removes the outdated method for determining unearned premium on property/casualty policies and requires a pro rata 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 statutes.

Section 19. AS 21.18.060(c). Unearned premium reserve, page 24.

The amendment to this subsection incorporates changes necessary due to the changes made in Section 17 of the bill. This requires all insurers to compute reserves on a monthly or more frequent pro rata basis.

Section 20. AS 21.18.090. Loss reserves, liability insurance, and workers' compensation, page 24.

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

Section 21. AS 21.18.110(a). Standard valuation law, page 25.

The amendment to this subsection clarifies the language allowing the director to accept a valuation of reserves of a foreign (non-Alaska) insurer made by the insurance supervisory official of another state.

Section 22. AS 21.18.110(n). Standard valuation law, page 26.

The amendment to this subsection allows the director to adopt regulations for an exemption from the evaluation of assets held to cover reserves. This exemption is included in NAIC Standard Valuation Model Law.

Section 23. AS 21.18.110(q). Standard valuation law, page 27.

The amendment to this subsection does not change the requirement that an actuarial memorandum be prepared supporting the actuarial review but removes the requirement that the memorandum be submitted to the director. The memorandum must be supplied when requested by the director under the amendment in Section 24.

Section 24. AS 21.18.110(r). Standard valuation law, page 27.

The amendment to this subsection clarifies with Section 23 that the actuarial memorandum will be supplied upon request of the director.

Section 25. AS 21.21.230. Savings and loan, page 27.

The amendment to this section updates terminology regarding federal deposit insurance.

Section 26. AS 21.21.250(a). Miscellaneous investments, page 27.

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

Section 27. AS 21.21.370(a). Investment in medium and lower

grade obligations, page 28.

The amendments to this subsection clarify the meaning and application of the investment limitations on medium and lower grade bonds.

Section 28. AS 21.22.010(g). Filing requirements for acquisition of control of or merger with domestic insurer, page 28.

The amendment to this subsection clarifies the exemption from filing a Form A acquisition statement with the division.

Section 29. AS 21.22.030(d). Hearing, findings, approval, page 29.

This new subsection allows the director to hire experts to assist the director in reviewing a proposed acquisition of control of an insurer at the acquiring person's expense.

Section 30. AS 21.22.060(b). Registration required, page 29.

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

Section 31. AS 21.22.060(c). Registration required, page 30.

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

Section 32. AS 21.22.060(d). Registration required, page 30.

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

Section 33. AS 21.22.060(k). Registration required, page 30.

The amendments to this subsection correct the subsection reference and simplify wording regarding the director's ability to require a copy of the holding company registration statement.

PRODUCER LICENSING

Sections 34 through 48 include clarification of licensing

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

Section 34. AS 21.27.010(a). License required, page 31.

The amendment to this subsection is primarily editorial in nature and notes that there are exceptions to general producer licensing requirements under AS 21.27.

Section 35. AS 21.27.020(f). General qualifications for license, page 31.

This new subsection provides for regulations to establish additional educational requirements for licensees to implement continuing education upon consideration of training opportunities in rural areas of the state and to contract out some licensing services for increased efficiency.

Section 36. AS 21.27.025(a). Required notice by licensee, page 32.

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

Section 37. AS 21.27.060(d). Examination of applicants and licensees, page 32.

The amendments to this subsection exempt testing requirements for certain limited licensees and remove the requirement that an applicant must be in good standing only in a state accredited by the NAIC.

Section 38. AS 21.27.100(e). Appointment of insurance producer, managing general agent, and insurance intermediary manager, page 32.

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 that firm.

Section 39. AS 21.27.130. Form and content of licenses, page 33.

The amendment to this section clarifies the licensee's address to be shown on a license.

Section AS 21.27.380 Rep. and accounting for
premier broker license and fee on

The amendment to this subsection requires that a resident licensee maintain a minimum net worth in Alaska.

Section 41. AS 21.27.380(a) Licenses renewal, lapse and
reinstatement of page 33.

The amendment to this subsection is primarily editorial in nature and clarifies that licenses and documents must be renewed by the director on or before the renewal date.

Section AS 21.27.420 Procedure for suspending,
revoking conditioning of page 34.

The new subsection adds additional licensing conditions for a license to be issued or renewed.

Section AS 21.27.420 Insurance producer qualifications,
page

The amendment to this section clarifies that a single bond cover multiple qualifications for a single licensee.

Section AS 21.27 a)(3)(B). Operating requirements for
com ing insurance producers, page 35.

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

Section AS 21.27.690(j) Operating requirements for
general agents, page 35.

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

Section 46. AS 21.27.690(b) Operating requirements for
insurance inter mediary brokers, page 35.

The amendment to this subsection clarifies that the exemption from licensure for non-resident reinsurance intermediary brokers who are licensed in an accredited resident jurisdiction is allowed for both domestic and non-domestic insurers.

Section 47. AS 21.27.690(e) Operating requirements
reinsurance inter mediary brokers, page 36.

The amendments to this subsection add language from the updated NAIC Reinsurance Intermediary Model Act to allow the director to maintain a civil action to recover damages from reinsurance intermediary brokers.

Section 48. AS 21.27.760(j). Operating requirements for reinsurance intermediary managers, page 36.

The amendments to this subsection add language from the updated NAIC Reinsurance Intermediary Model Act to allow the director to maintain a civil action to recover damages from reinsurance intermediary managers.

SURPLUS LINES INSURERS

Sections 49 to 52 add to the definition of Lloyd's the inclusion of incorporated underwriters, add an alternative method to meet the requirement of notification to the insured, and correct the time period for filing fees.

Section 49. AS 21.34.040(c)(4). Eligible surplus lines insurers required, page 37.

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

Section 50. AS 21.34.080(c). Evidence of insurance, affidavits, duty to file, page 37.

The amendments to this subsection establish who must execute the affidavit that notice was given to the insured and when that notice must be given.

Section 51. AS 21.34.110. Surplus lines broker's duty to notify insured, page 38.

The amendments to this section provide the surplus lines broker with an alternative method through the producing broker to discharge the duty to notify the insured that the company is a nonadmitted insurer not covered by the Alaska Insurance Guarantee Association Act.

Section 52. AS 21.34.190(a). Filing fee, page 38.

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

TRADE PRACTICES

Sections 53 to 66 include correction of license types, correction of responsibilities of insurance producers, clarification when rate changes may be made, reorder of one section of the chapter, clarification of application of the section, expansion of the definition of fraudulent acts to include altered and forged documents, and provide that false statements made in regard to claims may result in prosecution under Alaska law.

Section 53. AS 21.36.120(d). Unfair discrimination and rebates prohibited in property and casualty insurance, page 39.

The amendments to this subsection are primarily editorial in nature and update this section of the Trade Practices and Frauds chapter to reflect current license types.

Section 54. AS 21.36.160. Right of debtor or borrower to select agent, broker, and insurer, page 39.

The amendments to this section are to incorporate current licensing terminology.

Section 55. AS 21.36.195. Surplus lines brokers; prohibited acts, page 39.

The amendments to this section update the Trade Practices and Frauds chapter to include insurance producers with surplus lines brokers in the requirement that they must provide evidence of meeting responsibilities under AS 21.34.

Section 56. AS 21.36.235(a). Notice of premium or coverage changes upon renewal, page 39.

The amendment to this subsection changes the statute cite to accommodate the moving of AS 21.36.420 (Section 95) to AS 21.36.305 (Section 59).

Section 57. AS 21.36.290. Policy period, page 40.

The amendment to this section references the exception added in the new subsection (b) added in Section 58 of this bill.

Section 58. AS 21.36.290(b). Policy period, page 40.

This new subsection 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 59. AS 21.36.305. Premium increases on personal automobile insurance policies, page 40.

This new section contains language from the existing AS 21.36.420 which is being deleted in Section 95 of this bill. 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 60. AS 21.36.360(i). Fraudulent or criminal insurance acts, page 41.

The amendment to this subsection clarifies that remuneration can only be paid to persons licensed under AS 21.27 or registered as risk retention groups and purchasing groups.

Section 61. AS 21.36.360(j). Fraudulent or criminal insurance acts, page 41.

The amendments to this subsection are primarily editorial in nature and update this subsection of the Trade Practices and Frauds chapter to reflect current license terminology and risk retention groups and purchasing groups. The amendments also remove a sentence that references AS 21.90.910 which was repealed in 1992.

Section 62. AS 21.36.360(k). Fraudulent or criminal insurance acts, page 42.

The amendments to this subsection are primarily editorial in nature and update this subsection of the Trade Practices and Frauds chapter to reflect current license types and risk retention groups and purchasing groups.

Section 63. AS 21.36.360(n). Fraudulent or criminal insurance acts, page 43.

The amendments to this subsection are primarily editorial in nature and reflect current license types.

Section 64. AS 21.36.360(p). Fraudulent or criminal insurance acts, page 43.

The amendment to this subsection adds to the acts which

would be considered fraudulent. The additions include falsely altering an insurance document, knowingly possessing a forged insurance document, and knowingly issuing a forged insurance document.

Section 65. AS 21.36.360(g). Fraudulent or criminal insurance acts, page 43.

The amendments to this section include adding the fraudulent acts added in Section 64 of this bill to the classes of penalties. This amendment makes forging or altering certificates of insurance a criminal act.

Section 66. AS 21.36.380. Notice on claim form, page 44.

The amendment to this section clarifies that false statements made in regard to claims may result in prosecution under Alaska law.

RATE AND POLICY FILINGS

Sections 67 to 77 provide that insurers who have applied for certificate of authority may file rates and policy forms, provide that the director may specify format and content of rate and policy form filings, clarifies participants in the assigned risk pool and coverage for newborn or adoptive children, and correct terminology.

Section 67. AS 21.39.040. Rate filings, page 44.

The amendment to this section adds two new subsections. Subsection (j) allows insurers who have applied for a certificate of authority and who have filed their policy forms, to file their requested rates 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 68. AS 21.39.055. Cancellation of approved filing, page 44.

This new section requires that the voluntary surrender of a certificate of authority or nonrenewal of a certificate of authority will cancel the approval of rates by this division unless the approval has been affirmed at the time of surrender or nonrenewal.

Section 69. AS 21.39.155(a). Assigned risk pool, page 45.

The amendments to this subsection are editorial in nature and remove reference to joint insurance arrangements which are not considered insurance.

Section 70. AS 21.42.120. Filing, approval of forms, page 45.

The amendment to this section adds 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 71. AS 21.42.345(b). Required provision for coverage for newly born or adopted children, page 45.

This new subsection clarifies that the offer of medical coverage by an insurer, a medical service corporation, or a health maintenance organization must include an offer of coverage for family members including newborn children or adoptive children regardless of marital status.

Section 72. AS 21.42.353. Coverage for costs of acupuncture treatment, page 45.

The amendment to this section adds health maintenance organizations to the list of disability insurance providers that may offer to cover services of an acupuncturist.

Section 73. AS 21.42.355. Coverage for cost of services provided by nurse midwives, page 46.

The amendment to this section adds the terms enrollee contract (Health Maintenance Organization) and fraternal benefit society certificate to the types of contracts that must cover nurse midwives if maternity benefits are provided.

Section 74. AS 21.42.375(a). Mammography coverage, page 46.

The amendment to this section adds health maintenance organization to the list of disability insurance providers that are required to provide mammography screening if the policy covers mastectomies.

Section 75. AS 21.42.380. Coverage for treatment of phenylketonuria, page 47.

The amendment to this section adds health maintenance organizations to the list of disability insurance providers who must provide coverage for treatment of phenylketonuria.

Section 76. AS 21.56.180(c). Fair marketing standards, page 48.