

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9192 HOUSE JUDICIARY

Representative Tom Brice
ALASKA STATE LEGISLATURE

119 N. Cushman, Ste. 205
Fairbanks, AK 99701
907-456-7423 / Fax: 451-9293
While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-3466

SPONSOR STATEMENT

HOUSE BILL 170

**"AN ACT RELATING TO INTERFERENCE WITH THE RIGHTS OF
PHYSICALLY AND MENTALLY CHALLENGED PERSONS; AND
RELATING TO SERVICE ANIMALS DURING THEIR TRAINING
PERIOD."**

Although the Americans with Disabilities Act (ADA) gives service animals access to public establishments, too often young service animals in training are turned away from these establishments due to the existing law. HB 170 extends AS 11.76.130, to include young animals in training. Service animals perform functions and tasks that an individual with a disability cannot perform for her or himself. If we expect service animals to behave properly in public places they must have access to those locations while being trained.



cc:Mail for: Representative Tom Brice

Subject: Support of HB 170

From: horodysk@polarnet.com ("Richard and Vickie Horodyski") at CC2MHS1 4/2/97 3:37 PM

To: Senator Mike Miller at LAA_SMIL

To: Representative John Davies at LAA_TRANS

To: Representative Tom Brice at LAA_TRANS

To: Senator Georgianna Lincoln at JNU_CAPITOL

To: GaryWilken at JNU_LAA

Dear Legislator:

On behalf of the North Star Council for Independent Blind & Visually Impaired I would like to encourage you to vote for HB 170 which allows access to public buildings for dogs in training to become seeing-eye dogs. The council met April 1, 1997 and unanimously voted to ask for your support.

Seeing-eye dogs allow the blind and visually impaired to achieve independence in our everyday lives. There are already waiting lists for people applying for dogs. Those waiting lists could become longer without your support.

The initial training of these dogs is primarily done by youth in 4-H groups. Our youth benefit by learning skills in responsibility and by providing a community service.

THIS SERVICE COSTS THE TAXPAYERS NOTHING BECAUSE IT IS DONE BY VOLUNTEERS!

RECEIVED

MAR 1 1997

Hand delivered

GOVERNOR'S OFFICE

To: Representative Tom Brice
State of Alaska
Legislative Office

From: Suzanne Price
P. O. Box 84951
Fairbanks, Alaska
99708

March 12, 1997

Re: House Bill 170

Dear Representative Brice,

I've been raising Guide Dog Puppies for the Blind for over ten years now. I'm a 4-H Club Leader and each dog in training is a 4-H project. The 4-H Club provides insurance that raisers obtain each year with their membership. The dog is expected to learn basic obedience and socialization in the 14 months they spend with their 4-H family. It is imperative that these service dogs are introduced to the sights, sounds and smells of normal life including public buildings, traffic, a variety of transportation modes, events, crowds, etc. Puppy raisers are supervised by designated leaders and the guide dog school sponsoring the project. It is also expected that raisers will give educational presentations and participate in guide dog trainings. The Guide dog Project teaches our youth leadership and the value of Community Service. As a volunteer I receive no monetary compensation; my reward is the knowledge that I have given the gift of independence and companionship.

I have encountered the following problems because Alaska has no ordinance pertaining to service dogs in training:

1. The Fifth Avenue Mall in Anchorage has the only glass elevator in Alaska. They have refused to allow guide dog training.
2. The Alaska State Ferry system has refused to allow training on board.
3. The Alaska State Fair (Palmer) refuses to allow training during the Fair. They have allowed an event but raisers were not allowed to walk dogs in or near the public.
4. A visit to the State Courthouse requires a number of phone calls and possible rejection (twice) by security personnel.

The reason for rejection from public places is always the same:

Security personnel ask: "Are you blind?"

We answer "No we're training the dog."

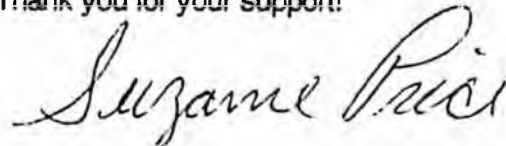
Security personnel: "If you're not blind you can't bring that dog in here."

We explain: "The dog needs to be trained before the blind person receives him."

Security personnel: "If you're not blind you can't come in here."

I sincerely hope that House Bill 170 is enacted by the legislature.

Thank you for your support!



Suzanne Price

Please enter into the record the following testimony to the House Judiciary Committee on HB170.

My name is Jessica Irmen and I am currently raising a guide dog puppy for the blind. If House Bill 170 were passed, it would greatly improve the quality of guide dogs.

The more environments our dogs are exposed to, the more able they are to react to new or scary situations during their working life.

Puppy raisers take extreme care in making sure their dogs are properly groomed and well behaved. If I did not feel my dog could handle a situation, I would not take her into that situation until I was sure she could. All of the puppy raisers I know share the same attitude of responsibility and care for their animals.

It is so important that our dogs be exposed to many different situations in order to make them able to adapt to new conditions quickly and easily. The only way this can happen is if we are allowed in public facilities to give them the greatest range of situations possible.

The dogs that are "in training" are trained. Before they are even brought into public facilities, the puppy trainers go through all of the basic puppy training and make sure their dogs can handle that situation. The dogs are eased into the situation slowly until they are confident. We **DO NOT** bring untrained puppies into public facilities.

The public is normally very excited about and interested in the Guide Dog Puppy Project. They are extremely supportive of the animals coming into stores, restaurants, etc. Numerous people have approached me while I am in public with Sassie, to tell me what a great project it is that I am involved in, and that they are glad to see it on the Kenai Peninsula.

My puppy comes to school with me several times a week and does great. If anything, bringing Sassie has been good for my school (Skyview High School). She has helped inform them of the project and what to do around any type of service dog they meet. Kids at school have a tremendous amount of respect for Sassie. On the days I don't bring her, people are always asking me where she is and telling me how well behaved she is.

If anything, passing House Bill 170 will be good for the public, not a nuisance!

Jessica Irmen
PO Box 4191 Soldotna, Ak. 99669
907-262-9049

Post-It™ brand fax transmittal memo 7671		# of pages ▶ /
To <i>XI JUD</i>	From <i>KENAI LIO</i>	
Cc <i>written testimony</i>		Co.
Dept. <i>HB 170</i>	Phone #	
Fax #	Fax #	

To: LIO

Guide Dogs Testimony

We need House Bill 170 to increase access for Service Animals in Training.

It takes a whole community to train a Guide Dog. The Guide Dog I have been training has just returned to Guide Dogs of the Desert in Palm Springs, CA to begin her advanced training. During the past 17 months Kenai Peninsula residents have helped me lay the foundation for Dixie's life of service as a Guide Dog for the blind.

As a volunteer raiser my responsibility has been to be a friend as well as a trainer. I was entrusted to give Dixie love and attention and to have fun! Equally important I was to teach her how to live in our human world, be dependable in a house and to walk with confidence in the community.

Thanks to many of the local businesses I am returning a happy, well-mannered, confident dog ready for her specialized training. My problems with access have arisen when I have tried to travel throughout Alaska as a professional. Inquiring in advance I have been denied lodging in Anchorage, dining in Fairbanks and entry into the state fair at Palmer. In Fairbanks I was granted lodging, however, I was asked in ADVANCE to pay a \$70 pet clean-up fee because Dixie was "just in training." That is FEE not DEPOSIT.

Problems with access have also been because of change in management with a business where rapport had been established or because a new employee isn't aware of the agreement with the management. If you've never been asked to leave an establishment, believe me, it is a very humbling experience. Especially where your intentions are simply to help the vision-impaired become more independent and mobile.

House bill No. 170 is legislation for service animals in training that coordinates well with existing legislation for users of service animals. It will be less confusing for business owners and state-run facilities in Alaska if House Bill 170 is adopted and access rights for certified service animals and service animals in training are the same.

Thank you.

Linda Athons

Linda Athons P.O. Box 3521, Soldotna, AK 99669

Alaska Airlines

April 3, 1997

Ms. Tracy Ashe
Office of Representative Tom Brice
Capital 425
Juneau, AK 99801

(Fax 465-2937)

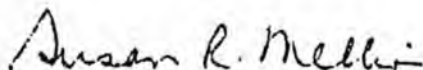
Dear Ms. Ashe:

For the past several years, Alaska Airlines has supported a 4-H Guide Dog program in Alaska. Puppies are flown by Alaska Airlines from the training school in California to the 4-H member in Alaska. The puppies are then given basic training for an extended period of time, then flown by Alaska Airlines from Alaska back to California where the dog receives complete guide dog training and is placed with individuals that will benefit from their special help.

All transportation costs have been paid by Alaska Airlines.

We've been very proud to support this most worthwhile cause.

Sincerely,



Susan R. Mellin
Manager, Public Affairs - Alaska

sm

Subject: HB 170

▷ Forwarded: Representative Gail Phillips at LAA_HPHG 3/26/97 5:52 PM

To: Representative Con Bunde

Subject: HB 170

From: 104630.3524@compuserve.com ("Jerie J. Best") at CC2MHS1

Date: 3/22/97 9:23 AM

just quick heads up...HB170, service animal bill, is scheduled to be heard for first time this coming Tues. in the HESS Com. Below please find the general questions and answers regarding service animals as published by the Department of Justice July of 96. Thanks for your support and consideration...

COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS

1. Q: What are the laws that apply to my business?

A: Under the Americans with Disabilities Act (ADA), privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

2. Q: What is a service animal?

A: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- _ Alerting persons with hearing impairments to sounds.
- _ Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- _ Assisting persons with mobility impairments with balance.

A service animal is not a pet.

3. Q: How can I tell if an animal is really a service animal and not just a pet?

A: Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may

ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an individual accompanied by a service animal. Although a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

4. Q: What must I do when an individual with a service animal comes to my business?

A: The service animal must be permitted to accompany an individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

5. Q: I have always had a clearly posted "no pets" policy at my establishment. Do I still have to allow service animals in?

A: Yes. A service animal is not a pet. The ADA requires you to modify your "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean you must abandon your "no pets" policy altogether but simply that you must make an exception to your general rule for service animals.

6. Q: My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?

A: Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations.

7. Q: Can I charge a maintenance or cleaning fee for customers who bring service animals into my business?

A: No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages. For example, a hotel can charge a guest with a disability for the cost of repairing or cleaning furniture damaged by a service animal if it is the hotel's policy to charge when non-disabled guests cause such damage.

8. Q: I operate a private taxicab and I don't want animals in my taxi; they smell, shed hair and sometimes have "accidents." Am I violating the ADA if I refuse to pick up someone with a service animal?

A: Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

9. Q: Am I responsible for the animal while the person with a disability is in my business?

A: No. The care or supervision of a service animal is solely the responsibility of his or her owner. You are not required to provide care or

food or a special location for the animal.

10. Q: What if a service animal barks or growls at other people, or otherwise acts out of control?

A: You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

11. Q: Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?

A: There may be a few circumstances when a public accommodation is not required to accommodate a service animal--that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal can be excluded.

If you have further questions about service animals or other requirements of the ADA, you may call the U.S. Department of Justice's toll-free ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TDD).

Again my thanks for your consideration...Keep up the good work!

Jerie Best

To: Tom Brice

State of Alaska
Fairbanks Legislative Office
Fax # 465-2973 (Attention Tracy Ashe)

Re: House Bill 170

The undersigned support this bill relating to interference with the rights of physically and mentally challenged persons; and relating to service animals during their training.

Name	Address	Phone #
<i>Michelle P. Casavant</i> MICHELLE P. CASAVANT	P.O. Box 60813 Fairbanks AK 99706	451-3169
<i>Pucha Taylor</i> PUCHA TAYLOR	102 ALLEGHENY WAY Fairbanks, AK 99709	451-5909
<i>Dollene Fletcher</i> Dollene Fletcher	PO BOX 72062 Fairbanks AK 99707	455-4519
<i>Kathy Vaupel</i> Kathy Vaupel	PO Box 72913, FAIRBANKS 99707-2913	456-1144
<i>Suli Nee</i> SULI NEE	PO BOX 72045 FAIRBANKS 99707	479-2532
<i>Karen Kowalski</i> Karen Kowalski	2085 Louise Miron WLP NORTHVILLE 99705	451-2991
<i>Sheila Hall</i> SHEILA HALL	P.O. Box 74642 Fairbanks, AK 99709	451-2993
<i>Stephanie Allen</i> Stephanie Allen	3010 DAVIS ROAD Fairbanks AK 99709	455-8321
<i>G.A. Hendrie</i> G.A. HENDRIE	611 Bentley Dr, Fairbanks, AK 99701	458-2853
<i>Carol Dahl</i> Carol Dahl	PO BOX 55355 NP AK 99705	451-3160
<i>Katherine Gerlinger</i> Katherine Gerlinger	P.O. Box 71593 Fairbanks, AK 99707	451-3159
<i>Katharine B. McVey</i> KATHARINE B. McVEY	815 McCracken Hsg Fairbanks AK 99702	451-4249
<i>Andrea C. Williams</i> Andrea C. Williams	1271 Seward St. Fairbanks, AK	479-5429

1100 Wood River Ave, FBks AK 99701 452-...

Jacquie C Helm 2091 Flight St. North Pole, AK 99705
488-6788

George J Treable TRF 70240 Fairbanks, AK 4...

Bill [unclear] 675 7th Ave FBKS AK 451-2822

Ray [unclear] 675 7th Ave FBX AK 451-2902

Gene A. Hansen 675 7th Ave FBX AK 451-3903

Bar [unclear] 675 7th Ave FBKS 451-4722

[unclear] FBKS AK 99707

Tatiana Hupst PO Box 91885 Fairbanks, AK 99708 456-3133

Debra M Lya 2133 Toren Ct Fairbanks, AK 99709 451-2850

Renda S Oseth PO Box 75267 FBKS AK 99707 456-1882

Norden R. Osttz P.O. Box 75267 FBKS AK 99707 456-1885

Shella Williams 1229 Cedar Dr FBKS AK 456-4722

Joe [unclear] PO Box 55904 North Pole, AK 99705

Patricia J Weaver 2476 Poppy Dr. North Pole, AK 99705 488-0305

Marion Clendaniel 3045 Taxi Lane B NP AK 99705-48822

Patricia [unclear] PO Box 74951 Fairbanks, 99707 451-2830

Frank [unclear] PO Box 81885 FAIRBANKS, AK. 99708 456-3133

Shirley Casaw 1499 Market Fairbanks AK 99709 479296

RECEIVED

MAR 17 1997

Hand delivered
GOVERNOR'S OFFICE

To: Tom Brice
Re: House Bill #170

Roger L. Hansen
1887 Southern Avenue
Fairbanks, Alaska

Dear Tom,

For the last 28 years I've been raising Guide Dog Puppies for the Blind. No one can remember anymore, but it's somewhere between 25 to 30 of them have passed through my home. About 20 years ago I moved down to Southcentral Alaska and until I moved back here to the interior I could not count the number of times I was kicked out of places because I was trying to train a guide dog puppy. I had the reputation of having been thrown out of more places in Alaska than anyone else. Well, anyone sober that is.

Since I've moved back to Fairbanks the only place that I can't get into are offices of the State of Alaska with my puppies, particularly the State Courthouse. I would explain why I can't get in the Courthouse with my puppy but they can't explain it. I guess there is an exception to that, it's no problem at Fish and Game. But I think that's because they like Labrador and Golden Retrievers there.

The State Ferry system is the worst by far. The most shabby treatment I've ever had has been by them. An example of that is a few years ago my wife and I were bringing five Guide Dogs up with us from the United States, three of them 8 week old puppies. They would give us twenty minutes to feed, water, walk and cleanup after all five of them. If you've ever tried that it can get real hectic on a slippery deck sometimes.

When asking the purser if we could have an extra 10 minutes we were not only refused we were also told that if we did try and extend the time we would be removed by the police at the next stop. Our approach was only an inquiry, and there was certainly no hostility in the question. The same purser would turn her back when others were bringing little dogs they could fit under coats on the upper decks. Some times they didn't even bother to try and hide them under their coat.

In the twenty eight years that I've been working with Guide Dogs for the Blind, as well as many other service dogs, I've never heard of one biting a person, a dog, or any other animal. I've had my dogs attacked by other dogs in public places, and not one time have they tried to fight back. I could not begin to try and count the times that small children have come up to my puppies and stomped on their tails, kicked, hit, pummeled as well as bit them while not once have the dogs done anything except at the most make a cry of pain. It's because of the way that they have been bred, they just don't get rowdy with people or other animals.

By the way, on the ferry with the five puppies with the three of them eight weeks old the few times per day that we were allowed below on the car deck would cause the pups to lie in their own waste for hours until we could get back to them on our mad scramble under the eye of the Watchman who would make sure that we didn't stay longer than twenty minutes or he would snitch to the purser. Not the way that I wish to treat any animal leaving them in waste that could be contaminated with disease, and when it's one that offers a person freedom. Well, I don't really know what to say here. If it were put in terms of U.S. Dollars each one of those puppies laying there in their own waste were worth \$50,000 U.S. That's the price that Guide Dogs of the Desert in Palm Springs, California puts on raw puppies at eight weeks old. But I'm not sure what a person who is blind would put as a value on their guide dog.

Our lives have been put in danger because we have been denied lodging in Alaska. In Anchorage we always had a problem trying to stay there when we went there on shopping trips with the puppies. The hotels downtown treated us like we were criminals. Anyway it would cause us to go to extremes to get a place to sleep.

Once in Glenallen my wife and I were refused a room to stay in every place in town, and there was a raging snow storm. It puts you in a tough position when you can't leave the animal

in the car because they are basically house dogs who can't be left out when it's cold, and you can't take them inside. We made it to Eureka Summit and were turned down for lodging there also causing us to drive to Palmer in a storm that had us plowing and dodging snow drifts just about the whole way, there were very few other vehicles on the road that night. Another trip we were coming up the Alaska Highway after being down in the United States, and while we were there we picked up two new guide dog puppies. The only problem we had between California, where the pups were picked up, was when we pulled into the Community of Tok. We were turned down at the two places that were open back then. We paid a man \$25 to pump us gas as well as the price of the gas because he was closed, and we were afraid of running out of gas in a temperature that was at 48° below zero.

There is no cost for a blind person to receive a Guide Dog for the Blind, or the training the blind person needs to learn how to use their new partner. Seeing Eye in New Jersey does ask for \$100 U. S., but it's waived most of the time. One of my favorite things about this whole program is that it is done with volunteers, 70% of them are teenagers in a 4-H program, as well as a lot of donations from private sources. These teenagers are in a project in Community Service of people helping people. There is not ONE RED CENT of government money involved in the process. It shows our teens how to be committed to a project of about 14 months where they are totally responsible for training and taking care of an animal, and succeed. All without cost to ANY government agency

There is a very painful part of all of this. More than once I've shared a box of Kleenex at the airport with a teenager, or my wife, because after fourteen months it's pretty hard to give up your best buddy and send them off for the rest of their training, a lot of times knowing you're never going to see them again.

Roger Han

P. S.

I'd tell you about the Palmer Sate Fair, but I just get P.O.'d if I think about it.

HB

179

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: March 5, 1997
To: Committee Members
From: Joe Green, House Judiciary Committee Chairman
Re: Fraternal Benefit Societies Bill

The House Judiciary Committee has been asked to introduce the attached bill. It is based on the Model Fraternal Code and designed to eliminate some of the problems associated with the existing Alaska statutes that govern fraternal benefit societies in the Alaska Insurance Code, Title 21, Chapter 84. Many of the changes are designed to eliminate conflicts with other laws such as the Internal Revenue Code and regulations of the Securities Exchange Commission.

Please let me know immediately if you have any objection to the introduction of this bill by the House Judiciary committee. Please note that introduction of the bill by the committee does not imply that committee or its individual members endorse the bill.

Because it is desirable to read this bill across the floor tomorrow, I request your response no later than 3:30 p.m. this afternoon.

0-LS0671VA
Crawford
2/27/97

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fraternal benefit societies; and providing for an effective
2 date."

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

4 * Section 1. AS 21.84 is amended by adding new sections to read:

5 **Article 1. Structure and Purpose.**

6 **Sec. 21.84.005. Representative form of government.** (a) A society has a
7 representative form of government if

8 (1) the society has a supreme governing body constituted as described
9 in (b) or (c) of this section;

10 (2) officers of the society are elected either by the supreme governing
11 body or by the board of directors;

12 (3) only benefit members are eligible for election to the supreme
13 governing body or to the board of directors; and

14 (4) a voting member has one vote, and a vote may not be cast by proxy.

1 (b) The supreme governing body may be constituted in an assembly. The
2 assembly is composed of delegates elected directly by the members or at intermediate
3 assemblies or conventions of members or their representatives, together with other
4 delegates prescribed in the society's laws. A society may provide for election of
5 delegates by mail. The elected delegates shall constitute a majority of the delegates
6 entitled to vote, and they shall have neither less than two-thirds of the total votes cast,
7 nor less than the number of votes required to amend the society's laws. The assembly
8 shall be elected, shall meet at least once every four years, and shall elect a board of
9 directors to conduct the business of the society between meetings of the assembly.
10 Vacancies on the board of directors between elections may be filled in the manner
11 prescribed by the society's laws.

12 (c) The supreme governing body may be constituted in a board. The board
13 is composed of persons elected by the members, either directly or by their
14 representatives in intermediate assemblies, together with other persons prescribed in
15 the society's laws. A society may provide for election of the board by mail. A term
16 of a board member may not exceed four years. Vacancies on the board between
17 elections may be filled in the manner prescribed by the society's laws. The elected
18 board members shall constitute a majority of the number of directors entitled to vote,
19 and they shall have not less than the number of votes required to amend the society's
20 laws. A person filling the unexpired term of an elected board member shall be
21 considered to be an elected member. The board shall meet at least quarterly to
22 conduct the business of the society.

23 **Sec. 21.84.015. Purposes and powers.** (a) A society shall operate for the
24 benefit of members and their beneficiaries by (1) providing benefits as specified in
25 AS 21.84.201, and (2) operating for a social, intellectual, educational, charitable,
26 benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its
27 members, which benefits may also be extended to others. A purpose may be carried
28 out directly by the society or indirectly through subsidiary corporations or affiliated
29 organizations.

30 (b) A society may adopt and amend laws and rules for the government of the
31 society, the admission of its members, and the management of its affairs and may have

1 other powers necessary to carrying into effect the objects and purposes of the society.

2 * **Sec. 2.** AS 21.84 is amended by adding a new section to read:

3 **Article 2. Membership.**

4 **Sec. 21.84.025. Qualifications for membership.** (a) A society shall specify
5 in its laws or rules

6 (1) eligibility standards for each class of membership, but, if benefits
7 are provided on the lives of children, the minimum age for adult membership shall be
8 set at not less than 15 years of age and not more than 21 years of age;

9 (2) the process for admission to membership for each membership
10 class; and

11 (3) the rights and privileges of each membership class; however, only
12 benefit members may vote on the management of the insurance affairs of the society.

13 (b) A society may also admit social members, but the social members may not
14 have a voice or vote in the management of the insurance affairs of the society.

15 (c) A society may organize and operate lodges for children under the minimum
16 age for adult membership. Membership and initiation in local lodges may not be
17 required of children, nor may children have a voice or vote in the management of the
18 society.

19 (d) Membership rights in the society are personal to the member and are not
20 assignable.

21 * **Sec. 3.** AS 21.84 is amended by adding a new section to read:

22 **Sec. 21.84.035. Location of office; meetings; communications to members;**
23 **grievance procedures.** (a) The principal office of a domestic society must be located
24 in this state. The meetings of the supreme governing body of a society may be held
25 in a state, district, province, or territory in which the society has at least one
26 subordinate lodge or in another location as determined by the supreme governing body.
27 All business transacted at the meetings is as valid in all respects as if the meetings
28 were held in this state. The minutes of the proceedings of the supreme governing
29 body and of the board of directors must conform to language requirements for
30 documents filed under AS 21.84.070.

31 (b) A society may provide in its laws for an official publication in which any

1 notice, report, or statement required by law to be given to members, including notice
2 of election, may be published. If published in the official publication, required reports,
3 notices, and statements shall be printed conspicuously. If the records of a society
4 show that two or more members have the same mailing address, an official publication
5 mailed to one member is considered to be mailed to all members at the same address
6 unless a member requests a separate copy.

7 (c) A synopsis of the society's annual statement providing an explanation of
8 the facts concerning the condition of the society shall be printed not later than June
9 1 of each year and mailed to each benefit member of the society or published in the
10 society's official publication.

11 (d) A society may provide in its laws or rules for grievance or complaint
12 procedures for members.

13 * **Sec. 4.** AS 21.84 is amended by adding a new section to read:

14 **Sec. 21.84.045. No personal liability; indemnity.** (a) The officers and
15 members of the supreme governing body or a subordinate body of a society are not
16 personally liable for benefits provided by a society.

17 (b) A society shall indemnify and reimburse a person for expenses reasonably
18 incurred by, and liabilities imposed upon, that person in connection with an action,
19 suit, or proceeding, or threat of an action, suit, or proceeding, whether civil, criminal,
20 administrative, or investigative, in which the person is involved by reason of the fact
21 of service in the capacity of a director, officer, employee, or agent of the society or
22 service in any capacity in a firm, corporation, or organization at the request of the
23 society. However, a society may not indemnify or reimburse a person in connection
24 with a matter in an action, suit, or proceeding, or threat of an action, suit, or
25 proceeding, that has been made the subject of a compromise settlement, or in which
26 the person is adjudged to be guilty of breach of a duty as a director, officer, employee,
27 or agent of the society, unless the person acted in good faith for a purpose the person
28 reasonably believed to be in or not opposed to the best interests of the society, and,
29 in a criminal action or proceeding, in addition, had no reasonable cause to believe that
30 the person's conduct constituted a violation of a criminal law of this state or another
31 jurisdiction. The determination of whether the conduct of the person meets the

1 standard required to justify indemnification and reimbursement may be made by the
2 supreme governing body or the board of directors through a majority vote of a quorum
3 consisting of persons who were not parties to the action, suit, or proceeding or by a
4 court of competent jurisdiction. The termination of an action, suit, or proceeding by
5 judgment, order, settlement, conviction, or plea of no contest as to the person does not
6 in itself create a conclusive presumption that the person did not meet the standard of
7 conduct required to justify indemnification and reimbursement. The right of
8 indemnification and reimbursement is not exclusive of other rights to which a person
9 may be entitled as a matter of law and inures to the benefit of the person's heirs,
10 executors, and administrators.

11 (c) A society may purchase and maintain insurance on behalf of a person who
12 is or was a director, officer, employee, or agent of the society, or who is or was
13 serving at the request of the society as a director, officer, employee, or agent of a firm,
14 corporation, or organization, against a liability asserted against the person and incurred
15 by the person arising out of that capacity, whether or not the society would have the
16 power to indemnify the person against that liability under this section.

17 (d) A director, officer, employee, member, or volunteer of a society serving
18 without compensation is not liable, and no cause of action may be brought against the
19 person for damages resulting from the exercise of judgment or discretion in connection
20 with the duties or responsibilities of the person for the society unless the act or
21 omission involved reckless or intentional misconduct.

22 * **Sec. 5.** AS 21.84.055 is amended by adding new sections to read:

23 **Sec. 21.84.055. Waiver.** The laws of the society may provide that a
24 subordinate body or its subordinate officers or members may not waive any provision
25 of the laws of the society. The provision is binding on the society and every member
26 and beneficiary of a member.

27 **Article 3. Governance.**

28 **Sec. 21.84.059. Amendments to laws.** (a) A domestic society may amend
29 its laws in accordance with its provisions by action of its supreme governing body at
30 a regular or special meeting or, if its laws provide, by referendum. The referendum
31 may be held in accordance with the provisions of its laws by the vote of the voting

1 members of the society, by the vote of delegates or representatives of voting members.
2 or by the vote of local lodges. A society may provide for voting by mail. An
3 amendment submitted for adoption by referendum may not be adopted unless, within
4 six months from the date of submission of the amendment, at least two-thirds of the
5 members voting signify consent to the amendment by one of the methods specified
6 under this subsection.

7 (b) An amendment to the laws of a domestic society may not take effect unless
8 approved by the director. The director shall approve the amendment if the director
9 finds that it has been legally adopted and is not inconsistent with the requirements of
10 the laws of this state or with the character, objects, and purposes of the society.
11 Unless the director disapproves the amendment within 60 days after it is filed, the
12 amendment is considered approved. The approval or disapproval of the director shall
13 be in writing and mailed to the secretary or corresponding officer of the society at its
14 principal office. If the director disapproves the amendment, the reason for the
15 disapproval shall be stated in the written notice.

16 (c) Within 90 days from the approval of the amendments by the director, all
17 amendments, or a synopsis of them, shall be furnished to all members of the society,
18 either by mail or by publication in full in the official publication of the society. The
19 affidavit of an officer of the society or of a person authorized by the society to mail
20 amendments, or a synopsis of them, stating facts that show that the amendments have
21 been addressed and mailed, is prima facie evidence that the amendments, or a synopsis
22 of them, have been furnished to the addressee.

23 (d) A foreign or alien society authorized to do business in this state shall file
24 with the director a certified copy of all amendments of, or additions to, its laws within
25 90 days after the enactment of them.

26 (e) Printed copies of the laws, as amended, certified by the secretary or
27 corresponding officer of the society are prima facie evidence of the legal adoption of
28 those laws.

29 * Sec. 6. AS 21.84.060 is amended to read:

30 **Sec. 21.84.060. Organization.** The organization of a domestic society
31 organized on or after the effective date of this Act shall be formed [GOVERNED]

1 as follows: Seven or more citizens of the United States, a majority of whom are
2 citizens of this state, who desire to form a fraternal benefit society, may make, sign,
3 and acknowledge before some officer, competent to take acknowledgment of deeds,
4 articles of incorporation, in which shall be stated

5 (1) the proposed corporate name of the society, which may not so
6 closely resemble the name of any society or insurance company as to be misleading
7 or confusing;

8 (2) the purposes for which it is being formed and the mode in which
9 its corporate powers are to be exercised; the purposes may not include more liberal
10 powers than are granted by this chapter [, PROVIDED THAT ANY LAWFUL
11 SOCIAL, INTELLECTUAL, EDUCATIONAL, CHARITABLE, BENEVOLENT,
12 MORAL, FRATERNAL, OR RELIGIOUS ADVANTAGES MAY BE SET OUT
13 AMONG THE PURPOSES OF THE SOCIETY];

14 (3) the names and residences of the incorporators and the names,
15 residences, and official titles of all the officers, trustees, directors, or other persons
16 who are to have and exercise the general control of the management of the affairs and
17 funds of the society for the first year or until the ensuing election at which all the
18 officers shall be elected by the supreme [LEGISLATIVE OR] governing body, which
19 election shall be held no later than one year from the date of the issuance of the
20 permanent certificate of authority.

21 * Sec. 7. AS 21.84.070 is amended to read:

22 Sec. 21.84.070. **Filing articles and documents.** The articles of incorporation,
23 certified copies of the domestic society's [CONSTITUTION,] laws and rules, copies
24 of all proposed forms of certificates, applications, and circulars to be issued by the
25 society, and a bond conditioned upon the return to applicants of the advanced
26 payments if the organization is not completed within one year, shall be filed with the
27 director, who may require further information considered necessary. The bond with
28 sureties approved by the director shall be in an amount, not less than \$300,000
29 [~~\$5,000~~] or more than \$1,500,000 [~~\$25,000~~], required by the director. All documents
30 filed are to be in the English language. If the purposes of the society conform to the
31 requirements of this chapter and all provisions of the law have been complied with,

1 the director shall so certify, retain, and file the articles of incorporation [,] and furnish
2 the incorporators a preliminary certificate of authority authorizing the society to solicit
3 members as hereinafter provided.

4 * Sec. 8. AS 21.84.080 is amended to read:

5 **Sec. 21.84.080. Time for completing organization.** A preliminary certificate
6 of authority [GRANTED UNDER THIS SECTION] is not valid after one year from
7 its date or after such further period, not exceeding one year, as may be authorized by
8 the director upon cause shown, unless the 500 applicants hereinafter required have
9 been secured and the organization has been completed as herein provided. The articles
10 of incorporation and all other proceedings thereunder shall become null and void in
11 one year from the date of the preliminary certificate of authority, or at the expiration
12 of the extended period, unless the domestic society has completed its organization and
13 received a certificate of authority to do business as hereinafter provided.

14 * Sec. 9. AS 21.84.090 is amended to read:

15 **Sec. 21.84.090. Initial solicitations and qualifications.** Upon receipt of a
16 preliminary certificate of authority from the director, the domestic society may solicit
17 members for the purpose of completing its organization, shall collect from each
18 applicant the amount of not less than one regular monthly premium in accordance with
19 its table of rates [AS PROVIDED BY ITS CONSTITUTION AND LAWS], and shall
20 issue to each applicant a receipt for the amount collected. A domestic society may
21 not incur any liability other than for the return of the advance premium, or issue any
22 certificate, or pay, allow, or offer or promise to pay or allow, a death or health care
23 benefit to any person until

24 (1) actual bona fide applications for [DEATH] benefits have been
25 secured on 500 applicants and any necessary evidence of insurability has been
26 furnished to and approved by the society [AGGREGATING AT LEAST \$500,000
27 ON AT LEAST 500 LIVES;

28 (2) ALL APPLICANTS FOR DEATH BENEFITS HAVE
29 FURNISHED EVIDENCE OF INSURABILITY SATISFACTORY TO THE
30 SOCIETY];

31 (2) [(3)] certificates of examinations or acceptable declarations of

1 insurability have been filed and approved by the chief medical examiner of the society;

2 (3) [(4)] 10 subordinate lodges or branches have been established into
3 which the 500 applicants have been admitted;

4 (4) [(5)] there has been submitted to the director, under oath of the
5 president or secretary, or corresponding officer of the society, a list of the applicants,
6 giving their names, addresses, date each was admitted, name and number of the
7 subordinate branch of which each applicant is a member, amount of benefits to be
8 granted, and premiums for them;

9 (5) [(6)] it has been shown to the director, by sworn statement of the
10 treasurer, or corresponding officer of the society, that at least 500 applicants have each
11 paid in cash at least one regular monthly premium, which premiums in the aggregate
12 shall amount to at least \$150,000 [\$2,500, ALL OF WHICH SHALL BE CREDITED
13 TO THE FUND OR FUNDS FROM WHICH BENEFITS ARE TO BE PAID AND
14 NO PART OF WHICH MAY BE USED FOR EXPENSES]; the advance premiums
15 shall be held in trust during the period of organization, and, if the society has not
16 qualified for a certificate of authority within one year, the premiums shall be returned
17 to the applicants.

18 * Sec. 10. AS 21.84.100 is amended to read:

19 Sec. 21.84.100. Certificate of authority [COMPLIANCE]. The director may
20 make the examination and require further information the director considers advisable.
21 Upon presentation of satisfactory evidence that the domestic society has complied with
22 all the provisions of law, the director shall issue to the society a certificate of
23 authority to that effect and that the society is authorized to transact business under
24 this chapter. The certificate of authority shall be prima facie evidence of the
25 existence of the society at the date of the certificate. The director shall cause a record
26 of the certificate of authority to be made. A certified copy of the record may be
27 given in evidence with like effect as the original certificate of authority.

28 * Sec. 11. AS 21.84.120 is amended to read:

29 Sec. 21.84.120. Corporate powers retained. An incorporated society
30 authorized to transact business in this state on the effective date of this Act [JULY 1,
31 1966, MAY THEREAFTER EXERCISE ALL THE RIGHTS, POWERS, AND

1 PRIVILEGES PRESCRIBED IN THIS CHAPTER AND IN ITS CHARTER OR
2 ARTICLES OF INCORPORATION NOT INCONSISTENT WITH THIS CHAPTER.
3 A DOMESTIC SOCIETY] may not be required to reincorporate.

4 * Sec. 12. AS 21.84.170(a) is amended to read:

5 (a) It is lawful for a society to create, maintain, and operate organizations to
6 operate not for profit institutions to further the purposes permitted by
7 AS 21.84.015(a)(2). The institutions may provide services free or at a reasonable
8 charge. Real or personal [CHARITABLE, BENEVOLENT, OR EDUCATIONAL
9 INSTITUTIONS FOR THE BENEFIT OF ITS MEMBERS AND THEIR FAMILIES
10 AND DEPENDENTS AND FOR THE BENEFIT OF CHILDREN INSURED BY THE
11 SOCIETY. FOR THAT PURPOSE IT MAY OWN, HOLD, OR LEASE PERSONAL
12 PROPERTY OR REAL PROPERTY LOCATED INSIDE OR OUTSIDE THIS
13 STATE, WITH NECESSARY BUILDINGS THEREON. THE] property owned, held,
14 or leased by the society for this purpose shall be reported in every annual statement
15 but may not be allowed as an admitted asset of the society.

16 * Sec. 13. AS 21.84 is amended by adding a new section to read:

17 Sec. 21.84.175. Reinsurance. (a) A domestic society may, by a reinsurance
18 agreement, cede an individual risk or risks in whole or in part to an insurer, other than
19 another fraternal benefit society, that has the power to make reinsurance and that is
20 authorized to do business in this state or, if not authorized, that is approved by the
21 director. However, a society may not reinsure substantially all of its insurance in force
22 without the written permission of the director. A society may take credit for the
23 reserves on the ceded risks to the extent reinsured, but a credit may not be allowed as
24 an admitted asset or a deduction from liability to a ceding society for reinsurance
25 made, ceded, renewed, or otherwise becoming effective after the effective date of this
26 Act unless the reinsurance is payable by the assuming insurer on the basis of the
27 liability of the ceding society under the contract or contracts reinsured without
28 diminution because of the insolvency of the ceding society.

29 (b) Notwithstanding the limitation in (a) of this section, a society may reinsure
30 the risks of another society in a consolidation or merger approved by the director under
31 AS 21.84.185.

1 * Sec. 14. AS 21.84 is amended by adding a new section to read:

2 **Sec. 21.84.185. Consolidations and mergers.** (a) A domestic society may
3 consolidate or merge with another society by complying with the provisions of this
4 section. It shall file with the director

5 (1) a certified copy of the written contract containing in full the terms
6 and conditions of the consolidation or merger;

7 (2) a sworn statement by the president and secretary or corresponding
8 officers of each society showing the financial condition of the society on a date fixed
9 by the director but not earlier than December 31 immediately preceding the date of the
10 contract;

11 (3) a certificate of the president and secretary or corresponding officers
12 of each society, verified by their respective oaths, that the consolidation or merger has
13 been approved by a two-thirds vote of the supreme governing body of each society,
14 the vote being conducted at a regular or special meeting of each body or, if the
15 society's laws so permit, by mail; and

16 (4) evidence that, at least 60 days prior to the action of the supreme
17 governing body of each society, the text of the contract has been furnished to all
18 members of each society either by mail or by publication in full in the official
19 publication of each society.

20 (b) If the director finds that the contract is in conformity with the provisions
21 of this section, that the financial statements are correct, and that the consolidation or
22 merger is just and equitable to the members of each society, the director shall approve
23 the contract and issue a certificate to that effect. On approval, the contract is in full
24 force and effect unless a society that is a party to the contract is incorporated under
25 the laws of another state or territory. In that event, the consolidation or merger may
26 not become effective unless it has been approved as provided by the laws of that state
27 or territory and a certificate of that approval has been filed with the director. If the
28 laws of that state or territory contain no such provision, the consolidation or merger
29 may not become effective unless it has been approved by the director of that state or
30 territory and a certificate of that approval has been filed with the director.

31 (c) When the consolidation or merger becomes effective under this section, all

1 the rights, franchises, interests, and things in action of the consolidated or merged
2 societies in every type of property, real, personal, or mixed, belonging to the
3 consolidated or merged societies are vested in the society resulting from or remaining
4 after the consolidation or merger without another instrument, except that conveyances
5 of real property may be evidenced by proper deeds, and the title to any real estate or
6 interest in it, vested under the laws of this state in any of the societies consolidated or
7 merged, shall not revert or be in any way impaired by reason of the consolidation or
8 merger, but shall vest absolutely in the society resulting from or remaining after the
9 consolidation or merger.

10 (d) The affidavit of an officer of the society or of a person authorized by the
11 society to mail a notice or document stating that a notice or document has been
12 addressed and mailed is prima facie evidence that such notice or document has been
13 furnished to the addressees.

14 * Sec. 15. AS 21.84 is amended by adding a new section to read:

15 **Sec. 21.84.195. Conversion to a mutual life insurance company.** A
16 domestic fraternal benefit society may be converted and licensed as a mutual life
17 insurance company by compliance with the applicable requirements of AS 21.69 if the
18 plan of conversion has been approved by the director. A plan of conversion shall be
19 prepared in writing by the board of directors setting out the terms and conditions of
20 conversion. The affirmative vote of two-thirds of the members of the supreme
21 governing body at a regular or special meeting is necessary for approval of the plan.
22 A conversion may not take effect unless and until approved by the director, who may
23 give the approval if the director finds that the proposed change is in conformity with
24 the requirements of law and not prejudicial to the certificate holders of the society.

25 * Sec. 16. AS 21.84 is amended by adding a new section to read:

26 **Article 4. Contractual Benefits.**

27 **Sec. 21.84.201. Benefits.** (a) A society may provide the following contractual
28 benefits in any form:

- 29 (1) death benefits;
30 (2) endowment benefits;
31 (3) annuity benefits;

- 1 (4) temporary or permanent health care benefits;
2 (5) hospital, medical, or nursing benefits;
3 (6) monument or tombstone benefits to the memory of deceased
4 members; and
5 (7) other benefits authorized for life and health insurers that are not
6 inconsistent with this chapter.

7 (b) A society shall specify in its rules those persons who may be issued, or
8 covered by, the contractual benefits described in (a) of this section consistent with
9 providing benefits to members and the members' dependents. A society may provide
10 benefits on the lives of children under the minimum age for adult membership upon
11 application of an adult person.

12 * Sec. 17. AS 21.84.230(a) is amended to read:

13 (a) The owner of a benefit contract [MEMBER] shall have the right at all
14 times to change the beneficiary or beneficiaries in accordance with the
15 [CONSTITUTION,] laws [,] or rules of the society unless the owner waives this
16 right by specifically requesting in writing that the beneficiary designation be
17 irrevocable. A [. EVERY] society, by [ITS CONSTITUTION,] laws [,] or rules, may
18 limit the scope of beneficiaries and shall provide that a beneficiary may not have or
19 obtain a vested interest in the proceeds of a certificate until the certificate has become
20 due and payable in conformity with the provisions of the benefit [INSURANCE]
21 contract.

22 * Sec. 18. AS 21.84.230(c) is amended to read:

23 (c) If, at the death of a person insured under a benefit contract [MEMBER],
24 there is no lawful beneficiary to whom the proceeds [INSURANCE BENEFITS] are
25 payable, the amount of the benefits, except to the extent that funeral benefits may be
26 paid as provided in (b) of this section, shall be payable to the estate of the deceased
27 insured the same as other property not exempt, but, if the owner of the certificate
28 is not the insured, the amount of the benefits shall be payable to the owner
29 [PERSONAL REPRESENTATIVE OF THE DECEASED MEMBER].

30 * Sec. 19. AS 21.84 is amended by adding a new section to read:

31 Sec. 21.84.255. The benefit contract. (a) A society authorized to do business

1 in this state shall issue to each owner of a benefit contract a certificate specifying the
2 amount of benefits provided under the contract. The certificate, together with any
3 riders or endorsements attached to it, the laws of the society, the application for
4 membership, the application for insurance, and the declaration of insurability, if any,
5 signed by the applicant, and all amendments to each constitute the benefit contract, as
6 of the date of issuance, between the society and the owner, and the certificate must so
7 state. A copy of the application for insurance and declaration of insurability, if any,
8 shall be endorsed upon or attached to the certificate. All statements on the application
9 shall be representations and not warranties. A waiver of this provision is void.

10 (b) Except as provided in AS 21.84.320(d)(3), changes, additions, or
11 amendments to the laws of the society enacted subsequent to the issuance of the
12 certificate shall bind the owner and the beneficiaries and shall govern and control the
13 benefit contract in all respects as though the changes, additions, or amendments were
14 made before and were in force at the time of the application for insurance, except that
15 a change, addition, or amendment may not destroy or diminish benefits that the society
16 contracted to give the owner as of the date of issuance.

17 (c) A person upon whose life a benefit contract is issued before the person
18 attains the age of majority is bound by the terms of the application and certificate and
19 by all the laws and rules of the society to the same extent as though the age of
20 majority were attained at the time of application.

21 (d) Except as provided in AS 21.84.320(d)(3), a society shall provide in its
22 laws that if the society's reserves as to a class of certificates become impaired, the
23 society's board of directors or corresponding body may require that the owner shall
24 pay to the society the amount of the owner's equitable proportion of the deficiency as
25 determined by its board and that, if the payment is not made, (1) the amount shall
26 stand as an indebtedness against the certificate and shall draw interest not to exceed
27 the rate specified for certificate loans under the certificates, or (2) in place of or in
28 combination with the provisions of (1) this subsection, the owner may accept a
29 proportionate reduction in benefits under the certificate. The society may specify the
30 manner of the election and the alternative that is to be presumed if no election is
31 made.

1 (e) Copies of the documents mentioned in this section, certified by the
2 secretary or corresponding officer of the society, shall be received in evidence of the
3 terms and conditions of the document.

4 (f) A certificate may not be delivered or issued for delivery in this state unless
5 a copy of the form has been filed with the director in the manner provided for similar
6 policies issued by life and health insurers in this state. A filing is considered approved
7 unless disapproved within 60 days after the date of filing. A life, accident, health, or
8 disability insurance certificate and an annuity certificate issued on or after one year
9 after the effective date of this Act must meet the standard contract provision
10 requirements not inconsistent with this chapter for similar policies issued by life and
11 health insurers in this state, except that a society may provide in a certificate for a
12 grace period for payment of premiums of one full month. The certificate must also
13 contain a provision stating the amount of premiums that are payable under the
14 certificate and a provision reciting or setting out the substance of sections of the
15 society's laws or rules in force at the time of issuance of the certificate that, if
16 violated, will result in the termination or reduction of benefits payable under the
17 certificate. If the laws of the society provide for expulsion or suspension of a member,
18 the certificate must also contain a provision that any member expelled or suspended,
19 except for nonpayment of a premium or within the contestable period for material
20 misrepresentation in the application for membership or insurance, is entitled to
21 maintain the certificate in force by continuing payment of the required premium.

22 (g) A benefit contract issued on the life of a person below the society's
23 minimum age for adult membership may provide for transfer of control of ownership
24 to the insured at an age specified in the certificate. A society may require approval
25 of an application for membership in order to effect this transfer and may provide in
26 all other respects for the regulation, government, and control of those certificates and
27 all rights, obligations, and liabilities incident to and connected with those certificates.
28 Ownership rights before transfer shall be specified in the certificate.

29 (h) A society may specify the terms and conditions on which benefit contracts
30 may be assigned.

31 * Sec. 20. AS 21.84 is amended by adding a new section to read:

1 and operate one or more separate accounts and issue contracts on a variable basis,
2 subject to laws regulating life and health insurers establishing those accounts and
3 issuing those contracts. To the extent the society considers it necessary in order to
4 comply with applicable federal or state law, or any rule made under applicable federal
5 or state law, the society may

6 (1) adopt special procedures for the conduct of the business and affairs
7 of a separate account;

8 (2) for persons having beneficial interests in the account, provide
9 special voting and other rights, including special rights and procedures relating to
10 investment policy, investment advisory services, selection of certified public
11 accountants, and selection of a committee to manage the business and affairs of the
12 account; and

13 (3) issue contracts on a variable basis to which AS 21.84.255(b) and
14 (d) do not apply.

15 * **Sec. 24.** AS 21.84 is amended by adding a new section to read:

16 **Sec. 21.84.335. Applicability of other code provisions.** (a) Except as
17 provided in this section, societies are governed by this chapter and are exempt from
18 all other provisions of the insurance laws of this state for all purposes, including
19 governmental relations with the state.

20 (b) In addition to the provisions of this chapter, the following provisions of
21 this title apply to fraternal benefit societies to the extent applicable and not in conflict
22 with the express provisions of this chapter and the reasonable implications of this
23 chapter:

24 (1) AS 21.03;

25 (2) AS 21.06;

26 (3) AS 21.09.050;

27 (4) AS 21.09.100;

28 (5) AS 21.09.200;

29 (6) AS 21.09.205;

30 (7) AS 21.18;

31 (8) AS 21.21;

- 1 (9) AS 21.27;
2 (10) AS 21.33;
3 (11) AS 21.36;
4 (12) AS 21.42.290;
5 (13) AS 21.42.355;
6 (14) AS 21.53;
7 (15) AS 21.69.370;
8 (16) AS 21.69.640;
9 (17) AS 21.78; and
10 (18) AS 21.89.060.

11 * Sec. 25. AS 21.84 is amended by adding a new section to read:

12 **Article 6. Regulation.**

13 **Sec. 21.84.455. Valuation.** (a) Standards of valuation for certificates issued
14 before one year after the effective date of this Act shall be those provided by the laws
15 applicable immediately before the effective date of this Act.

16 (b) The minimum standards of valuation for certificates issued on or after one
17 year after the effective date of this Act shall be based on the following tables, which
18 shall be under valuation methods and standards, including interest assumptions, in
19 accordance with the laws of this state applicable to life and health insurers issuing
20 policies containing similar benefits:

21 (1) for certificates of life insurance, the Commissioner's 1941 Standard
22 Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality
23 Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the
24 Commissioner's 1980 Standard Ordinary Mortality Table, or a more recent table made
25 applicable to life insurers;

26 (2) for annuity and pure endowment certificates, for total and
27 permanent disability benefits, for accidental death benefits, and for noncancellable
28 accident and health benefits, the tables authorized for use by life and health insurers
29 in this state.

30 (c) The director may, in the director's discretion, accept other standards for
31 valuation if the director finds that the reserves produced under those standards will not

1 be less in the aggregate than reserves computed in accordance with the minimum
2 valuation standard presented in this section. The director may, in the director's
3 discretion, vary the standards of mortality applicable to benefit contracts on
4 substandard lives or other extrahazardous lives by any society authorized to do
5 business in this state.

6 (d) A society, with the consent of the insurance supervisory official of the state
7 of domicile of the society and under conditions that the director may impose, may
8 establish and maintain reserves on its certificates in excess of the reserves required, but
9 the contractual rights of any benefit member shall not be affected.

10 * Sec. 26. AS 21.84 is amended by adding a new section to read:

11 **Sec. 21.84.465. Reports.** (a) Reports shall be filed in accordance with the
12 provisions of this section.

13 (b) A society transacting business in this state shall annually, on or before
14 March 2, unless the time has been extended by the director for cause shown, file with
15 the director a true statement of the society's financial conditions, transactions, and
16 affairs for the preceding calendar year and pay the applicable fee under AS 21.06.250.
17 The statement shall be in the general form and content approved by the National
18 Association of Insurance Commissioners for fraternal benefit societies and
19 supplemented by additional information required by the director.

20 (c) As a part of the annual statement required by this section, each society
21 shall, on or before March 1, file with the director a valuation of the society's
22 certificates in force on the preceding December 31, but the director may, in the
23 director's discretion, for cause shown, extend the time for filing the valuation for not
24 more than two calendar months. The valuation shall be done in accordance with the
25 standards specified in AS 21.84.455. The valuation and underlying data shall be
26 certified by a qualified actuary or, at the expense of the society, verified by the actuary
27 of the insurance regulatory agency of the state of domicile of the society.

28 (d) If a society fails to file the annual statement in the form and within the
29 time provided by this section, the society shall forfeit \$100 for each day that the
30 neglect continues, and, upon notice by the director to that effect, the society's authority
31 to do business in this state shall cease while the default continues.

1 (e) A synopsis of its annual statement providing an explanation of the facts
2 concerning the condition of the society shall be either printed and mailed to each
3 benefit member of the society not later than June 1 of each year or published in the
4 society's official publication.

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

10 * Sec. 27. AS 21.84 is amended by adding a new section to read:

11 **Sec. 21.84.475. License.** Societies that are authorized to transact business in
12 this state on the effective date of this Act, and societies licensed after the effective date
13 of this Act and before July 1 immediately following the effective date of this Act, may
14 continue the business through June 30 immediately following the effective date of this
15 Act. The authority of those societies and all other societies licensed after the effective
16 date of this Act may be renewed annually, but, in all cases, terminates on the first day
17 of the succeeding July. However, a license issued continues in full force and effect
18 until the new license is issued or specifically refused. For each license or renewal, the
19 society shall pay a fee set under AS 21.06.250. A certified copy or duplicate of the
20 license shall be prima facie evidence that the licensee is a fraternal benefit society
21 under this chapter.

22 * Sec. 28. AS 21.84 is amended by adding a new section to read:

23 **Sec. 21.84.485. Examination of societies.** The director may examine a society
24 in the manner authorized for an insurer under AS 21.06.120 - 21.06.230. The
25 requirements, procedures, authorization, and process for examinations authorized under
26 this section shall be the same as for an insurer.

27 * Sec. 29. AS 21.84 is amended by adding a new section to read:

28 **Sec. 21.84.495. Foreign or alien society; admission.** A foreign or alien
29 society may not transact business in this state without a license issued by the director.
30 A foreign or alien society desiring admission to this state shall comply with the
31 requirements and limitations of this chapter applicable to domestic societies. The

- 1 society may be licensed to transact business in this state upon filing with the director
- 2 (1) a certified copy of its articles of incorporation;
- 3 (2) a copy of its bylaws, certified by its secretary or corresponding
- 4 officer;
- 5 (3) a power of attorney to the director as prescribed in AS 21.84.625;
- 6 (4) a statement of its business under oath of its president and secretary
- 7 or corresponding officers in a form prescribed by the director, verified by an
- 8 examination made by the supervising insurance official of its home state or other state.
- 9 territory, province, or country, satisfactory to the director;
- 10 (5) certification from the proper official of its home state, territory,
- 11 province, or country that the society is legally incorporated and licensed to transact
- 12 business therein;
- 13 (6) copies of its certificate forms;
- 14 (7) information showing that its assets are invested in accordance with
- 15 the provisions of this chapter; and
- 16 (8) other information the director may consider necessary.

17 * **Sec. 30.** AS 21.84 is amended by adding a new section to read:

18 **Sec. 21.84.535. Suspension, revocation, or refusal of license of foreign or**

19 **alien society.** (a) When the director, upon investigation, finds that a foreign or alien

20 society transacting or applying to transact business in this state (1) has exceeded its

21 powers, (2) has failed to comply with a provision of this chapter, (3) is not fulfilling

22 its contracts in good faith, or (4) is conducting its business fraudulently or in a manner

23 hazardous to its members or creditors or the public, the director shall notify the society

24 in writing of the deficiency or deficiencies and state in writing the reasons for the

25 director's dissatisfaction. The director shall immediately issue a written order to the

26 society requiring that the deficiency or deficiencies be corrected. After receipt of the

27 order, the society shall have 30 days to comply with the director's order for correction.

28 If the society fails to comply, the director shall notify the society of the findings of

29 noncompliance and require the society to show cause on a date to be named why its

30 license should not be suspended, revoked, or refused. If, on that date, the society does

31 not present good and sufficient reason why its authority to do business in this state

1 should not be suspended, revoked, or refused, the director may suspend or refuse the
2 license of the society to do business in this state until satisfactory evidence is furnished
3 to the director that the suspension or refusal should be withdrawn, or the director may
4 revoke the authority of the society to do business in this state.

5 (b) Nothing in this section shall be construed to prevent the society from
6 continuing in good faith all contracts made in this state during the time the society was
7 legally authorized to transact business in this state.

8 * **Sec. 31.** AS 21.84 is amended by adding a new section to read:

9 **Sec. 21.84.565. Licensing of agents.** (a) Agents of societies shall be licensed
10 in accordance with the provisions of AS 21.27.

11 (b) An examination or license may not be required of a regular salaried officer,
12 employee, or member of a licensed society who devotes substantially all the person's
13 services to activities other than the solicitation of fraternal insurance contracts from the
14 public and who receives for the solicitation of fraternal insurance contracts no
15 commission or other compensation directly dependent upon the amount of business
16 obtained.

17 * **Sec. 32.** AS 21.84 is amended by adding a new section to read:

18 **Sec. 21.84.575. Unfair methods of competition and unfair and deceptive**
19 **acts and practices.** A society and an agent authorized to do business in this state are
20 subject to the provisions of AS 21.36; however, nothing in those provisions shall be
21 construed as applying to or affecting

22 (1) the right of a society to determine its eligibility requirements for
23 membership; or

24 (2) the offering of benefits exclusively to members or persons eligible
25 for membership in the society by a subsidiary corporation or affiliated organization of
26 the society.

27 * **Sec. 33.** AS 21.84 is amended by adding new sections to read:

28 **Article 7. Miscellaneous.**

29 **Sec. 21.84.625. Service of process.** (a) A society authorized to do business
30 in this state shall appoint in writing the director and the director's successors in office
31 to be its true and lawful attorney upon whom all lawful process in an action or

1 proceeding against it shall be served. The society shall agree in writing that any
2 lawful process against it that is served on the appointed attorney is of the same legal
3 force and validity as if served on the society and that the authority continues in force
4 so long as any liability remains outstanding in this state. Copies of the appointment,
5 certified by the director, are sufficient evidence of the appointment and shall be
6 admitted in evidence with the same force and effect as the original.

7 (b) Service may only be made on the director or, if the director is absent, upon
8 the person in charge of the director's office. Service shall be made in duplicate and
9 shall constitute sufficient service on the society. When legal process against a society
10 is served on the director, the director shall immediately forward one of the duplicate
11 copies by registered mail, prepaid, to the secretary or corresponding officer. Legal
12 process shall not be served on a society except in the manner provided in this section.
13 At the time of serving a process on the director, the plaintiff or complainant in the
14 action shall pay to the director a fee set under AS 21.06.250.

15 (c) A society shall respond to the service of process as provided in the Alaska
16 Rules of Civil Procedure.

17 **Sec. 21.84.650. Penalties.** (a) A person who knowingly makes a false or
18 fraudulent statement or representation in or with reference to an application for
19 membership, or for the purpose of obtaining money from or a benefit in a society, is
20 guilty of a misdemeanor and is punishable by a fine of not more than \$2,500 and is
21 liable for a civil penalty of three times the amount received by the violator as
22 compensation or commission. A civil penalty may be sued for and recovered by the
23 aggrieved person or society for the person's or society's own use and benefit.

24 (b) A person who makes a false sworn statement in a report or declaration
25 required or authorized by this chapter or in a statement concerning the death or
26 disability of an insured for the purpose of obtaining payment of a benefit named in the
27 certificate and who does not believe the statement to be true is guilty of perjury and,
28 upon conviction, is subject to the penalties prescribed by law for perjury under
29 AS 11.56.200.

30 (c) A person who solicits membership for, or in any manner assists in
31 procuring membership in, a society not licensed to do business in this state is guilty

1 of a violation and, upon conviction, is punishable by a fine of not less than \$50 or
2 more than \$200.

3 (d) A person who knowingly engages in conduct that constitutes a violation
4 of the provisions of this chapter for which a penalty is not otherwise prescribed is
5 guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than
6 \$2,500.

7 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

8 **Sec. 21.84.675. Review.** Decisions and findings of the director made under
9 the provisions of this chapter are subject to review by proceedings in a court of
10 competent jurisdiction in this state.

11 **Sec. 21.84.700. Exemption of certain societies.** (a) Nothing contained in this
12 chapter shall be construed to affect or apply to

13 (1) grand or subordinate lodges of societies, orders, or associations
14 doing business in this state that provide benefits exclusively through local or
15 subordinate lodges;

16 (2) societies, orders, or associations that admit to membership only
17 persons engaged in one or more crafts or hazardous occupations, in the same or similar
18 lines of business, and that insure only members and families of the society, order, or
19 association, and the ladies' societies or ladies' auxiliaries of the societies, orders, or
20 associations;

21 (3) domestic societies that limit their membership to employees of a
22 particular city or town, designated firm, business house, or corporation and that
23 provide for death benefits of not more than \$400 or health care benefits of not more
24 than \$350 to a person in one year, or both; or

25 (4) domestic societies or associations of a purely religious, charitable,
26 or benevolent description that provide for death benefits of not more than \$350 or
27 health care benefits of not more than \$350 to a person in one year, or both.

28 (b) A society or association described in (a)(3) or (4) of this section that
29 provides for death or health care benefits for which benefit certificates are issued and
30 a society or association described in (a)(4) of this section that has more than 1,000
31 members are not exempt from the provisions of this chapter but shall comply with the

1 requirements of this chapter.

2 (c) A society that, by the provisions of this section, is exempt from the
3 requirements of this chapter, except a society described in (a)(2) of this section, may
4 not give or allow or promise to give or allow to a person compensation for procuring
5 new members.

6 (d) A society that provides benefits for health care or death resulting solely
7 from accident and that does not obligate itself to pay natural death or health care
8 benefits has all of the privileges and is subject to all the applicable provisions and
9 regulations of this chapter, except that the provisions of this chapter relating to medical
10 examination, evaluations of benefit certificates, and incontestability do not apply to the
11 society.

12 (e) The director may require a society or association to provide, by
13 examination or otherwise, information that will enable the director to determine
14 whether the society or association is exempt from the provisions of this chapter.

15 (f) Societies that are exempt from the provisions of this chapter under the
16 provisions of this section shall also be exempt from all other provisions of the
17 insurance laws of this state.

18 * Sec. 34. AS 21.84.900 is amended to read:

19 Sec. 21.84.900. **Definitions.** In this chapter,

20 (1) "fraternal benefit society" means an incorporated society, order, or
21 supreme lodge, without capital stock, including one exempted under
22 AS 21.84.700(a)(2) [AS 21.84.020(a)], whether incorporated or not, that is conducted
23 solely for the benefit of its members and their beneficiaries and not for profit, that is
24 operated on a lodge system with ritualistic form of work, that has [HAVING] a
25 representative form of government, and that makes provision for the payment of
26 benefits under this chapter;

27 (2) "lodge system" means a society having a supreme [LEGISLATIVE
28 OR] governing body and subordinate lodges [OR BRANCHES BY WHATEVER
29 NAME KNOWN.] into which members are elected, initiated, or admitted under its
30 [CONSTITUTION.] laws, ritual, and rules; subordinate lodges [OR BRANCHES] are
31 required by the laws [LAW] of the society to hold regular meetings at least once in

1 each month in furtherance of the purposes of the society:

2 (3) "premiums" means rates, dues, or other required contribution by
3 whatever name known that are payable under the certificate:

4 (4) ["REPRESENTATIVE FORM OF GOVERNMENT" MEANS A
5 SOCIETY IN WHICH

6 (A) THERE IS PROVISION IN ITS CONSTITUTION OR
7 LAWS FOR A SUPREME LEGISLATIVE OR GOVERNING BODY,
8 COMPOSED OF REPRESENTATIVES ELECTED EITHER BY THE
9 MEMBERS OR BY DELEGATES ELECTED DIRECTLY OR INDIRECTLY
10 BY THE MEMBERS, TOGETHER WITH OTHER MEMBERS OF THE
11 BODY PRESCRIBED BY THE SOCIETY'S CONSTITUTION AND LAWS;

12 (B) THE REPRESENTATIVES ELECTED CONSTITUTE A
13 MAJORITY IN NUMBER AND HAVE NOT LESS THAN TWO-THIRDS OF
14 THE VOTES OR LESS THAN THE VOTES REQUIRED TO AMEND ITS
15 CONSTITUTION AND LAWS;

16 (C) THE MEETINGS OF THE SUPREME LEGISLATIVE OR
17 GOVERNING BODY AND THE ELECTION OF OFFICERS,
18 REPRESENTATIVES, OR DELEGATES ARE HELD AS OFTEN AS ONCE
19 IN FOUR CALENDAR YEARS;

20 (D) THE SOCIETY HAS A BOARD OF DIRECTORS
21 CHARGED WITH THE RESPONSIBILITY FOR MANAGING ITS AFFAIRS
22 IN THE INTERIM BETWEEN MEETINGS OF ITS SUPREME
23 LEGISLATIVE OR GOVERNING BODY, SUBJECT TO CONTROL BY
24 THE BODY AND HAVING POWERS AND DUTIES DELEGATED TO IT
25 IN THE CONSTITUTION OR LAWS OF THE SOCIETY;

26 (E) THE BOARD OF DIRECTORS IS ELECTED BY THE
27 SUPREME LEGISLATIVE OR GOVERNING BODY, EXCEPT IN CASE OF
28 FILLING A VACANCY IN THE INTERIM BETWEEN MEETINGS OF THE
29 BODY;

30 (F) THE OFFICERS ARE ELECTED EITHER BY THE
31 SUPREME LEGISLATIVE OR GOVERNING BODY OR BY THE BOARD

1 OF DIRECTORS; AND

2 (G) THE MEMBERS, OFFICERS, REPRESENTATIVES, OR
3 DELEGATES MAY NOT VOTE BY PROXY;

4 (5)] "society," unless otherwise indicated, means a fraternal benefit
5 society;

6 * Sec. 35. AS 21.84.900 is amended by adding new paragraphs to read:

7 (5) "alien society" means a society formed under the laws other than
8 those of the United States of America, its states, territories, or the District of
9 Columbia;

10 (6) "benefit contract" means the agreement for provision of benefits
11 authorized by AS 21.84.201, as that agreement is described in AS 21.84.255(a);

12 (7) "benefit member" means an adult member who is designated by the
13 laws or rules of the society to be a benefit member under a benefit contract;

14 (8) "certificate" means the document issued as written evidence of the
15 benefit contract;

16 (9) "domestic society" means a society formed under the laws of this
17 state;

18 (10) "foreign society" means a society formed under the laws of
19 another state, a territory belonging to the United States of America, or the District of
20 Columbia;

21 (11) "laws" means the society's articles of incorporation, constitution,
22 and bylaws, however designated;

23 (12) "lodge" means subordinate member units of the society known as
24 camps, courts, councils, branches, or another designation;

25 (13) "rules" means all rules, regulations, or resolutions adopted by the
26 supreme governing body or board of directors that are intended to have general
27 application to the members of the society.

28 * Sec. 36. AS 21.84.010, 21.84.020, 21.84.030, 21.84.040, 21.84.050, 21.84.110,
29 21.84.130(b), 21.84.130(c), 21.84.140, 21.84.150, 21.84.160, 21.84.170(b), 21.84.180,
30 21.84.190, 21.84.200, 21.84.210, 21.84.220, 21.84.250, 21.84.260, 21.84.270, 21.84.280,
31 21.84.300, 21.84.310, 21.84.320(c), 21.84.330, 21.84.340, 21.84.350, 21.84.360, 21.84.370,

- 1 21.84.380, 21.84.390, 21.84.470, 21.84.480, 21.84.490, 21.84.500, 21.84.510, 21.84.520,
2 21.84.550, and 21.84.590 are repealed.
- 3 * Sec. 37. This Act takes effect January 1, 1998.

**Comparison of Sections in the Alaska Bill Amending
 AS 21:84 with Corresponding Sections in the
 NFCA Model Fraternal Code**

<u>Alaska Draft</u>	<u>MFC Section</u>	<u>MFC Counterpart</u>
new 21.84.005	3	Representative form of government
21.84.025	6	Membership
21.84.035	7	Location of office
21.84.045	8	No personal liability - indemnity
21.84.055	9	Waiver
21.84.059	11	Amendments to laws
21.84.060	10	Articles of Incorporation
21.84.070	10	Filing Arts; bond increased - OK
21.84.080	10	Completing organization - 1 year
21.84.090	10	Solicitations - \$150,000 premium - OK
21.84.110	10	Certificate of compliance
21.84.120	10	Corporate powers retained
21.84.170(a)	11	Institutions
21.84.175	13	Reinsurance
21.84.185	14	Consolidations and mergers
21.84.195	15	Conversion to mutual insurer
21.84.201	16	Benefits
21.84.230(a)	17	Beneficiaries - owner; irrevocable beneficiary
21.84.230(c)	17	Payable to owner - OK
21.84.255	19	Benefit contract; MFC 19(f) included - OK
21.84.265	20	Nonforfeitures - MFC - OK
21.84.275	21	Investments - OK
21.84.320(a)	22(a)	Funds - MFC
21.84.320(d)	22(c)	Separate accounts - MFC
21.84.335	23	Exemptions - other applicable provisions (same as present law 21.84.010 and 21.84.590)
21.84.455	25	Valuation - MFC - OK
21.84.465	26	Reports - annual statement
21.84.475	27	License
21.84.485	28	Examinations - MFC - OK
21.84.495	29	Foreign/alien society
21.84.535	31	Suspension of foreign/alien society
21.84.565	33	Agents - (c) contains older MFC part-time exemptions
21.84.575	34	Trade practices
21.84.625	35	Service of process - MFC
21.84.650	37	Penalties
21.84.700	38	Exempt societies
21.84.900	4	Definitions
(1)	1	"fraternal benefit society"
(2)	2	"lodge system"
(3)	4	"premiums"
(4)	3	"representative form of government"
(5)	1	"society"
6 et seq.	4	include MFC 4 definitions

These sections of existing Alaska law remain in force intact:

- 21.84.130(a) - "After July 1, 1967, an unincorporated or voluntary association may not be permitted to transact business in this state as a fraternal benefit society."
- 21.84.230(b) - (MFC 17(b)) - Funeral benefit limited to \$500
- 21.84.240 - (MFC 18) - Immunity of benefits from attachment
- 21.84.400 - (MFC 24) - Tax exemption
- 21.84.530 - (MFC 30) - Injunction or liquidation [domestic society]
- 21.84.540 - (MFC 32) - Petition for injunction

A PROPOSAL FOR ENACTMENT OF THE MODEL FRATERNAL CODE
 OF THE NATIONAL FRATERNAL CONGRESS OF AMERICA
 IN LIEU OF CHAPTER 84 OF THE ALASKA INSURANCE CODE

A. The legislative history of the antecedents to Chapter 84 of the Alaska Insurance Code.

Alaska enacted a new comprehensive Insurance Code in 1966 as Title 21 of the Statute Law of Alaska (Chapter 120, SLA 1966). Chapter 84 of Title 21, Sections 21.84.010 to 21.84.590 and 21.84.900, govern fraternal benefit societies. The provisions in Chapter 84 as enacted in 1966 were nearly identical to the text of the Uniform Fraternal Code of 1962 that had been drafted and approved by the National Fraternal Congress of America (NFCA) and the National Association of Insurance Commissioners. Twenty-four other states and Puerto Rico also adopted the Uniform Fraternal Code.

Present Chapter 84 has been amended several times since 1966:

<u>Section</u>	<u>Caption</u>	<u>Amendment Date</u>
21.84.010	Scope	Sec. 211, C. 67, 1992
21.84.030	License	Sec. 21, C. 26, 1985
21.84.210	Children	Sec. 22, C. 21, 1985
21.84.220	Nonforfeiture	Secs. 4,5, C. 28, 1984
21.84.290	(repealed)	Sec. 223, C. 67, 1992
21.84.340	Statement	Sec. 22, C. 26, 1985
21.84.350	Valuation	Sec. 6, C. 28, 1984 Sec. 212, C. 67, 1992
21.84.410 to		
21.84.460	(repealed)	Sec. 223, C. 67, 1992
21.84.470	Misrepresentation	Sec. 19, C. 149, 1984
21.84.480	Discrimination	Sec. 213, C. 67, 1992
21.84.490	Process	Sec. 24, C. 26, 1985
21.84.560 to		
21.84.580	(repealed)	Sec. 223, C. 67, 1992
21.84.590	Applicability of Code	Sec. 2, C. 40, 1981 Sec. 2, C. 45, 1981 Sec. 20, C. 149, 1984 Sec. 25, C. 26, 1985

		Sec. 36, C. 50, 1989
		Sec. 3, C. 106, 1990
		Sec. 214, C. 67, 1992
21.84.900	Definitions(added)	Sec. 215, C. 67, 1992

Senate Bill S. 319. Laws of 1996 also amended various sections non-substantively in Chapter 84 [S. 319, Secs. 98 to 102].

In 1980, the NFCA undertook a project to revise and update the 1962 Uniform Code. The 1983 Model Fraternal Code draft was the result, adopted by the NFCA at its Annual Convention in Denver, Colorado, in October 1983.

Since then, the 1983 Model Fraternal Code (MFC), with some drafting changes to accommodate requests of the particular Insurance Department, has been enacted in thirty-one states:

Arizona	Illinois	Minnesota	North Dakota	Virginia
Arkansas	Indiana	Missouri	Oklahoma	Washington
Colorado	Iowa	Montana	Oregon	Wyoming
Florida	Kansas	Nebraska	Pennsylvania	
Georgia	Kentucky	Nevada	Rhode Island	
Hawaii	Louisiana	New Mexico	South Dakota	
Idaho	Michigan	North Carolina	Tennessee	

Fifteen of those states, like Alaska, had previously enacted the Uniform Code. California, Utah and Wisconsin also have modern fraternal benefit societies laws containing the essential features of the NFCA 1983 Model Code. MFC legislation is currently being considered in the District of Columbia, Maryland and New York. An MFC bill in Ohio, HB-468, has already passed the House and is pending in the Senate.

B. Why does Alaska need a new fraternal benefit society law?

Today's environment of rapid changes in the insurance industry demands that there also be major changes in the laws regulating insurers.

While one particular fraternal benefit society may be affected by current changes to a greater or lesser degree than would another society, no society is entirely immune from the environment in which it operates. When changes in the environment occur, each society must carefully evaluate the nature of the changes. Implicit

in this consideration is that each society has options from which to choose alternate courses of action. It is one thing to choose not to exercise an option and quite another to have no options from which to choose.

The 1983 Model Fraternal Code of the NFCA meets the challenges of the present and future in the following ways. The most sweeping additions to the revised code would give fraternal clear authority to own subsidiary corporations and to establish the separate accounts necessary for offering variable life insurance and variable annuities. Another addition would assure that the benefit authority of fraternal would be able to keep pace with any new authorities granted to commercial life insurers in the future.

In addition to these major changes, the revised code:

- Improves the presentation of fraternal purposes and characteristics through rewriting and reorganization.
- Maintains key fraternal characteristics--lodge system, representative form of government, membership--and traditional elements such as ritual.
- Improves provisions regarding juvenile contracts, designation of irrevocable beneficiaries, assignment of contracts and use of contracts for third-party insurance situations--to make contracts more useful to members in their personal, financial and tax planning.
- Integrates some regulatory provisions with commercial insurance standards to assure up-to-date regulation, while maintaining specific exceptions for unique fraternal practices.
- Uses updated language, uniform definitions, gender-neutral references, and consistent terminology.

C. The following is a section by section comparison of the MFC bill draft of new section numbers in Chapter 84 with corresponding sections in present Chapter 84:

<u>MFC</u>	<u>Ch. 84</u>	
<u>Section</u>	<u>Section</u>	<u>Caption and Commentary</u>
21.84.1010	21.84.900(1)	Fraternal Benefit Society description is substantially the same as present law.
21.84.1020	21.84.900(2)	Lodge System description is substantially the same as present law. Subsection (b) is essentially the same as present Section 21.84.210(a) relating to branches for children.

21.84.1030	21.84.900(4)	<p>Representative Form of Government - is similar to present law. Subsection (a) clearly recognizes two types of supreme governing bodies: (1) an assembly consisting of delegates elected by the members, and (2) a board elected directly by the members. Voting by mail has been authorized. At least one foreign society licensed in Alaska has the latter form of government.</p>
21.84.1040	21.84.900	<p>Terms Used -- Defines terms commonly used in the chapter. This section includes the definition of "premiums" and "society" in present Section 21.84.900 (3) and (5). The other definitions in that section are found in MFC Sections 21.84.1010, 21.84.1020 and 21.84.1030.</p>
21.84.1050	21.84.060(2)	<p>Purposes and Powers -- contains a listing of named purposes for which a society may be organized and states that these purposes may be carried out directly by the society, or indirectly through subsidiaries or affiliated organizations. The named purposes in subsection (a)(2) are the same as recited in present Section 21.84.060(2) with "patriotic" added. Owning subsidiary corporations which engage in activities beyond the stated purposes would be permitted only in accordance with the investment laws of the state of domicile of a society and whatever subsidiary authority can be derived therefrom. MFC Section 21.84.1210 covers investments generally, specifically authorizing societies to invest their funds in investments authorized for life insurers. The organization requirements are contained in MFC Section 21.84.1100.</p>
21.84.1060	21.84.180	<p>Membership -- emphasizes the importance of fraternal as membership organizations, and gives societies authority to set eligibility standards and the rights and privileges of each membership class. This section stresses the society's right and duty to set membership qualifications. A conscious effort has been made to divorce concepts of membership from concepts of insurance, the latter taken up in MFC Section 21.84.1160 - Benefits, and Section 21.84.1190 - The Benefit Contract.</p>

21.84.1070	21.84.160; .340(c)	Location of Office, Meetings, Communications--Subsection (a) is similar to present law, except that a society may hold a meeting where it has only one branch (instead of five). Subsection (b)(1) permits notices, etc. to be distributed to members through the society's official publication. Subsection (b)(2) is similar to present section 21.84.340(c) (requiring the mailing of a synopsis of the annual statement to a society's members). Subsection (c) contains statutory authorization for grievance procedures.
21.84.1080	21.84.250	No Personal Liability-Subsection (a) is similar to present law. Subsections (b) and (c) provide authorization for indemnification of directors, officers, etc. and for the purchase of directors and officers liability insurance. Subsection (d) provides immunity from liability for directors, officers and employees serving without compensation.
21.84.1090	21.84.150	Waiver - provides that no subordinate body, officers or members may waive any provisions of the laws of the society, similar to present law.
21.84.1100	21.84.-060 to 21.84.100	Organization - This section includes all organizational requirements of present law, and increases the bond requirement to not less than \$300,000 nor more than \$1,500,000 as required by the Director. The amount of initial premiums required has been raised to \$150,000. The purpose of these changes is to bring the organizational requirements more in line with contemporary economic realities. However, to our knowledge no domestic society has ever been organized in Alaska.
21.84.1110	21.84.140	Amendments to Laws - provides for submission and approval of amendments to the laws of a domestic society, and the filing of any such amendments by licensed foreign or alien societies, the same as present law.
21.84.1120	21.84.170	Institutions -- permits societies to operate and maintain organizations relevant to their society's purposes, similar to present law. Subsection (b) is the same as present Section 21.84.170(c)

providing that a society may not own or operate funeral homes or undertaking establishments.

21.84.1130 21.84.130 Reinsurance - is substantially the same as present law, but provides that a society may not reinsure the business of another society other than in a consolidation or merger.

21.84.1140 21.84.500; .510 Consolidations and mergers - is substantively the same as present law.

21.84.1150 21.84.520 Conversion of Fraternal Benefit Society into Mutual Life Insurance Company - is similar to present law.

21.84.1160 21.84.200; .210 Benefits -- lists authorized benefits the same as present law, but without the \$300 limit on tombstone benefits, and includes benefits for children and adults instead of providing for them in separate sections. The words "health care" are used in subsection (a)(4) to reflect the amendment enacted by section 102 of S. 316, Laws of 1996. Subsection (a)(7) provides that a society may issue benefits as authorized for life insurers, and which are not inconsistent with the fundamental characteristics of fraternal benefit societies. The question of contractual benefits is addressed in subsection (b).

21.84.1170 21.84.230 Beneficiaries -- places control of beneficiary designations in the hands of each society. This section covers the various matters contained in present law, subsection (c) also providing that if the owner of the certificate is other than the insured, the proceeds shall be paid to the owner.

21.84.1180 21.84.240 Benefits Not Attachable - is the same as present law.

21.84.1190 21.84.260 to 21.84.300 and 21.84.190

The Benefit Contract -- subsections (a) and (b) preserve the "open contract" concept of fraternal certificates contained in present Section 21.84.260(a) and (c). Likewise, the traditional "maintenance of solvency" provision in present Section 21.84.190 is preserved in subsection (d). Subsection (f) requires all fraternal certificates to be filed with the Director. the same as present law, and all certificates

issued after one year from the effective date of the Model Code must conform to the requirements for like policies issued by commercial life and health insurers. The provision in present Section 21.84.300(c) that a filing of a health certificate shall be considered approved unless disapproved within 60 days has been inserted in subsection (f) and made applicable also to a filing of a life certificate.

Subsection (f) makes unnecessary the inclusion of the text of present Sections 21.84.270 to .300 (standard and prohibited provisions) because fraternal certificates will be subject to the same general requirements for commercial life and health insurance company policies.

Subsections (g) and (h) pertain to control over juvenile contracts, and the conditions under which benefit contracts may be assigned.

21.84.1200 21.84.220; 21.84.350 & 21.84.1250

Nonforfeiture Benefits (Section 21.84.1200), and Valuation (Section 21.84.1250) - The thrust of these two sections is essentially the same as present law relating to calculation of nonforfeiture benefits and valuation of reserves. They provide that existing law shall apply to outstanding certificates, but that for certificates issued on or after one year from the effective date of the Model Code, societies must use at least the Commissioner's 1941 CSO Table. These two sections incorporate the authorization in present Section 21.84.220(d) and 21.84.350(j) that a society may calculate nonforfeiture benefits and value reserves of newly issued policies on any more recent mortality table authorized for use by commercial life insurance companies.

21.84.1210 21.84.330

Investments- This section is the same as present law.

21.84.1220 21.84.320

Funds - Subsections (a) and (b) are the same as in present law. Subsection (c) gives societies specific authority to create separate accounts. This authority is new. It will give fraternal the ability to offer members variable benefits. If variable benefits are subject to federal securities laws, the supreme governing body is authorized to exclude these forms of benefits from the "open contract" and

"maintenance of solvency" requirements in subsections (b) and (d) of MFC Section 21.84.1190. The supreme governing body is also empowered to authorize that separate, independent control be set up over such accounts should that be necessary or desirable. The text of present Section 21.84.320(c) would be obsolete and unnecessary because of the reserve valuation requirements in MFC Section 21.84.1250.

21.84.1230 21.84.010 and 21.84.590 - Applicability of other code provisions.

Subsection (a) is the same as present Section 21.84.010. Subsection (b) is the same as 21.84.590 with explanatory captions added for clarity.

21.84.1240 21.84.400 Taxation - is the same as present law.

21.84.1250 21.84.350 Valuation - See comment under MFC Section 21.84.1200. The text of present Section 21.84.350 would be obsolete and unnecessary because of the modern valuation requirements in MFC Section 21.84.1250.

21.84.1260 21.84.340; .350; .360

Reports - Subsection (a) is the same as present Section 21.84.340(h). Subsection (b) requires the filing of valuation reports similar to the requirement in present Section 21.84.350, but the valuation standards are set forth in MFC Section 21.84.1250. Subsection (c) provides a penalty for late filing of an annual statement, the same as in present Section 21.84.360.

21.84.1270 21.84.030 Annual License - is essentially the same as present law.

21.84.1280 21.84.370; .380; .390

Examination of Societies; No Adverse Publications - This section covers both domestic, foreign and alien societies. The confidentiality requirement of present Section 21.84.390 is preserved. Insurance Department examination of fraternal would be on the same basis as for commercial life and health insurers.

21.84.1290	21.84.040	Foreign or Alien society - Admission - Is essentially the same as present law.
21.84.1300	21.84.530	Injunction - Liquidation - Receivership of Domestic Society - This section is essentially the same as present law.
21.84.1310	21.84.050	Suspension, Revocation or Refusal of License of Foreign or Alien Society - is substantially the same as present law.
21.84.1320	21.84.540	Injunction - This section provides that only the Director of Insurance may bring an injunction proceeding against a society, not private litigants.
21.84.1330	21.84.590(7); AS 21-27	

Licensing of Agents - Subsection (a) provides that full-time fraternal agents will be required to meet the same licensing and regulatory standards applicable to commercial life insurance agents under AS 21.27, the same as present law. AS 21.27.060(d)(1) provides that an applicant for a limited license under AS 21.27.150(5) [a fraternal benefit society limited producer license to a person whose sole purpose is to be appointed by and to act on behalf of a fraternal benefit society] shall not be required to take an examination.

Subsection (b) provides that no examination or license shall be required of salaried persons who devote substantially all of their services to other than solicitation of insurance and who receive no commission or compensation dependent upon the amount of business obtained.

Subsection (c) provides an exemption from licensing of persons who devote only part-time to the solicitation of insurance and who in one year write no more than \$50,000 of life insurance or other insurance on a maximum number of 25 persons.

The Alaska Producers Act, AS 21.27, does not have the exemptions provided in subsections (b) and (c).

21.84.1340	21.84.470; .480; .590(9); AS 26-36	
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Unfair Methods of Competition - This section makes it clear that fraternal organizations are subject to the unfair trade practices and frauds laws of Alaska contained in AS 26-36, the same as provided in present Section 21.84.590(9). This section also makes it clear that unfair trade practices laws are not to be interpreted to interfere with membership practices of fraternal organizations. The application of AS 26-36 to fraternal organizations makes obsolete and unnecessary retention of the text of present Sections 21.84.470 and 21.84.480.

21.84.1350	21.84.490	Service of Process - Is essentially the same as present law.
21.84.1360	(None)	Penalties - This section provides specific penalties for certain violations in addition to the penalties specified in other sections. Subsection (a) contains the penalty for misrepresentation in present Section 21.84.470(b). Subsection (d) is a general catch-all penalty for a violation for which a specific penalty is not provided.
21.84.1370	21.84.550	Review - is essentially the same as present law.
21.84.1380	21.84.020	Exemption of Certain Societies -- Is the same as present law. The words "health care" are used in subsections (a)(3), (a)(4), (b) and (d) to reflect the amendments enacted by sections 98, 99 and 100 of S. 319, Laws of 1996.
21.84.1390	(None)	Severability - This section creates a rule of construction for courts ruling on a provision or provisions of this chapter that may not affect other sections.

D. Why not further amend the existing Chapter 84 rather than enact a whole new fraternal code?

A review of the changes made by the NFCA 1983 Model Fraternal Code indicates that the improvements are so numerous that a piece-meal amendment process to Chapter 84, as has been done frequently in the past, would not produce the same effect.

Uniformity of regulations is important to multi-state operations. When a statute on a certain subject is different than the one in another state, it makes varying interpretations more likely. That produces the need for different forms, different member benefits, complicated operations, and frustrated management.

What amendments would be given what priority? How many times would amendments be needed? This new Code provides a means to keep pace with things without constantly seeking law changes. Also, the Model Code would be a more readily understandable statute than present law, and would give the Alaska Director of Insurance more regulatory authority over fraternal benefit societies than does present law.

The NFCA Model Fraternal Code is the product of professional deliberation and scholarship which accounted for all aspects of fraternal operations. Its enactment in Alaska would produce far better legislation than could piece-meal amendments to solve a problem here and a problem there.

E. Summary.

Enactment of the MFC in Alaska would in no way affect the rights of existing society members and certificate holders.

The MFC would, though, affect the future conduct of business of fraternal societies in Alaska. The MFC gives societies certain additional authority under Sections 21.84.1050, .160(a)(7) and .220(c). The MFC would also strengthen regulatory control over societies by the Insurance Director: particularly, (1) under Section 21.84.1100 by increasing the organizational financial requirements for new societies; (2) under Section 21.84.1190 (f), requiring that all new certificates filed after one year from the effective date of the code shall conform to the same policy requirements as established for the same kinds of policies issued by commercial life and health insurers; and (3) under Sections 21.84.1200 and 21.84.1250, requiring the calculation of nonforfeiture benefits and the valuation of certificate reserves on new business on at least the 1941 CSO Table of Mortality.

The provision of MFC Section 21.84.1160(a)(7) that a fraternal benefit society may provide such other benefits as authorized for life and health insurers (which are not inconsistent with the concepts and fundamental nature of fraternal as expressed in the MFC) should be a major benefit to present members and future members of societies. Under that provision, the Director of Insurance can approve new forms of insurance for fraternal that have likewise been approved for commercial life and health insurers, without having to wait for the Legislature to enact an otherwise necessary amendment to the fraternal chapter.

MFC Section 21.84.1170(a) authorizes a society to provide that the owner of a benefit contract may designate an irrevocable beneficiary, and Section 21.84.1190(h) would authorize assignment of a benefit contract to a third party.

In summary, it is believed that the MFC would provide a clearer and more comprehensive statute regulating fraternal benefit societies than present Chapter 84 and would give the Director of Insurance more authority and control over their operations. The MFC provisions would be more beneficial and provide more protection to the people in Alaska who are or may choose to become members of and insured by a fraternal

benefit society licensed in Alaska. In addition, several sections clarify the law by specifically providing for the particular regulatory authority under Chapter 84, with particular references to other applicable chapters and sections.

There are no domestic fraternal benefit societies in Alaska of which we are aware, but there are six member-societies of the National Fraternal Congress of America from other states licensed in Alaska.

These societies have nearly 7,600 life insurance certificates and over 280 health insurance certificates on their members residing in Alaska. It is desirable that these societies be able to offer to their members in Alaska the benefits afforded by this new Model Fraternal Code.

Therefore, on their behalf the NFCA urges the introduction and enactment of the Model Fraternal Code bill in the 1997 session of the Alaska Legislature.

A legislative bill draft in the Alaska format and style is submitted with this Proposal.

Attached are two cross-reference charts showing corresponding sections of the Model Fraternal Code bill with the sections in present Chapter 84, and vice versa.

Respectfully submitted,

National Fraternal Congress of America
1280 Iroquois Drive, Suite 300
P.O. Box 3087
Naperville, Illinois 60566-7087
(630) 355-6633
October 1996

MEMORANDUM**State of Alaska**

TO: Marianne Burke
Director
Division of Insurance

DATE: February 11, 1997

FILE NO.:

THRU:

TELEPHONE NO.: (907) 465-2577

SUBJECT: Fraternal Benefit Legislation

FROM: Don Koch
Chief of Market Surveillance
Division of Insurance
Department of Commerce
and Economic Development

The National Fraternal Congress of America (NFCA) has asked the Alaska Division of Insurance to support adoption by the legislature of the most recent Model Fraternal Code (MFC). I have met with their lobbyist, Mr. Charlie Miller, on several occasions to resolve any concerns that we may have. Gloria Glover, and I have reviewed the proposed bill in its entirety. Katie Campbell has reviewed Section 20 of the Bill and Linda Brunette has reviewed Section 31. The following is a list of areas where concerns have arisen and where resolution has been reached or suggestion for resolution made. With these changes, I recommend that the Division support the legislation.

NFCA is hopeful that the bill will be introduced by the end of this week. I have agreed to fax this list to Mr. Miller so that the changes can be incorporated in the proposal. Changes to the draft are noted below:

1. Page 1, Line 14.
Language is missing. Paragraph (4) is an incomplete sentence. A review of the existing statute suggests that the word "proxy" is missing. We suggest repair by adding "proxy." at end of Line 14.
2. Page 2, Lines 5-7.
James P. Crawford, Assistant Revisor of Statutes suggested in Item #2 of his review memorandum that clarification of language in Sec. 21.84.005(b) was needed. NFCA has responded with proposed language. Replace the sentence starting on line 5 and ending on line 7 with: "*The elected delegates shall constitute a majority of the delegates entitled to vote, and they shall have not less than two-thirds of the total votes cast, nor less than the number of votes required to amend the society's laws.*" We have no problem with this language.
3. Page 2, Lines 5-7.
James P. Crawford, Assistant Revisor of Statutes suggested in Item #2 of his review memorandum that clarification of language in Sec. 21.84.005(c) was needed. NFCA has responded with proposed language. Replace the sentence starting on line 16 and ending on line 18 with: "*The elected board members shall constitute a majority of the number of directors entitled to vote, and they shall have not*

MEMORANDUM

Fraternal Benefit Legislation

2/11/97

less than the number of votes required to amend the society's laws." We have no problem with this language.

4. Page 3, Line 5.

The MFC intends that if a society is providing benefits on the lives of children, it must also set the minimum age for adult membership. It also establishes the range of ages within which that minimum age must be selected. The current language appears to miss that point. We suggest repair by inserting the words "*shall be set at not*" in place of the words "*may not be*" on Lines 5-6, and by inserting the words "*and not*" in place of the word "*or*" on Line 6.

5. Page 5, Lines 15-19.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #3 of his review memorandum that the standard "*willful or wanton*" be changed to "*reckless*" and "*intentional*." This was included in the draft. NFCA has responded that it has no problem with the change, nor do we. No revision to the draft is necessary since the suggestion was already incorporated.

6. Page 7, Line 21.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 070 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 21 before the word "*society's*".

7. Page 8, Line 10.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 080 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 10 before the word "*society*".

8. Page 8, Line 14.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 090 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 14 before the word "*society*".

9. Page 8, Line 18.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 090 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 18 before the word "*society*".

10. Page 9, Line 17.

Sec. 100 deals with the certificate of authority. The title of the section refers to certificate of compliance. We suggest repair by changing the section title to read "*Certificate of Authority*".

11. Page 9, Line 19.

A review of the material submitted by NFCA indicates that AS 21.84.060-100 are intended to apply to domestic societies. However, the language in Sec. 100 is not clear in that regard. We suggest repair by inserting "*domestic*" on line 19 before the word "*society*".

MEMORANDUM

Fraternal Benefit Legislation

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12. Page 19, Line 17.

AS 21.84.340(c) & (d) were omitted with the redrafted bill. Sec. (d) was added to the law in 1995. We suggest that these paragraphs need to be added back in the new Sec. 21.84.465 as follows:

"(c) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or published in the society's official publication."

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

13. Page 20, Line 12-30.

This section replaces and is substantially similar to AS 21.84.380-390. In 1990 and 1992 there were a number of changes made to the examination statutes in AS 21.06.120-230 to meet the states needs in response to NAIC accreditation efforts. These statutes were intended to apply to all insuring entities. The process described in AS 21.06.120-230 describes not only the examination function but the process that follows the examination as well. We suggest that a clarification of the applicability of the entire process be confirmed with this change. We suggest that the proposed Sec. 21.84.485 be replaced with the following:

"The director may examine a society in the manner as authorized for an insurer in AS 21.06.120-230. The requirements, procedures, authorizations, and process shall be the same as for an insurer."

14. Page 22, Lines 13-30.

In 1992, the license provisions of the Alaska Insurance Statutes were rewritten and consolidated in AS 21.27. In particular, exception language similar to that in the new Sec. 21.84.565(c) was removed. Similar language existed in the statutes prior to 1992. New Sec. 21.84.565(b) substantially duplicates AS 21.27.010(e). We suggest that subsections (b) and (c) be removed.

15. Page 23, Lines 29-31.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #4 of his review memorandum that Sec. 21.84.625(c) be modified to avoid changing a court rule. NFCA has responded with proposed language. Replace (c) on lines 29-30 with: *"(c) A society shall respond to the service of process as provided in Rule 12, Alaska Rules of Procedure."* We have no problem with this language.

16. Page 24, Lines 1-21.

James P. Crawford, Assistant Revisor of Statutes noted in Item #5 of his review memorandum that Sec. 21.84.650 had been modified to comport with other Alaska Statutes dealing with perjury. NFCA has agreed to the modification. We likewise have no problem with this modification.

MEMORANDUM

Fraternal Benefit Legislation

2/11/97

17. Page 26, Lines 17-18.

This section revises the definition of premiums. It is not clear why the word "dues" has been added as a premium feature and therefor taxable. It also appears that the added language "that are payable under the certificate" does not add anything to the definition and if fact may make the definition less clear. We suggest that the repair to this section is to remove the changes made. Remove ", dues," on line 17 and "that are payable under the certificate" on line 18.

18. Page 26, Lines 19-20.

NFCA has noted that AS 21.84.900(4) is not needed. We agree. Remove AS 21.84.900(4).

19. Page 28, Line 3.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #1 of his review memorandum that the requester might wish to consider defining the terms "domestic society," "foreign society" and "alien society." I am not sure that this is needed but have no objection. NFCA has provided the following definitions and they are OK.

"(¶) 'domestic society' means a society formed under the laws of this state:"

"(¶) 'foreign society' means a society formed under the laws of another state, the District of Columbia, and territories or commonwealths belonging to the United States of America;"

"(¶) 'alien society' means a society formed under the laws of a country other than the United States of America, its states, District of Columbia, territories and commonwealths;"

20.

James P. Crawford, Assistant Revisor of Statutes suggested in Item #6 of his review memorandum that a severability clause was not needed and explained why. NFCA has responded with agreement. We likewise concur.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 9, 1997

SUBJECT: Fraternal benefit societies (Work Order No. 20-LS0251\A)

TO: Representative Carl Moses
Attn: Tim Benintendi

FROM: James P. Crawford 
Assistant Revisor of Statutes

In addition to making numbering, stylistic, and organization changes to the material submitted by your office, I have made additional changes that I want to bring to your attention, along with other issues for you to consider.

1. The draft uses the terms "domestic society" and "foreign or alien society" in various places without defining them anywhere. Consider whether you want these terms defined, and, if you do, how you want them defined. AS 21.90.900, which defines "alien insurer," "domestic insurer," and "foreign insurer," may provide some ideas.
2. AS 21.84.005(b) and (c), added by bill section 1, provide that persons elected to the assembly or to the board of a supreme governing body "shall constitute a majority and shall have not less than two-thirds of the votes and not less than the number of votes required to amend the society's laws." This quoted language is also found in existing law at AS 21.84.900(4). I must confess that I do not understand what this language means or is intended to mean in either location. Consider whether you would like to clarify the meaning, and, if you do, how you want it clarified.
3. AS 21.84.045(d), added by bill section 4, originally exempted directors and certain other individuals in societies from liability unless an "act or omission involved willful or wanton misconduct" in AS 21.84.1080 in the material supplied by your office. Alaska courts have not always been consistent in interpreting the phrase "willful or wanton." On occasion, the Alaska Supreme Court has equated the phrase with gross negligence; on other occasions, the court has equated it with recklessness, which represents a greater deviation than gross negligence from the standard of care exercised by a reasonably prudent person. Because of the phrase's ambiguity, I have substituted "reckless" as the standard. Additionally, if one is creating an exception to the liability exemption for "reckless misconduct," it seems logical that one would also want the same result for "intentional" misconduct. For this reason, I

Representative Carl Moses

January 9, 1997

Page 2

have included "intentional" in the standard as well. If you prefer the original language, please let me know, and I will make the necessary changes.

4. AS 21.84.625, added by bill section 33, relates to service of process. Because its provisions effectively amend Rule 12, Alaska Rules of Civil Procedure, I have made changes to the draft to reflect the court rule change. However, you may wish merely to delete the sentence in issue, found in subsection (c). The subsection reads as follows: "The service may not require a society to file an answer, pleading, or defense in fewer than 30 days from the date of mailing the copy of the service to a society." If you do decide you want to delete the sentence, thereby avoiding the consequences attending a court rule change, Civil Rule 12(a) will control. It provides that a "non-governmental party shall serve an answer to the complaint . . . within 40 days after service upon an officer or agency of the state appointed, authorized or designated as agent to receive service for such party pursuant to statute."

5. AS 21.84.650(a), added by bill section 33, originally described a perjury penalty in AS 21.84.1360(a) in the material supplied by your office. I have modified the subsection to more closely approximate the description of the offense of perjury currently found in our criminal code at AS 11.56.200. AS 21.84.650(d), also added by bill section 33, originally applied to individuals "guilty of a willful violation of, or neglect or refusal to comply with" provisions of the chapter in AS 21.84.1360(d) in the material supplied by your office. As this describes a criminal offense, I replaced the original language with more current language now used in our criminal code and employed in criminal bills that I thought most closely captured your intent. If you prefer different language with respect to these modification, please let me know, and I will make the necessary changes.

6. The material supplied by your office included a section containing a severability clause. AS 01.10.030 provides that a law enacted by the legislature that "lacks a severability clause shall be construed as though it contained the clause in the following language. 'If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.'" Thus, by law, all acts have a severability clause built in unless they state otherwise. Because AS 01.10.030 makes inclusion of an additional severability clause redundant and unnecessary, I have left that section out of this draft. Again, if you prefer the severability section to be included in this draft, please let me know, and I will make the necessary changes.

JPC:glc

97-003.glc

0-LS0251VA
Crawford
1/9/97

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MOSES

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fraternal benefit societies; amending Rule 12, Alaska Rules
2 of Civil Procedure; and providing for an effective date."

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

4 * Section 1. AS 21.84 is amended by adding new sections to read:

5 Article 1. Structure and Purpose.

6 Sec. 21.84.005. Representative form of government. (a) A society has a
7 representative form of government if

8 (1) the society has a supreme governing body constituted as described
9 in (b) or (c) of this section;

10 (2) officers of the society are elected either by the supreme governing
11 body or by the board of directors;

12 (3) only benefit members are eligible for election to the supreme
13 governing body and to the board of directors; and

14 (4) a voting member has one vote, and a vote may not be cast by

proxy

1 (b) The supreme governing body may be constituted in an assembly. The
2 assembly is composed of delegates elected directly by the members or at intermediate
3 assemblies or conventions of members or their representatives, together with other
4 delegates prescribed in the society's laws. A society may provide for election of
5 delegates by mail. The elected delegates shall constitute a majority in number and
6 shall have not less than two-thirds of the votes and not less than the number of votes
7 required to amend the society's laws. The assembly shall be elected, shall meet at
8 least once every four years, and shall elect a board of directors to conduct the business
9 of the society between meetings of the assembly. Vacancies on the board of directors
10 between elections may be filled in the manner prescribed by the society's laws.

11 (c) The supreme governing body may be constituted in a board. The board
12 is composed of persons elected by the members, either directly or by their
13 representatives in intermediate assemblies, together with other persons prescribed in
14 the society's laws. A society may provide for election of the board by mail. A term
15 of a board member may not exceed four years. Vacancies on the board between
16 elections may be filled in the manner prescribed by the society's laws. Those persons
17 elected to the board shall constitute a majority in number and not less than the number
18 of votes required to amend the society's laws. A person filling the unexpired term of
19 an elected board member shall be considered to be an elected member. The board
20 shall meet at least quarterly to conduct the business of the society.

21 **Sec. 21.84.015. Purposes and powers.** (a) A society shall operate for the benefit
22 of members and their beneficiaries by (1) providing benefits as specified in
23 AS 21.84.201, and (2) operating for a social, intellectual, educational, charitable,
24 benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its
25 members, which benefits may also be extended to others. A purpose may be carried
26 out directly by the society or indirectly through subsidiary corporations or affiliated
27 organizations.

28 (b) A society may adopt and amend laws and rules for the government of the
29 society, the admission of its members, and the management of its affairs and may have
30 other powers necessary to carrying into effect the objects and purposes of the society.

31 * Sec. 2. AS 21.84 is amended by adding a new section to read:

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Article 2. Membership.

Sec. 21.84.025. Qualifications for membership. (a) A society shall specify in its laws or rules

(1) eligibility standards for each class of membership, but, if benefits are provided on the lives of children, the minimum age for adult membership may be less than 15 years of age or greater than 21 years of age;

(2) the process for admission to membership for each membership class; and

(3) the rights and privileges of each membership class; however, only benefit members may vote on the management of the insurance affairs of the society.

(b) A society may also admit social members, but the social members may not have a voice or vote in the management of the insurance affairs of the society.

(c) A society may organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges may not be required of children, nor may children have a voice or vote in the management of the society.

(d) Membership rights in the society are personal to the member and are not assignable.

* Sec. 3. AS 21.84 is amended by adding a new section to read:

Sec. 21.84.075. Location of office; meetings; communications to members; grievance procedures. (a) The principal office of a domestic society must be located in this state. The meetings of the supreme governing body of a society may be held in a state, district, province, or territory in which the society has at least one subordinate lodge or in another location as determined by the supreme governing body. All business transacted at the meetings is as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors must conform to language requirements for documents filed under AS 21.84.070.

(b) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. If published in the official publication, required reports,

1 notices, and statements shall be printed conspicuously. If the records of a society
2 show that two or more members have the same mailing address, an official publication
3 mailed to one member is considered to be mailed to all members at the same address
4 unless a member requests a separate copy.

5 (c) A synopsis of the society's annual statement providing an explanation of
6 the facts concerning the condition of the society shall be printed not later than June
7 1 of each year and mailed to each benefit member of the society or published in the
8 society's official publication.

9 (d) A society may provide in its laws or rules for grievance or complaint
10 procedures for members.

11 * Sec. 4. AS 21.84 is amended by adding a new section to read:

12 **Sec. 21.84.045. No personal liability; indemnity.** (a) The officers and
13 members of the supreme governing body or a subordinate body of a society are not
14 personally liable for benefits provided by a society.

15 (b) A society shall indemnify and reimburse a person for expenses reasonably
16 incurred by, and liabilities imposed upon, that person in connection with an action,
17 suit, or proceeding, or threat of an action, suit, or proceeding, whether civil, criminal,
18 administrative, or investigative, in which the person is involved by reason of the fact
19 of service in the capacity of a director, officer, employee, or agent of the society or
20 service in any capacity in a firm, corporation, or organization at the request of the
21 society. However, a society may not indemnify or reimburse a person in connection
22 with a matter in an action, suit, or proceeding, or threat of an action, suit, or
23 proceeding, that has been made the subject of a compromise settlement, or in which
24 the person is adjudged to be guilty of breach of a duty as a director, officer, employee,
25 or agent of the society, unless the person acted in good faith for a purpose the person
26 reasonably believed to be in or not opposed to the best interests of the society, and,
27 in a criminal action or proceeding, in addition, had no reasonable cause to believe that
28 the person's conduct constituted a violation of a criminal law of this state or another
29 jurisdiction. The determination of whether the conduct of the person meets the
30 standard required to justify indemnification and reimbursement may be made by the
31 supreme governing body or the board of directors through a majority vote of a quorum

1 consisting of persons who were not parties to the action, suit, or proceeding or by a
2 court of competent jurisdiction. The termination of an action, suit, or proceeding by
3 judgment, order, settlement, conviction, or plea of no contest as to the person does not
4 in itself create a conclusive presumption that the person did not meet the standard of
5 conduct required to justify indemnification and reimbursement. The right of
6 indemnification and reimbursement is not exclusive of other rights to which a person
7 may be entitled as a matter of law and inures to the benefit of the person's heirs,
8 executors, and administrators.

9 (c) A society may purchase and maintain insurance on behalf of a person who
10 is or was a director, officer, employee, or agent of the society, or who is or was
11 serving at the request of the society as a director, officer, employee, or agent of a firm,
12 corporation, or organization, against a liability asserted against the person and incurred
13 by the person arising out of that capacity, whether or not the society would have the
14 power to indemnify the person against that liability under this section.

15 (d) A director, officer, employee, member, or volunteer of a society serving
16 without compensation is not liable, and no cause of action may be brought against the
17 person for damages resulting from the exercise of judgment or discretion in connection
18 with the duties or responsibilities of the person for the society unless the act or
19 omission involved reckless or intentional misconduct.

20 * Sec. 5. AS 21.84.055 is amended by adding new sections to read:

21 Sec. 21.84.055. Waiver. The laws of the society may provide that a
22 subordinate body or its subordinate officers or members may not waive any provision
23 of the laws of the society. The provision is binding on the society and every member
24 and beneficiary of a member.

25 Article 3. Governance.

26 Sec. 21.84.059. Amendments to laws. (a) A domestic society may amend
27 its laws in accordance with its provisions by action of its supreme governing body at
28 a regular or special meeting or, if its laws provide, by referendum. The referendum
29 may be held in accordance with the provisions of its laws by the vote of the voting
30 members of the society, by the vote of delegates or representatives of voting members,
31 or by the vote of local lodges. A society may provide for voting by mail. An

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amendment submitted for adoption by referendum may not be adopted unless, within six months from the date of submission of the amendment, at least two-thirds of the members voting signify consent to the amendment by one of the methods specified under this subsection.

(b) An amendment to the laws of a domestic society may not take effect unless approved by the director. The director shall approve the amendment if the director finds that it has been legally adopted and is not inconsistent with the requirements of the laws of this state or with the character, objects, and purposes of the society. Unless the director disapproves the amendment within 60 days after it is filed, the amendment is considered approved. The approval or disapproval of the director shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the director disapproves the amendment, the reason for the disapproval shall be stated in the written notice.

(c) Within 90 days from the approval of the amendments by the director, all amendments, or a synopsis of them, shall be furnished to all members of the society, either by mail or by publication in full in the official publication of the society. The affidavit of an officer of the society or of a person authorized by the society to mail amendments, or a synopsis of them, stating facts that show that the amendments have been addressed and mailed, is prima facie evidence that the amendments, or a synopsis of them, have been furnished to the addressee.

(d) A foreign or alien society authorized to do business in this state shall file with the director a certified copy of all amendments of, or additions to, its laws within 90 days after the enactment of them.

(e) Printed copies of the laws, as amended, certified by the secretary or corresponding officer of the society are prima facie evidence of the legal adoption of those laws.

* Sec. 6. AS 21.84.060 is amended to read:

Sec. 21.84.060. Organization. The organization of a domestic society organized on or after the effective date of this Act shall be formed [GOVERNED] as follows: Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign,

1 and acknowledge before some officer, competent to take acknowledgment of deeds,
2 articles of incorporation, in which shall be stated

3 (1) the proposed corporate name of the society, which may not so
4 closely resemble the name of any society or insurance company as to be misleading
5 or confusing;

6 (2) the purposes for which it is being formed and the mode in which
7 its corporate powers are to be exercised; the purposes may not include more liberal
8 powers than are granted by this chapter [, PROVIDED THAT ANY LAWFUL
9 SOCIAL, INTELLECTUAL, EDUCATIONAL, CHARITABLE, BENEVOLENT,
10 MORAL, FRATERNAL, OR RELIGIOUS ADVANTAGES MAY BE SET OUT
11 AMONG THE PURPOSES OF THE SOCIETY];

12 (3) the names and residences of the incorporators and the names,
13 residences, and official titles of all the officers, trustees, directors, or other persons
14 who are to have and exercise the general control of the management of the affairs and
15 funds of the society for the first year or until the ensuing election at which all the
16 officers shall be elected by the supreme [LEGISLATIVE OR] governing body, which
17 election shall be held no later than one year from the date of the issuance of the
18 permanent certificate of authority.

19 * Sec. 7. AS 21.84.070 is amended to read:

20 Sec. 21.84.070. Filing articles and documents. The articles of incorporation,
21 certified copies of the society's [CONSTITUTION,] laws and rules, copies of all
22 proposed forms of certificates, applications, and circulars to be issued by the society,
23 and a bond conditioned upon the return to applicants of the advanced payments if the
24 organization is not completed within one year, shall be filed with the director, who
25 may require further information considered necessary. The bond with sureties
26 approved by the director shall be in an amount, not less than \$300,000 [\$5,000] or
27 more than \$1,500,000 [\$25,000], required by the director. All documents filed are to
28 be in the English language. If the purposes of the society conform to the requirements
29 of this chapter and all provisions of the law have been complied with, the director
30 shall so certify, retain, and file the articles of incorporation [,] and furnish the
31 incorporators a preliminary certificate of authority authorizing the society to solicit

1 members as hereinafter provided.

2 * Sec. 8. AS 21.84.080 is amended to read:

3 **Sec. 21.84.080. Time for completing organization.** A preliminary certificate
4 of authority [GRANTED UNDER THIS SECTION] is not valid after one year from
5 its date or after such further period, not exceeding one year, as may be authorized by
6 the director upon cause shown, unless the 500 applicants hereinafter required have
7 been secured and the organization has been completed as herein provided. The articles
8 of incorporation and all other proceedings thereunder shall become null and void in
9 one year from the date of the preliminary certificate of authority, or at the expiration
10 of the extended period, unless the society has completed its organization and received
11 a certificate of authority to do business as hereinafter provided.

12 * Sec. 9. AS 21.84.090 is amended to read:

13 **Sec. 21.84.090. Initial solicitations and qualifications.** Upon receipt of a
14 preliminary certificate of authority from the director, the society may solicit members
15 for the purpose of completing its organization, shall collect from each applicant the
16 amount of not less than one regular monthly premium in accordance with its table of
17 rates [AS PROVIDED BY ITS CONSTITUTION AND LAWS], and shall issue to
18 each applicant a receipt for the amount collected. A society may not incur any
19 liability other than for the return of the advance premium, or issue any certificate, or
20 pay, allow, or offer or promise to pay or allow, a death or health care benefit to any
21 person until

22 (1) actual bona fide applications for [DEATH] benefits have been
23 secured on 500 applicants and any necessary evidence of insurability has been
24 furnished to and approved by the society [AGGREGATING AT LEAST \$500,000
25 ON AT LEAST 500 LIVES;

26 (2) ALL APPLICANTS FOR DEATH BENEFITS HAVE
27 FURNISHED EVIDENCE OF INSURABILITY SATISFACTORY TO THE
28 SOCIETY];

29 (2) [(3)] certificates of examinations or acceptable declarations of
30 insurability have been filed and approved by the chief medical examiner of the society;

31 (3) [(4)] 10 subordinate lodges or branches have been established into

1 which the 500 applicants have been admitted:

2 (4) [(5)] there has been submitted to the director, under oath of the
3 president or secretary, or corresponding officer of the society, a list of the applicants,
4 giving their names, addresses, date each was admitted, name and number of the
5 subordinate branch of which each applicant is a member, amount of benefits to be
6 granted, and premiums for them;

7 (5) [(6)] it has been shown to the director, by sworn statement of the
8 treasurer, or corresponding officer of the society, that at least 500 applicants have each
9 paid in cash at least one regular monthly premium, which premiums in the aggregate
10 shall amount to at least \$150,000 [\$2,500, ALL OF WHICH SHALL BE CREDITED
11 TO THE FUND OR FUNDS FROM WHICH BENEFITS ARE TO BE PAID AND
12 NO PART OF WHICH MAY BE USED FOR EXPENSES]; the advance premiums
13 shall be held in trust during the period of organization, and, if the society has not
14 qualified for a certificate of authority within one year, the premiums shall be returned
15 to the applicants.

16 * Sec. 10. AS 21.84.100 is amended to read:

17 **Sec. 21.84.100. Certificate of compliance.** The director may make the
18 examination and require further information the director considers advisable. Upon
19 presentation of satisfactory evidence that the society has complied with all the
20 provisions of law, the director shall issue to the society a certificate of authority to
21 that effect and that the society is authorized to transact business under this chapter.
22 The certificate of authority shall be prima facie evidence of the existence of the
23 society at the date of the certificate. The director shall cause a record of the certificate
24 of authority to be made. A certified copy of the record may be given in evidence
25 with like effect as the original certificate of authority.

26 * Sec. 11. AS 21.84.120 is amended to read:

27 **Sec. 21.84.120. Corporate powers retained.** An incorporated society
28 authorized to transact business in this state on the effective date of this Act [JULY 1,
29 1966, MAY THEREAFTER EXERCISE ALL THE RIGHTS, POWERS, AND
30 PRIVILEGES PRESCRIBED IN THIS CHAPTER AND IN ITS CHARTER OR
31 ARTICLES OF INCORPORATION NOT INCONSISTENT WITH THIS CHAPTER.

1 A DOMESTIC SOCIETY] may not be required to reincorporate.

2 * Sec. 12. AS 21.84.170(a) is amended to read:

3 (a) It is lawful for a society to create, maintain, and operate organizations to
4 operate not for profit institutions to further the purposes permitted by
5 AS 21.84.015(a)(2). The institutions may provide services free or at a reasonable
6 charge. Real or personal [CHARITABLE, BENEVOLENT, OR EDUCATIONAL
7 INSTITUTIONS FOR THE BENEFIT OF ITS MEMBERS AND THEIR FAMILIES
8 AND DEPENDENTS AND FOR THE BENEFIT OF CHILDREN INSURED BY THE
9 SOCIETY. FOR THAT PURPOSE IT MAY OWN, HOLD, OR LEASE PERSONAL
10 PROPERTY OR REAL PROPERTY LOCATED INSIDE OR OUTSIDE THIS
11 STATE, WITH NECESSARY BUILDINGS THEREON. THE] property owned, held,
12 or leased by the society for this purpose shall be reported in every annual statement
13 but may not be allowed as an admitted asset of the society.

14 * Sec. 13. AS 21.84 is amended by adding a new section to read:

15 **Sec. 21.84.175. Reinsurance.** (a) A domestic society may, by a reinsurance
16 agreement, cede an individual risk or risks in whole or in part to an insurer, other than
17 another fraternal benefit society, that has the power to make reinsurance and that is
18 authorized to do business in this state or, if not authorized, that is approved by the
19 director. However, a society may not reinsure substantially all of its insurance in force
20 without the written permission of the director. A society may take credit for the
21 reserves on the ceded risks to the extent reinsured, but a credit may not be allowed as
22 an admitted asset or a deduction from liability to a ceding society for reinsurance
23 made, ceded, renewed, or otherwise becoming effective after the effective date of this
24 Act unless the reinsurance is payable by the assuming insurer on the basis of the
25 liability of the ceding society under the contract or contracts reinsured without
26 diminution because of the insolvency of the ceding society.

27 (b) Notwithstanding the limitation in (a) of this section, a society may reinsure
28 the risks of another society in a consolidation or merger approved by the director under
29 AS 21.84.185.

30 * Sec. 14. AS 21.84 is amended by adding a new section to read:

31 **Sec. 21.84.185. Consolidations and mergers.** (a) A domestic society may

1 consolidate or merge with another society by complying with the provisions of this
2 section. It shall file with the director

3 (1) a certified copy of the written contract containing in full the terms
4 and conditions of the consolidation or merger;

5 (2) a sworn statement by the president and secretary or corresponding
6 officers of each society showing the financial condition of the society on a date fixed
7 by the director but not earlier than December 31 immediately preceding the date of the
8 contract;

9 (3) a certificate of the president and secretary or corresponding officers
10 of each society, verified by their respective oaths, that the consolidation or merger has
11 been approved by a two-thirds vote of the supreme governing body of each society,
12 the vote being conducted at a regular or special meeting of each body or, if the
13 society's laws so permit, by mail; and

14 (4) evidence that, at least 60 days prior to the action of the supreme
15 governing body of each society, the text of the contract has been furnished to all
16 members of each society either by mail or by publication in full in the official
17 publication of each society.

18 (b) If the director finds that the contract is in conformity with the provisions
19 of this section, that the financial statements are correct, and that the consolidation or
20 merger is just and equitable to the members of each society, the director shall approve
21 the contract and issue a certificate to that effect. On approval, the contract is in full
22 force and effect unless a society that is a party to the contract is incorporated under
23 the laws of another state or territory. In that event, the consolidation or merger may
24 not become effective unless it has been approved as provided by the laws of that state
25 or territory and a certificate of that approval has been filed with the director. If the
26 laws of that state or territory contain no such provision, the consolidation or merger
27 may not become effective unless it has been approved by the director of that state or
28 territory and a certificate of that approval has been filed with the director.

29 (c) When the consolidation or merger becomes effective under this section, all
30 the rights, franchises, interests, and things in action of the consolidated or merged
31 societies in every type of property, real, personal, or mixed, belonging to the

1 consolidated or merged societies are vested in the society resulting from or remaining
2 after the consolidation or merger without another instrument, except that conveyances
3 of real property may be evidenced by proper deeds. and the title to any real estate or
4 interest in it, vested under the laws of this state in any of the societies consolidated or
5 merged, shall not revert or be in any way impaired by reason of the consolidation or
6 merger, but shall vest absolutely in the society resulting from or remaining after the
7 consolidation or merger.

8 (d) The affidavit of an officer of the society or of a person authorized by the
9 society to mail a notice or document stating that a notice or document has been
10 addressed and mailed is prima facie evidence that such notice or document has been
11 furnished to the addressees.

12 * Sec. 15. AS 21.84 is amended by adding a new section to read:

13 **Sec. 21.84.195. Conversion to a mutual life insurance company.** A
14 domestic fraternal benefit society may be converted and licensed as a mutual life
15 insurance company by compliance with the applicable requirements of AS 21.69 if the
16 plan of conversion has been approved by the director. A plan of conversion shall be
17 prepared in writing by the board of directors setting out the terms and conditions of
18 conversion. The affirmative vote of two-thirds of the members of the supreme
19 governing body at a regular or special meeting is necessary for approval of the plan.
20 A conversion may not take effect unless and until approved by the director, who may
21 give the approval if the director finds that the proposed change is in conformity with
22 the requirements of law and not prejudicial to the certificate holders of the society.

23 * Sec. 16. AS 21.84 is amended by adding a new section to read:

24 **Article 4. Contractual Benefits.**

25 **Sec. 21.84.201. Benefits.** (a) A society may provide the following contractual
26 benefits in any form:

- 27 (1) death benefits;
28 (2) endowment benefits;
29 (3) annuity benefits;
30 (4) temporary or permanent health care benefits;
31 (5) hospital, medical, or nursing benefits;

1 (6) monument or tombstone benefits to the memory of deceased
2 members; and

3 (7) other benefits authorized for life and health insurers that are not
4 inconsistent with this chapter.

5 (b) A society shall specify in its rules those persons who may be issued, or
6 covered by, the contractual benefits described in (a) of this section consistent with
7 providing benefits to members and the members' dependents. A society may provide
8 benefits on the lives of children under the minimum age for adult membership upon
9 application of an adult person.

10 * Sec. 17. AS 21.84.230(a) is amended to read:

11 (a) The owner of a benefit contract [MEMBER] shall have the right at all
12 times to change the beneficiary or beneficiaries in accordance with the
13 [CONSTITUTION,] laws [,] or rules of the society unless the owner waives this
14 right by specifically requesting in writing that the beneficiary designation be
15 irrevocable. A [. EVERY] society, by [ITS CONSTITUTION,] laws [,] or rules, may
16 limit the scope of beneficiaries and shall provide that a beneficiary may not have or
17 obtain a vested interest in the proceeds of a certificate until the certificate has become
18 due and payable in conformity with the provisions of the benefit [INSURANCE]
19 contract.

20 * Sec. 18. AS 21.84.230(c) is amended to read:

21 (c) If, at the death of a person insured under a benefit contract [MEMBER],
22 there is no lawful beneficiary to whom the proceeds [INSURANCE BENEFITS] are
23 payable, the amount of the benefits, except to the extent that funeral benefits may be
24 paid as provided in (b) of this section, shall be payable to the estate of the deceased
25 insured the same as other property not exempt, but, if the owner of the certificate
26 is not the insured, the amount of the benefits shall be payable to the owner
27 [PERSONAL REPRESENTATIVE OF THE DECEASED MEMBER].

28 * Sec. 19. AS 21.84 is amended by adding a new section to read:

29 Sec. 21.84.255. The benefit contract. (a) A society authorized to do business
30 in this state shall issue to each owner of a benefit contract a certificate specifying the
31 amount of benefits provided under the contract. The certificate, together with any

1 riders or endorsements attached to it, the laws of the society, the application for
2 membership, the application for insurance, and the declaration of insurability, if any,
3 signed by the applicant, and all amendments to each constitute the benefit contract, as
4 of the date of issuance, between the society and the owner, and the certificate must so
5 state. A copy of the application for insurance and declaration of insurability, if any,
6 shall be endorsed upon or attached to the certificate. All statements on the application
7 shall be representations and not warranties. A waiver of this provision is void.

8 (b) Except as provided in AS 21.84.320(d)(3), changes, additions, or
9 amendments to the laws of the society enacted subsequent to the issuance of the
10 certificate shall bind the owner and the beneficiaries and shall govern and control the
11 benefit contract in all respects as though the changes, additions, or amendments were
12 made before and were in force at the time of the application for insurance, except that
13 a change, addition, or amendment may not destroy or diminish benefits that the society
14 contracted to give the owner as of the date of issuance.

15 (c) A person upon whose life a benefit contract is issued before the person
16 attains the age of majority is bound by the terms of the application and certificate and
17 by all the laws and rules of the society to the same extent as though the age of
18 majority were attained at the time of application.

19 (d) Except as provided in AS 21.84.320(d)(3), a society shall provide in its
20 laws that if the society's reserves as to a class of certificates become impaired, the
21 society's board of directors or corresponding body may require that the owner shall pay
22 to the society the amount of the owner's equitable proportion of the deficiency as
23 determined by its board and that, if the payment is not made, (1) the amount shall
24 stand as an indebtedness against the certificate and shall draw interest not to exceed
25 the rate specified for certificate loans under the certificates, or (2) in place of or in
26 combination with the provisions of (1) this subsection. the owner may accept a
27 proportionate reduction in benefits under the certificate. The society may specify the
28 manner of the election and the alternative that is to be presumed if no election is
29 made.

30 (e) Copies of the documents mentioned in this section. certified by the
31 secretary or corresponding officer of the society, shall be received in evidence of the

1 terms and conditions of the document.

2 (f) A certificate may not be delivered or issued for delivery in this state unless
3 a copy of the form has been filed with the director in the manner provided for similar
4 policies issued by life and health insurers in this state. A filing is considered approved
5 unless disapproved within 60 days after the date of filing. A life, accident, health, or
6 disability insurance certificate and an annuity certificate issued on or after one year
7 after the effective date of this Act must meet the standard contract provision
8 requirements not inconsistent with this chapter for similar policies issued by life and
9 health insurers in this state, except that a society may provide in a certificate for a
10 grace period for payment of premiums of one full month. The certificate must also
11 contain a provision stating the amount of premiums that are payable under the
12 certificate and a provision reciting or setting out the substance of sections of the
13 society's laws or rules in force at the time of issuance of the certificate that, if violated,
14 will result in the termination or reduction of benefits payable under the certificate. If
15 the laws of the society provide for expulsion or suspension of a member, the certificate
16 must also contain a provision that any member expelled or suspended, except for
17 nonpayment of a premium or within the contestable period for material
18 misrepresentation in the application for membership or insurance, is entitled to
19 maintain the certificate in force by continuing payment of the required premium.

20 (g) A benefit contract issued on the life of a person below the society's
21 minimum age for adult membership may provide for transfer of control of ownership
22 to the insured at an age specified in the certificate. A society may require approval
23 of an application for membership in order to effect this transfer and may provide in
24 all other respects for the regulation, government, and control of those certificates and
25 all rights, obligations, and liabilities incident to and connected with those certificates.
26 Ownership rights before transfer shall be specified in the certificate.

27 (h) A society may specify the terms and conditions on which benefit contracts
28 may be assigned.

29 * Sec. 20. AS 21.84 is amended by adding a new section to read:

30 **Sec. 21.84.265. Nonforfeiture benefits, cash surrender values, certificate**
31 **loans, and other options.** (a) For certificates issued before one year after the

1 effective date of this Act, the value of a paid-up nonforfeiture benefit and the amount
2 of a cash surrender value, loan, or other option granted shall comply with the
3 provisions of law applicable on the day before the effective date of this Act.

4 (b) For certificates issued on or after one year after the effective date of this
5 Act for which reserves are computed on the Commissioner's 1941 Standard Ordinary
6 Mortality Table, the Commissioner's 1941 Standard Industrial Table, the
7 Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980
8 Standard Mortality Table, or a more recent table made applicable to life insurers, a
9 paid-up nonforfeiture benefit and the amount of a cash surrender value, loan, or other
10 option granted may not be less than the corresponding amount based on the interest
11 rate and mortality tables authorized by the laws of this state for the calculation of those
12 benefits by life and health insurers issuing policies containing similar benefits based
13 upon these tables.

14 * Sec. 21. AS 21.84 is amended by adding a new section to read:

15 **Article 5. Financial.**

16 **Sec. 21.81.275. Investments.** A society shall invest its funds only in
17 investments authorized by the laws of this state for the investment of assets of life
18 insurers and subject to the limitations on the investment of assets of life insurers. A
19 foreign or alien society permitted or seeking to do business in this state that invests
20 its funds in accordance with the laws of the state, district, territory, country, or
21 province in which it is incorporated shall meet the requirements of this section for the
22 investment of funds.

23 * Sec. 22. AS 21.84.320(a) is amended to read:

24 (a) All assets shall be held, invested, and disbursed for the use and benefit of
25 the society, and a member or beneficiary may not have or acquire individual rights or
26 become entitled to an apportionment or the surrender of a part of the assets, except as
27 provided in the benefit contract.

28 * Sec. 23. AS 21.84.320 is amended by adding a new subsection to read:

29 (d) A society may, under a resolution of its supreme governing body, establish
30 and operate one or more separate accounts and issue contracts on a variable basis,
31 subject to laws regulating life and health insurers establishing those accounts and

1 issuing those contracts. To the extent the society considers it necessary in order to
2 comply with applicable federal or state law, or any rule made under applicable federal
3 or state law, the society may

4 (1) adopt special procedures for the conduct of the business and affairs
5 of a separate account;

6 (2) for persons having beneficial interests in the account, provide
7 special voting and other rights, including special rights and procedures relating to
8 investment policy, investment advisory services, selection of certified public
9 accountants, and selection of a committee to manage the business and affairs of the
10 account; and

11 (3) issue contracts on a variable basis to which AS 21.84.255(b) and
12 (d) do not apply.

13 * Sec. 24. AS 21.84 is amended by adding a new section to read:

14 **Sec. 21.84.335. Applicability of other code provisions.** (a) Except as
15 provided in this section, societies are governed by this chapter and are exempt from
16 all other provisions of the insurance laws of this state for all purposes, including
17 governmental relations with the state.

18 (b) In addition to the provisions of this chapter, the following provisions of
19 this title apply to fraternal benefit societies to the extent applicable and not in conflict
20 with the express provisions of this chapter and the reasonable implications of this
21 chapter:

- 22 (1) AS 21.03;
23 (2) AS 21.06;
24 (3) AS 21.09.050;
25 (4) AS 21.09.100;
26 (5) AS 21.09.200;
27 (6) AS 21.09.205;
28 (7) AS 21.18;
29 (8) AS 21.21;
30 (9) AS 21.27;
31 (10) AS 21.33;

- 1 (11) AS 21.36;
2 (12) AS 21.42.290;
3 (13) AS 21.42.355;
4 (14) AS 21.53;
5 (15) AS 21.69.370;
6 (16) AS 21.69.640;
7 (17) AS 21.78; and
8 (18) AS 21.89.060.

9 * Sec. 25. AS 21.84 is amended by adding a new section to read:

10 **Article 6. Regulation.**

11 **Sec. 21.84.455. Valuation.** (a) Standards of valuation for certificates issued
12 before one year after the effective date of this Act shall be those provided by the laws
13 applicable immediately before the effective date of this Act.

14 (b) The minimum standards of valuation for certificates issued on or after one
15 year after the effective date of this Act shall be based on the following tables, which
16 shall be under valuation methods and standards, including interest assumptions, in
17 accordance with the laws of this state applicable to life and health insurers issuing
18 policies containing similar benefits:

19 (1) for certificates of life insurance, the Commissioner's 1941 Standard
20 Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality
21 Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the
22 Commissioner's 1980 Standard Ordinary Mortality Table, or a more recent table made
23 applicable to life insurers;

24 (2) for annuity and pure endowment certificates, for total and
25 permanent disability benefits, for accidental death benefits, and for noncancellable
26 accident and health benefits, the tables authorized for use by life and health insurers
27 in this state.

28 (c) The director may, in the director's discretion, accept other standards for
29 valuation if the director finds that the reserves produced under those standards will not
30 be less in the aggregate than reserves computed in accordance with the minimum
31 valuation standard presented in this section. The director may, in the director's