

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10336 HOUSE LABOR & COMMERCE

HB

230

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement HB 230 Railroad Employee Salaries and Wages

House Bill 230 by request of the Alaska Railroad Corporation, serves a dual purpose. It provides Alaska Railroad Corporation (ARRC) employees minimum wage and overtime protection by clarifying that the ARRC is regulated by Alaska's Wage and Hour Act (AWHA). HB 230 also enables locomotive engineers, conductors, and brakemen represented by the United Transportation Union (UTU), to opt out of the Wage and Hour Act if ARRC management and UTU members mutually agree to do so in a collective bargaining agreement.

The ARRC is exempt from the Fair Labor Standards Act, the federal law governing minimum wage and overtime, by virtue of an exemption in that act for employees of rail carriers. If the ARRC is regulated by Alaska's Wage and Hour Act, then ARRC employees will enjoy the wage and hour protections available to virtually all other employees.

Clarifying the ARRC's status under the AWWHA not only protects ARRC employees, it provides clear guidance to ARRC management with regard to employee relations. It also protects the ARRC from liability for unintentional violations of employee rights.

The exemption for UTU members provided by HB 230 would not leave UTU members unprotected with regard to hours worked. Unlike most other Alaska Railroad employees, UTU members are protected by the federal Hours of Service Act (HOSA). This Act prevents excessive or unreasonable work hours by limiting the number of hours employees can work to 12 consecutive hours without a required rest period. American Train Dispatcher's Association are also covered by the HOSA, as are a few Transportation Communication Union members.

The UTU exemption is mutually beneficial to the ARRC's operation and the UTU members. It allows ARRC management and UTU representatives to negotiate an agreement allowing UTU employees to be paid on a basis other than an hourly basis (for example, a salary basis or a day rate). This arrangement would enhance UTU member retirement benefits. In exchange, the ARRC would eventually be able to operate trains with a two-person crew, mirroring railroad industry standards and contributing positively to the ARRC's bottom line.

Last Updated: April 3, 2001
Staff Contact: Amy Erickson 465-4954

ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

March 30, 2001

The Honorable Randy Phillips
Chair
Senate Labor and Commerce Committee
State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

On behalf of the Alaska Railroad Corporation and its employees, thank you for agreeing to support Senate Labor and Commerce Committee sponsorship of Senate Bill 170. We realize time is running very short until the end of session. With that in mind, we respectfully request a hearing for SB 170 by the Labor and Commerce Committee as soon as your scheduling permits.

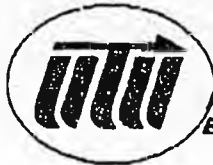
We look forward to working with you on this issue.

Sincerely,


Jerry Anderson
Acting President and CEO

Michael L Weatherell
General Chairman

John T. Fleming
Vice Chairman



Jefferson "Lee" Davis
Vice Chairman

Darran M. Rupa
Secretary

555 West Northern Lights #203
Anchorage, AK 99503

Phone 907-279-7117 Fax 907-279-7118
Email utu1626@gcl.net

united transportation union

Local 1626

General Committee of Adjustment GO-ARR

The Alaska Railroad Corporation

MEMORANDUM

TO: Alaska Legislature

FROM: Mike Weatherell, General Chairman
United Transportation Union
Alaska Railroad

DATE: March 2, 2001

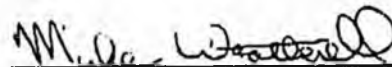
RE: Proposed Changes to AS 42.40.710.

I am General Chairman of the United Transportation Union Local 1626. The UTU represents conductors, engineers, firemen, and brakemen on the Alaska Railroad. We fully support the proposed amendment to AS 42.40.710, which would clarify that the Alaska Railroad is subject to Alaska's Wage and Hour Act and which would also provide a conditional exemption that could apply to our bargaining unit under special circumstances.

Historically, train and enginemen have been paid by the mile. That changed after the Alaska Railroad was purchased by the state. For a variety of reasons, both the Railroad and our members would like to return to a compensation system similar to the one we had. In order to do so, we have to be exempt from Alaska's wage and hour law. To protect both parties, we have provided that the exemption only applies when the agreement is "mutual" and when the agreement is codified into a bona fide collective bargaining agreement. That way, neither party can force an agreement on the other. In the absence of an agreement, Alaska's Wage and Hour Act would apply as it does now. There is also no danger to the public safety. Our members are subject to the federal Hours of Service Act which already governs the number of hours our members can be on the road, rest periods between shifts, etc. This is a win-win proposal for all concerned and I hope you can join us in supporting its passage.

I have worked closely with the other employee groups on the Alaska Railroad. It is my belief and understanding that all represented employees support the passage of this amendment to AS 42.40. Again, we urge your assistance and support.

Date: 5/5/01


 Mike Weatherell, General Chairman
 United Transportation Union
 Alaska Railroad

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT(AFL-CIO)

State Headquarters/Juneau Field Office
211 Fourth Street, Suite 308, Juneau, Alaska 99801
Telephone (907) 586-2334, (800) 478-8991, Fax 483-4980

March 30, 2001


Senator Randy Phillips
Alaska State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

I am writing to let you know that Alaska Public Employees Association/AFT supports the legislation being proposed by the Alaska Railroad and the United Transportation Union which will clarify that employees of the corporation are covered by Alaska's Wage and Hour Act and which will also allow the train and engine men on the Railroad, represented by the United Transportation Union to opt out of the Wage and Hour Act if the parties mutually agree to do so in a collective bargaining agreement. I understand that the UTU employees are negotiating to work as exempt salaried employees. I also understand that the JTI employees are subject to the federal Hours of Service Act so there is no danger of excessive or unreasonable work hours for the employees involved.

Thank you for your attention to this matter.

Sincerely,


Bruce Ludwig
Business Manager
Alaska Public Employees Association/AFT

cc:
United Transportation Union (fax 279-7118)
Ann Courtney, Alaska Railroad (fax 265-2443)
Charles A. Dunnagan (fax 563-7322)

Anchorage Field Office
1689 C Street, Suite 204, Anchorage, Alaska 99501
Telephone (907) 274-1888, (800) 478-8992, Fax 277-4588

Fairbanks Field Office
825 College Road, Fairbanks, Alaska 99701
Telephone (907) 486-6412, (800) 470-8993, Fax 456-7476

Mar-28-01 03:57P John Henry

1-907-279-7118

P.03



Alaska Railroad Workers Local 183

A.F.G.E./AFL-CIO

P.O. BOX 100035

Anchorage, Alaska 99510-0035

Phone (907) 272-8316

Fax (907) 274-5244

To: Alaska Legislation

March 23, 2001

From: Ed Rivera
President ARW

Subject: U.T.U. Wage Proposal

Dear Legislators

I would like to state that the ARW has looked over the proposed changes to AS 42.40.710, and met with the UTU attorney to discuss this issue. After consideration I have found nothing that would impact any of my members or any negative issues associated with this proposal. The ARW therefore supports the change in the law as it is outlined by the UTU. Thank you for your support in this important piece of legislation.

Sincerely

Ed Rivera
President ARW

Sent By: ARR HEADQUARTERS;

9072652212;

Mar-30-01 3:59PM;

Page 7/7

Mar-28-01 03:56P John Henry

1-907-279-7118

P.02

March 25, 2001

American Train Dispatchers Department/BLE
Alaska Railroad Corporation System
P.O. Box 671490
Chugiak, Alaska 99567

The Alaska Legislature,

The A.T.D.D./BLE supports the amendment to AS 42.40.710 proposed by the United Transportation Union Local 1626 and the Alaska Railroad Corporation that states in part UTU employees are exempt from the AWA when mutually agreed to in a collective bargaining agreement.



K. H. Gibbons
General Chairman
American Train Dispatchers Department/BLE

FROM CREW DISPATCH 2652212

5-11-1998 6:01PM

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 230
 () Publish Date: _____

Revision Date/Time (Note if correction): 04/12/2001 12:30p.m. Dept. Affected: DCED
 Title: Wage and Hour protections for employees of BRU: ARRC
the Alaska Railroad Component: _____
 Sponsor: House Labor and Commerce by request
 Requester: House Labor and Commerce Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

House Bill 230 does not impact the state's budget because the Alaska Railroad Corporation does not require any state funding to operate. Alaska Railroad employees are paid for through corporate revenues. They are not covered by state public employee contracts, nor do they receive state-funded pensions and benefits. Approximately 545 of the Alaska Railroad's employees are represented by five unions that negotiate contracts with the corporation.

Prepared by: Wendy Lindskoog, Director External Affairs
 Division: Alaska Railroad Corporation
 Approved by: Commissioner Deborah B. Sedwick
 Agency: Department of Community & Economic Development

Phone (907)265-2498
 Date/Time 04/12/2001 12:30p.m.
 Date 4/12/2001

For distribution information, call the Governor's Legislative Office

HB

245



Alaska State Legislature

Representative Peggy Wilson
Putting Alaska's Families First

SPONSOR STATEMENT House Bill 245

" An Act relating to marital and family therapists."

HOUSE BILL 245 was submitted by Request of the Alaska Association for Marriage and Family Therapy. The law that established the Board of Marriage and Family Therapy has been in place for ten years and the Association believes it is time to pursue the placement of updated language within the statute.

The goal of HB 245 is to bring the Alaska Statutes for Marriage and Family Therapy in line with the laws regarding other professions in the state and Marriage and Family Therapy statutes nationally. A task force comprised of representatives from the State Boards of Psychology, Social Work and Marriage and family Therapy met and identified the following areas needing change:

HB 245

- *adds* the Board of Marital and Family Therapy to the list of professionals the department can contract with to provide treatment,
- *gives* the Board of Marital and Family Therapy authority to order a licensed marital and family therapist to submit to a reasonable physical or mental examination if the board has credible evidence sufficient to conclude that the therapist's physical or mental capacity to practice safely is at issue,
- *allows* for individual client contact to be used as hours toward licensing,
- *requires* that the therapist must communicate to a potential victim or law enforcement officer if serious harm to an identified victim has been made by a client,
- *imposes* disciplinary sanctions with regard to therapist sexual misconduct.

HOUSE BILL 245 not only brings parity to the mental health professions in the state, it also adds additional consumer protection for Alaskans seeking professional counsel.

LEGAL SERVICES

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

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 17, 2001

SUBJECT: Sectional Analysis (HB 245)

TO: Representative Peggy Wilson
Attn: Rory

FROM: Terri Lauterbach
Legislative Counsel

TML

You have asked for a sectional summary of HB 245. You have not expressed any questions about the legal effects of this bill, so this memo is very brief. Please let me know if you have specific questions.

Section 1. Adds the Board of Marital and Family Therapists (hereafter "board") to the list of boards that may request the division of occupational licensing to contract for substance abuse treatment for licensed therapists (hereafter "licensees").

Section 2. Authorizes the board to require physical and mental exams of licensees.

Section 3. Changes a licensing requirement relating to post-degree clinical contact.

Section 4. Adds two more categories of circumstances when a client's communications to a licensee may be revealed to others.

Section 5. Adds a new ground for disciplinary sanctions.

Section 6. Allows summary suspension of a licensee who refuses to submit to a physical or mental examination.

Section 7. Adds two new sections of law. One requires disclosure statements to clients. The other enacts a practice limitation.

TML:jhb
01-051.jhb

Tony Knowles, Governor

Alaska Department of Community
and Economic Development

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

April 16, 2001

The Honorable Peggy Wilson
State Capitol
Room 409
Juneau, AK 99801-1182

Dear Representative Wilson:

At the March 12, 2001 meeting, the Alaska Board of Marital and Family Therapy discussed the statute changes with Caren Robinson, Lobbyist for the Alaska Marriage and Family Therapy Association.

The board resolved that they support the bill "An Act relating to Marital and Family Therapy" and the statute changes being proposed.

If you have any questions, please contact me at my office 463-4844 in Juneau. I would be glad to discuss any questions that you may have.

Sincerely,



Sandra Saminego, Chairperson
Board of Marital and Family Therapy

SS/dgl/8927wf
041601a

cc: Caren Robinson

Tony Knowles, Governor

Alaska

**Department of Community
and Economic Development**

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

April 24, 2001

The Honorable Peggy Wilson
State Capitol
Juneau, AK 99801

Dear Representative Wilson,

Thank you for introducing House Bill 245.

House Bill 245 revises the statutes governing the practice of marital and family therapy. The Board of Marital and Family Therapy supports these changes to strengthen the public protection provided by licensure.

The provisions of the bill or similar statutory language are found in several other professional licensing statutes.

Section 1 adds the Board of Marital and Family Therapy to the list of boards that may request the department to contract for treatment of professionals with substance abuse problems.

Sections 2 and 6 allow the board to order a licensed marital and family therapist to have a physical or mental examination if the therapist's capacity to practice safely is at issue. The board may suspend the license of a therapist who refuses to be examined. Similar language is found in the dental statute in AS 08.36.070(b)(1) and AS 08.36.320; in the psychology statute in AS 08.86.204(b) and AS 08.86.015; and in the medical statute in AS 08.64.338.

Section 3 allows applicants for marital and family therapy licenses to counsel individuals as well as couples and families in order to obtain the required direct clinical contact experience.

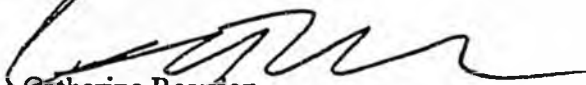
Section 4 allows licensed therapists to disclose client information when there is a threat of imminent serious physical harm to an identified victim by the client. Confidential client information may also be disclosed to a licensing board in connection with a formal complaint against another licensed professional. Similar statutes are found in the professional counselor licensing law, AS 08.29.200, the social worker law, AS 08.95.90⁽⁵⁾(6), and the psychologist law, AS 08.86.200(3)(5).

Section 5 explicitly prohibits sexual contact with a client within two years after therapy. Language on sexual misconduct is found in the medical statutes, AS 08.64.326, the psychology statutes, AS 08.86.204(8), and the social worker statutes, AS 08.95.050(11).

Section 7 requires a licensed marital and family therapist to give clients a disclosure statement containing information about the therapist's fees, education and services. This section also prohibits licensed therapists from performing acts for which they lack appropriate education and experience. Similar language is found in the professional counselor statutes, AS 08.29.220-230.

Please contact me if you would like further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Reardon', written over a horizontal line.

Catherine Reardon
director



Alaska Association for Marriage and Family Therapy

a division of The American Association for Marriage and Family Therapy 2600
Denali St. Ste 450, Anchorage, Alaska 99503 (907) 272-7002 Fax 272-2851

April 16, 2001

APR 26 2001

The Honorable Representative Peggy Wilson
State Capitol, Room 409
Juneau, AK 99801-1182

Dear Representative Wilson,

For several years a task force comprised of representatives from the state boards of Psychology, Social Work and Marriage and Family Therapy and representatives from the professional associations from each of those boards met to identify and discuss common issues. One of the goals of Marriage and Family Therapists was to bring the Alaska Statutes for MFTs in line with the other professions in the state and with MFT statutes nationally. During those discussions laws from other states were reviewed to determine how these various issues have been addressed outside of Alaska. Both Psychology and Social work have pursued and achieved some statute changes over the past years.

Since it has been many years since this law has been in effect it is health professional statutes in the state and nationally. Several of our requested changes are taken from areas that Psychologists, Social Workers and Professional Counselors have included in the statutes over the past years. These changes will bring parity to the mental health professions in the state and add additional consumer protection for Alaskans.

The AkAMFT Board reviewed, in collaboration with the MFT State Board, the statute changes, presented them to their membership for review, and is in support of them being brought to the legislature for change in the statutes. The general areas we reviewed included impaired practitioner, disclosure statements, competence, protected reporting and clarification on qualifications. We took action on several of these issues at our annual meeting in April of 1999 and again at our annual meeting in April of 2000. The membership of AkAMFT supports the passage of House Bill 245 and we appreciate your efforts to move it through the legislature.

Sincerely,

Larry Holman, Division President, AkAMFT

Mercy Dennis M.A., L.M.F.T.

CLINICAL MEMBER AND FELLOW: THE AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY

December 18, 2001

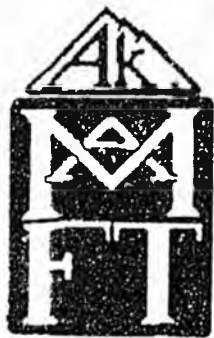
TO: Representative Peggy Wilson
FROM: Mercy Dennis, M.A., L.M.F.T.
RE: House Bill 245

As a licensed Marital and Family Therapist I ask for your support in getting passed through the legislature House Bill 245.

As an original member of the Alaska Board of Marital and Family Therapy and it's chairperson for two terms I was very involved in studying the issues that are addressed by this bill. For several years I worked closely with a task force including Marital and Family Therapists, Social Workers, and Psychologists to review the Alaska Statutes and Regulations of each of our professions as well as statutes from other states. This task force was cooperatively established by the boards regulating Marital and Family Therapists, Social Workers and Psychologists. Also, representatives from each of the professional associations were invited to join the task force. Our goals were to update our statutes to create parity among the mental health professions in Alaska, to keep current with professional issues on a national level and most importantly, to add additional protection for Alaskan Consumers. After much review we composed a needs list for each of the licensed professions. Both Social Workers and Psychologists have addressed their needed statute and regulation changes in the recent past. Since then the legislature established statutes to regulate Professional Counselors that also address many of these issues for that profession.

It is important for Marital and Family Therapists in Alaska to accomplish the goals set forth by the joint task force. Again, I ask for your help with this.

Mercy Dennis M.A., L.M.F.T.



The Alaska Association for Marriage and Family Therapy

January 23, 2002

Representative Peggy Wilson
State Capital Rm 409
Juneau, AK. 99801

Re: House Bill 245

Dear Ms. Wilson,

The Alaska Association for Marriage and Family Therapy appreciates your sponsorship of House Bill 245. Our organization supports this bill and was primarily responsible for initiating it. Much of the bill is housekeeping but there are parts, which are substantial changes. The addition of sexual misconduct brings MFT standards up to other mental health care professionals in the state as well as our own National Association's standards. It requires that two years must pass before a LMFT can have a sexual relationship with a former client. Sexual misconduct is one of the most problematic issues facing mental health care providers because of the nature of the relationships that are formed in the therapeutic process. Strict boundaries are absolutely necessary because of that relationship. The disclosure statement is a new provision, which is intended to inform and protect the client as a consumer of mental health services. It is a national trend in marriage and family therapy to educate the client with regards to the professional's training and specialization. In addition, it is a commonly accepted ethical procedure to make consumers aware of fees.

Again, thanks for sponsoring this bill.

Sincerely,

Larry Holman, LMFT, Division President, AkAMFT

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB245
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An act relating to marital and family therapists BRU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Representative Wilson
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	Y 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HB 245 strengthens and updates the regulations of marital and family therapists. These changes will not require additional expenditure of state funds.

Prepared by: Catherine Reardon, Director Phone 907-465-2536
 Division Occupational Licensing Date/Time 1/22/02 11:34 AM
 Approved by: Deborah B. Sedwick, Commissioner Date 1/22/2002
 Agency Department of Community & Economic Development

HB

246

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE Sponsor Statement House Bill 246 Omnibus Insurance Reform

House Bill 246 was introduced in 2001 primarily to address regulation of insurance company investments and confidentiality of records. Regulation of insurance company investments was addressed in another bill. House Bill 246 now covers the below-listed items and removes the provisions dealing with insurance company investments.

Regulatory Structure for MEWAs: Sections 1, 41 and 50. A Multiple Employer Welfare Arrangement (MEWA) is an employee welfare benefit plan established for the benefit of employees of two or more employers to provide health care or other welfare benefits to employees and dependents. Under current law, MEWAs are regulated as insurers. House Bill 246 establishes a more appropriate regulatory structure for MEWAs, in particular, it provides more reasonable and appropriate capital and surplus and reserving and financial reporting requirements.

Confidentiality of Records: Sections 2-5, 47, 51. These provisions clarify that documents determined to be confidential by law or by the director of insurance are not subject to inspection, copying, or subpoena, but may be used by the director in regulatory or legal proceedings and may be shared with other law enforcement or regulatory agencies. The director may receive confidential information from other regulatory or law enforcement agencies and maintain their confidentiality and may also enter into information sharing agreements. Information designated as confidential includes personally identifiable information, trade secret or proprietary business information, and information that the director finds the withholding of which is necessary to protect a person or is in the public interest.

Late Payment of Premium Taxes: Sections 10, 46. These changes establish late payment fees for all entities that pay premium taxes including insurers and surplus lines brokers for when premium taxes are not received by the division when due.

Annual Fee to Operate as a Joint Insurance Arrangement: Section 48. These changes establish an annual fee to offset the cost to the Division of Insurance of enforcing AS 21.76 on joint insurance arrangements.

Stop Loss Insurance Standards: Section 32. These changes establish minimum specific and aggregate attachment points (i.e. retention limits) for stop loss insurance policies. These minimums will provide greater protections to smaller employers who choose to self-fund their health care plans. Without these minimums insurers are able to sell health insurance under the guise of stop loss insurance, which does not comply with state health care insurance laws including benefit mandates, guarantee issue and portability requirements.

Correction/Clarification of Existing Statutes: Sections 6-9, 11-31, 33-40, 42-45, 49. Please refer to sectional analysis for explanation of changes.

**WORK DRAFT – CS HB 246 (L&C)
Version 22-LS0743J**

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

Regulation of Multiple Employer Welfare Arrangements

Sections 1, 41 and 50 establish a regulatory framework for Multiple Employer Welfare Arrangements (MEWA). A MEWA is defined under federal law and is an employee welfare benefit plan established for the benefit of employees of two or more employers to provide health care or other welfare benefits to employees and dependents. States are given authority under the federal Employee Retirement Income Security Act (ERISA) to regulate MEWAs under state insurance law.

Section 1. AS 21.03.021. Regulation of MEWAs, page 1.

These new subsections provide the authority for the Alaska Division of Insurance to regulate MEWAs. Subsection (b) specifies that an entity that is offering medical coverage is under the jurisdiction of the Alaska Division of Insurance unless it is under another governmental agency. Subsection (c) provides authority to conduct an examination to determine what the entity is and whether it is subject to Title 21. Subsection (d) requires that while an examination to determine jurisdiction is being conducted any transaction of insurance business must advise the purchaser that the coverage is not regulated under Alaska insurance statutes and is not covered by a guaranty fund in Alaska.

Confidentiality of Records

Sections 2 – 5, 47, and 51 add specific statutory clarification of the confidentiality of records maintained within the division. The language clarifies that documents determined to be confidential by law or by the director of insurance are not subject to inspection, copying, or subpoena but may be used by the director in regulatory or legal proceedings and may be shared with other law enforcement or regulatory agencies. The director may receive confidential information from other regulatory or law enforcement agency and maintain the confidentiality and may enter into information sharing agreements. Information that is designated as confidential includes personally identifiable information, trade secret or proprietary business information, and information that the director finds the withholding of which is necessary to protect a person or is in the public interest.

Section 2. AS 21.06.060. Confidential documents, page 2.

The amendment to this subsection adds a reference to the new subsections in Section 3 on confidential documents.

Section 3. AS 21.06.060. Confidential documents, page 2.

New subsection (b) explains that documents that are confidential or not available for public inspection, are not subject to inspection, copying or subpoena, may be used in a regulatory or legal proceeding, may be released if the person who provided the information consents or releases incomplete or misleading information on the same topic.

New subsection (c) specifies that a person working for the director may not be required to testify about confidential information.

New subsection (d) specifies that providing confidential information to the director does not waive any claim of privilege.

New subsection (e) allows the director to disclose confidential information to the legislature, regulatory or law enforcement agencies or the NAIC if the entity will maintain the confidentiality. The director may also receive information from regulatory or law enforcement agencies or the NAIC and will maintain the confidentiality of the information if requested to do so or given notice that the records are confidential by law of the supplying agency. The director may enter into agreements with other regulatory or law enforcement agencies or the NAIC consistent with this section.

New subsection (f) specifies that the following documents are confidential:

- personally identifiable consumer information unless disclosure is necessary to resolve a consumer complaint;
- information shown to be trade secret or proprietary business information including health insurance claim cost data and usual, customary and reasonable charge determinations;
- information provided by a person not subject to regulation by the director if the information is identified as confidential by the director; and
- financial analysis ratios and examination synopses from the NAIC.

New subsection (g) gives the director authority to withhold information from public inspection if the director finds it is necessary to protect a person against unwarranted injury or is in the public interest.

Section 4. AS 21.06.150(g). Confidential documents, page 4.

This subsection was repealed and reenacted to specify that examination workpapers are confidential. The director continues to be able to publish the examination report in a newspaper or electronically if it is determined to be in the public interest to do so.

Section 5. AS 21.06.210. Close a hearing, page 4.

This new subsection (h) allows the director to close a hearing to the public when it is necessary to protect a person against unwarranted injury or is in the public interest. This includes a sentence from the existing AS 21.06.150(g) that is lost when the section is repealed and reenacted in Section 4 of the bill.

Correction of Wording

Section 6 is amended to correct wording in a section adopted by the legislature in 2000.

Section 6. AS 21.07.040(c), Correction of Wording, page 4.

This amendment to subsection (c) changes wording to a phrase that more properly reflects the meaning of the subsection. The change removes "a current or former person" and replaces it with "a person currently or formerly"

Limit on Processing Time for Certificate of Authority Applications

Section 7 is amended to change the processing time for applications from an insurer for a certificate of authority from 30 days to 60 days.

Section 7 AS 21.09.120(a). Limit on Processing Time, page 5.

This amendment to (a) changes the processing time for a certificate of authority application from 30 days to 60 days. The recommended processing time for the uniform certificate of authority application adopted by the National Association of Insurance Commissioners is 60 days. The division is participating in the uniform application process and needs to adopt the uniform goal on time to effectively process an application.

Payment of Premium Taxes and Fees

Section 8 through 14 address several areas of premium taxes and fees payable to the state. Sections 8 and 9 expand the director's authority to specify the form of payment of certificate of authority continuation fees and financial statement filing fees which was granted for premium tax collection in 1998. Section 10 provides for a late fee payment when premium taxes are not received when due. Section 11 clarifies that tax credit statutes apply to taxpayers under AS 21.09.210. Sections 12 through 14 clarify language on taxation of jumbo life policy premiums and exemption from retaliatory fees, both of which were adopted in the 1998 Legislative Session.

Section 8. AS 21.09.130(a). Fee Payment, page 5.

The amendment to subsection (a) gives the director authority to specify the method of payment of certificate of authority continuation fees by electronic or other means. This same authority was given to the director in 1998 on the collection of premium taxes.

Section 9. AS 21.09.200(d). Fee Payment, page 5.

The amendment to subsection (d) gives the director authority to specify the method of payment of annual statement filing fees by electronic or other means. This same authority was given to the director in 1998 relative to the collection of premium taxes.

Section 10. AS 21.09.210(g). Late Fee, page 5.

The amendment to subsection (g) adds a late payment fee for late payment of premium tax required under AS 21.09.210 and late payment of retaliatory fee required under AS 21.09.270. The fee is the greater of \$100 per day or 25% of the tax due. In addition interest is charged at 1% per month or partial month.

Section 11. AS 21.09.210(j). Tax Credit, page 6.

The amendment to subsection (j) adds the fire safety standards counsel charitable contribution premium tax credit to the education charitable contribution tax credit and clarifies that the provision applies to payers of tax under this section.

Section 12. AS 21.09.210(m). Jumbo life policy taxation, page 6.

This amendment to subsection (m) makes it clearer that individual life policy premium is taxed at 2.7% up to \$100,000 and premium above \$100,000 is taxed at 0.1%.

Section 13. AS 21.09.270(b). Exemption from retaliatory fee, page 6.

This amendment to paragraph (b)(2) clarifies that the exemption from payment of retaliatory fee is only for health care insurance premium received by an insurance company from a state, municipality, city or borough school district, a regional educational attendance area, University of Alaska or community college.

Section 14. AS 21.09.270. Exemption from retaliatory fee, page 6.

This new subsection (f) clarifies that the retaliatory fee calculation does not include taxes paid on health care insurance premiums received from the state, political subdivisions, or University of Alaska. This is a clarification of an exemption adopted in 1998 to more carefully show the extent of the intended exemption.

Clarification of Contents of US Branch Financial Statement

Section 15 clarifies that the US Branch financial statement filed with the division must include all insurance activity within the United States.

Section 15. AS 21.09.310(n). US Branch Financial Statement Contents, page 7.

The amendment to subsection (n) clarifies that the US Branch financial statement shall have only US Branch insurance activities and must include all insurance transactions conducted within the United States.

Clarify the application of RBC Mandatory Control Level Actions

Section 16 clarifies that the actions in AS 21.14.050 required when an insurer reaches the Mandatory Control Level only apply to domestic insurance companies.

Section 16. AS 21.14.050(a). RBC Mandatory Control Level actions, page 7.

This amendment to subsection (a) clarifies that this section that requires an insurer to be placed under regulatory control when the insurer reaches the Mandatory Control Level only applies to domestic insurers. Actions for foreign insurers are included in AS 21.14.070.

Compliance Officers, Compensation, and Clarification of the Firm License

Amendments in Section 17 to 22 make changes to licensing statutes and clarifies who can receive compensation. Section 17 and 19 clarifies that a producer firm may have more than one compliance officer with all compliance officers covering all the powers conferred by the firm's license and requires the compliance officer to be licensed as an individual in the firm for specific lines and classes of authority. Section 18 rewords a section that requires the scope of the firm license to include all lines and class of authority of each individual in the firm. Section 20 makes small amendments to AS 21.27.370(c) on unlicensed compensation to clarify the meaning of this section that was adopted in 2001. Sections 21 and 22 provide better definitions for "compliance officer" and "class of license".

Section 17. AS 21.27.020(c). Compliance officer, page 7.

This amendment to subsection (c) clarifies that qualification for a firm license will allow the designation of more than one compliance officer to be responsible for the firm's compliance with Alaska statutes and regulations.

Section 18. AS 21.27.140(a). Firm License, page 8.

The repeal and reenactment of subsection (a) results in clarification that the scope of the firm license is to include all lines and classes of authority of the individuals working in the firm.

Section 19. AS 21.27.140(b). Compliance officer, page 8.

The repeal and reenactment of subsection (b) results in clarification that the firm may not be licensed unless each individual in the firm is licensed. In addition, it specifies that each compliance officer must also be licensed as an individual in the firm for a specific line and class of authority and, if there is more than one compliance officer, each area of the firm's license authority shall be covered by a compliance officer.

Section 20. AS 21.27.370(c). Compensation, page 8.

Amendments to subsection (c) clarify that a person who discusses specific terms and conditions of a policy or a person who gives opinions or advice regarding insurance is not eligible for compensation without first having a license.

Section 21. AS 21.27.900(4). Definition, page 8.

The amendment to the definition of "compliance officer" in (4) adds that the compliance officer must be designated for a specific line and class of authority.

Section 22. AS 21.27.900. Definition, page 8.

The addition of a new paragraph is to define a "class of authority" to mean one or more designations of authority such as insurance producer, managing general agent, reinsurance intermediary manager, reinsurance intermediary broker, surplus liens broker, or independent adjuster, or third party administrator.

Exemption from Premium Tax and Payment in Lieu of Premium Tax

Sections 23 through 27 clarify language in the area of premium tax exemptions and exemption from other state or local taxes. Sections 23, 25, and 27 clarify that exemptions are for aircraft that are primarily engaged in interstate or foreign commerce instead of regularly engaged in such business. Sections 24 and 26 amend the sections to clarify what other state taxes are not payable when an entity pays premium tax under these statutes.

Section 23. AS 21.33.037(b). Aircraft exemption from licensing, page 9.

This amendment clarifies that the prohibition of a person acting as an agent for an unauthorized insurer in this state does not apply to unauthorized insurance transactions for the property or operations of railroads or aircraft primarily engaged in interstate or foreign commerce.

Section 24. AS 21.33.055(a). Premium tax payment in lieu of other taxes, page 9.

This amendment to subsection (a) clarifies that only the premium taxes paid by an insurance company for unauthorized insurance business allowed in AS 21.33 are

in lieu of all other taxes. Exemption from other taxes given in Title 21 is for insurance companies only.

Section 25. AS 21.33.055(c). Aircraft exemption from unauthorized insurer premium tax, page 10.

This amendment clarifies that aircraft that is primarily engaged instead of regularly engaged in interstate or foreign commerce is exempt from the unauthorized insurer premium tax. This will help determine when the exemption applies.

Section 26. AS 21.33.061(c). Premium tax payment in lieu of other taxes, page 10.

This amendment to subsection (c) removes the statement that the premium receipts tax is in lieu of other taxes. Exemption from other taxes given in Title 21 is for insurance companies only.

Section 27. AS 21.33.061(g). Aircraft exemption from independently procured premium tax, page 11.

This amendment clarifies that aircraft that is primarily engaged instead of regularly engaged in interstate or foreign commerce is exempt from the independently procured premium tax. This will help determine when the exemption applies.

Exemption from Premium Tax

Sections 28 and 29 clarify premium tax payments and exemptions for surplus lines placements.

Section 28. AS 21.34.180(a). Admitted insurance exemption from surplus lines premium tax, page 11.

This amendment clarifies that for subscription policies the portion of premium taxes submitted to the division by the admitted insurer does not need to also be submitted to the division by the surplus line broker. This will avoid double payment of premium taxes..

Section 29. AS 21.34.180(d). Aircraft exemption from surplus lines premium tax, page 11.

This amendment clarifies that aircraft that is primarily engaged instead of regularly engaged in interstate or foreign commerce is exempt from the independently procured premium tax.

Payment of Premium Taxes and Fees

Section 30 establishes a late fee payment for when premium taxes for surplus lines insurance placements are not received by the division when due.

Section 30. AS 21.34.180(f). Late Fee, page 12.

The new subsection (f) adds a fee for late payment of the premium tax required under AS 21.34.180 for surplus lines insurance placements. The fee is the greater of \$100 per day or 25% of the tax due. In addition interest is charged at 1% per month or partial month. Remaining subsections are renumbered.

Insurable Interest

Section 31 clarifies the application insurable interest to life, annuity or health insurance.

Section 31. AS 21.42.020(d). Insurable interest, page 12.

AS 21.42.020 is intended to apply to life, health and annuity insurance. However, the term "personal insurance" is used and is not defined in AS 21.42. It is a particularly confusing term to use since "personal insurance" is defined in AS 21.36.310 only for purposes of 36.210-310 and it is defined to exclude life, health, and annuity insurance. Therefore, the change to this section deletes the reference to personal insurance and replaces it with life, health and annuity insurance.

Stop Loss Insurance Regulation

Section 32 regulates the issuance of stop loss insurance policies by setting standards for such policies.

Section 32. AS 21.42.145. Stop Loss Insurance, page 12.

This new section added to Chapter 42 prohibits a health insurer from issuing a stop loss insurance policy that allows payment at claim levels below \$10,000 for an individual or for a large employer plan is \$4000 times the number of individuals covered in a plan or 120% of claims for a plan or \$20,000, whichever is greater, or pays claims at lower than 110% of expected claims, or provides direct coverage of health care expenses. This provides a definition between health insurance and stop loss insurance policies covering health risks. The new section allows adjustment of the standards set and allows adoption of a regulation to implement the section. The new section defines terms used in the section.

Health Insurance

Section 33 through 40 makes small changes to health insurance policy benefits, requirements for insurers discontinuing health products in this state, and small employer insurers.

Section 33. AS 21.42.363. Eye care under health insurance, page 13.

AS 21.89.040 requires an insurer to provide reimbursement for services provided by an optometrist if the plan covers services within the scope of practice of an optometrist. This provision should be in AS 21.42 where the other coverage mandates are located. This section simply moves the provision to a new section AS 21.42.363.

Section 34. AS 21.42.365(b). Health policy benefits, page 14.

Under AS 21.42.365(b) the director is required to make adjustments to the alcohol and drug abuse limits on January 1 every three years using the prior calendar years. It is not possible to use the prior calendar years and make the adjustment on January 1, since the CPI data is not available until after January 1. The change to this section removes the requirement that the adjustment be based on the prior calendar years so that the director can make the adjustment, effective on January 1, based on available CPI data.

Section 35. AS 21.42.390(b). Diabetes benefits, page 14.

This subsection is repealed and reenacted to require insurers to provide not less than \$1,500 for diabetes outpatient self-management education. HB 298 was signed into law this year with a limitation provision that is ambiguous. The change in this section modifies the provision to more clearly reflect the intent.

Section 36. AS 21.42.500(5). Definitions, page 14.

When the HIPAA provisions were added in 1997, the mandated benefit provisions in AS 21.42 were amended to use terms consistent with the HIPAA group definitions. The HIPAA definition of individual health coverage was not defined in our statute, since we used the CHIA as the alternative mechanism, which made most of the individual health provisions in HIPAA inapplicable. However, using the group definitions of health insurance coverage did not reflect the exclusion for individual short-term medical coverage as provided in the individual health HIPAA provisions. The unintended consequence is that individual short-term medical coverage (non-renewal health care coverage for less than 1 year) must comply with health benefit mandates. Most of these do not make sense for a short-term medical coverage such as annual screening exams. This section amends the definition of health care insurance plan in order to exclude short-term individual health coverage from the benefit mandates.

Section 37. AS 21.42.500. Definitions, page 14.

This new paragraph refers to already existing definitions given in AS 21.51 in the area of health insurance.

Section 38. AS 21.51.090. Claim forms, page 14.

This amendment clarifies that the insurer has 10 working days to furnish claimant forms when notified of a claim. The changes to this section modify AS 21.51.090 (individual health insurance), which became effective in 1966, to be consistent with the unfair claim practice regulation requirement regarding claim communication.

Section 39. AS 21.51.110. Time of payment of claims, page 14.

This amendment clarifies that indemnities will be paid within 30 days of receipt of written proof of loss. The changes to this section modify AS 21.51.110 (individual health insurance), which became effective in 1966, to be consistent with the unfair claim practice regulation requirement regarding claim payment.

Section 40. AS 21.54.130(c). Discontinuing health care plans, page 15.

Under HIPAA, insurers are allowed to exit the small group, large group or both markets. However, the current statutory language implies that they must exit from both markets. The change to this section clarifies that an insurer can exit just one or both of the group markets.

Section 41. AS 21.55.010. Regulation of MEWAs, page 15.

This amendment adds a licensed self-funded MEWA to the membership of the Comprehensive Health Insurance Association set out in Chapter 55.

Small Employer Health Insurance

Sections 42 and 43 clarify two areas of the small employer health insurer provisions in AS 21.56.

Section 42. AS 21.56.120(c). Small employer insurer, page 11.

Prior to the HIPAA modifications in 1997 this section required the actuary to certify to compliance with the renewal requirements because they were in Chapter 56. The 1997 HIPAA changes moved this section to AS 21.54 without modifying the references so that under current law the actuary is no longer required to certify to compliance with the renewal requirements (because it is no longer in the

chapter as referenced in AS 21.56.120). The change to this section corrects this error and also adds the requirement that the actuary certify to all the HIPAA provisions in AS 21.54 as they relate to small group coverage as was intended.

Section 43. AS 21.56.140(c). Small employer insurers, page 16.

The intent of AS 21.56.140(c) is to require that insurers exclude any employee who has existing comprehensive medical coverage in determining whether an employer has met established minimum participation requirements. The use of the term "similar existing coverage" does not clearly reflect this intent and therefore the change to this section modifies this to "existing creditable coverage". Creditable coverage is a clearly defined term under AS 21.54.

Consumer Credit Insurance

Sections 44 and 45 clarify information that must be provided in notices to a debtor before consumer credit insurance is purchased and information that must be provided in the policy.

Section 44. AS 21.57.055(a). Consumer credit insurance, page 17.

These two amendments clarify that the creditor must allow the debtor to provide any other creditor required insurance through existing policies or other insurers and state whether or not benefits will pay off the debt at the time of death, disability or unemployment. An insurer may require insurance but not necessarily credit insurance. The current disclosure requirement is incorrect in that it implies that an insurer may provide coverage for unearned premium payments. However, AS 21.57.040 does not allow coverage of unearned premium. Therefore, the change in this section modifies the provision to clarify the insurer must disclose whether benefits will completely pay off debt existing at the time of death, disability, or unemployment.

Section 45. AS 21.57.060(b). Consumer credit insurance, page 18.

Credit unemployment was left out of this disclosure requirement in error. The change to this section adds credit unemployment to the disclosure statement.

Late Fee for Late Payment of Title Insurance Premium Tax

Section 46 provides for a late fee when the premium tax on title insurance business written during the year is not paid by the due date in statute.

Section 46. AS 21.66.110(c). Late Fee, page 19.

The new subsection (c) adds a late payment fee for late payment of the premium tax required under AS 21.66.110 on title insurance. The fee is the greater of \$100

per day or 25% of the tax due. In addition, interest is charged at 1% per month or partial month.

Section 47. AS 21.66.380(b). Confidential documents, page 19.

This amendment specifies that information provided to the division that could identify the experience of a particular title insurance limited producer is confidential.

Annual Fee for Joint Insurance Arrangements

Section 48 sets an annual fee for an entity operating as a joint insurance arrangement under Chapter 76.

Section 48. AS 21.76.130. Annual Fee, page 19.

This new subsection adopts an annual fee to be paid by each entity operating under Chapter 76 as a joint insurance arrangement. The annual fee is to compensate the division for services performed in determining that an entity is staying within the authority given in Chapter 76. An entity that is found to be operating outside of Chapter 76 must be appropriately licensed as an insurer or producer under other provisions of Title 21.

Claim Priority in Liquidation Proceeding

Section 49 corrects the classification of claims by government by removing them from stockholders claims class 8.

Section 49. AS 21.78.260(5). Claim Priority in Liquidation Proceeding, page 19.

This amendment to paragraph (5) moves claims of a government entity for penalties out of Class 8 Stockholder Claims to Class 7. Class 8 are residual payments to stockholders of the defunct company and Class 7 are for payment of miscellaneous claims such as surplus notes, premium refunds on assessable policies, and payments to members of a mutual company. Specific penalty claims as a part of residual claims as the statute currently reads provides an impossible allocation of remaining funds in a liquidation estate.

Section 50. AS 21.85. Regulation of MEWAs, page 20.

This new Chapter in Title 21 provides the details of regulation of self-funded MEWAs operating in the state of Alaska.

AS 21.85.010. Certificate of authority required

This new section requires that a MEWA may not exist unless a certificate of authority is obtained from the director. The section defines when a self-funded MEWA is established or maintained in the state and thereby required to obtain a certificate authority.

AS 21.85.020. Name

This new subsection provides rules for the name of a self-funded MEWA such that the name does not imply that the MEWA is an insurer and that the name is not similar to another MEWA such that it would mislead the public.

AS 21.85.030. Qualifications for a certificate of authority.

This new subsection sets out in (a) the standards that must be met to obtain a certificate of authority. The employers must be members of an association in a related trade, profession or industry. The employers must exercise direct control of the arrangement. The MEWA must be nonprofit and provide only allowable benefits along with life insurance that meets the Alaska insurance statutes. The MEWA must have adequate facilities and competent personnel and the arrangement must cover not less than 2 employer and not less than 75 employees. The MEWA must not solicit participation from the general public but may associate with a licensed insurance producer to enroll employers. The arrangement may not be used solely to collect premiums and forward premiums to an insurance company except in the case of life insurance.

The new subsection (a) sets some solvency requirements. The MEWA must deposit \$100,000 with the director for payment of claims if the arrangement should become insolvent and the arrangement must provide the director a written plan of operation that ensures financial integrity if the director requests such a document. The MEWA must demonstrate that it has the ability to remain solvent. The methods open to the director for determining that the MEWA has the ability to remain solvent are

- pro forma financial statements
- types and levels of stop-loss insurance
- deposit requirement for each employee equal to at least one month cost of providing benefits
- management experience
- other factors the director considers relevant.

The new subsection (b) allows the director to require documents which describe the rights and obligations of the participants to say that those participants are liable for a pro rata share of all liabilities that are unpaid.

The new subsection (c) requires that the MEWA must have stop loss insurance coverage for 100% of claims in excess of the attachment point recommended by a qualified actuary.

AS 21.85.040. Application for a certificate of authority.

This new section sets out the items that must be submitted in an application for a certificate of authority. The items include the submission of an application showing detailed information of the MEWA along with a fee. The application must also have the following

- a copy of all documents describing rights and obligations of the employers, employees and beneficiaries of the arrangements,
- copy of the summary plan description files with the US Department of Labor,
- evidence of coverage or intent to cover at least 2 employers and at least 75 employees
- copy of the most recent annual financial statement or pro forma financial statement including an actuarial opinion
- proof of fidelity bonds
- copy of any stop-loss insurance policies in place or proposed
- biographical reports evidencing trustworthiness and competence of each managing employee or fiduciary
- a statement that the information provided is true and correct and that the arrangement is in compliance with specific state and federal laws, and
- base contribution rates for participation for the initial year of operations.

AS 21.85.050. Minimum reserves.

This new section requires that a self-funded MEWA maintain reserves equal to at least 30% of unpaid claim liability or the amount certified by an actuary, whichever is greater.

AS 21.85.060. Investments.

This new section requires that the MEWA maintain an amount of funds equal to 85% of net unpaid claim liability in cash, cash equivalents, insured bank deposits, bank certificate of deposits, insured share or savings accounts of a savings and loan or rated credit instruments issued or guaranteed by the US or Canada or by a government-sponsored enterprise of the US or Canada if the instrument is guaranteed or is backed by the full faith and credit of the US or Canada. The bank certificate of deposit is subject to review of the director to determine if the investment is sound. If it is not determined to be sound the director may require liquidation of the portion found to be unsound.

AS 21.85.070. Contribution rates.

This new section requires that the self-funded MEWA maintain contribution rates that fund the greater of the amount certified by a qualified actuary, or the sum of projected claims liability for the year, plus all projected costs of operation for the year, plus an amount equal to deficiency of reserves for the prior year minus an amount equal to reserves in excess of minimum required levels of reserves. The contribution rates must also be not excessive, inadequate or unfairly discriminatory.

AS 21.85.080. Reporting requirements.

This new section sets out requirements for the filing of financial statements with the director. The statements must be a statement of the financial condition, transactions and affairs as of the preceding December 31 on forms required by the director. The financial statement as a whole must include

- statement of financial condition (balance sheet);
- a statement of change in financial condition (income statement) accompanied by an actuarial opinion by a qualified actuary certifying that the unpaid claim liability meets the requirements for health coverage reserves in Chapter 18 of the Alaska insurance statutes, including a recommended level of specific and aggregate stop loss insurance, and a description of actuarial soundness with recommendations for improvement;
- Statement of contribution rates for next year;
- Certified financial statements for the prior two years if payments to the arrangement by participants during the prior year exceeded \$2 million; and
- Additional information the director finds necessary to determine financial integrity.

New subsection (b) requires a quarterly statement to be filed within 60 days of the end of each quarter which must include:

- statement of financial condition,
- statement of change in financial condition since the prior year end
- report of number of participating employeers and number of covered lives at the end of the quarter and contributions received during the quarter, and
- any other information required by the director.

The new subsection (c) requires that the self-funded MEWA must also file with the director a copy of each Form 5500, with attachments, filed with the Internal Revenue Service.

AS 21.85.090. Consumer information notice.

This new section requires that a notice be given to each participating employee, in writing at the time coverage becomes effective that is clear and conspicuous, no smaller than 10 point type, and that states that the coverage is issued by a self-funded MEWA ; coverage is not protected by the Alaska Life and Health Insurance guaranty Association; and if claim payment is not made by the MEWA the employer or employee may be responsible for payment.

AS 21.85.100. Applicability of other provisions.

This new section sets out what other provisions of the Alaska insurance statutes apply to self-funded MEWAs. The sections include requirements for examinations, managed care insurance plans, unsound management, issuance and continuance of the certificate of authority, disciplinary action against the certificate of authority, filing of financial statements, payment of premium tax, filing of changed information, retaliatory fee, reporting of material transaction,

maintenance of records, health insurance reserves, requirements for unauthorized insurers, trade practices and frauds, approval of policy forms, coverage mandates, requirements for group life insurance, requirements for health insurance, participation in small employer health insurance and high risk health insurance, requirements for rehabilitation or liquidation.

AS 21.85.500. Definitions.

This new section defines the terms used throughout Chapter 85. It also defines "self-funded multiple employer welfare arrangement" as used in this chapter to be a MEWA that does not provide for benefit payment under a policy of insurance issued by authorized insurance companies.

Section 51. AS 21.87.190(b). Confidential documents, page 29.

This amendment specifies that detailed rate justifications and rating formulas are confidential without a specific determination by the director.

Repeal of Sections

Section 52 repeals several sections because of statute changes included in this bill.

Section 52. Repealing sections, page 29.

The section repeals AS 21.33.045(d) that exempted life, health and annuity insurers from providing information if the director had reason to believe the coverage was placed with a nonadmitted insurer. Life, health and annuity insurers who write business in Alaska and were not admitted in Alaska would be treated like all other insurers and required to provide information to the director. The section repeals AS 21.87.340(17) because it references repealed section AS 21.89.040. The section repeals current section AS 21.89.040 due to the optometric services provision being added as a new section AS 21.42.363 in Sec. 33 of this bill.

Section 53. Revisor instruction, page 29.

The revisor is instructed to change the title of AS 21.42.020 to reflect the change made in Section 31 of this bill.

Section 54. Effective date, page 30.

This section provides for an effective date of July 1, 2002 for all sections of this bill.

CS FOR HOUSE BILL NO. 246(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

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

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to regulation of a person providing insurance for the cost of medical
2 care, to confidentiality of insurance records, to insurance hearings, to insurance fees, to
3 annual and quarterly statements by insurers, to managed care insurance, to taxes on
4 insurance, to insurer certificates of authority, to risk based capital for insurers, to
5 unauthorized and nonadmitted insurers, to surplus lines insurance, to health insurance,
6 to life insurance, to annuity insurance, to consumer credit insurance, to insurer
7 liquidation, to multiple employer welfare arrangements, and to regulation of insurance
8 producers, agents, brokers, managers, and adjusters; and providing for an effective
9 date."

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

11 * Section 1. AS 21.03.021 is amended by adding new subsections to read:

12 (b) Except as otherwise provided in this title, a person that provides coverage

1 for the cost of medical care in this state is subject to this title unless the person shows
2 that, while providing coverage for medical care, the person is subject to the
3 jurisdiction of another agency of this state or of the federal government by providing
4 the director with the appropriate certificate, license, or other document issued by the
5 other governmental agency that permits or qualifies the person to provide coverage for
6 medical care.

7 (c) A person described under (b) of this section who is unable to show that the
8 person is subject to the jurisdiction of another governmental agency under (b) of this
9 section and who has not received a certificate of authority under AS 21.85

10 (1) is subject to all appropriate provisions of this title regarding the
11 conduct of the person's business; and

12 (2) shall submit to an examination by the director to determine the
13 organization and solvency of the person and to determine whether the person complies
14 with this title.

15 (d) A person that advertises, administers, sells, or transacts the coverage of
16 medical care under (b) of this section and is required to submit to an examination by
17 the director under (c)(2) of this section shall advise every purchaser, prospective
18 purchaser, or covered person that the person's coverage may not be regulated under
19 Alaska insurance law and may not be covered by the Alaska Life and Health Insurance
20 Guaranty Association under AS 21.79.

21 * Sec. 2. AS 21.06.060 is amended to read:

22 Sec. 21.06.060. Records. The director shall enter in permanent form records
23 of official transactions, examinations, investigations, and proceedings and keep those
24 records in the office of the director. The records and insurance filings in the office of
25 the director are open to public inspection, except as otherwise provided in (b) - (g) of
26 this section or other provisions of this title with respect to particular records or
27 filings.

28 * Sec. 3. AS 21.06.060 is amended by adding new subsections to read:

29 (b) Information and records, including written documents and electronic data,
30 designated as confidential or not available for public inspection under this section or
31 other provisions of this title

1 (1) are not subject to inspection and copying under AS 40.25.110 -
2 40.25.220;

3 (2) may not be obtained from the director by subpoena, except for a
4 subpoena issued by a state or federal law enforcement agency or grand jury;

5 (3) may be used by the director in a regulatory or legal proceeding; and

6 (4) may be released for public inspection if the person who provided
7 the information or records to the director consents or releases incomplete or
8 misleading information on the same topic to the public.

9 (c) The director or a person acting under the authority of the director who
10 receives information or records designated in this title as confidential or not available
11 for public inspection may not be permitted or required to testify about the information
12 or records in a civil action not involving the state or a state agency, officer, or
13 employee.

14 (d) A person required or requested to provide information or records to the
15 director under this title does not waive a claim of privilege that the person may have
16 by providing the information or records to the director.

17 (e) In the performance of duties under this title, the director may

18 (1) disclose confidential information or records to the legislature, state,
19 federal, and international regulatory or law enforcement agencies, or the National
20 Association of Insurance Commissioners if the recipient will maintain the
21 confidentiality of the information or records;

22 (2) receive information or records from state, federal, and international
23 regulatory or law enforcement authorities or the National Association of Insurance
24 Commissioners and maintain the confidentiality of the information or records if
25 requested to do so or given notice that the information or records are confidential
26 under the law of the jurisdiction supplying them; and

27 (3) enter into agreements consistent with this section governing the
28 sharing of information or records that are confidential under this title with other state,
29 federal, and international regulatory or law enforcement agencies or the National
30 Association of Insurance Commissioners for the purpose of furthering any regulatory
31 or legal action that may be taken as part of the recipient's official duties.

1 (f) The following information or records submitted to or obtained by the
2 director are confidential:

3 (1) personally identifiable consumer information; however, the director
4 may disclose the information or records for the purpose of attempting to resolve a
5 consumer complaint;

6 (2) information or records established by a showing satisfactory to the
7 director to be a trade secret or proprietary business information, including

8 (A) detailed health insurance claim cost data; and

9 (B) justification for usual, customary, and reasonable charge
10 determinations; and

11 (3) information or records provided by a person not subject to this title
12 at the request of the director if the information or records are identified as confidential
13 by the director; and

14 (4) financial analysis ratios and examination synopses concerning
15 insurance companies that are submitted to the director by the National Association of
16 Insurance Commissioners.

17 (g) The director may withhold information or records from public inspection
18 for as long as the director finds the withholding is

19 (1) necessary to protect a person against unwarranted injury; or

20 (2) in the public interest.

21 * Sec. 4. AS 21.06.150(g) is repealed and reenacted to read:

22 (g) Information or records obtained by the director under AS 21.06.120 or
23 21.06.140 and any related work papers of an examination are confidential. The
24 director may publish an examination report or a summary of it in a newspaper or
25 electronic media in the state if the director determines that the publication is in the
26 public interest.

27 * Sec. 5. AS 21.06.210 is amended by adding a new subsection to read:

28 (h) The director may close a hearing to the public when the director finds the
29 closure is necessary to protect a person against unwarranted injury or is in the public
30 interest.

31 * Sec. 6. AS 21.07.040(c) is amended to read:

1 (c) Nothing in this section may be construed to prohibit the exchange of
2 medical information between and among health care providers of an applicant or a
3 person currently or formerly [A CURRENT OR FORMER PERSON] covered by a
4 managed care plan for purposes of providing health care services.

5 * Sec. 7. AS 21.09.120(a) is amended to read:

6 (a) If, upon completion of its application, the director finds that the insurer has
7 met the requirements for and is entitled to a certificate under this title, the director
8 shall issue to the insurer a proper certificate of authority; if the director does not so
9 find, the director shall issue an order refusing the certificate. The director shall act
10 upon an application for a certificate of authority within 60 [30] days after its
11 completion.

12 * Sec. 8. AS 21.09.130(a) is amended to read:

13 (a) A certificate of authority issued or renewed under this title continues in
14 force as long as the insurer is entitled to it under this title and until suspended or
15 revoked, or otherwise terminated, [;] subject, however, to continuance of the
16 certificate by the insurer each year by payment before June 30 of the continuation fee
17 set under AS 21.06.250. The method of payment must be by electronic or other
18 payment method specified by the director by regulation under AS 21.06.250.

19 * Sec. 9. AS 21.09.200(d) is amended to read:

20 (d) At the time of filing, the insurer shall pay to the director a fee for filing its
21 statement, set under AS 21.06.250. The method of payment must be by electronic
22 or other payment method specified by the director by regulation under
23 AS 21.06.250.

24 * Sec. 10. AS 21.09.210(g) is amended to read:

25 (g) An insurer shall pay to the division a late payment fee of \$100 a day or
26 25 percent of the tax due, whichever is greater, from the date the payment was
27 due to the date paid, and interest at the rate of one percent a month or part of a
28 month from the date the payment was originally due to the date paid for the
29 period the insurer fails to pay the premium tax in this section or in AS 21.09.270
30 in the form required and within the time established. The director may suspend or
31 revoke the certificate of authority of an insurer that fails to pay its taxes as required

1 under this section.

2 * Sec. 11. AS 21.09.210(j) is amended to read:

3 (j) The provisions of AS 21.89.070 and 21.89.075 apply to a taxpayer who is
4 required to pay a tax due under this section.

5 * Sec. 12. AS 21.09.210(m) is amended to read:

6 (m) The tax imposed under this section for an individual policy of life
7 insurance shall be computed at the rate of

8 (1) 2.7 percent of [FOR A POLICY OF LIFE INSURANCE WITH A]
9 policy year premium up to \$100,000; and

10 (2) one-tenth of one [A] percent of [FOR A POLICY OF LIFE
11 INSURANCE FOR THE] policy year premium exceeding \$100,000.

12 * Sec. 13. AS 21.09.270(b) is amended to read:

13 (b) This section does not apply to

14 [(1)] personal income taxes, [OR] to ad valorem taxes on real or
15 personal property, or to special purpose obligations or assessments imposed by
16 another state in connection with particular kinds of insurance other than property
17 insurance; except that deductions from premium taxes or other taxes otherwise
18 payable allowed on accounts of real estate or personal property taxes paid shall be
19 taken into consideration by the director in determining the propriety and extent of
20 retaliatory action under this section [; OR

21 (2) A HEALTH CARE INSURER WHO ISSUES HEALTH CARE
22 INSURANCE TO THE STATE, A MUNICIPALITY, A CITY OR BOROUGH
23 SCHOOL DISTRICT, A REGIONAL EDUCATIONAL ATTENDANCE AREA,
24 THE UNIVERSITY OF ALASKA, OR A COMMUNITY COLLEGE OPERATED
25 BY THE UNIVERSITY OF ALASKA; IN THIS PARAGRAPH, "HEALTH CARE
26 INSURER" HAS THE MEANING GIVEN IN AS 21.54.500].

27 * Sec. 14. AS 21.09.270 is amended by adding a new subsection to read:

28 (f) For purposes of calculation of the amounts in (a) of this section, an insurer
29 may not include taxes on health care insurance premiums received from the state, a
30 municipality, a city or borough school district, a regional educational attendance area,
31 the University of Alaska, or a community college operated by the University of

1 Alaska.

2 * Sec. 15. AS 21.09.310(n) is amended to read:

3 (n) Annual statements under AS 21.09.200 and quarterly statements under
4 AS 21.09.205 (1) may only relate to and must include all insurance transactions and
5 affairs within the United States, assets held by or for the United States branch for the
6 protection of policyholders and creditors within the United States, and liabilities
7 incurred against those assets; and (2) may not contain a statement in regard to assets
8 and business transacted in a place not described in this subsection. The annual and
9 quarterly statements shall be signed and verified by the United States manager,
10 attorney-in-fact, or a duly empowered assistant United States manager of the United
11 States branch.

12 * Sec. 16. AS 21.14.050(a) is amended to read:

13 (a) If a mandatory control level event occurs for a domestic insurer, the
14 director shall take the action necessary to place the insurer under regulatory control
15 under AS 21.78.

16 * Sec. 17. AS 21.27.020(c) is amended to read:

17 (c) To qualify for issuance or renewal of a license as a firm insurance
18 producer, a firm managing general agent, a firm reinsurance intermediary broker, a
19 firm reinsurance intermediary manager, a firm surplus lines broker, or a firm
20 independent adjuster, an applicant or licensee shall

21 (1) comply with (b)(4) and (5) of this section;

22 (2) maintain a lawfully established place of business in this state,
23 except when licensed as a nonresident under AS 21.27.270;

24 (3) disclose to the director all owners, officers, directors, or partners of
25 the firm;

26 (4) designate one or more [A] compliance officers [OFFICER] for the
27 firm;

28 (5) provide to the director documents necessary to verify the
29 information contained in or made in connection with the application; and

30 (6) notify the director, in writing, within 30 days of a change in the
31 firm's compliance officer or of the termination of employment of an individual in the

1 firm licensee.

2 * Sec. 18. AS 21.27.140(a) is repealed and reenacted to read:

3 (a) A firm shall have a firm license, the scope of which includes all lines and
4 classes of authority of each individual employee of the firm.

5 * Sec. 19. AS 21.27.140(b) is repealed and reenacted to read:

6 (b) A firm may not be licensed as an insurance producer, managing general
7 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus
8 lines broker, or independent adjuster, or transact insurance unless each individual
9 employed as an insurance producer, managing general agent, surplus lines broker,
10 trainee insurance producer, trainee independent adjuster, or independent adjuster by
11 the firm is licensed as an individual in the firm. Each compliance officer of the firm
12 shall be licensed as an individual in the firm for a specific line and class of authority.
13 If there is more than one compliance officer, the combined authority of all compliance
14 officers shall cover all the powers conferred by the firm's license.

15 * Sec. 20. AS 21.27.370(c) is amended to read:

16 (c) An unlicensed person who refers a customer or potential customer to a
17 licensee and who does not discuss specific terms and conditions of a policy [,] or give
18 [WHO GIVES] opinions or advice regarding insurance, may be compensated for the
19 referral, if the compensation

20 (1) for each referral is

21 (A) nominal;

22 (B) on a one-time basis; and

23 (C) fixed in amount by referral;

24 (2) does not depend on whether the customer or potential customer
25 purchases the insurance; and

26 (3) is not contingent on the volume of insurance transacted.

27 * Sec. 21. AS 21.27.900(4) is amended to read:

28 (4) "compliance officer" means a licensee designated for a specific
29 line and class of authority under this chapter who [THAT] is responsible for a firm's
30 compliance with the insurance statutes and regulations of this state;

31 * Sec. 22. AS 21.27.900 is amended by adding a new paragraph to read:

1 (32) "class of authority" means the authority held by a person under a
2 license as an insurance producer, managing general agent, reinsurance intermediary
3 broker, reinsurance intermediary manager, surplus lines broker, or independent
4 adjuster, or under registration as a third-party administrator.

5 * Sec. 23. AS 21.33.037(b) is amended to read:

6 (b) This section does not apply to

7 (1) matters authorized to be done by the director;

8 (2) surplus lines insurance effected and written under AS 21.34;

9 (3) transactions for which a certificate of authority is not required
10 under this title;

11 (4) reinsurance;

12 (5) the property and operations of railroads or aircraft primarily
13 engaged in interstate or foreign commerce and wet marine and transportation
14 insurance;

15 (6) life insurance, health insurance, and annuity contracts when
16 solicited solely by mail or when not solicited, negotiated, or procured in this state;

17 (7) transactions subsequent to issuance of a policy not covering a
18 subject resident, located, or to be performed in this state at time of issuance and
19 lawfully solicited, written, or delivered outside this state.

20 * Sec. 24. AS 21.33.055(a) is amended to read:

21 (a) Except as to premiums on lawfully procured surplus lines insurance
22 exported under AS 21.34 and premiums on independently procured insurance on
23 which a tax has been paid under AS 21.33.061, every nonadmitted insurer shall pay to
24 the director, on or before March 1 following the calendar year in which the insurance
25 was so effectuated, continued, or renewed, a premium-receipts tax of three percent of
26 gross premiums charged for the insurance other than wet marine and transportation
27 insurance and a premium-receipts tax of three-fourths of one percent of gross
28 premiums charged for the wet marine and transportation insurance on subjects
29 resident, located, or to be performed in this state. The insurance on subjects resident,
30 located, or to be performed in this state procured through negotiations or an
31 application, in whole or in part occurring or made in or from in or out of this state, or

1 for which premiums in whole or in part are remitted directly or indirectly from in or
2 out of this state, shall be considered to be insurance procured or continued or renewed
3 in this state. The term "premium" includes all premiums, membership fees,
4 assessments, dues, and any other consideration for insurance. The tax paid by the
5 insurer is in lieu of all insurer taxes and fire department dues. On default of a
6 nonadmitted insurer in the payment of the tax, the insured shall pay the tax within 30
7 days of written notice from the director of the default by the nonadmitted insurer. If
8 the tax prescribed by this section is not paid by the nonadmitted insurer within the
9 time stated or by the insured within the time stated after notice of default by the
10 nonadmitted insurer, the tax may be increased by

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

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

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

17 * Sec. 25. AS 21.33.055(c) is amended to read:

18 (c) This section does not apply to insurance of risks of the state or [,] a
19 political subdivision of the state, or to insurance of aircraft primarily [REGULARLY]
20 engaged in interstate or foreign commerce.

21 * Sec. 26. AS 21.33.061(c) is amended to read:

22 (c) There is levied upon the obligation, chose in action, or right represented by
23 the premium charged for the insurance, a premium receipts tax of three per cent of
24 gross premiums charged for the insurance other than wet marine and transportation
25 insurance and a premium receipts tax of three-fourths of one percent of gross
26 premiums charged for the wet marine and transportation insurance. The term
27 "premium" includes all premiums, membership fees, assessments, dues, and any other
28 consideration for insurance. [THE TAX IS IN LIEU OF ALL TAXES AND FIRE
29 DEPARTMENT DUES.] The insured shall, on or before March 1 following the
30 calendar year in which the insurance was procured, continued, or renewed, pay the
31 amount of the tax to the director. In event of cancellation and rewriting of the

1 insurance contract, the additional premium for premium receipts tax purposes is the
2 premium in excess of the unearned premium of the cancelled insurance contract. If the
3 tax prescribed by this section is not paid within the time stated, the tax may be
4 increased by

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

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

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

11 * Sec. 27. AS 21.33.061(g) is amended to read:

12 (g) This section does not apply to insurance of risks of the state or [,] a
13 political subdivision of the state, ~~to~~ insurance of aircraft primarily [REGULARLY]
14 engaged in interstate or foreign commerce, to life insurance, to health insurance, or to
15 annuity contracts.

16 * Sec. 28. AS 21.34.180(a) is amended to read:

17 (a) Gross premiums charged, less any return premium, for surplus lines
18 insurance are subject to a premium receipts tax as outlined in AS 21.09.210, which
19 shall be collected by the surplus lines broker as specified by the director, in addition to
20 the full amount of the gross premium charged by the insurer for the insurance. The tax
21 on any portion of the premium unearned at termination of insurance having been
22 credited by the state to the surplus lines broker shall be returned to the policy holder
23 directly by the surplus lines broker or through the producing broker, if any. The
24 surplus lines broker may not absorb the tax or any part of it, and may not rebate for
25 any reason the tax or any part of it. However, if, under AS 21.09.210, an admitted
26 insurer is required to collect and pay premium tax on a portion of a subscription
27 policy, the surplus lines broker is not required to collect any amount that would
28 constitute double taxation of that portion of the insurance.

29 * Sec. 29. AS 21.34.180(d) is amended to read:

30 (d) This section does not apply to insurance of risks of state government or its
31 political subdivision, to an agency of state government or its political subdivision, or

1 to insurance of aircraft primarily [REGULARLY] engaged in interstate or foreign
2 commerce.

3 * Sec. 30. AS 21.34.180 is amended by adding a new subsection to read:

4 (f) A surplus lines broker shall pay to the division a late payment fee of \$100 a
5 day or 25 percent of the tax due, whichever is greater, from the date the payment was
6 due to the date paid and interest at the rate of one percent a month or part of a month
7 from the date the payment was originally due to the date paid for each day the insurer
8 fails to pay the tax in the form required and within the time established

9 * Sec. 31. AS 21.42.020(d) is amended to read:

10 (d) "Insurable interest," with reference to life, annuity, or health
11 [PERSONAL] insurance, includes only the following interests:

12 (1) in the case of persons related closely by blood or by law, a
13 substantial interest engendered by love and affection;

14 (2) in the case of persons other than those described in (1) of this
15 subsection, a lawful and substantial economic interest in having the life, health, or
16 bodily safety of the person insured continue, as distinguished from an interest that
17 [WHICH] would arise only by, or would be enhanced in value by, the death,
18 disablement, or injury of the individual insured;

19 (3) an individual party to a contract or option for the purchase or sale
20 of an interest in a business partnership or firm, or of shares of stock of a closed
21 corporation or of an interest in the shares, has an insurable interest in the life of each
22 individual party to the contract for the purposes of the contract only, in addition to an
23 insurable interest that may otherwise exist as to the life of the individual.

24 * Sec. 32. AS 21.42 is amended by adding a new section to read:

25 Sec. 21.42.145. Stop-loss insurance provisions. (a) An insurance company
26 licensed under AS 21.09, a hospital or medical service corporation licensed under
27 AS 21.87, a fraternal benefit society licensed under AS 21.84, a health maintenance
28 organization licensed under AS 21.86, or a multiple employer welfare arrangement
29 may not issue a stop-loss insurance policy that

30 (1) has an annual attachment point for claims incurred for each
31 individual that is lower than \$10,000;

1 (2) has an annual aggregate attachment point for a large employer that
2 is lower than the greater of

3 (A) \$4,000 times the number of individuals covered under the
4 health benefit plan;

5 (B) 120 percent of the expected claims for the health benefit
6 plan for the period covered by the stop-loss insurance policy; or

7 (C) \$20,000;

8 (3) has an annual aggregate attachment point for a small employer that
9 is lower than 110 percent of expected claims for the health benefit plan for the period
10 covered by the stop-loss insurance policy; or

11 (4) provides direct coverage of health care expenses of an individual.

12 (b) The director may, by regulation, change the dollar amounts established
13 under (a) of this section to reflect medical costs in this state, including adjustments to
14 reflect changes in the medical care component of the Consumer Price Index for all
15 urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of
16 Labor Statistics, United States Department of Labor.

17 (c) For the purposes of this section,

18 (1) "attachment point" means the claim amount incurred by an insured
19 group beyond which the insurer incurs a liability for payment;

20 (2) "expected claims" means the amount of claims that, in absence of a
21 stop-loss insurance policy or other insurance, are projected to be incurred by an
22 insured group through its health benefit plan;

23 (3) "health benefit plan" has the meaning given in AS 21.54.500;

24 (4) "large employer" has the meaning given in AS 21.54.500;

25 (5) "small employer" has the meaning given in AS 21.54.500.

26 * Sec. 33. AS 21.42 is amended by adding a new section to read:

27 **Sec. 21.42.363. Eye care under health insurance.** A policy, contract, or
28 prepaid plan for individual or group health insurance issued or delivered in the state
29 that provides reimbursement for a service within the lawful scope of practice of an
30 optometrist licensed under AS 08.72 must provide for reimbursement to a person
31 covered under the policy, contract, or plan who had the service performed by an

1 optometrist.

2 * Sec. 34. AS 21.42.365(b) is amended to read:

3 (b) The benefits described in (a) of this section shall be adjusted January 1,
4 1999, by the director and every three years thereafter to correspond with the change in
5 the medical care component of the consumer price index for all urban consumers for
6 the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United
7 States Department of Labor. [THE BASE YEAR FOR THE FIRST ADJUSTMENT
8 SHALL BE CALENDAR YEAR 1996.]

9 * Sec. 35. AS 21.42.390(b) is repealed and reenacted to read:

10 (b) A health care insurer shall provide benefits of not less than \$1,500 for a
11 covered person in a year for the cost of diabetes outpatient self-management training
12 or education under (a) of this section.

13 * Sec. 36. AS 21.42.500(5) is amended to read:

14 (5) "health care insurance plan" has the meaning given in
15 AS 21.54.500; "health care insurance plan" does not include short-term limited-
16 duration insurance offered to individuals in the individual market;

17 * Sec. 37. AS 21.42.500 is amended by adding a new paragraph to read:

18 (8) "individual market" has the meaning given in AS 21.51.500;

19 * Sec. 38. AS 21.51.090 is amended to read:

20 Sec. 21.51.090. Claim forms. There shall be a provision as follows:

21 "Claim Forms: The insurer, within 10 working days after [UPON]
22 receipt of a notice of claim, will furnish to the claimant forms that
23 [WHICH] are usually furnished by it for filing proofs of loss. If the
24 forms are not furnished within 10 [15] days after the giving of notice,
25 the claimant shall be considered to have complied with the
26 requirements of this policy as to proof of loss upon submitting, within
27 the time fixed in the policy for filing proofs of loss, written proof
28 covering the occurrence, the character, and the extent of the loss for
29 which claim is made."

30 * Sec. 39. AS 21.51.110 is amended to read:

31 Sec. 21.51.110. Time of payment of claims. There shall be a provision as

1 follows:

2 "Time of Payment of Claims: Indemnities payable under this policy for
3 a loss other than loss for which this policy provides a periodic payment
4 [,] will be paid within 30 days after [IMMEDIATELY UPON] receipt
5 of due written proof of the loss. Subject to due written proof of loss, all
6 accrued indemnities for loss for which this policy provides periodic
7 payment will be paid (insert period for payment, which must not be less
8 frequently than monthly) and any balance remaining unpaid upon the
9 termination of liability will be paid beginning within 30 days after
10 [IMMEDIATELY UPON] receipt of due written proof."

11 * Sec. 40. AS 21.54.130(c) is amended to read:

12 (c) A health care insurer may discontinue offering and renewing all health care
13 insurance plans in the small group market, large group market, or both, [GROUP
14 MARKET] as permitted by this title if the insurer

15 (1) provides written notice of the decision to discontinue coverage to
16 all affected plan sponsors, participants, and beneficiaries and to the insurance
17 regulatory official in each state in which an affected covered employee or dependent is
18 known to reside; notice required under this paragraph must be given at least 180 days
19 before discontinuation of the plans;

20 (2) provides written notice of the decision to discontinue coverage to
21 the director and to the insurance regulatory official in each state in which the insurer is
22 licensed at least 30 days before the notice is given to the affected plan sponsors,
23 participants, and beneficiaries as described under (1) of this subsection; and

24 (3) does not issue a health care insurance plan in the group market in
25 this state for five years from the date the last group health care insurance plan was
26 discontinued.

27 * Sec. 41. AS 21.55.010 is amended to read:

28 Sec. 21.55.010. **Creation; membership.** There is established a nonprofit
29 incorporated legal entity to be known as the Comprehensive Health Insurance
30 Association. Membership consists of all licensed hospital or medical service
31 corporations in the state that offer subscriber contracts for major medical coverage, all

1 health maintenance organizations or other managed care arrangements approved by
2 the director, all licensed self-funded multiple employer welfare arrangements in
3 the state, and all insurers licensed to transact health insurance in the state that offer
4 policies for major medical coverage on an expense incurred basis. All members shall
5 maintain membership in the association as a condition of doing health insurance
6 business, or being able to offer subscriber contracts or enrollment in a health
7 maintenance organization, self-funded multiple employer welfare arrangement, or
8 managed care arrangement [,] in the state.

9 * Sec. 42. AS 21.56.120(c) is amended to read:

10 (c) A small employer insurer shall

11 (1) maintain at its principal place of business a complete and detailed
12 description of its rating practices and renewal underwriting practices, including
13 information and documentation that demonstrate that its rating methods and practices
14 are based upon commonly accepted actuarial assumptions and are in accordance with
15 sound actuarial principles;

16 (2) file with the director annually, on or before March 15, an actuarial
17 certification certifying that the insurer is in compliance with this chapter and
18 AS 21.54.100 - 21.54.500 and that the rating methods of the small employer insurer
19 are actuarially sound; the certification shall be in a form and manner, and must contain
20 information, as specified by the director; a copy of the certification shall be retained
21 by the small employer insurer at its principal place of business;

22 (3) make the information and documentation described in (1) of this
23 subsection available to the director upon request; the information is confidential and
24 not subject to disclosure, except

25 (A) as agreed to by the small employer insurer;

26 (B) as ordered by a court of competent jurisdiction; or

27 (C) the director may use the information or other discovered
28 information in a judicial or administrative proceeding.

29 * Sec. 43. AS 21.56.140(c) is amended to read:

30 (c) A small employer insurer may not increase a requirement for minimum
31 employee participation or for minimum employer contribution applicable to a small

1 employer at any time after the small employer has been accepted for coverage, except
2 that a small employer insurer may vary application of minimum participation and
3 employer contribution requirements by the size of the small employer group. In
4 applying minimum employee participation requirements, a small employer insurer
5 may not consider employees or dependents who have [SIMILAR] existing creditable
6 coverage in determining whether the minimum employee participation level is met.

7 * Sec. 44. AS 21.57.055(a) is amended to read:

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

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

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

16 (3) the conditions of eligibility;

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

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

24 (6) the effective date of the coverage;

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

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

30 (A) the amount;

31 (B) the term;

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

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

12 (10) whether or not the benefits provided are sufficient to pay off the
13 debt existing on the date of death, disability, or unemployment [IN FULL,
14 INCLUDING FINANCE CHARGES UNEARNED AT THE TIME OF THE
15 CLAIM].

16 * Sec. 45. AS 21.57.060(b) is amended to read:

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

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

20 (2) the name of the debtor;

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

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

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

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

1 (7) if the benefit is not adequate to completely pay off the debt existing
2 on the date of death, [OR] disability, or unemployment, a statement to that effect on
3 the face of the individual policy or group certificate in not smaller than 10 point, bold
4 face type.

5 * Sec. 46. AS 21.66.110 is amended by adding a new subsection to read:

6 (c) A title insurance company shall pay to the division a late payment fee of
7 \$100 a day or 25 percent of the tax due, whichever is greater, from the date the
8 payment was due to the date paid and interest at the rate of one percent a month or part
9 of a month from the date the payment was originally due to the date paid for each day
10 the insurer fails to pay the premium tax in the form required and within the time
11 established.

12 * Sec. 47. AS 21.66.380(b) is amended to read:

13 (b) The statement and justification provided for in this section shall be open to
14 public inspection; however, information that can be used to identify the
15 experience of a particular title insurance limited producer is confidential.

16 * Sec. 48. AS 21.76 is amended by adding a new section to read:

17 Sec 21.76.130. Fee. (a) An entity operating under the authority of this
18 chapter shall pay a fee adopted by regulation under AS 21.06.250. The fee shall be
19 paid on or before October 1 of each year. The director may require that the payment
20 of the fee be by electronic means.

21 (b) If the fee under (a) of this section is not paid within the time prescribed,
22 the fee and late payment fees, along with appropriate penalties, may be collected by an
23 action in court.

24 (c) A joint insurance arrangement shall pay the director \$100 for each day the
25 joint insurance arrangement fails to pay the fee by the due date prescribed. In
26 addition, a penalty under AS 21.90.020 shall apply.

27 * Sec. 49. AS 21.78.260(5) is amended to read:

28 (5) class 5: claims of the federal or a state or local government, other
29 than claims under (3) of this section; claims, including those of a government body for
30 a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary
31 loss sustained from the act, transaction, or proceeding out of which the penalty or

1 forfeiture arose, along with reasonable and actual costs attributable to it; the remaining
2 portion of the claims are in the class of claims set out in (7) [(8)] of this section;

3 * **Sec. 50.** AS 21 is amended by adding a new chapter to read:

4 **Chapter 85. Regulation of Multiple Employer Welfare Arrangements.**

5 **Sec. 21.85.010. Certificate of authority required.** (a) A person may not
6 establish or maintain a self-funded multiple employer welfare arrangement except as
7 authorized by a subsisting certificate of authority issued to the arrangement by the
8 director.

9 (b) A self-funded multiple employer welfare arrangement is established or
10 maintained in this state if

11 (1) one or more of the employer members participating in the
12 arrangement is domiciled or maintains its principal place of business in the state; or

13 (2) the multiple employer welfare arrangement solicits an employer
14 that is domiciled in this state or has its principal headquarters or principal
15 administrative offices in this state.

16 **Sec 21.85.020. Name.** A self-funded multiple employer welfare arrangement
17 may not use a name that includes the words "insurance," "casualty," "surety," "health
18 and accident," "mutual," or other terms descriptive of an insurer or insurance business.
19 A self-funded multiple employer welfare arrangement may not have or use a name that
20 is the same as or so similar to that of another self-funded multiple employer welfare
21 arrangement or insurer that the name is likely to mislead the public.

22 **Sec. 21.85.030. Qualifications for a certificate of authority.** (a) The
23 director may not issue a certificate of authority to a self-funded multiple employer
24 welfare arrangement unless the arrangement establishes to the satisfaction of the
25 director that

26 (1) employers participating in the arrangement are members of a bona
27 fide association or group of two or more businesses in the same or a closely related
28 trade, profession, or industry that provide support, services, or supplies primarily to
29 that trade, profession, or industry;

30 (2) employers or employees participating in the arrangement exercise
31 direct control over the arrangement; as described in this paragraph,

1 (A) subject to (B) of this paragraph, direct control exists if the
2 employers or employees participating in the arrangement have the right to elect
3 at least 75 percent of the individuals designated in the arrangement's
4 organizational documents as having control over the operations of the
5 arrangement and the individuals designated in the arrangement's organizational
6 documents in fact exercise control over the operation of the arrangement;

7 (B) use of a third-party administrator to process claims and to
8 assist in the administration of the arrangement is not evidence of the lack of
9 exercise of control over the operations of the arrangement;

10 (3) the arrangement is a nonprofit organization;

11 (4) the arrangement provides only allowable benefits, except the
12 arrangement may provide life insurance coverage to its participants if the life
13 insurance coverage is provided under contracts that comply with this title;

14 (5) the arrangement has adequate facilities and competent personnel, as
15 determined by the director, to service the health benefit plan or has contracted with a
16 third-party administrator licensed under AS 21.27 to service the health benefit plan;

17 (6) the arrangement provides allowable benefits to not less than two
18 employers and not less than 75 employees;

19 (7) the arrangement does not solicit participation in the arrangement
20 from the general public, except the arrangement may employ or independently
21 contract with a licensed insurance producer who may be paid a commission or other
22 remuneration to enroll employers in the arrangement;

23 (8) the arrangement is not organized or maintained solely as a conduit
24 for the collection of premiums and the forwarding of premiums to an insurance
25 company, except that the arrangement may act as a conduit for the collection and
26 forwarding of premiums for life insurance coverage under (4) of this subsection;

27 (9) the arrangement

28 (A) has deposited \$200,000 with the director to be used for the
29 payment of claims in the event the arrangement becomes insolvent and has
30 submitted to the director a written plan of operation that, in the discretion of
31 the director, ensures the financial integrity of the arrangement; and

1 (B) is able to remain financially solvent; the director may
2 consider the following in determining the ability of the arrangement to remain
3 financially solvent:

4 (i) pro forma financial statements;

5 (ii) types and levels of stop-loss insurance coverage,
6 including attachment points of the coverage;

7 (iii) whether a deposit is required for each employee
8 covered under the arrangement equal to at least one month's cost of
9 providing benefits under the arrangement;

10 (iv) the experience of the individuals who will be
11 involved in the management of the arrangement, including employees,
12 independent contractors, and consultants; and

13 (v) other factors the director considers relevant to
14 determining the ability of the arrangement to remain financially
15 solvent.

16 (b) The director may require that the articles, bylaws, agreements, trusts, or
17 other documents or instruments describing the rights and obligations of the employers,
18 employees, and beneficiaries of the arrangement require that employers participating
19 in the arrangement are liable for a pro rata share of all liabilities of the arrangement
20 that are unpaid.

21 (c) The arrangement shall maintain stop-loss insurance coverage covering 100
22 percent of claims in excess of the attachment point recommended by a qualified
23 actuary.

24 **Sec. 21.85.040. Application for a certificate of authority.** To apply for an
25 original certificate of authority, a self-funded multiple employer welfare arrangement
26 shall file with the director its application, accompanied by the applicable fees set
27 under AS 21.06.250, showing its name, the location of its home office, its date of
28 organization, its state of domicile, and additional information that the director may
29 reasonably require. The application shall be submitted together with

30 (1) a copy of all articles, bylaws, agreements, trusts, or other
31 documents or instruments describing the rights and obligations of the employers,

1 employees, and beneficiaries of the arrangement;

2 (2) a copy of each summary plan description of the arrangement filed
3 or required to be filed with the United States Department of Labor, including any
4 amendments to each description;

5 (3) evidence of coverage of or letter of intent to participate executed by
6 at least two employers providing allowable benefits to at least 75 employees;

7 (4) a copy of the arrangement's most recent financial statement in
8 compliance with AS 21.85.080 or, if the arrangement has been in existence for less
9 than one year, pro forma financial statements, including a balance sheet, an income
10 statement, a statement of changes in financial condition, and an actuarial opinion that
11 the unpaid claim liability of the arrangement satisfies the standards in AS 21.18.080 -
12 21.18.086;

13 (5) proof that the arrangement maintains and will continue to maintain
14 fidelity bonds required by the United States Department of Labor under 29 U.S.C.
15 1001 - 1461 (Employee Retirement Income Security Act of 1974);

16 (6) a copy of any stop-loss insurance policies maintained or proposed
17 to be maintained by the arrangement;

18 (7) biographical reports, on forms prescribed by the National
19 Association of Insurance Commissioners, evidencing the general trustworthiness and
20 competence of each individual who is serving or who will serve as a managing
21 employee or fiduciary of the arrangement;

22 (8) a notarized statement executed by an officer of the arrangement
23 certifying, to the best knowledge and belief of the officer, that the information
24 provided in the application is true and correct and that the arrangement is in
25 compliance with the requirements in

26 (A) AS 21.85.020;

27 (B) 29 U.S.C. 1001 - 1461 (Employee Retirement Income
28 Security Act of 1974) or a statement of any requirements with which the
29 arrangement is not in compliance and a statement of proposed corrective
30 action; and

31 (C) AS 21.85.050;

1 (9) base contribution rates for participation under the arrangement for
2 its initial year of operations.

3 **Sec. 21.85.050. Minimum reserves.** A self-funded multiple employer
4 welfare arrangement shall establish and maintain reserves equal to the greater of

5 (1) 30 percent of the unpaid claim liability of the arrangement; or

6 (2) the amount recommended and certified by a qualified actuary.

7 **Sec. 21.85.060. Investments.** A multiple employer welfare arrangement shall
8 maintain an amount at least equal to 85 percent of net unpaid claim liability in

9 (1) cash and cash equivalents;

10 (2) the fully insured portion of a bank deposit when the insurance is
11 provided by a solvent agency of the United States government or by collateral;

12 (3) a bank certificate of deposit, subject to review by the director; if the
13 director determines that the amount of the certificate of deposit purchased by an
14 insurer in any one bank is not a sound investment, the director may require the insurer
15 to liquidate that portion found to be an unsound investment;

16 (4) a share or savings account of a savings and loan or building and
17 loan association, to the extent that an account is insured by the Federal Deposit
18 Insurance Corporation; or

19 (5) a rated credit instrument that is issued, assumed, guaranteed, or
20 insured by the United States or Canada or by a government-sponsored enterprise of the
21 United States or Canada if the instrument is assumed, guaranteed, or insured by the
22 United States or Canada or is otherwise backed or supported by the full faith and
23 credit of the United States or Canada.

24 **Sec. 21.85.070. Contribution rates.** (a) A self-funded multiple employer
25 welfare arrangement shall establish and maintain contribution rates that

26 (1) fund the greater of

27 (A) the amount recommended and certified by a qualified
28 actuary in order for the self-funded multiple employer welfare arrangement to
29 remain financially solvent; or

30 (B) the sum of projected claims liability for the year, plus all
31 projected costs of operation of the arrangement for the year, plus an amount

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

equal to any deficiency in the reserves of the arrangement for the prior year, minus an amount equal to the reserves of the arrangement in excess of the minimum required level of reserves; and

(2) are not excessive, inadequate, or unfairly discriminatory.

(b) A self-funded multiple employer welfare arrangement shall, before use, file with the director

(1) a rate or fee of any kind to be charged a participating employer or employee;

(2) every rating manual, schedule, plan, rule, or formula; and

(3) any modification to the rating manual, schedule, plan, rule or formula.

(c) The director shall disapprove by order a contribution rate or fee submitted under (b) of this section that does not meet the requirements of (a) of this section or is in any respect not in compliance with or in violation of law.

(d) A filing under (b) of this section must state the effective date and must provide a comprehensive description of the coverage. The director may withhold the information provided under (b)(2) and (3) of this section from public inspection for as long as the director determines that withholding the information is necessary to protect the arrangement against unwarranted injury or is in the public interest.

Sec. 21.85.080. Reporting requirements. (a) A self-funded multiple employer welfare arrangement shall annually, before March 2, file with the director on forms prescribed by the director, a full and true statement of its financial condition, transactions, and affairs as of the preceding December 31, including

(1) a statement of financial condition;

(2) a statement of change in financial condition for the year accompanied by an actuarial opinion by a qualified actuary that includes

(A) a certification that the unpaid claim liability of the arrangement meets the requirements of AS 21.18.080 - 21.18.086;

(B) the recommended level of specific and aggregate stop-loss insurance the arrangement should maintain;

(C) a description of the actuarial soundness of the arrangement,

1 including any recommended actions the arrangement should take to improve
2 its actuarial soundness;

3 (3) a statement of the arrangement's contribution rates for the next
4 year;

5 (4) if the total payments to the arrangement for participation during the
6 prior year of operations exceeded the sum of \$2,000,000, certified financial statements
7 for the prior two years, or for each year and partial year that the self-funded multiple
8 employer welfare arrangement has been in business if less than two years;

9 (5) a report showing the number of participating employers and
10 number of covered lives at the end of the year and contributions received during the
11 year in the state;

12 (6) additional information the director determines is necessary in order
13 to determine the financial integrity of the arrangement.

14 (b) A self-funded multiple employer welfare arrangement shall, within 60
15 days after the end of each quarter, file with the director, on forms prescribed by the
16 director, a full and true statement of its financial condition, transactions, and affairs as
17 of the preceding quarter, including

18 (1) a statement of financial condition;

19 (2) a statement of change in financial condition for the period since the
20 end of the prior year;

21 (3) a report showing the number of participating employers and
22 number of covered lives at the end of the quarter and contributions received during the
23 quarter in the state;

24 (4) additional information the director determines is necessary in order
25 to determine the financial integrity of the arrangement.

26 (c) A self-funded multiple employer welfare arrangement shall file with the
27 director a copy of the arrangement's Internal Revenue Service form 5500, including all
28 attachments to the form.

29 **Sec. 21.85.090. Consumer information notice.** A self-funded multiple
30 employer welfare arrangement must provide a written notice to each participating
31 employee at the time that coverage becomes effective. The notice must

1 (1) be clear and conspicuous;

2 (2) be in at least 10-point type;

3 (3) state that

4 (A) the coverage is issued by a self-funded multiple employer
5 welfare arrangement;

6 (B) coverage and benefits provided under a self-funded
7 multiple employer welfare arrangement are not protected by the Alaska Life
8 and Health Insurance Guaranty Association; and

9 (C) if the self-funded multiple employer welfare arrangement
10 does not pay expenses that are eligible for payment under the plan for any
11 reason, the employer or employee covered by the plan may be responsible for
12 the payment of those expenses.

13 **Sec. 21.85.100. Applicability of other provisions.** In addition to the
14 provisions contained or referred to in this chapter, the following chapters and
15 provisions of this title also apply with respect to self-funded multiple employer
16 welfare arrangements to the extent applicable and not in conflict with the express
17 provisions of this chapter and the reasonable implications of the express provisions,
18 and, for the purposes of the application, the arrangements shall be considered to be a
19 mutual insurer:

20 (1) AS 21.03;

21 (2) AS 21.06;

22 (3) AS 21.07;

23 (4) AS 21.09.100, 21.09.120, 21.09.130, 21.09.140 - 21.09.200,
24 21.09.210, 21.09.245 - 21.09.270, 21.09.300, and 21.09.320;

25 (5) AS 21.18.010 - 21.18.050, 21.18.080 - 21.18.086, and 21.18.100;

26 (6) AS 21.33;

27 (7) AS 21.36;

28 (8) AS 21.42.120, 21.42.130, 21.42.345 - 21.42.365, and 21.42.375 -
29 21.42.500;

30 (9) AS 21.48;

31 (10) AS 21.54;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

- (11) AS 21.55;
- (12) AS 21.56;
- (13) AS 21.78;
- (14) AS 21.89.060;
- (15) AS 21.90.

Sec. 21.85.500. Definitions. In this chapter,

- (1) "allowable benefit" means a benefit for medical care;
- (2) "bona fide association" has the meaning given in AS 21.54.500;
- (3) "claims liability" means the total of all incurred and unpaid claims for allowable benefits under a self-funded multiple employer welfare arrangement that are not reimbursed or reimbursable by stop-loss insurance, subrogation, or other sources;
- (4) "health benefit plan" has the meaning given in AS 21.54.500;
- (5) "multiple employer welfare arrangement" has the meaning given in 29 U.S.C. 1002; "multiple employer welfare arrangement" does not include a group that the director designates under AS 21.54.060(5) as subject to issuance of a group health insurance policy;
- (6) "qualified actuary" means an individual who
 - (A) is a member in good standing of the American Academy of Actuaries;
 - (B) meets the qualification standards of the American Academy of Actuaries to sign statements of actuarial opinion;
 - (C) is familiar with the valuation requirements under AS 21.18;
 and
 - (D) has not been disqualified by the director, after notice and hearing under AS 21.06.180, for
 - (i) a violation of this title or other law pertinent to the duties or responsibilities of a qualified actuary;
 - (ii) conviction of a fraudulent act;
 - (iii) conduct considered by the director to reflect incompetence or untrustworthiness;

1 (iv) resignation or removal as an actuary with a
2 company or a consulting firm within the past five years due to acts or
3 omissions indicated in a report of examination or due to failure to
4 adhere to generally accepted actuarial standards; or

5 (v) failure to notify the director of an action taken
6 against the actuary by an insurance regulator of another state for
7 grounds that are substantially the same as a provision under this
8 paragraph;

9 (7) "reserves" means the excess of assets of a self-funded multiple
10 employer welfare arrangement minus the liabilities of the arrangement;

11 (8) "self-funded multiple employer welfare arrangement" or
12 "arrangement" means a multiple employer welfare arrangement that does not provide
13 for payment of benefits under the arrangement solely through a policy of insurance
14 issued by one or more authorized insurance companies.

15 * Sec. 51. AS 21.87.190(b) is amended to read:

16 (b) The service corporation shall, before use, file with the director (1) a
17 schedule of subscription rates, fees, or payments of any kind to be charged
18 subscribers; (2) every rating manual, schedule, plan, rule, or formula; and (3)
19 [BEFORE USE,] any modification to the rating manual, schedule, plan, rule, or
20 formula. Each filing must state the effective date and must provide a comprehensive
21 description of the coverage. A detailed rate justification, including a rate formula,
22 is confidential [THE DIRECTOR MAY WITHHOLD THE RATING FORMULA
23 FROM PUBLIC INSPECTION FOR AS LONG AS THE DIRECTOR
24 DETERMINES THAT WITHHOLDING THE RATING FORMULA IS
25 NECESSARY TO PROTECT THE SERVICE CORPORATION AGAINST
26 UNWARRANTED INJURY OR IS IN THE PUBLIC INTEREST].

27 * Sec. 52. AS 21.33.045(d); AS 21.87.340(17); and AS 21.89.040 are repealed.

28 * Sec. 53. The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
31 catchline of AS 21.42.020 from "Insurable interest: personal insurance" to "Insurable interest:

1 life, annuity, or health."

2 * Sec. 54. This Act takes effect July 1, 2002.

**Sectional Analysis
Amendment to CS HB246 (L&C) Work Draft
Division of Insurance**

Authority for Filing of Financial Statements

Page 1 Line 1 through Page 2 Line 3 of the amendment provide authority for the director to allow filing of financial statements only on an electronic basis at the place of the director's designation. This authority will allow the division to reduce the resources necessary to maintain paper files of insurance company annual financial statements. Page 2 Lines 4-6 of the amendment changes the filing due date from 60 days after the end of the quarter to 45 days after the end of the quarter to make it consistent with the due date in the majority of other state insurance departments.

Page 1 Lines 1-13

AS 21.09.200(a). Electronic Filing of Financial Statements

This amendment allows the director to designate where the financial statement required in the statute is to be filed. The location of the filing will be published by the director at least annually by bulletin.

Page 1 Line 14 through Page 2 Line 3

AS 21.09.200(e). Electronic Filing of Financial Statements

This amendment allows the penalty in statute to be charged when the financial statement is not sent to the location designated by the director. The penalty is \$100 per day until properly filed.

Page 2 Lines 4-6

AS 21.09.205(b). Filing of Quarterly Financial Statements

This amendment modifies the due date for the filing of the quarterly financial statement from 60 days after the end of the quarter to 45 days after the end of the quarter. Most states and the National Association of Insurance Commissioners require the quarterly financial statements to be filed 45 days after the end of the quarter

Firm Licenses

Page 2 Lines 7-11 amends AS 21.27.330 to clarify the requirement that any firm that has multiple places of business must submit an application and pay a fee for each place of business.

AMENDMENT

OFFERED IN THE HOUSE

BY

TO: CS FOR HOUSE BILL NO. 246 (L&C)

WORK DRAFT VERSION 22-LS0743\J

1 Page 5, line 19:

2 Insert new bill section to read:

3 *Sec. ____ AS 21.09.200(a) is amended to read:

4 (a) Each authorized insurer shall annually, before March 2, file with the director or
5 his designee a full and true statement of its financial condition, transactions, and
6 affairs as of the preceding December 31. The reporting format for a given year is the
7 most recently approved National Association of Insurance Commissioners' annual
8 financial statement blank form and instructions, supplemented for additional
9 information as required by the director. The director may require the statement to
10 be filed on electronic media. The statement shall be verified by the oath of the
11 insurer's president or vice-president, and secretary, or, if a reciprocal insurer, by
12 oath of the attorney-in-fact or its like officers if a corporation unless verification is
13 waived by the director of insurance. The filing locations will be published by the
14 director at least annually.

15 Page 5, line 24:

16 Insert new bill sections to read:

17 *Sec. ____ AS 21.09.200(e) is amended to read:

1 (e) An insurer shall pay to the division \$100 for each day the insurer fails to file the
2 annual statement in the form and location required and within the time established
3 in (a) of this section. The authority of the insurer to enter into new obligations or
4 issue new or renewal policies of insurance in this state may be suspended by the
5 director if the annual statement has not been filed by March 1.

6 *Sec. ____ AS 21.09.205(b) is amended to read:

7 (b) A quarterly financial statement, if required, is due 45 [60] days after the end of
8 the quarter to which it applies.

9 Page 8, Line 15:

10 Insert new bill section to read:

11 *Sec. ____ AS 21.27.330(b) is amended to read:

12 (b) If a licensee that is a firm transacts business at more than one place of
13 business [IN THIS STATE], the licensee shall pay a license fee for each place of business.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 246
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Omnibus Insurance Bill BRU Insurance (116)
 Component Insurance Operations
 Sponsor House Labor & Commerce by Request
 Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 GF Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This bill has no fiscal impact on this component.

Prepared by: Robert A. Lohr, Director Phone 907-269-7900
 Division Insurance Date/Time 4/11/02 11:55 AM
 Approved by: Deborah B. Sedwick, Commissioner Date 4/11/2002
 Agency Department of Community & Economic Development

2

4/15/02

AMENDMENT

(adopted
4/15)

OFFERED IN THE HOUSE

BY

TO: CS FOR HOUSE BILL NO. 246 (L&C)

WORK DRAFT VERSION 22-LS0743V

Page 13, line 1

replace "large" with "small"

Page 13, line 8

replace "small" with "large"

Page 29, line 27:

Insert new bill section to read:

*Sec. ____ AS 21.87.340 is amended by adding a new paragraphs to read:

(22) AS 21.07;

(23) AS 21.18.080 – 21.18.086;

3
adopted

4/15

22-LS8004A.5
Ford
4/4/02

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 26

1 Page ____, line ____:

2 Insert new bill sections to read:

3 "* Sec. ____. AS 21.80.060 is amended to read:

4 **Sec. 21.80.060. Powers and duties of the association.** (a) The association

5 (1) is obligated to pay covered claims existing before the order of

6 liquidation and arising within 30 days after the order of liquidation, or before the

7 policy expiration date if less than 30 days after the order of liquidation, or before the

8 insured replaces the policy or causes its cancellation if the insured does so within 30

9 days after the order of liquidation, but this obligation includes only that amount of

10 each covered claim that is less than \$500,000, except that a covered claim for return of

11 unearned premium may not exceed \$10,000 for each policy, and except that the

12 association shall pay the full amount of any covered claim arising out of a workers'

13 compensation policy; the association is not obligated

14 (A) to a policyholder or claimant in an amount in excess of the

15 obligation of the insolvent insurer under the policy from which the claim

16 arises; or

17 (B) to pay a claim filed with the association after the final date

18 set by the court for the filing of claims against the liquidator or receiver of an

19 insolvent insurer;

20 (2) is considered the insurer to the extent of its obligation on the

21 covered claims and to that extent has all rights, duties, and obligations of the insolvent

22 insurer as if the insurer had not become insolvent;

23 (3) shall allocate claims paid and expenses incurred among the three

24 accounts separately, and assess member insurers separately for each account amounts

1 necessary to pay the obligation of the association under (1) of this subsection
2 subsequent to an insolvency, the expenses of handling covered claims subsequent to
3 an insolvency, and other expenses authorized by this chapter; under this paragraph,

4 (A) the assessments of each member insurer must initially be
5 based on a uniform percentage, as determined by the association, of [IN
6 THE PROPORTION THAT] the net direct written premiums of each [THE]
7 member insurer for the last year for which annual statements have been
8 filed [CALENDAR YEAR PRECEDING THE ASSESSMENT] on the kinds
9 of insurance in the account; this initial assessment shall be adjusted by
10 applying the same uniform percentage as initially used to each member
11 insurer's net direct written premiums for the calendar year following the
12 year in which the initial assessment was issued; any difference between the
13 initial assessment amount and the adjusted assessment amount allocated
14 to a member insurer shall be levied against or credited back to the
15 member insurer, as appropriate, by the association; the association shall
16 calculate and issue all appropriate levies and credits as soon as practical
17 after all member insurers have filed their annual statements for the
18 calendar year following the year in which the initial assessment was issued
19 [BEARS TO THE NET DIRECT WRITTEN PREMIUMS OF ALL
20 MEMBER INSURERS FOR THE CALENDAR YEAR PRECEDING THE
21 ASSESSMENT ON THE KINDS OF INSURANCE IN THE ACCOUNT;
22 EACH MEMBER INSURER SHALL BE NOTIFIED OF THE
23 ASSESSMENT NOT LATER THAN 30 DAYS BEFORE IT IS DUE];

24 (B) on an annual basis, the association shall determine if
25 funding is required for any of the three accounts; based on this
26 determination, the association shall, during November of each year, issue
27 initial assessments as may be necessary to cover the projected reasonable
28 costs of claims and expenses to administer the association for the following
29 year; the association shall use the services of an independent actuary to
30 assist the association to evaluate and make the projection; an initial
31 assessment may be made at any other time if the association determines

1 funding is necessary, except that a member insurer may not be assessed
2 initial assessments [IN ANY YEAR] on any account in an amount greater
3 than two percent of the member insurer's net direct written premiums for the
4 applicable calendar year [PRECEDING THE ASSESSMENT ON THE
5 KINDS OF INSURANCE IN THE ACCOUNT];

6 (C) the association may pay claims in any order that it
7 determines reasonable, including the payment of claims as they are received
8 from claimants or in groups or categories of claims; however, if the maximum
9 assessment, together with the other assets of the association in any account,
10 does not provide in any one year in any account an amount sufficient to make
11 all necessary payments from that account, the funds available shall be prorated,
12 and the unpaid portion shall be paid as soon thereafter as funds become
13 available;

14 (D) the association may defer, in whole or in part, an
15 assessment of any member insurer if the assessment would endanger the ability
16 of the member insurer to fulfill the insurer's contractual obligations or cause
17 the member insurer's financial statement to reflect amounts of capital or
18 surplus less than the minimum amounts required for a certificate of authority
19 by any jurisdiction in which the member insurer is authorized to transact
20 insurance; however, during the period of deferment, the member insurer may
21 not pay dividends to shareholders or policyholders; a deferred assessment may
22 only be paid when the payment does not reduce capital or surplus below
23 minimums required by law; a member insurer who pays a larger assessment as
24 a result of a deferment given to another member insurer shall receive a refund
25 when the deferment ends or, at the election of the member insurer, receive a
26 credit against future assessments;

27 (E) each member insurer may set off against an assessment
28 authorized payments made on covered claims and expenses incurred in the
29 payment of these claims by the member insurer if they are chargeable to the
30 account for which the assessment is made;

31 (4) shall investigate claims brought against the association, adjust,

1 compromise, settle, and pay covered claims to the extent of the association's
2 obligation, and deny all other claims, and may review settlements, releases, and
3 judgments to which the insolvent insurer or its insureds were parties to determine the
4 extent to which settlements, releases, and judgments may be properly contested;

5 (5) may, subject to AS 21.89.100, appoint, substitute, or direct legal
6 counsel retained under an insurance policy for the defense of a covered claim;

7 (6) shall handle claims through its employees or through one or more
8 insurers or other persons designated as servicing facilities; a servicing facility shall
9 operate and maintain its principal office in this state unless the use of a servicing
10 facility located outside of the state would result in operating cost savings of at least 10
11 percent and would not result in material delay in claim payments; designation of a
12 servicing facility is subject to the approval of the director, but designation may be
13 declined by a member insurer;

14 (7) shall reimburse each servicing facility for obligations of the
15 association paid by the facility and for expenses incurred by the facility while handling
16 claims on behalf of the association and shall pay the other expenses of the association
17 authorized by this chapter.

18 (b) The association may

19 (1) employ or retain those persons necessary to handle claims and
20 perform other duties of the association;

21 (2) borrow funds necessary to effect the purposes of this chapter in
22 accord with the plan of operation;

23 (3) sue or be sued;

24 (4) negotiate and become a party to those contracts that are necessary
25 to carry out the purposes of this chapter;

26 (5) perform all other acts necessary or proper to carry out the purposes
27 of this chapter;

28 (6) retain amounts excess of claims, expenses, credits, and other
29 liabilities in any account to be applied to reduce future assessments in that
30 account, except that, if, in any year, the association determines that significant
31 funds in excess of projected claims, expenses, credits, and other liabilities exist in

1 an account, the association shall return amounts to policyholders, through
 2 procedures established by the association, whereby the association reimburses
 3 member insurers for providing uniform credits against rates and premiums
 4 charged for all policies applicable to the account issued during the next calendar
 5 year [REFUND TO THE MEMBER INSURERS IN PROPORTION TO THE
 6 CONTRIBUTION OF EACH MEMBER INSURER TO THAT ACCOUNT THAT
 7 AMOUNT BY WHICH THE ASSETS OF THE ACCOUNT EXCEED THE
 8 LIABILITIES IF, AT THE END OF ANY CALENDAR YEAR, THE BOARD OF
 9 GOVERNORS FINDS THAT THE ASSETS OF THE ASSOCIATION IN ANY
 10 ACCOUNT EXCEED THE LIABILITIES OF THAT ACCOUNT AS ESTIMATED
 11 BY THE BOARD OF GOVERNORS FOR THE COMING YEAR].

12 * Sec. ____ AS 21.80.070(c) is amended to read:

13 (c) The plan of operation must

14 (1) establish the procedures whereby all the powers and duties of the
 15 association under AS 21.80.060 will be performed;

16 (2) establish procedures for handling assets of the association,
 17 including procedures for handling assets received from the estate of an insolvent
 18 insurer;

19 (3) establish the amount and method of reimbursing members of the
 20 board of governors under AS 21.80.050;

21 (4) establish procedures by which claims may be filed with the
 22 association and establish acceptable forms of proof of covered claims; notice of claims
 23 to the receiver or liquidator of the insolvent insurer is considered notice to the
 24 association or its agent, and a list of these claims shall be periodically submitted to the
 25 association or similar organization in another state by the receiver or liquidator;

26 (5) establish regular places and times for meetings of the board of
 27 governors;

28 (6) establish procedures for records to be kept of all financial
 29 transactions of the association, its agents, and the board of governors;

30 (7) provide that any member insurer aggrieved by a final action or
 31 decision of the association may appeal to the director within 30 days after the action or

1 decision;

2 (8) establish the procedures whereby selections of the board of
3 governors will be submitted to the director;

4 (9) provide for a member insurer serving on the board of governors to
5 appoint an individual to represent the member insurer on the board, including
6 appointment of an alternate or substitute representative for the appointed person;

7 (10) contain additional provisions necessary or proper for the
8 execution of the powers and duties of the association;

9 (11) establish procedures whereby the association shall,
10 concurrent with making any initial assessments for the following year under
11 AS 21.80.060(a)(3)(B), determine uniform surcharge percentages that may be
12 applied by member insurers to all policies related to an account;

13 (12) establish procedures whereby the association shall determine
14 surcharge percentages related to an account so that adjusted assessments match,
15 as closely as possible, the amounts that would be collected by member insurers, in
16 the aggregate, if the surcharge percentages were applied to all new and renewal
17 policies issued by member insurers during the applicable 12-month period; any
18 estimated or actual difference between the aggregate assessment and maximum
19 allowable surcharge amounts related to an account shall be taken into account by
20 the association in determining future surcharge percentages.

21 * Sec. __. AS 21.80.140 is amended to read:

22 Sec. 21.80.140. Recognition of assessments in surcharge rates. The rates
23 and premiums charged for insurance policies to which this chapter applies may
24 include surcharge rates [AMOUNTS] sufficient to offset the adjusted assessments
25 [ASSESSMENT] made under this chapter and paid to the association by [THE]
26 member insurers [INSURER LESS AMOUNTS RETURNED TO THE MEMBER
27 INSURER BY THE ASSOCIATION], and these surcharge rates may not be
28 considered excessive because they contain an amount reasonably calculated to offset
29 the full amount of adjusted assessments paid by [THE] member insurers. The
30 association shall notify the director of each surcharge percentage determined by
31 the association, and this surcharge percentage shall be the maximum surcharge

1 rate that may be applied by member insurers related to the assessment, except
2 that a member insurer may make application to the director to apply a higher
3 surcharge rate [INSURER]. The amount charged on a policy shall be shown
4 separate from the premium for coverage on the policy. [A RATING
5 ORGANIZATION MAY MAKE A PROVISION IN ITS RATE FILING TO
6 RECOVER AN ASSESSMENT UNDER THIS CHAPTER FOR THE
7 ORGANIZATION'S MEMBER AND SUBSCRIBER INSURERS.] The surcharge
8 rate [ASSESSMENT CHARGE] is not considered a premium and is not subject to the
9 premium tax imposed under AS 21.09.210."