

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10621 SENATE LABOR & COMMERCE

Consumer Privacy Provisions

Confirms the Director of Insurance's authority to adopt privacy standards that are consistent with, but no less restrictive, than the NAIC model regulation.

Summary of NAIC Privacy Model

- Protected information is: personally identifiable financial or health information
- Standards for protected financial information are consistent with GLBA (Opt-out)
- Enhanced standards for protected health information (Opt-in)

Protected Financial Information Standards

- “Opt-out” standard which means insurers may share protected financial information unless the consumer affirmatively says they do not want the information shared
- Insurers must provide notices to consumers describing their privacy policies
- Protected financial information may be shared among affiliates without restriction

Protected Health Information Standards

- “Opt-in” standard means insurers may not share protected health information without explicit permission from the consumer
- Exceptions to this standard allow insurers to perform day-to-day operations
- Unlike the financial standards, insurers are not required to provide notices describing their privacy policies

Protected Health Information Standards...continued

- Standards do not apply to insurers who are in compliance with the U.S. DHHS regulations implementing HIPAA (effective 2002)
- Sharing among both affiliates and non-affiliates is restricted

Why have stronger privacy standards for health information?

- GLBA standard is geared toward banks and securities firms not the insurance industry
- Much larger volume of health information
- Greater sensitivity of health information compared to financial information
- Greater sharing of information among banks, securities firms and insurers who are now, with passage of GLBA, allowed to affiliate

Why adopt the NAIC Privacy Model?

- Preserves insurance industry's ability to transact insurance while protecting consumers
- Broad support from industry, consumer groups and others
- Makes a strong statement that state regulation of insurance can work effectively to protect consumers while allowing the insurance industry to remain competitive in a changing financial services marketplace

Consumer Protections in Financial Institution Sales of Insurance

- Establishes consumer protection standards consistent with Section 104 (often referred to as the “13 safe harbors”) and 305 of GLBA
- Expands applicability beyond depository institutions as provided in GLBA to all financial institutions that may transact insurance in Alaska
- Four major areas of protection relating to licensing, misrepresentations, disclosure, anti-tying and anti-coercion

Why adopt consumer protections in financial institution sales of insurance?

- Provides important protections to Alaskans that may purchase insurance through a financial institution
- Avoids possible federal preemption and enforcement of these protections in Alaska
- Makes a strong statement that state regulation of insurance can work effectively to protect consumers, while allowing the insurance industry to remain competitive in a changing financial services marketplace

Two Other GLBA-Related Provisions

- Requires that a person with a felony conviction involving dishonesty or breach of trust obtain consent of director before transacting insurance as required by Federal Law (1033 and 1034)
- Removes barriers in current law to allow for electronic submissions



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March 19, 2001

BY FACSIMILE

The Honorable Randy Phillips
Chair, Senate Labor and Commerce Committee
Alaska Legislature
State Capitol
Juneau, Alaska 99801-1182

RE: SENATE BILL NO. 138

Dear Senator Phillips:

This letter is submitted on behalf of the American Council of Life Insurers ("ACLI"), a national trade association whose 426 member companies account for nearly 80 percent of the life insurance premiums, and 81 percent of annuity considerations, in the United States. These companies help individuals provide for their financial security through life insurance, annuities, disability income, and long-term care insurance. Two hundred and seventy-five of our members are licensed to do business in Alaska, accounting for 97% of the life insurance, and 85% of the annuity business, in your state. We are pleased to submit these comments regarding Senate Bill 138, and look forward to speaking to you by teleconference during the hearing tomorrow.

The ACLI is supportive of the general intent of the above-referenced bill, particularly in the areas of producer licensing and privacy. However, we have a number of concerns about the third section of the bill, regarding the proposed consumer protections with regard to insurance sales practices of depository institutions. In addition, we would like the opportunity offer some suggestions regarding the producer licensing and privacy sections, but as we only obtained a copy of the bill recently and the bill is so technical in

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nature, we do not have the actual wording for you to consider today. Below is an explanation of the areas that we support, and those that we are concerned with.

STATE REQUIREMENTS UNDER THE FEDERAL GRAMM-LEACH-BLILEY ("GLB") ACT

The "PURPOSE" section of the bill states that "(t)he primary purpose of this Act is to implement insurance reforms in AS 21 as *required* by P.L. 106-102 (Gramm-Leach-Bliley Act) to modernize financial services related to the business of insurance...."

We would note for the record that, while the federal banking agencies (the Fed, the OCC, the FDIC and the OTS) are in fact required under GLB to adopt various rules affecting the entities they regulate, this is not the case for state insurance regulators – they are not *required* to do anything by GLB.

However, in order to avoid federal preemption of state authority in GLB, there are two areas where states need to act. First, states are required to adopt regulations under Sec. 501 of GLB, which relates to the protection and security of nonpublic personal information (internal data security requirements to guard against "hackers"). This area of GLB is not addressed by S.B. 138. Second, if a majority of states fail to achieve either uniform standards for producer licensing, or reciprocity among states for non-resident applicants, by November 2002, then the National Association of Registered Agents and Brokers ("NARAB") will be created. NARAB would issue non-resident licenses to applicants, which the states would be forced to honor. This area is addressed in the first section of S.B. 138.

Thus, while GLB does not require the states to act, except to avoid federal preemption, the ACLI believes it is critical that if the states do adopt laws or rules to implement GLB, that they do so in a uniform manner, as our competitors are regulated uniformly by their respective federal agencies. Our suggestions are described below.

SEC. 1- SEC. 43 – PRODUCER LICENSING

These sections are intended to include provisions of the NAIC's *Producer Licensing Model Act* in the Alaska Insurance Code, in order to adopt uniform standards for the producer licensing process and avoid the creation of the federal NARAB. The ACLI is very supportive of the intent of this section. As it is very important to our members that the Model be adopted uniformly across the country, we believe that there are three areas of the Model that Alaska has failed to pick up in these sections.

The first is an exemption in the Model for officers and directors of a company from the requirement to be licensed as a producer, so long as their activities do not include the sale, solicitation, or negotiation of insurance. The second is a provision in the Model allowing an insurer or producer to pay or assign commissions or other valuable consideration to an insurance agency or to persons who do not sell insurance, unless such payment would violate Alaska law. The third area of the Model that we are unsure is picked up in the bill

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is a provision assuring a company immunity from prosecution for providing information about agents, such as the reasons for an agent's termination, to regulators or federal authorities, as required under the bill.

We were hoping to work with the Division to include these three sections of the NAIC Model, but due to the extreme technical nature of this section, we were unable to draft proposed amendments for either the Division's or your consideration in time for this hearing. We would be happy to provide you with some suggested language, at your direction.

SEC. 44 - NONDISCLOSURE OF PERSONAL INFORMATION

This section gives the Director of Insurance the authority to adopt regulations regarding the release of financial and health information with respect to a person who seeks to obtain an insurance product. The ACLI worked at length with the National Association of Insurance Commissioners ("NAIC") to craft a Model Regulation to protect consumers' financial and health information, which is referenced in this section of the bill. The ACLI supports the adoption of this Model, which is not required by GLB but was requested by the industry in order to put insurers on an equal competitive basis with banks with regard to the protection of consumer information.

The only concern we have with this section is that it reads that Alaska's privacy regulations "must be consistent with, but *no less restrictive than*" the NAIC Model. As we would be concerned about any state going beyond the NAIC Model's requirements, due to our need for uniformity, we would respectfully urge that the word "less" be changed to "more" (to create a "ceiling" rather than a "floor").

SEC. 45-SEC. 47 - CONSUMER PROTECTIONS REGARDING INSURANCE SALES OF BANKS

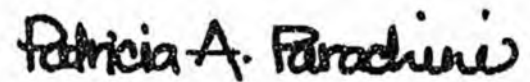
The ACLI respectfully opposes this section of the bill. At this time, the NAIC is crafting amendments to its Unfair Trade Practices Act regarding customer protections with regard to the insurance sales practices of depository institutions. While we have expressed our belief to the NAIC that states already have the authority to regulate in this area under their existing laws and regulations, we are currently working with the NAIC in amending their draft to address some concerns we have. The NAIC has already released a more recent draft that is not reflected in S.B. 138. While this Model has yet to be adopted by the NAIC, some finality on this issue is expected during their spring meeting, which begins next weekend.

If adopted, Alaska will be the **ONLY** state to adopt non-uniform provisions in this area, which would be extremely problematic for our members.

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Senator Phillips, I would be happy to further explain our position on this proposed legislation during your hearing on the 20th. Thank you so much for giving us the opportunity to express our thoughts.

Sincerely,



Patricia A. Parachini

cc: The Honorable Bob Lohr, Director of Insurance

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Ford
4/5/01

CS FOR SENATE BILL NO. 138(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance; amending Rule 402, Alaska Rules of Evidence; and**
2 **providing for an effective date."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **PURPOSE.** The primary purpose of this Act is to implement insurance reforms in
7 AS 21 as required by P.L. 106-102 (Gramm-Leach-Bliley Act) to modernize financial
8 services related to the business of insurance and to further this state as an attractive place for
9 investment and other commerce involving the insurance industry.

10 *** Sec. 2.** AS 21.27.010(e) is repealed and reenacted to read:

11 (e) An employee of an insurer who responds to requests from existing
12 policyholders on existing policies is not required to be licensed under this section if
13 the employee

14 (1) is not directly compensated based on volume of premiums that may

1 result from those services; and

2 (2) does not transact insurance.

3 * Sec. 3. AS 21.27.010(j) is amended to read

4 (j) This section does not apply to a person who

5 (1) is employed on salary or hourly wage by a person licensed under
6 this section solely for the performance of accounting, clerical, stenographic, and
7 similar office duties;

8 (2) only secures and forwards information required for the purposes of,
9 and does not receive a commission for, any of the following services:

10 (A) performing administrative services related to

11 (i) group life insurance;

12 (ii) group property and casualty insurance;

13 (iii) group annuities;

14 (iv) group or blanket accident and health insurance;

15 (B) enrolling individuals under plans for the types of
16 insurance or annuities specified in (A) of this paragraph;

17 (C) issuing certificates under plans for the types of
18 insurance or annuities specified in (A) of this paragraph, or otherwise
19 assisting in administering those plans;

20 (D) performing administrative services related to mass-
21 marketed property and casualty insurance [COVERING THE UNPAID
22 BALANCE, OR REMAINING PAYMENTS PROPOSED TO BE MADE, IN
23 CONNECTION WITH THE PURCHASE OF MERCHANDISE OR
24 SERVICES, IF THE PERSON RECEIVES NO COMPENSATION,
25 DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY
26 RELATING TO THE INSURANCE TRANSACTIONS]; [OR]

27 (3) is employed on salary by a licensee at the licensee's place of
28 business, is supervised by and reports directly to a licensee in the firm, and who, after
29 explaining that the matter must be reviewed by a licensee, may

30 (A) furnish premium estimates from published or printed lists
31 of standard rates if the person does not advise, counsel, or suggest what

1 coverage may be needed, or otherwise solicit insurance coverage;

2 (B) arrange appointments for a licensee if the person does not
3 solicit insurance coverage;

4 (C) record information from an applicant or policyholder and
5 complete for the licensee's personal review and signature, a certificate of
6 insurance that is not a contract of insurance; the licensee's signature may be by
7 facsimile;

8 (D) inform a policyholder of the type of coverage shown in the
9 licensee's policy record if the person does not advise that an event or
10 hypothetical event is or is not covered; or

11 (E) in the physical presence of the licensee, record information
12 from an applicant or policyholder and complete for a licensee's personal
13 review and personal signature, applications, binders, endorsements, or
14 identification cards if the person discloses to the applicant or policyholder that
15 the applicant or policyholder may review the matter with a licensee;

16 (4) is an employee of an insurer or an organization employed by an
17 insurer and is engaged in the inspection, rating, or classification of risks, or in the
18 supervision of the training of insurance producers and is not individually
19 engaged in the sale, solicitation, or negotiation of insurance;

20 (5) advertises in this state through printed publications or
21 electronic mass media, the distribution of which is not limited to residents of this
22 state, if the person

23 (A) performs no other insurance related activities in this
24 state;

25 (B) does not intend to solicit in this state; and

26 (C) does not sell, solicit, or negotiate insurance of risks
27 resident, located, or to be performed in this state;

28 (6) is not a resident of this state, but sells, solicits, or negotiates
29 commercial property and casualty insurance for an insured with risks located in
30 more than one state if the person is licensed as an insurance producer in the state
31 where the insured maintains its principal place of business and the contract of

1 insurance covers risks located in that state;

2 (7) is a salaried full-time employee who counsels or advises the
3 person's employer regarding the insurance interests of the employer or of the
4 subsidiaries or business affiliates of the employer, if the employee does not sell or
5 solicit insurance or receive a commission from the sale or solicitation of
6 insurance;

7 (8) is an employer or association or the employer's or association's
8 officer, director, employee, or the trustee of an employee trust plan, if the person
9 is not compensated, directly or indirectly, for transacting insurance and is
10 engaged in the administration or operation of a plan offering employee benefits
11 for the employer's or association's own employees, or the employees of its
12 subsidiaries or affiliates; to qualify under this paragraph, the plan must include
13 insurance for employees; or

14 (9) is an officer, director, or employee of an admitted insurer who
15 does not receive a commission on policies written or sold to risks resident,
16 located, or to be performed in this state if the officer's, director's, or employee's
17 functions are executive, administrative, managerial, clerical, or a combination of
18 these and are only indirectly related to the transaction of insurance; relates to
19 underwriting or loss control; or are in the capacity of an agency supervisor
20 where the activities are limited to providing technical assistance to insurance
21 producers and whose activities do not include transacting insurance.

22 * Sec. 4. AS 21.27.020(b) is amended to read:

23 (b) To qualify for issuance or renewal of an individual or individual in the
24 firm license, an applicant or licensee shall comply with this title and [,] regulations
25 adopted under AS 21.06.090 [,] and

26 (1) shall be 18 [19] years of age or older [WITH A HIGH SCHOOL
27 OR GENERAL EDUCATION DEVELOPMENT DIPLOMA OR EQUIVALENT];

28 (2) if for a resident license, shall be a bona fide resident before
29 issuance of the license and actually reside in the state;

30 (3) shall successfully pass an examination required under
31 AS 21.27.060;

- 1 (4) shall be a trustworthy person;
- 2 (5) may not use or intend to use the license for the purpose principally
- 3 of writing controlled business, as defined in AS 21.27.030;
- 4 (6) may not have committed an act that is a cause for denial,
- 5 nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.

6 * Sec. 5. AS 21.27.020(c) is repealed and reenacted to read:

7 (c) To qualify for issuance or renewal of a license as a firm insurance

8 producer, a firm managing general agent, a firm reinsurance intermediary broker, a

9 firm reinsurance intermediary manager, a firm surplus lines broker, or a firm

10 independent adjuster, an applicant or licensee shall

- 11 (1) comply with (b)(4) and (5) of this section;
- 12 (2) maintain a lawfully established place of business in this state,
- 13 except when licensed as a nonresident under AS 21.27.270;
- 14 (3) disclose to the director all owners, officers, directors, or partners of
- 15 the firm;
- 16 (4) designate a compliance officer for the firm;
- 17 (5) provide to the director documents necessary to verify the
- 18 information contained in or made in connection with the application; and
- 19 (6) notify the director, in writing, within 30 days of a change in the
- 20 firm's compliance officer or of the termination of employment of an individual in the
- 21 firm licensee.

22 * Sec. 6. AS 21.27.020(f) is amended to read:

23 (f) The director may adopt regulations establishing additional education or

24 experience requirements for applicants or licensees under this chapter upon due

25 consideration of the availability and accessibility of education and training

26 opportunities in rural areas of the state. Regulations adopted under this subsection are

27 subject to the following provisions:

- 28 (1) additional educational or experience requirements may not apply to
- 29 a licensee who has been licensed by the division of insurance before January 1, 1980;
- 30 (2) a licensee shall complete at least 24 credit hours of approved
- 31 continuing education courses during each two-year license period;

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

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

10 (5) a nonresident licensee is exempt from the requirements of this
11 subsection [IF THE LICENSEE SUBMITS EVIDENCE SATISFACTORY TO THE
12 DIRECTOR THAT THE LICENSEE HAS SATISFIED ANY CONTINUING
13 EDUCATION REQUIREMENTS OF THE LICENSEE'S DOMICILIARY STATE].

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

15 (a) A licensee shall notify the director within 30 days in writing [BY
16 CERTIFIED MAIL] of a change in residence, employment that is licensed under this
17 chapter, place of business, legal name, fictitious name or alias, mailing address, or
18 phone number. A licensee shall report in writing to the director any
19 administrative action taken against the licensee by a governmental agency of
20 another state or by a governmental agency of another jurisdiction within 30 days
21 after the final disposition of the action. A licensee shall submit to the director the
22 final order and other relevant legal documents in the action. A licensee shall
23 report to the director any criminal prosecution of the licensee in this or another
24 state or jurisdiction within 30 days after the date of filing of the criminal
25 complaint, indictment, information, or citation in the prosecution. The licensee
26 shall submit to the director a copy of the criminal complaint, calendaring order,
27 and other relevant legal documents in the prosecution [; A SUSPENSION,
28 REVOCATION, OR DISCIPLINARY ACTION OF A LICENSE BY ANOTHER
29 STATE OR JURISDICTION; OR A CONVICTION OF A MISDEMEANOR OR
30 FELONY].

31 * Sec. 8. AS 21.27.025(b) is amended to read:

1 (b) A compliance officer [PRINCIPAL OR MANAGER] shall notify the
2 director in writing within 30 days of a termination of employment of a licensed
3 individual in the firm. Notice required under this subsection must include

4 (1) the licensee's name;

5 (2) the firm's name and address;

6 (3) the date of hire, self-employment, or termination of the licensee;

7 and

8 (4) other information required by the director.

9 * Sec. 9. AS 21.27.040(a) is amended to read:

10 (a) Application for a license shall be made to the director upon forms
11 prescribed by the director. As a part of or in connection with the application, the
12 applicant shall furnish information concerning the applicant's identity, personal
13 history, experience, business record, purposes, and other pertinent facts that the
14 director may reasonably require. The applicant shall declare, [UNDER OATH AND]
15 subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued
16 by the director that the statements made in or in connection with the application are
17 true, correct, and complete to the best of the applicant's knowledge and belief.
18 Payment of an application fee established under AS 21.06.250 must be submitted with
19 the application.

20 * Sec. 10. AS 21.27.040 is amended by adding a new subsection to read:

21 (e) As part of the application required by (a) of this section, an applicant shall
22 furnish to the director a full set of fingerprints so that the director may obtain criminal
23 justice information as provided under AS 12.62 about the applicant. The director shall
24 submit the completed fingerprint card to the Department of Public Safety. The
25 Department of Public Safety is authorized to submit the fingerprints to the Federal
26 Bureau of Investigation for a national criminal history record check.

27 * Sec. 11. AS 21.27.060(a) is amended to read:

28 (a) Except as provided in this chapter, an applicant for an individual license
29 and a compliance officer [PRINCIPAL OR MANAGER] applicant for a firm license
30 shall, before the issuance of the license, personally take and pass, to the satisfaction of
31 the director, an examination that tests the knowledge and competence of the applicant

1 as to the applicant's duties and responsibilities as a licensee and the insurance statutes
2 [LAWS] and regulations of the state.

3 * Sec. 12. AS 21.27.060(c) is repealed and reenacted to read:

4 (c) An individual who applies for an insurance producer license in this state
5 who was previously licensed for the same lines of authority in that individual's prior
6 home state is not required to pass the examination required by (a) of this section in
7 order to secure the same authority in this state. The exemption available under this
8 subsection applies only if the application is received within 90 days after the
9 cancellation of the applicant's previous license in the applicant's prior home state and

10 (1) the applicant's prior home state verifies that, at the time of
11 cancellation, the applicant held an insurance producer license that was in good
12 standing in that state; or

13 (2) the insurance producer licensing database records for the prior
14 home state that are maintained by the National Association of Insurance
15 Commissioners or its affiliates or subsidiaries indicate that the applicant is or was
16 licensed in good standing for the kind of license requested.

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

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

19 (1) for a limited license under AS 21.27.150(a)(1), (5), or (6)
20 [AS 21.27.150(a)(1), (2), (6), OR (7)]; or

21 (2) who, at any time within the one-year [TWO-YEAR] period
22 immediately preceding the date the current pending application is received by the
23 division, had been licensed in good standing in this state under a license requiring
24 substantially similar qualifications as required by the license applied for [; OR

25 (3) WHOSE LICENSE IN ITS RESIDENT JURISDICTION
26 REQUIRES THE SAME QUALIFICATIONS AS THE LICENSE APPLIED FOR IN
27 THIS STATE IF THE LICENSE IN ALL JURISDICTIONS IS IN GOOD
28 STANDING].

29 * Sec. 14. AS 21.27.100 is amended by adding new subsections to read:

30 (f) An insurer may appoint an insurance producer to all or some insurers
31 within the insurer's holding company system or group by the filing of a single

1 appointment under this subsection.

2 (g) The authorized or apparently authorized acts on behalf of an appointing
3 insurer of an insurance producer appointed under this section are considered the acts
4 of that insurer.

5 * **Sec. 15.** AS 21.27.110 is repealed and reenacted to read:

6 **Sec. 21.27.110. Term of appointment.** (a) An appointment under
7 AS 21.27.100 continues in force until the appointment is terminated in accordance
8 with this section.

9 (b) If an appointment is terminated by an insurer, reinsurer, or authorized
10 representative, the insurer, reinsurer, or authorized representative shall, on a form or in
11 a format prescribed by the director, notify the director within 30 days after the date of
12 termination of the appointment.

13 (c) If an appointment is terminated by the director, a written or an electronic
14 notice of termination shall be given to the appointee, to the person that made the
15 appointment, and, if different from the person making the appointment, to the insurer
16 or reinsurer, at least 10 days before the effective date of the termination. The director
17 shall send notification under this subsection to the latest address on record with the
18 director.

19 (d) If, after termination and notice under (b) of this section, an insurer,
20 reinsurer, or authorized representative discovers additional information showing that
21 the appointee whose appointment was terminated has engaged in an activity identified
22 in AS 21.27.410 during the period of the appointment, the insurer, reinsurer, or
23 authorized representative shall, on a form or in a format prescribed by the director,
24 promptly notify the director.

25 (e) Within 15 days after providing notification in accordance with (b) and (d)
26 of this section, the insurer, reinsurer, or authorized representative shall mail a copy of
27 the notification to the appointee at the last address on record with the director. The
28 notice must be provided by certified mail, return receipt requested, postage prepaid, or
29 by overnight delivery using a nationally recognized mail carrier, if the appointment
30 was terminated for an activity identified in AS 21.27.410.

31 (f) Within 30 days after the appointee receives notification in accordance with

1 (c) of this section, the appointee may file written comments concerning the substance
2 of the notification with the director and must provide a copy of the written comments
3 to the insurer, reinsurer, or authorized representative. The written comments filed
4 with the director must be included with each report distributed or disclosed concerning
5 a reason about the termination of the appointment.

6 (g) If requested by the director, an insurer, reinsurer, or authorized
7 representative shall provide to the director additional information, documents, records,
8 or other data pertaining to a termination or activity of a licensee under this title.

9 (h) A notice of termination submitted to the director under this section must
10 include a statement of the reasons for the termination. A statement of the reasons for
11 termination is confidential and not subject to inspection and copying under
12 AS 40.25.110. A statement of reasons for the termination may not be admitted as
13 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
14 or authorized representative by or on behalf of a person affected by the termination,
15 except when the action or proceeding involves perjury, unsworn falsification, fraud, or
16 failure to comply with this subsection.

17 (i) If an insurer, reinsurer, or authorized representative fails to report as
18 required under this section or is found by a court to have knowingly or intentionally
19 falsely made that report, the director may, after notice and hearing, suspend or revoke
20 the license or certificate of authority of the insurer, reinsurer, or authorized
21 representative and may impose a penalty in accordance with AS 21.27.440.

22 (j) The director may require that an insurer renew an appointment annually
23 and may require payment of a renewal fee under AS 21.06.250 for an appointment in
24 effect on December 31 of the current year. If the director requires that an appointment
25 be renewed or a renewal fee be paid, the director shall terminate the appointment if the
26 renewal fees have not been received by the director on or before the close of business
27 on March 1 of the renewal year.

28 * Sec. 16. AS 21.27 is amended by adding a new section to read:

29 **Sec. 21.27.115. Lines of authority.** If a person has met the applicable
30 requirements of AS 21.27.020 and 21.27.270, the director shall issue a license for one
31 or more of the following lines of authority:

1 (1) life insurance coverage on natural persons; in this paragraph, "life
2 insurance coverage"

3 (A) includes benefits of endowment and annuities; and

4 (B) may include benefits in the event of death or
5 dismemberment by accident and benefits for disability income;

6 (2) health insurance coverage for sickness, bodily injury, or accidental
7 death; in this paragraph, "health insurance coverage" may include benefits for
8 disability income;

9 (3) property insurance coverage for the direct or consequential loss for
10 damage to property of every kind;

11 (4) casualty insurance coverage against legal liability, including that
12 for death, injury, or disability or damage to real or personal property; in this
13 paragraph, "casualty insurance" includes surety insurance as defined in AS 21.12.080;

14 (5) variable life and variable annuity products insurance coverage;

15 (6) personal lines property and casualty insurance coverage sold to
16 individuals and families for primarily noncommercial purposes;

17 (7) limited lines credit insurance;

18 (8) any insurance for which a limited lines license may be issued under
19 AS 21.27.150.

20 * Sec. 17. AS 21.27.130 is amended to read:

21 **Sec. 21.27.130. Form and content of licenses.** A license must be in the form
22 the director prescribes and must set out

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

25 (2) [IF FOR A FIRM, THE NAME OF THE PRINCIPAL OR
26 MANAGER OF THE FIRM;

27 (3)] the type, [KIND OR] class, and lines of authority [OF
28 INSURANCE] the licensee is licensed to handle;

29 (3) [(4)] the effective date and expiration date of the license;

30 (4) each condition, if any, [(5) THE CONDITION] under which the
31 license is granted;

- 1 (5) [(6)] the date of issuance of the license;
2 (6) [(7)] each fictitious name and alias under which the licensee may
3 do business; and
4 (7) [(8)] other information required by the director.

5 * Sec. 18. AS 21.27.130 is amended by adding a new subsection to read:

- 6 (b) A license issued by the director does not in itself create any authority,
7 actual, apparent, or inherent, in the holder of the license to represent or commit an
8 insurer.

9 * Sec. 19. AS 21.27.140(b) is amended to read:

- 10 (b) A firm may not be licensed as an insurance producer, managing general
11 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus
12 lines broker, or independent adjuster, or transact insurance unless each individual
13 employed as an insurance producer, managing general agent, surplus lines broker,
14 trainee insurance producer, trainee independent adjuster, or independent adjuster by
15 the firm is licensed as an individual in the firm and the compliance officer
16 [PRINCIPAL OR MANAGER] of the firm is licensed as an individual in the firm to
17 exercise all the powers conferred by the firm's license.

18 * Sec. 20. AS 21.27.140(c) is amended to read:

- 19 (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew
20 or should have known of an act or representation made on the firm's behalf by a
21 person not licensed as required by this chapter, the firm and the firm's compliance
22 officer [PRINCIPAL OR MANAGER] are subject to the penalties provided under
23 AS 21.27.440.

24 * Sec. 21. AS 21.27.150(a) is amended to read:

- 25 (a) The director may issue a
26 (1) travel insurance limited producer license to a person [WHOSE
27 PLACE OF BUSINESS IS LOCATED IN THIS STATE,] who sells transportation
28 tickets of a common carrier of persons or property, who is appointed under
29 AS 21.27.100, and whose sole purpose is to be appointed by and act as an agent for
30 transportation ticket policies of health insurance, baggage insurance on personal
31 effects, and trip cancellation or trip interruption insurance;

1 (2) [HEALTH INSURANCE LIMITED PRODUCER LICENSE TO
2 A RESIDENT OF THIS STATE WHOSE SOLE PURPOSE IS TO BE APPOINTED
3 BY AND ACT AS AN AGENT FOR HEALTH INSURANCE PERTAINING TO
4 SPORTS AND RECREATION;

5 (3)] title insurance limited producer license to a person whose place of
6 business is located in this state and whose sole purpose is to be appointed by and act
7 on behalf of a title insurer;

8 (3) [(4)] bail bond limited producer license to a person [WHOSE
9 PLACE OF BUSINESS IS LOCATED IN THIS STATE AND] whose sole purpose is
10 to be appointed by and act on behalf of a surety insurer pertaining to bail bonds;

11 (4) [(5)] fraternal benefit society limited producer license to a person
12 whose sole purpose is to be appointed by and act on behalf of a fraternal benefit
13 society licensed under AS 21.84;

14 [(6) RETIRED INSURANCE PRODUCER LICENSE TO A
15 RESIDENT WHO IS RETIRED OR RETIRING FROM THE BUSINESS OF
16 INSURANCE AND SURRENDERS ALL IN-FORCE LICENSES TO ALLOW THE
17 PERSON TO RECEIVE A CONTINUING COMMISSION IN REGARD TO
18 INSURANCE TRANSACTED BEFORE RETIREMENT; A RETIRED
19 INSURANCE PRODUCER LICENSEE MAY NOT SOLICIT, INDUCE,
20 NEGOTIATE, OR EFFECTUATE CONTRACTS OF INSURANCE; THE
21 DIRECTOR MAY RENEW A RETIRED INSURANCE PRODUCER LICENSE IF
22 THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE;]

23 (5) [(7)] motor vehicle rental agency limited producer license to a
24 person and, subject to the approval of the director, to employees of the person licensed
25 that the licensee authorizes to transact the business of insurance on the licensee's
26 behalf if, as to an employee, the licensee complies with (D) of this paragraph and if
27 the licensee

28 (A) rents to others, without operators,

29 (i) private passenger motor vehicles, including
30 passenger vans, minivans, and sport utility vehicles; or

31 (ii) cargo motor vehicles, including cargo vans, pickup

1 trucks, and trucks with a gross vehicle weight of less than 26,000
2 pounds that do not require the operator to possess a commercial driver's
3 license;

4 (B) rents motor vehicles only to persons under rental
5 agreements that do not exceed a term of 90 days;

6 (C) transacts only the following kinds of insurance:

7 (i) motor vehicle liability insurance with respect to
8 liability arising out of the use of a vehicle rented from the licensee
9 during the term of the rental agreement;

10 (ii) uninsured or underinsured motorist coverage, with
11 minimum limits described in AS 21.89.020(c) and (d) arising out of the
12 use of a vehicle rented from the licensee during the term of the rental
13 agreement;

14 (iii) insurance against medical, hospital, surgical, and
15 disability benefits to an injured person and funeral and death benefits to
16 dependents, beneficiaries, or personal representatives of a deceased
17 person if the insurance is issued as incidental coverage with or
18 supplemental to liability insurance and arises out of the use of a vehicle
19 rented from the licensee during the term of the rental agreement;

20 (iv) personal effects insurance, including loss of use,
21 with respect to damage to or loss of personal property of a person
22 renting the vehicle and other vehicle occupants while that property is
23 being loaded into, transported by, or unloaded from a vehicle rented
24 from the licensee during the term of the rental agreement;

25 (v) towing and roadside assistance with respect to
26 vehicles rented from the licensee during the term of the rental
27 agreement; and

28 (vi) other insurance as may be authorized by regulation
29 by the director;

30 (D) notifies the director in writing, within 30 days of
31 employment, of the name, date of birth, social security number, location of

1 employment, and home address of an employee authorized by the licensee to
2 transact insurance on the licensee's behalf; and

3 (E) provides other information as required by the director;

4 (6) nonresident limited producer license to a person; a license that
5 the director issues under this paragraph grants the same scope of authority as a
6 limited lines producer license issued to the person by the person's home state;

7 (7) credit insurance limited producer license to a person who sells
8 limited lines credit insurance;

9 (8) miscellaneous limited producer license to a person who
10 transacts insurance in this state that restricts the person's authority to less than
11 the total authority for a line of authority described in AS 21.27.115(1) - (6).

12 * Sec. 22. AS 21.27.270 is repealed and reenacted to read:

13 Sec. 21.27.270. Licensing of nonresidents. (a) In accordance with P.L. 106-
14 102 (Gramm-Leach-Bliley Act), the director shall issue a license to a nonresident
15 license applicant on terms that are reciprocal with those of the applicant's home state.
16 Notwithstanding any contrary provision of this chapter, the director may by order
17 waive any license application requirement in this chapter to achieve reciprocity to
18 license a nonresident in accordance with P.L. 106-102 (Gramm-Leach-Bliley Act).

19 (b) Unless the director denies or refuses to renew a license under
20 AS 21.27.410, the director shall issue a nonresident producer, limited lines, surplus
21 lines broker, managing general agent, reinsurance intermediary broker, or reinsurance
22 intermediary manager license to a person who is not a resident of this state if

23 (1) the person is currently licensed and is in good standing in the
24 person's home state; the director may verify the person's licensing status through the
25 producer licensing database records maintained by the National Association of
26 Insurance Commissioners or its affiliates or subsidiaries;

27 (2) the person has paid the fees required under AS 21.06.250 and has
28 submitted to the director

29 (A) the license application the person submitted to the person's
30 home state; or

31 (B) if the person is not a firm, a completed uniform application

1 or, if a firm, the uniform business entity application; and

2 (3) the person's home state awards nonresident producer, limited lines,
3 surplus lines, managing general agent, reinsurance intermediary broker, and
4 reinsurance intermediary manager licenses to residents of this state on the same basis
5 as does this state.

6 (c) Notwithstanding (b) of this section, the director may require a person
7 applying for a

8 (1) nonresident license to furnish the person's fingerprints as required
9 of a person applying for a license under AS 21.27.040(e);

10 (2) surplus lines broker license under this section to have, and maintain
11 while licensed in this state, the bond required of a person applying for a license under
12 AS 21.27.790(2); and

13 (3) nonresident license to comply with the premium fiduciary account
14 requirements of AS 21.27.360 and the regulations adopted under that statute.

15 (d) A person licensed as a limited lines producer in the person's home state
16 shall receive a nonresident limited lines producer license granting the same scope of
17 authority as the license issued by the producer's home state.

18 (e) In addition to the other requirements of this chapter, a person may not be
19 licensed as a nonresident licensee until the person files a power of attorney as follows:

20 (1) an applicant shall appoint the director as attorney to receive service
21 of legal process issued against the licensee in this state upon a cause of action arising
22 in this state or relative to a subject resident, located, or to be performed in this state;
23 service upon the director as attorney shall constitute effective legal service upon the
24 licensee; and

25 (2) the appointment shall be irrevocable for as long as there could be a
26 cause of action against the licensee arising out of an insurance transaction in this state
27 or relative to a subject resident, located, or to be performed in this state.

28 (f) Duplicate copies of legal process against a licensed or formerly licensed
29 nonresident licensee shall be served upon the director either by a peace officer or
30 through certified mail with return receipt requested. At the time of service, the
31 plaintiff shall pay to the director a fee set under AS 21.06.250.

1 (g) Upon receiving a service of process, the director shall immediately send
2 one of the copies of the process by certified mail, return receipt requested, to the
3 licensed or formerly licensed nonresident licensee at the last address of record filed
4 with the director.

5 * Sec. 23. AS 21.27 is amended by adding a new section to read:

6 **Sec. 21.27.275. Alien licensees.** The director may issue a license authorized
7 by this chapter to a nonresident of this state who does not have a home state if that
8 person meets all the requirements of this chapter for that license applicable to a
9 resident of this state applying for the same license.

10 * Sec. 24. AS 21.27.330 is repealed and reenacted to read:

11 **Sec. 21.27.330. Place of business.** (a) A person licensed under this chapter
12 shall have and maintain at least one place of business that is physically accessible to
13 the public in this state unless the person holds a nonresident license and principally
14 conducts transactions in another state. However, the nonresident licensee must have at
15 least one physically accessible place in the nonresident licensee's home state. The
16 requirements of this subsection do not apply to a licensee who only conducts business
17 in life or health insurance or annuities.

18 (b) If a licensee that is a firm transacts business at more than one place of
19 business in this state, the licensee shall pay a license fee for each place of business.

20 * Sec. 25. AS 21.27.350(c) is amended to read:

21 (c) The records of a particular transaction shall be retained and kept open for
22 examination and inspection by the director at any business time during the five years
23 immediately after the date of the completion of the transaction or 10 years for
24 reinsurance transactions, unless the director orders a longer period of retention. If a
25 licensee assumes the business of another licensee or former licensee by merger,
26 purchase, or otherwise, the compliance officer [PRINCIPAL OR MANAGER] of the
27 assuming licensee firm shall provide to the director in writing each location where the
28 assumed licensee's records are maintained by the assuming licensee during the period
29 in which the records must be kept available and open to the inspection of the director.
30 A formerly licensed person shall provide to the director in writing each location where
31 records shall be maintained during the period in which the records of a particular

1 transaction must be kept available and open to the examination and inspection of the
2 director. A formerly licensed person may, with the permission of the director, arrange
3 to have a current licensee or the home office of the last known insurer of each
4 policyholder [,] maintain the records open to the examination and inspection of the
5 director during the period in which the records must be maintained.

6 * **Sec. 26.** AS 21.27.370 is repealed and reenacted to read:

7 **Sec. 21.27.370. Sharing compensation.** (a) Except as provided in (c) and (d)
8 of this section, a licensee may not compensate a person, other than a licensee who is
9 acting within the scope of the person's license, for transacting insurance in this state or
10 relative to a risk resident, located, or to be performed in this state.

11 (b) Except as provided in (c) and (d) of this section, a person may not be
12 promised or paid, directly or indirectly, compensation for transacting a kind or class of
13 insurance for which the person is not then licensed to transact or for insurance that the
14 person is prohibited by this title from transacting.

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

19 (1) for each referral is

20 (A) nominal;

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

22 (C) fixed in amount by referral;

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

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

26 (d) An insurer or insurance producer may compensate an insurance agency or
27 another person if that person does not transact the business of insurance in this state
28 and the payment does not violate AS 21.36.100 or 21.36.120.

29 (e) A person who is no longer licensed in this state may be paid renewal or
30 other deferred compensation for selling, soliciting, or negotiating insurance in this
31 state if the person

1 (1) was required to be licensed under this chapter at the time of the
2 sale, solicitation, or negotiation; and

3 (2) held that required license.

4 (f) In addition to any other penalty provided by law, the director may suspend
5 or revoke the license of a licensee participating in a violation of this section. The
6 director may order a licensee who violates this section to pay a penalty of not more
7 than three times the compensation promised or paid.

8 * Sec. 27. AS 21.27.390(a) is amended to read:

9 (a) The director may issue a temporary license only to a person who, except
10 for experience, training, or the taking of an examination, meets all qualifications for a
11 permanent license and if the person is

12 (1) the surviving spouse, next of kin, or the administrator or executor
13 of a deceased licensed insurance producer or managing general agent;

14 (2) the spouse, next of kin, employee, or legal guardian of a licensed
15 insurance producer or managing general agent who is disabled from transacting
16 insurance because of sickness, mental illness [INSANITY], or injury;

17 (3) a surviving member, officer, or employee of a firm licensed as
18 insurance producer or managing general agent upon the death of the compliance
19 officer [PRINCIPAL OR MANAGER] of the firm holding the same licenses as the
20 firm; or

21 (4) the designee of a licensed insurance producer who enters active
22 service in the armed forces of the United States, but only for insurance relating to
23 insurers for whom the licensee was acting as an agent.

24 * Sec. 28. AS 21.27.410(b) is amended to read:

25 (b) The license of a firm and its compliance officer [PRINCIPAL OR
26 MANAGER] may be denied, nonrenewed, suspended, or revoked for a violation or
27 cause that relates to a person representing or acting on behalf of the firm.

28 * Sec. 29. AS 21.27.460(c) is amended to read:

29 (c) Upon a change in the state of residence, a place of business, a mailing
30 address, or in the compliance officer [PRINCIPAL OR MANAGER] of a firm, a
31 license subject to the change shall be surrendered to the director within 10 days either

1 personally or by certified mail and the division shall reissue the license reflecting the
2 changes if the licensee continues to satisfy the qualifications under this chapter.

3 * **Sec. 30.** AS 21.27.540(g) is amended to read:

4 (g) In addition to any other penalty provided by law, if the director determines
5 under AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew
6 of or should have known that a trainee insurance producer violated this section, the
7 employing licensed insurance producer and firm, and the compliance officer
8 [PRINCIPAL AND MANAGER], if any, are subject to the penalties provided under
9 AS 21.27.440.

10 * **Sec. 31.** AS 21.27.560(a) is amended to read:

11 (a) A client who appoints an insurance producer as its broker in this state or
12 relative to a subject resident, located, or to be performed in this state shall execute a
13 written contract that specifically sets out the duties, functions, powers, authority, and
14 compensation of the insurance producer, if the broker is compensated by a fee paid by
15 the client or by a combination of a fee paid by a client and a commission paid by an
16 insurer with which coverage has been placed. The written contract shall be kept in the
17 permanent records of the insurance producer and be open to inspection by the director.

18 * **Sec. 32.** AS 21.27.600(g) is amended to read:

19 (g) In addition to any other penalty provided by law

20 (1) the director shall revoke the trainee license of a trainee managing
21 general agent who the director determines has violated the provisions of this section; a
22 licensee or other person having possession or custody of the license shall immediately
23 surrender the license to the director either personally or by certified mail;

24 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
25 employing managing general agent knew of or should have known that a trainee
26 managing general agent violated this section, the employing managing general agent
27 and firm, and the compliance officer [PRINCIPAL, AND MANAGER], if any, are
28 subject to the penalties provided under AS 21.27.440.

29 * **Sec. 33.** AS 21.27.620 is amended by adding a new subsection to read:

30 (l) In this section, "transact" has the meaning given in AS 21.90.900.

31 * **Sec. 34.** AS 21.27.640(b) is repealed and reenacted to read:

1 (b) To qualify for issuance or renewal of a registration, an applicant or
2 registrant shall comply with this title, regulations adopted under AS 21.06.090, and

3 (1) be a trustworthy person;

4 (2) have active working experience in administrative functions that, in
5 the director's opinion, exhibits the ability to competently perform the administrative
6 functions of a third-party administrator;

7 (3) not have committed an act that is a cause for denial, nonrenewal,
8 suspension, or revocation of a registration or license in this state or another
9 jurisdiction;

10 (4) maintain a lawfully established place of business as described in
11 AS 21.27.330 in this state, unless licensed as a nonresident under AS 21.27.270;

12 (5) disclose to the director all owners, officers, directors, or partners, if
13 any;

14 (6) designate a compliance officer for the firm;

15 (7) provide in or with its application

16 (A) all basic organizational documents of the third-party
17 administrator, including articles of incorporation, articles of association,
18 partnership agreement, trade name certificate, trust agreement, shareholder
19 agreement, and other applicable documents and all endorsements to the
20 required documents;

21 (B) the bylaws, rules, regulations, or similar documents
22 regulating the internal affairs of the administrator;

23 (C) the names, mailing addresses, physical addresses, official
24 positions, and professional qualifications of persons who are responsible for
25 the conduct of affairs of the third-party administrator, including the members
26 of the board of directors, board of trustees, executive committee, or other
27 governing board or committee; the principal officers in the case of a
28 corporation, or the partners or members in the case of a partnership, limited
29 liability company, limited liability partnership, or association; shareholders
30 holding directly or indirectly 10 percent or more of the voting securities of the
31 third-party administrator; and any other person who exercises control or

1 influence over the affairs of the third-party administrator;

2 (D) certified financial statements for the preceding two years,
3 or for each year and partial year that the applicant has been in business if less
4 than two years, prepared by an independent certified public accountant
5 establishing that the applicant is solvent, that the applicant's system of
6 accounting, internal control, and procedure is operating effectively to provide
7 reasonable assurance that money is promptly accounted for and paid to the
8 person entitled to the money, and any other information that the director may
9 require to review the current financial condition of the applicant; and

10 (E) a statement describing the business plan, including
11 information on staffing levels and activities proposed in this state and in other
12 jurisdictions and providing details establishing the third-party administrator's
13 capability for providing a sufficient number of experienced and qualified
14 personnel in the areas of claims handling, underwriting, and record keeping;

15 (8) provide to the director documents necessary to verify the
16 statements contained in or in connection with the application; and

17 (9) notify the director, in writing, within 30 days of

18 (A) a change in compliance officer, residence, place of
19 business, mailing address, or phone number;

20 (B) the suspension or revocation of an insurance license or
21 registration by another state or jurisdiction; or

22 (C) a conviction of a misdemeanor or felony of the third-party
23 administrator, its officers, directors, partners, owners, or employees.

24 * Sec. 35. AS 21.27.650 is amended by adding a new subsection to read:

25 (p) In this section, "transact" has the meaning given in AS 21.90.900.

26 * Sec. 36. AS 21.27.680(g) is amended to read:

27 (g) In addition to any other penalty provided by law,

28 (1) the director shall revoke the license of a trainee reinsurance
29 intermediary broker who the director determines has violated the provisions of this
30 section; a licensee or other person having possession or custody of the license shall
31 immediately surrender the license to the director either personally or by certified mail;

1 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
2 employing reinsurance intermediary broker knew of or should have known that a
3 trainee reinsurance intermediary broker violated this section, the employing
4 reinsurance intermediary broker and firm **and compliance officer** [, PRINCIPAL
5 AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

6 * Sec. 37. AS 21.27.690 is amended by adding a new subsection to read:

7 (g) In this section, "transact" has the meaning given in AS 21.90.900.

8 * Sec. 38. AS 21.27.760 is amended by adding a new subsection to read:

9 (l) In this section, "transact" has the meaning given in AS 21.90.900.

10 * Sec. 39. AS 21.27.790(2) is amended to read:

11 (2) **the director may by regulation require a surplus lines broker to**
12 **maintain a bond as described in AS 21.27.190 in an amount acceptable to the**
13 **director** [HAVE AND MAINTAIN WHILE LICENSED, A BOND IN THE SUM
14 OF NOT LESS THAN \$200,000 AGGREGATE LIABILITY AND] with the
15 conditions that the surplus lines broker conduct business under the provisions of this
16 title, promptly remit the taxes and fees provided by law, return premiums promptly
17 when due, and pay proper losses promptly;

18 * Sec. 40. AS 21.27.800(g) is amended to read:

19 (g) In addition to any other penalty provided by law,

20 (1) the director shall revoke the license of a trainee surplus lines broker
21 who the director determines has violated the provisions of this section; a licensee or
22 other person having possession or custody of the license shall immediately surrender
23 the license to the director either personally or by certified mail;

24 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
25 employing surplus lines broker knew of or should have known that a trainee licensed
26 under this section violated this section, the employing surplus lines broker and firm,
27 **and the compliance officer** [PRINCIPAL, AND MANAGER], if any, are subject to
28 the penalties provided under AS 21.27.440.

29 * Sec. 41. AS 21.27.840(f) is amended to read:

30 (f) A trainee independent adjuster shall at all times be working a. the direction
31 and under the supervision of the employing licensed independent adjuster, and the file

1 and record documentation shall reflect the direction and supervision. The employing
2 licensed independent adjuster and its firm, and the compliance officer [MANAGER,
3 AND PRINCIPAL], if any, are responsible for all insurance actions of the trainee
4 independent adjuster.

5 * Sec. 42. AS 21.27.840(i) is amended to read:

6 (i) In addition to any other penalty provided by law,

7 (1) a trainee independent adjuster who the director determines has
8 violated the provisions of this section shall have its license terminated; a licensee or
9 other person having possession or custody of the license shall within 30 days surrender
10 the license to the director either personally or by certified mail;

11 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
12 employing licensed independent adjuster knew of or should have known that a trainee
13 independent adjuster violated this section, the employing licensed independent
14 adjuster and firm, and the compliance officer [PRINCIPAL AND MANAGER], if
15 any, are subject to the penalties provided under AS 21.27.440.

16 * Sec. 43. AS 21.27.900(10) is amended to read:

17 (10) "individual" means a natural person required to be licensed under
18 AS 21.27.010 [WHO IS NOT ACTING IN ASSOCIATION WITH TWO OR MORE
19 LICENSEES, EITHER IN PARTNERSHIP, CORPORATION, OR OTHERWISE,
20 OR AN ORGANIZATION IN WHICH A SINGLE LICENSEE HAS 50 PERCENT
21 OR MORE OWNERSHIP INTEREST IN THE ORGANIZATION];

22 * Sec. 44. AS 21.27.900 is amended by adding new paragraphs to read:

23 (23) "compliance officer" means a licensee under this chapter that is
24 responsible for a firm's compliance with the insurance statutes and regulations of this
25 state;

26 (24) "home state" means the District of Columbia or a state or territory
27 of the United States in which an insurance producer maintains the producer's principal
28 place of residence or principal place of business and is licensed to act as an insurance
29 producer;

30 (25) "insurance producer" means a person who sells, solicits, or
31 negotiates insurance or insurance products;

1 (26) "license" means, unless the context requires otherwise, a
2 document issued by the director of insurance authorizing a person to act for the type,
3 class, and lines of authority specified in the document;

4 (27) "limited lines credit insurance" includes credit life, credit
5 disability, credit property, credit unemployment, involuntary unemployment, mortgage
6 life, mortgage guaranty, mortgage disability, guaranteed automobile protection
7 insurance, and any other form of insurance offered in connection with an extension of
8 credit that is limited to partially or wholly extinguishing that credit obligation that the
9 director of insurance determines must be designated a form of limited lines credit
10 insurance;

11 (28) "limited lines" means those lines of insurance defined in
12 AS 21.27.150 or any other line of insurance that the director of insurance designates
13 by order as a limited line;

14 (29) "negotiate" means the act of conferring directly with or offering
15 advice directly to a purchaser or insured or prospective purchaser or insured of a
16 particular contract of insurance concerning any of the substantive benefits, terms, or
17 conditions of the contract if the person engaged in that act either sells insurance or
18 obtains insurance from insurers for purchasers or insureds;

19 (30) "sells" means to exchange a contract of insurance by any means,
20 for money or its equivalent, on behalf of an insurance company;

21 (31) "solicit" means attempting to sell insurance or asking or urging a
22 person to apply for a particular kind of insurance from a particular company;

23 (32) "transact" or "transact business" means sell, solicit, or negotiate
24 insurance or insurance products;

25 (33) "uniform application" means the most recent version of the
26 uniform application of the National Association of Insurance Commissioners;

27 (34) "uniform business entity application" means the most recent
28 version of the uniform business entity application of the National Association of
29 Insurance Commissioners.

30 * Sec. 45. AS 21.36 is amended by adding new sections to read:

31 **Sec. 21.36.162. Nondisclosure of personal information.** (a) Except as

1 provided in 15 U.S.C. 6801 - 6805 (Title V, Gramm-Leach-Bliley Act, P.L. 106 -
2 102), a person may not disclose personal information records regarding an individual
3 who seeks to obtain, obtains, or has obtained an insurance product or service from a
4 licensee that is to be used primarily for personal, family, or household purposes.

5 (b) The director shall adopt regulations regarding the release of financial and
6 health information regarding an individual who seeks to obtain, obtains, or has
7 obtained an insurance product or service from a licensee that is to be used primarily
8 for personal, family, or household purposes. The regulations must be consistent with,
9 but no less restrictive than, the model regulations adopted by the National Association
10 of Insurance Commissioners on September 26, 2000, concerning the release of that
11 information.

12 **Sec. 21.36.164. Licensing of persons in a financial institution.** A financial
13 institution may not allow a person to transact insurance in an office of the institution
14 or on behalf of the institution, unless the person is licensed as required under
15 AS 21.27.

16 * Sec. 46. AS 21.36.165 is amended to read:

17 **Sec. 21.36.165. Anticoercion and antitving [FAVORED AGENT OR**
18 **INSURER; COERCION OF DEBTORS].** A person may not

19 (1) require, as a condition to the lending of money or extension of
20 credit, or a renewal of the loan or extension of credit, that the obligee of the money or
21 credit negotiate a policy or contract of insurance through any particular person or
22 group of persons;

23 (2) disapprove the insurance policy provided by a borrower for the
24 protection of property securing credit or a loan [LIEN] if disapproval is based on other
25 than reasonable standards uniformly applied and relating to the extent of coverage
26 required and the financial soundness and the services of the insurer; the standards may
27 not discriminate against a particular type of insurer [,] or call for the disapproval of a
28 policy containing coverage in addition to that required;

29 (3) unless charges are required when the person handling the
30 insurance transaction is a licensee, require a consumer [BORROWER,
31 MORTGAGOR, PURCHASER], insurer, broker, or agent to pay a separate charge for

1 handling an insurance policy required as security for a loan on real property, or to pay
2 a separate charge to substitute the insurance policy of one insurer for that of another,
3 except that interest may be charged on premium loans or [OF] premium advancements
4 in accordance with the security instrument;

5 (4) use or disclose information resulting from a requirement that a
6 borrower, mortgagor, or purchaser furnish insurance of any kind on real property
7 being conveyed or used as collateral security to a loan, when the information is to the
8 advantage of the mortgagee, vendor, or lender, or is to the detriment of the borrower,
9 mortgagor, purchaser, insurer, agent, or broker complying with the requirement.

10 * Sec. 47. AS 21.36.165 is amended by adding new subsections to read:

11 (b) A person shall

12 (1) use separate documents for an insurance transaction, other than
13 credit insurance or flood insurance, and for a credit transaction; and

14 (2) maintain separate and distinct records relating to insurance
15 transactions, including consumer complaint information, and make the records
16 available to the director for inspection upon notice.

17 (c) A person may not include insurance premiums in a primary credit
18 transaction without the consent of the consumer.

19 (d) Nothing in this section prohibits a person from informing a consumer or
20 prospective consumer that insurance is required in order to obtain a loan or credit, that
21 loan or credit approval is contingent on the procurement of acceptable insurance by
22 the consumer, or that insurance is available from the person.

23 * Sec. 48. AS 21.36 is amended by adding new sections to read:

24 **Sec. 21.36.167. Misrepresentation in financial institution sales.** In the sale
25 of insurance by a financial institution, a person may not engage in any practice or use
26 an advertisement that may tend to mislead or deceive a consumer or cause a consumer
27 to erroneously believe that

28 (1) the insurance is backed by or a return on the insurance is
29 guaranteed by the state, the federal government, the person, or the Federal Deposit
30 Insurance Corporation;

31 (2) the state or federal government

1 (A) will pay a claim under an insurance contract that is an
2 obligation of or was sold by the person;

3 (B) is responsible for the insurance sales activities of the
4 person; or

5 (C) guarantees the credit of the person;

6 (3) for insurance that contains investment risk, the insurance does not
7 contain investment risk, the principal may not be lost, or the value of the insurance
8 may not decline;

9 (4) the lending of money, extension of credit, or a renewal of a loan is
10 conditioned on the purchase of insurance from the person and that insurance may not
11 be purchased from another source.

12 **Sec. 21.36.168. Disclosures required in financial institution sales.** (a) In
13 the sale of insurance by a financial institution, a person shall disclose both orally and
14 in writing to a consumer before the initial purchase of insurance that

15 (1) the insurance is not a deposit or other obligation of the person;

16 (2) the insurance is not guaranteed by the person or the person
17 soliciting insurance;

18 (3) the insurance is not insured by the Federal Deposit Insurance
19 Corporation or other agency of the United States, the financial institution, or the
20 person;

21 (4) if the insurance contains risk, the insurance contains investment
22 risk and the insurance may lose value;

23 (5) the consumer is not required to negotiate a policy or contract of
24 insurance through any particular person or group of persons as a condition to the
25 lending of money or extension of credit, or a renewal of the loan or extension of
26 credit, except that the person may impose reasonable requirements uniformly applied
27 and relating to the extent of coverage required and the financial soundness and the
28 services of the insurer and that the standards may not discriminate against a particular
29 type of insurer or require disapproval of a policy containing coverage in addition to
30 that required.

31 (b) A person shall also provide the disclosures required in (a) of this section to

1 a consumer both orally and in writing at the time of application for an extension of
2 credit.

3 (c) If an application for insurance is made by telephone, written disclosure as
4 required in (a) of this section must be mailed to the consumer within three working
5 days.

6 (d) A person may provide the disclosures required in (a) of this section
7 electronically, if

8 (1) the consumer affirmatively consents to electronic disclosure; and

9 (2) the disclosures are provided in a format that the consumer is able to
10 access at a later time by a method such as through printing or storing the disclosures
11 electronically.

12 (e) A person shall provide the disclosures required in (a) of this section in a
13 meaningful form and in a conspicuous, simple, direct, and understandable manner that
14 is designed to call attention to the information provided.

15 (f) A person shall obtain a written acknowledgment or, in the case of an
16 electronic disclosure provided in compliance with (d) of this section, a written or
17 electronic acknowledgment, by the consumer that the consumer received the
18 disclosures as required in this section.

19 (g) This section does not require that a person provide the disclosures required
20 in this section in advertisements that are of a general nature or that describe or list the
21 services or products offered by a financial institution or on behalf of a financial
22 institution.

23 (h) In this section, "meaningful form" means

24 (1) for other than an electronic form, a form of disclosure that is
25 provided to a consumer orally and in writing;

26 (2) for an electronic form, a disclosure that a consumer cannot
27 electronically bypass before purchasing insurance.

28 **Sec. 21.36.169. Definitions for AS 21.36.164 - 21.36.169.** In AS 21.36.164 -
29 21.36.169, unless the context otherwise requires,

30 (1) "consumer" means a person who obtains, applies to obtain, or is
31 solicited to obtain insurance from or on behalf of a financial institution;

1 (2) "financial institution" means a bank holding company under
2 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C.
3 1752 (Federal Credit Union Act), a bank, savings bank, savings and loan association,
4 or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any
5 other person authorized to take federally insured deposits and make loans in the state;
6 "financial institution" includes any employee or agent of a financial institution and any
7 nondepository affiliate or subsidiary of a financial institution but only in the instances
8 when the nondepository affiliate or subsidiary is soliciting the sale or purchase of
9 insurance recommended or sponsored by, on the premises of, or in connection with a
10 product offering of the financial institution; "financial institution" does not include an
11 insurer.

12 * Sec. 49. AS 21.36 is amended by adding a new section to read:

13 **Sec. 21.36.355. Felony convictions involving dishonesty or breach of trust.**

14 (a) A person who has a conviction for a felony involving dishonesty or a breach of
15 trust may not engage or participate in the business of insurance without receiving prior
16 written consent by the director as required under 18 U.S.C. 1033 and 1034 (Violent
17 Crime Control and Law Enforcement Act of 1994).

18 (b) A person who fails to seek prior written consent from the director under (a)
19 of this section is in violation of this chapter.

20 (c) A person who is engaged in the business of insurance may not knowingly
21 permit the participation in the business of insurance by a person who has been
22 convicted of a felony involving dishonesty or breach of trust except as allowed under
23 (a) of this section.

24 * Sec. 50. AS 21.36.430(a) is amended to read:

25 (a) A person transacting [AN INSURER OFFERING] insurance in this state
26 may not (1) refuse to issue or renew insurance coverage; (2) limit the scope of
27 insurance coverage; (3) cancel an existing policy of insurance; (4) [(3)] deny a
28 covered claim; or (5) [(4)] increase the premium on an insurance policy based only on
29 a person's status as [IF THE REFUSAL, CANCELLATION, DENIAL, OR
30 INCREASE RESULTS ONLY FROM THE FACT THAT THE PERSON WAS] a
31 victim of domestic violence or as a provider of services to victims of domestic

1 violence.

2 * **Sec. 51.** AS 21.36.430 is amended by adding a new subsection to read:

3 (c) In this section, "domestic violence" means the occurrence of one or more
4 of the following by a current or former family member, household member, intimate
5 partner, or caretaker:

6 (1) attempting to cause, causing, or threatening another person with
7 physical harm, severe emotional distress, psychological trauma, rape, or sexual
8 assault;

9 (2) engaging in a course of conduct or repeatedly committing acts
10 toward another person, including following the person without proper authority, under
11 circumstances that place the person in reasonable fear of bodily injury or physical
12 harm;

13 (3) subjecting another person to false imprisonment; or

14 (4) attempting to cause or causing damage to property so as to
15 intimidate or attempt to control the behavior of another person.

16 * **Sec. 52.** AS 21.89.080 is repealed and reenacted to read:

17 **Sec. 21.89.080. Electronic submissions.** The director may, by regulation or
18 by order, provide for the electronic submission of any information or written
19 submission required by this title and for an electronic confirmation of a required
20 submission

21 * **Sec. 53.** AS 21.90.900(24) is repealed and reenacted to read:

22 (24) "insurance producer" has the meaning given in AS 21.27.900;

23 * **Sec. 54.** AS 21.27.150(b), 21.27.170, 21.27.405(c), 21.27.530(5), 21.27.900(14), and
24 21.27.900(16) are repealed.

25 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **INDIRECT COURT RULE AMENDMENT.** (a) The provisions of AS 21.27.110(h),
28 as repealed and reenacted by sec. 15 of this Act, have the effect of amending Rule 402,
29 Alaska Rules of Evidence, by making inadmissible in court, except under certain
30 circumstances, the statement of reasons for termination of an appointment under
31 AS 21.27.110.

1 (b) The provisions of AS 21.27.110(h), as repealed and reenacted by sec. 15 of this
2 Act, that relate to admissibility of evidence in court take effect only if (a) of this section
3 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
4 of the State of Alaska.

5 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **TRANSITION: REGULATIONS.** Notwithstanding secs. 58 and 59 of this Act, the
8 director of insurance may immediately proceed to adopt regulations necessary to implement
9 the changes made by this Act. The regulations take effect under AS 44.62 (Administrative
10 Procedure Act), but not before the effective date of the statutory change.

11 * **Sec. 57.** Sections 1, 9, 10, 52, and 56 of this Act take effect immediately under
12 AS 01.10.070(c).

13 * **Sec. 58.** Sections 45 - 51 of this Act take effect July 1, 2001.

14 * **Sec. 59.** Except as provided in secs. 57 and 58 of this Act, this Act takes effect January 1,
15 2002.

22-GS1025\F
Ford
4/6/01

CS FOR SENATE BILL NO. 138(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance; amending Rule 402, Alaska Rules of Evidence; and
2 providing for an effective date."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. The primary purpose of this Act is to implement insurance reforms in
7 AS 21 as required by P.L. 106-102 (Gramm-Leach-Bliley Act) to modernize financial
8 services related to the business of insurance and to further this state as an attractive place for
9 investment and other commerce involving the insurance industry.

10 * **Sec. 2.** AS 21.27.010(e) is repealed and reenacted to read:

11 (e) An employee of an insurer who responds to requests from existing
12 policyholders on existing policies is not required to be licensed under this section if
13 the employee

14 (1) is not directly compensated based on volume of premiums that may

1 result from those services; and

2 (2) does not transact insurance.

3 * Sec. 3. AS 21.27.010(j) is amended to read

4 (j) This section does not apply to a person who

5 (1) is employed on salary or hourly wage by a person licensed under
6 this section solely for the performance of accounting, clerical, stenographic, and
7 similar office duties;

8 (2) only secures and forwards information required for the purposes of,
9 and does not receive a commission for, any of the following services:

10 (A) performing administrative services related to

11 (i) group life insurance;

12 (ii) group property and casualty insurance;

13 (iii) group annuities;

14 (iv) group or blanket accident and health insurance;

15 (B) enrolling individuals under plans for the types of
16 insurance or annuities specified in (A) of this paragraph;

17 (C) issuing certificates under plans for the types of
18 insurance or annuities specified in (A) of this paragraph, or otherwise
19 assisting in administering those plans;

20 (D) performing administrative services related to mass-
21 marketed property and casualty insurance [COVERING THE UNPAID
22 BALANCE, OR REMAINING PAYMENTS PROPOSED TO BE MADE, IN
23 CONNECTION WITH THE PURCHASE OF MERCHANDISE OR
24 SERVICES, IF THE PERSON RECEIVES NO COMPENSATION,
25 DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY
26 RELATING TO THE INSURANCE TRANSACTIONS]; [OR]

27 (3) is employed on salary by a licensee at the licensee's place of
28 business, is supervised by and reports directly to a licensee in the firm, and who, after
29 explaining that the matter must be reviewed by a licensee, may

30 (A) furnish premium estimates from published or printed lists
31 of standard rates if the person does not advise, counsel, or suggest what

1 coverage may be needed, or otherwise solicit insurance coverage;

2 (B) arrange appointments for a licensee if the person does not
3 solicit insurance coverage;

4 (C) record information from an applicant or policyholder and
5 complete for the licensee's personal review and signature, a certificate of
6 insurance that is not a contract of insurance; the licensee's signature may be by
7 facsimile;

8 (D) inform a policyholder of the type of coverage shown in the
9 licensee's policy record if the person does not advise that an event or
10 hypothetical event is or is not covered; or

11 (E) in the physical presence of the licensee, record information
12 from an applicant or policyholder and complete for a licensee's personal
13 review and personal signature, applications, binders, endorsements, or
14 identification cards if the person discloses to the applicant or policyholder that
15 the applicant or policyholder may review the matter with a licensee;

16 (4) is an employee of an insurer or an organization employed by an
17 insurer and is engaged in the inspection, rating, or classification of risks, or in the
18 supervision of the training of insurance producers and is not individually
19 engaged in the sale, solicitation, or negotiation of insurance;

20 (5) advertises in this state through printed publications or
21 electronic mass media, the distribution of which is not limited to residents of this
22 state, if the person

23 (A) performs no other insurance-related activities in this
24 state;

25 (B) does not intend to solicit in this state; and

26 (C) does not sell, solicit, or negotiate insurance of risks
27 resident, located, or to be performed in this state;

28 (6) is not a resident of this state, but sells, solicits, or negotiates
29 commercial property and casualty insurance for an insured with risks located in
30 more than one state if the person is licensed as an insurance producer in the state
31 where the insured maintains its principal place of business and the contract of

1 insurance covers risks located in that state;

2 (7) is a salaried full-time employee who counsels or advises the
3 person's employer regarding the insurance interests of the employer or of the
4 subsidiaries or business affiliates of the employer, if the employee does not sell or
5 solicit insurance or receive a commission from the sale or solicitation of
6 insurance;

7 (8) is an employer or association or the employer's or association's
8 officer, director, employee, or the trustee of an employee trust plan, if the person
9 is not compensated, directly or indirectly, for transacting insurance and is
10 engaged in the administration or operation of a plan offering employee benefits
11 for the employer's or association's own employees, or the employees of its
12 subsidiaries or affiliates; to qualify under this paragraph, the plan must include
13 insurance for employees; or

14 (9) is an officer, director, or employee of an admitted insurer who
15 does not receive a commission on policies written or sold to risks resident,
16 located, or to be performed in this state if the officer's, director's, or employee's
17 functions are executive, administrative, managerial, clerical, or a combination of
18 these and are only indirectly related to the transaction of insurance; relates to
19 underwriting or loss control; or are in the capacity of an agency supervisor
20 where the activities are limited to providing technical assistance to insurance
21 producers and whose activities do not include transacting insurance.

22 * Sec. 4. AS 21.27.020(b) is amended to read:

23 (b) To qualify for issuance or renewal of an individual or individual in the
24 firm license, an applicant or licensee shall comply with this title and [,] regulations
25 adopted under AS 21.06.090 [,] and

26 (1) shall be 18 [19] years of age or older [WITH A HIGH SCHOOL
27 OR GENERAL EDUCATION DEVELOPMENT DIPLOMA OR EQUIVALENT];

28 (2) if for a resident license, shall be a bona fide resident before
29 issuance of the license and actually reside in the state:

30 (3) shall successfully pass an examination required under
31 AS 21.27.060;

1 (4) shall be a trustworthy person;

2 (5) may not use or intend to use the license for the purpose principally
3 of writing controlled business, as defined in AS 21.27.030;

4 (6) may not have committed an act that is a cause for denial,
5 nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.

6 * Sec. 5. AS 21.27.020(c) is repealed and reenacted to read:

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

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

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

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

16 (4) designate a compliance officer for the firm;

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

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

22 * Sec. 6. AS 21.27.020(f) is amended to read:

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

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

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

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

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

10 (5) a nonresident licensee is exempt from the requirements of this
11 subsection [IF THE LICENSEE SUBMITS EVIDENCE SATISFACTORY TO THE
12 DIRECTOR THAT THE LICENSEE HAS SATISFIED ANY CONTINUING
13 EDUCATION REQUIREMENTS OF THE LICENSEE'S DOMICILIARY STATE].

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

15 (a) A licensee shall notify the director within 30 days in writing [BY
16 CERTIFIED MAIL] of a change in residence, employment that is licensed under this
17 chapter, place of business, legal name, fictitious name or alias, mailing address, or
18 phone number. A licensee shall report in writing to the director any
19 administrative action taken against the licensee by a governmental agency of
20 another state or by a governmental agency of another jurisdiction within 30 days
21 after the final disposition of the action. A licensee shall submit to the director the
22 final order and other relevant legal documents in the action. A licensee shall
23 report to the director any criminal prosecution of the licensee in this or another
24 state or jurisdiction within 30 days after the date of filing of the criminal
25 complaint, indictment, information, or citation in the prosecution. The licensee
26 shall submit to the director a copy of the criminal complaint, calendaring order,
27 and other relevant legal documents in the prosecution [; A SUSPENSION,
28 REVOCATION, OR DISCIPLINARY ACTION OF A LICENSE BY ANOTHER
29 STATE OR JURISDICTION; OR A CONVICTION OF A MISDEMEANOR OR
30 FELONY].

31 * Sec. 8. AS 21.27.025(b) is amended to read:

1 (b) A compliance officer [PRINCIPAL OR MANAGER] shall notify the
2 director in writing within 30 days of a termination of employment of a licensed
3 individual in the firm. Notice required under this subsection must include

4 (1) the licensee's name;

5 (2) the firm's name and address;

6 (3) the date of hire, self-employment, or termination of the licensee;

7 and

8 (4) other information required by the director.

9 * Sec. 9. AS 21.27.040(a) is amended to read:

10 (a) Application for a license shall be made to the director upon forms
11 prescribed by the director. As a part of or in connection with the application, the
12 applicant shall furnish information concerning the applicant's identity, personal
13 history, experience, business record, purposes, and other pertinent facts that the
14 director may reasonably require. The applicant shall declare, [UNDER OATH AND]
15 subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued
16 by the director that the statements made in or in connection with the application are
17 true, correct, and complete to the best of the applicant's knowledge and belief.
18 Payment of an application fee established under AS 21.06.250 must be submitted with
19 the application.

20 * Sec. 10. AS 21.27.040 is amended by adding a new subsection to read:

21 (e) As part of the application required by (a) of this section, an applicant shall
22 furnish to the director a full set of fingerprints so that the director may obtain criminal
23 justice information as provided under AS 12.62 about the applicant. The director shall
24 submit the completed fingerprint card to the Department of Public Safety. The
25 Department of Public Safety is authorized to submit the fingerprints to the Federal
26 Bureau of Investigation for a national criminal history record check.

27 * Sec. 11. AS 21.27.060(a) is amended to read:

28 (a) Except as provided in this chapter, an applicant for an individual license
29 and a compliance officer [PRINCIPAL OR MANAGER] applicant for a firm license
30 shall, before the issuance of the license, personally take and pass, to the satisfaction of
31 the director, an examination that tests the knowledge and competence of the applicant

1 as to the applicant's duties and responsibilities as a licensee and the insurance statutes
2 [LAWS] and regulations of the state.

3 * **Sec. 12.** AS 21.27.060(c) is repealed and reenacted to read:

4 (c) An individual who applies for an insurance producer license in this state
5 who was previously licensed for the same lines of authority in that individual's prior
6 home state is not required to pass the examination required by (a) of this section in
7 order to secure the same authority in this state. The exemption available under this
8 subsection applies only if the application is received within 90 days after the
9 cancellation of the applicant's previous license in the applicant's prior home state and

10 (1) the applicant's prior home state verifies that, at the time of
11 cancellation, the applicant held an insurance producer license that was in good
12 standing in that state; or

13 (2) the insurance producer licensing database records for the prior
14 home state that are maintained by the National Association of Insurance
15 Commissioners or its affiliates or subsidiaries indicate that the applicant is or was
16 licensed in good standing for the kind of license requested.

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

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

19 (1) for a limited license under AS 21.27.150(a)(1), (5), or (6)
20 [AS 21.27.150(a)(1), (2), (6), OR (7)]; or

21 (2) who, at any time within the one-year [TWO-YEAR] period
22 immediately preceding the date the current pending application is received by the
23 division, had been licensed in good standing in this state under a license requiring
24 substantially similar qualifications as required by the license applied for [; OR

25 (3) WHOSE LICENSE IN ITS RESIDENT JURISDICTION
26 REQUIRES THE SAME QUALIFICATIONS AS THE LICENSE APPLIED FOR IN
27 THIS STATE IF THE LICENSE IN ALL JURISDICTIONS IS IN GOOD
28 STANDING].

29 * **Sec. 14.** AS 21.27.100 is amended by adding new subsections to read:

30 (f) An insurer may appoint an insurance producer to all or some insurers
31 within the insurer's holding company system or group by the filing of a single

1 appointment under this subsection.

2 (g) The authorized or apparently authorized acts on behalf of an appointing
3 insurer of an insurance producer appointed under this section are considered the acts
4 of that insurer.

5 * **Sec. 15.** AS 21.27.110 is repealed and reenacted to read:

6 **Sec. 21.27.110. Term of appointment.** (a) An appointment under
7 AS 21.27.100 continues in force until the appointment is terminated in accordance
8 with this section.

9 (b) If an appointment is terminated by an insurer, reinsurer, or authorized
10 representative, the insurer, reinsurer, or authorized representative shall, on a form or in
11 a format prescribed by the director, notify the director within 30 days after the date of
12 termination of the appointment.

13 (c) If an appointment is terminated by the director, a written or an electronic
14 notice of termination shall be given to the appointee, to the person that made the
15 appointment, and, if different from the person making the appointment, to the insurer
16 or reinsurer, at least 10 days before the effective date of the termination. The director
17 shall send notification under this subsection to the latest address on record with the
18 director.

19 (d) If, after termination and notice under (b) of this section, an insurer,
20 reinsurer, or authorized representative discovers additional information showing that
21 the appointee whose appointment was terminated has engaged in an activity identified
22 in AS 21.27.410 during the period of the appointment, the insurer, reinsurer, or
23 authorized representative shall, on a form or in a format prescribed by the director,
24 promptly notify the director.

25 (e) Within 15 days after providing notification in accordance with (b) and (d)
26 of this section, the insurer, reinsurer, or authorized representative shall mail a copy of
27 the notification to the appointee at the last address on record with the director. The
28 notice must be provided by certified mail, return receipt requested, postage prepaid, or
29 by overnight delivery using a nationally recognized mail carrier, if the appointment
30 was terminated for an activity identified in AS 21.27.410.

31 (f) Within 30 days after the appointee receives notification in accordance with

1 (c) of this section, the appointee may file written comments concerning the substance
2 of the notification with the director and must provide a copy of the written comments
3 to the insurer, reinsurer, or authorized representative. The written comments filed
4 with the director must be included with each report distributed or disclosed concerning
5 a reason about the termination of the appointment.

6 (g) If requested by the director, an insurer, reinsurer, or authorized
7 representative shall provide to the director additional information, documents, records,
8 or other data pertaining to a termination or activity of a licensee under this title.

9 (h) A notice of termination submitted to the director under this section must
10 include a statement of the reasons for the termination. A statement of the reasons for
11 termination is confidential and not subject to inspection and copying under
12 AS 40.25.110. A statement of reasons for the termination may not be admitted as
13 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
14 or authorized representative by or on behalf of a person affected by the termination,
15 except when the action or proceeding involves perjury, unsworn falsification, fraud, or
16 failure to comply with this subsection.

17 (i) If an insurer, reinsurer, or authorized representative fails to report as
18 required under this section or is found by a court to have knowingly or intentionally
19 falsely made that report, the director may, after notice and hearing, suspend or revoke
20 the license or certificate of authority of the insurer, reinsurer, or authorized
21 representative and may impose a penalty in accordance with AS 21.27.440.

22 (j) The director may require that an insurer renew an appointment annually
23 and may require payment of a renewal fee under AS 21.06.250 for an appointment in
24 effect on December 31 of the current year. If the director requires that an appointment
25 be renewed or a renewal fee be paid, the director shall terminate the appointment if the
26 renewal fees have not been received by the director on or before the close of business
27 on March 1 of the renewal year.

28 * **Sec. 16.** AS 21.27 is amended by adding a new section to read:

29 **Sec. 21.27.115. Lines of authority.** If a person has met the applicable
30 requirements of AS 21.27.020 and 21.27.270, the director shall issue a license for one
31 or more of the following lines of authority:

1 (1) life insurance coverage on natural persons; in this paragraph, "life
2 insurance coverage"

3 (A) includes benefits of endowment and annuities; and

4 (B) may include benefits in the event of death or
5 dismemberment by accident and benefits for disability income;

6 (2) health insurance coverage for sickness, bodily injury, or accidental
7 death; in this paragraph, "health insurance coverage" may include benefits for
8 disability income;

9 (3) property insurance coverage for the direct or consequential loss for
10 damage to property of every kind;

11 (4) casualty insurance coverage against legal liability, including that
12 for death, injury, or disability or damage to real or personal property; in this
13 paragraph, "casualty insurance" includes surety insurance as defined in AS 21.12.080;

14 (5) variable life and variable annuity products insurance coverage;

15 (6) personal lines property and casualty insurance coverage sold to
16 individuals and families for primarily noncommercial purposes;

17 (7) limited lines credit insurance;

18 (8) any insurance for which a limited lines license may be issued under
19 AS 21.27.150.

20 * Sec. 17. AS 21.27.130 is amended to read:

21 Sec. 21.27.130. **Form and content of licenses.** A license must be in the form
22 the director prescribes and must set out

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

25 (2) [IF FOR A FIRM, THE NAME OF THE PRINCIPAL OR
26 MANAGER OF THE FIRM;

27 (3)] the type, [KIND OR] class, and lines of authority [OF
28 INSURANCE] the licensee is licensed to handle;

29 (3) [(4)] the effective date and expiration date of the license;

30 (4) each condition, if any, [(5) THE CONDITION] under which the
31 license is granted;

1 (5) [(6)] the date of issuance of the license;

2 (6) [(7)] each fictitious name and alias under which the licensee may
3 do business; and

4 (7) [(8)] other information required by the director.

5 * **Sec. 18.** AS 21.27.130 is amended by adding a new subsection to read:

6 (b) A license issued by the director does not in itself create any authority,
7 actual, apparent, or inherent, in the holder of the license to represent or commit an
8 insurer.

9 * **Sec. 19.** AS 21.27.140(b) is amended to read:

10 (b) A firm may not be licensed as an insurance producer, managing general
11 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus
12 lines broker, or independent adjuster, or transact insurance unless each individual
13 employed as an insurance producer, managing general agent, surplus lines broker,
14 trainee insurance producer, trainee independent adjuster, or independent adjuster by
15 the firm is licensed as an individual in the firm and the compliance officer
16 [PRINCIPAL OR MANAGER] of the firm is licensed as an individual in the firm to
17 exercise all the powers conferred by the firm's license.

18 * **Sec. 20.** AS 21.27.140(c) is amended to read:

19 (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew
20 or should have known of an act or representation made on the firm's behalf by a
21 person not licensed as required by this chapter, the firm and the firm's compliance
22 officer [PRINCIPAL OR MANAGER] are subject to the penalties provided under
23 AS 21.27.440.

24 * **Sec. 21.** AS 21.27.150(a) is amended to read:

25 (a) The director may issue a

26 (1) travel insurance limited producer license to a person [WHOSE
27 PLACE OF BUSINESS IS LOCATED IN THIS STATE,] who sells transportation
28 tickets of a common carrier of persons or property, who is appointed under
29 AS 21.27.100, and whose sole purpose is to be appointed by and act as an agent for
30 transportation ticket policies of health insurance, baggage insurance on personal
31 effects, and trip cancellation or trip interruption insurance;

1 (2) [HEALTH INSURANCE LIMITED PRODUCER LICENSE TO
2 A RESIDENT OF THIS STATE WHOSE SOLE PURPOSE IS TO BE APPOINTED
3 BY AND ACT AS AN AGENT FOR HEALTH INSURANCE PERTAINING TO
4 SPORTS AND RECREATION;

5 (3)] title insurance limited producer license to a person whose place of
6 business is located in this state and whose sole purpose is to be appointed by and act
7 on behalf of a title insurer;

8 (3) [(4)] bail bond limited producer license to a person [WHOSE
9 PLACE OF BUSINESS IS LOCATED IN THIS STATE AND] whose sole purpose is
10 to be appointed by and act on behalf of a surety insurer pertaining to bail bonds;

11 (4) [(5)] fraternal benefit society limited producer license to a person
12 whose sole purpose is to be appointed by and act on behalf of a fraternal benefit
13 society licensed under AS 21.84;

14 [(6) RETIRED INSURANCE PRODUCER LICENSE TO A
15 RESIDENT WHO IS RETIRED OR RETIRING FROM THE BUSINESS OF
16 INSURANCE AND SURRENDERS ALL IN-FORCE LICENSES TO ALLOW THE
17 PERSON TO RECEIVE A CONTINUING COMMISSION IN REGARD TO
18 INSURANCE TRANSACTED BEFORE RETIREMENT; A RETIRED
19 INSURANCE PRODUCER LICENSEE MAY NOT SOLICIT, INDUCE,
20 NEGOTIATE, OR EFFECTUATE CONTRACTS OF INSURANCE; THE
21 DIRECTOR MAY RENEW A RETIRED INSURANCE PRODUCER LICENSE IF
22 THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE;]

23 (5) [(7)] motor vehicle rental agency limited producer license to a
24 person and, subject to the approval of the director, to employees of the person licensed
25 that the licensee authorizes to transact the business of insurance on the licensee's
26 behalf if, as to an employee, the licensee complies with (D) of this paragraph and if
27 the licensee

28 (A) rents to others, without operators.

29 (i) private passenger motor vehicles, including
30 passenger vans, minivans, and sport utility vehicles; or

31 (ii) cargo motor vehicles, including cargo vans, pickup

1 trucks, and trucks with a gross vehicle weight of less than 26,000
2 pounds that do not require the operator to possess a commercial driver's
3 license;

4 (B) rents motor vehicles only to persons under rental
5 agreements that do not exceed a term of 90 days;

6 (C) transacts only the following kinds of insurance:

7 (i) motor vehicle liability insurance with respect to
8 liability arising out of the use of a vehicle rented from the licensee
9 during the term of the rental agreement;

10 (ii) uninsured or underinsured motorist coverage, with
11 minimum limits described in AS 21.89.020(c) and (d) arising out of the
12 use of a vehicle rented from the licensee during the term of the rental
13 agreement;

14 (iii) insurance against medical, hospital, surgical, and
15 disability benefits to an injured person and funeral and death benefits to
16 dependents, beneficiaries, or personal representatives of a deceased
17 person if the insurance is issued as incidental coverage with or
18 supplemental to liability insurance and arises out of the use of a vehicle
19 rented from the licensee during the term of the rental agreement;

20 (iv) personal effects insurance, including loss of use,
21 with respect to damage to or loss of personal property of a person
22 renting the vehicle and other vehicle occupants while that property is
23 being loaded into, transported by, or unloaded from a vehicle rented
24 from the licensee during the term of the rental agreement;

25 (v) towing and roadside assistance with respect to
26 vehicles rented from the licensee during the term of the rental
27 agreement; and

28 (vi) other insurance as may be authorized' by regulation
29 by the director;

30 (D) notifies the director in writing, within 30 days of
31 employment, of the name, date of birth, social security number, location of

1 employment. and home address of an employee authorized by the licensee to
2 transact insurance on the licensee's behalf; and

3 (E) provides other information as required by the director;

4 (6) nonresident limited producer license to a person; a license that
5 the director issues under this paragraph grants the same scope of authority as a
6 limited lines producer license issued to the person by the person's home state;

7 (7) credit insurance limited producer license to a person who sells
8 limited lines credit insurance;

9 (8) miscellaneous limited producer license to a person who
10 transacts insurance in this state that restricts the person's authority to less than
11 the total authority for a line of authority described in AS 21.27.115(1) - (6).

12 * Sec. 22. AS 21.27.270 is repealed and reenacted to read:

13 Sec. 21.27.270. Licensing of nonresidents. (a) In accordance with P.L. 106-
14 102 (Gramm-Leach-Bliley Act), the director shall issue a license to a nonresident
15 license applicant on terms that are reciprocal with those of the applicant's home state.
16 Notwithstanding any contrary provision of this chapter, the director may by order
17 waive any license application requirement in this chapter to achieve reciprocity to
18 license a nonresident in accordance with P.L. 106-102 (Gramm-Leach-Bliley Act).

19 (b) Unless the director denies or refuses to renew a license under
20 AS 21.27.410, the director shall issue a nonresident producer, limited lines, surplus
21 lines broker, managing general agent, reinsurance intermediary broker, or reinsurance
22 intermediary manager license to a person who is not a resident of this state if

23 (1) the person is currently licensed and is in good standing in the
24 person's home state; the director may verify the person's licensing status through the
25 producer licensing database records maintained by the National Association of
26 Insurance Commissioners or its affiliates or subsidiaries;

27 (2) the person has paid the fees required under AS 21.06.250 and has
28 submitted to the director

29 (A) the license application the person submitted to the person's
30 home state; or

31 (B) if the person is not a firm, a completed uniform application

1 or, if a firm, the uniform business entity application; and

2 (3) the person's home state awards nonresident producer, limited lines,
3 surplus lines, managing general agent, reinsurance intermediary broker, and
4 reinsurance intermediary manager licenses to residents of this state on the same basis
5 as does this state.

6 (c) Notwithstanding (b) of this section, the director may require a person
7 applying for a

8 (1) nonresident license to furnish the person's fingerprints as required
9 of a person applying for a license under AS 21.27.040(e);

10 (2) surplus lines broker license under this section to have, and maintain
11 while licensed in this state, the bond required of a person applying for a license under
12 AS 21.27.790(2); and

13 (3) nonresident license to comply with the premium fiduciary account
14 requirements of AS 21.27.360 and the regulations adopted under that statute.

15 (d) A person licensed as a limited lines producer in the person's home state
16 shall receive a nonresident limited lines producer license granting the same scope of
17 authority as the license issued by the producer's home state.

18 (e) In addition to the other requirements of this chapter, a person may not be
19 licensed as a nonresident licensee until the person files a power of attorney as follows:

20 (1) an applicant shall appoint the director as attorney to receive service
21 of legal process issued against the licensee in this state upon a cause of action arising
22 in this state or relative to a subject resident, located, or to be performed in this state;
23 service upon the director as attorney shall constitute effective legal service upon the
24 licensee; and

25 (2) the appointment shall be irrevocable for as long as there could be a
26 cause of action against the licensee arising out of an insurance transaction in this state
27 or relative to a subject resident, located, or to be performed in this state.

28 (f) Duplicate copies of legal process against a licensed or formerly licensed
29 nonresident licensee shall be served upon the director either by a peace officer or
30 through certified mail with return receipt requested. At the time of service, the
31 plaintiff shall pay to the director a fee set under AS 21.06.250.

1 (g) Upon receiving a service of process, the director shall immediately send
2 one of the copies of the process by certified mail, return receipt requested, to the
3 licensed or formerly licensed nonresident licensee at the last address of record filed
4 with the director.

5 * **Sec. 23.** AS 21.27 is amended by adding a new section to read:

6 **Sec. 21.27.275. Alien licensees.** The director may issue a license authorized
7 by this chapter to a nonresident of this state who does not have a home state if that
8 person meets all the requirements of this chapter for that license applicable to a
9 resident of this state applying for the same license.

10 * **Sec. 24.** AS 21.27.330 is repealed and reenacted to read:

11 **Sec. 21.27.330. Place of business.** (a) A person licensed under this chapter
12 shall have and maintain at least one place of business that is physically accessible to
13 the public in this state unless the person holds a nonresident license and principally
14 conducts transactions in another state. However, the nonresident licensee must have at
15 least one physically accessible place in the nonresident licensee's home state. The
16 requirements of this subsection do not apply to a licensee who only conducts business
17 in life or health insurance or annuities.

18 (b) If a licensee that is a firm transacts business at more than one place of
19 business in this state, the licensee shall pay a license fee for each place of business.

20 * **Sec. 25.** AS 21.27.350(c) is amended to read:

21 (c) The records of a particular transaction shall be retained and kept open for
22 examination and inspection by the director at any business time during the five years
23 immediately after the date of the completion of the transaction or 10 years for
24 reinsurance transactions, unless the director orders a longer period of retention. If a
25 licensee assumes the business of another licensee or former licensee by merger,
26 purchase, or otherwise, the compliance officer [PRINCIPAL OR MANAGER] of the
27 assuming licensee firm shall provide to the director in writing each location where the
28 assumed licensee's records are maintained by the assuming licensee during the period
29 in which the records must be kept available and open to the inspection of the director.
30 A formerly licensed person shall provide to the director in writing each location where
31 records shall be maintained during the period in which the records of a particular

1 transaction must be kept available and open to the examination and inspection of the
2 director. A formerly licensed person may, with the permission of the director, arrange
3 to have a current licensee or the home office of the last known insurer of each
4 policyholder [,] maintain the records open to the examination and inspection of the
5 director during the period in which the records must be maintained.

6 * **Sec. 26.** AS 21.27.370 is repealed and reenacted to read:

7 **Sec. 21.27.370. Sharing compensation.** (a) Except as provided in (c) and (d)
8 of this section, a licensee may not compensate a person, other than a licensee who is
9 acting within the scope of the person's license, for transacting insurance in this state or
10 relative to a risk resident, located, or to be performed in this state.

11 (b) Except as provided in (c) and (d) of this section, a person may not be
12 promised or paid, directly or indirectly, compensation for transacting a kind or class of
13 insurance for which the person is not then licensed to transact or for insurance that the
14 person is prohibited by this title from transacting.

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

19 (1) for each referral is

20 (A) nominal;

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

22 (C) fixed in amount by referral;

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

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

26 (d) An insurer or insurance producer may compensate an insurance agency or
27 another person if that person does not transact the business of insurance in this state
28 and the payment does not violate AS 21.36.100 or 21.36.120.

29 (e) A person who is no longer licensed in this state may be paid renewal or
30 other deferred compensation for selling, soliciting, or negotiating insurance in this
31 state if the person

1 (1) was required to be licensed under this chapter at the time of the
2 sale, solicitation, or negotiation; and

3 (2) held that required license.

4 (f) In addition to any other penalty provided by law, the director may suspend
5 or revoke the license of a licensee participating in a violation of this section. The
6 director may order a licensee who violates this section to pay a penalty of not more
7 than three times the compensation promised or paid.

8 * **Sec. 27.** AS 21.27.390(a) is amended to read:

9 (a) The director may issue a temporary license only to a person who, except
10 for experience, training, or the taking of an examination, meets all qualifications for a
11 permanent license and if the person is

12 (1) the surviving spouse, next of kin, or the administrator or executor
13 of a deceased licensed insurance producer or managing general agent;

14 (2) the spouse, next of kin, employee, or legal guardian of a licensed
15 insurance producer or managing general agent who is disabled from transacting
16 insurance because of sickness, mental illness [INSANITY], or injury;

17 (3) a surviving member, officer, or employee of a firm licensed as
18 insurance producer or managing general agent upon the death of the compliance
19 officer [PRINCIPAL OR MANAGER] of the firm holding the same licenses as the
20 firm; or

21 (4) the designee of a licensed insurance producer who enters active
22 service in the armed forces of the United States, but only for insurance relating to
23 insurers for whom the licensee was acting as an agent.

24 * **Sec. 28.** AS 21.27.410(b) is amended to read:

25 (b) The license of a firm and its compliance officer [PRINCIPAL OR
26 MANAGER] may be denied, nonrenewed, suspended, or revoked for a violation or
27 cause that relates to a person representing or acting on behalf of the firm.

28 * **Sec. 29.** AS 21.27.460(c) is amended to read:

29 (c) Upon a change in the state of residence, a place of business, a mailing
30 address, or in the compliance officer [PRINCIPAL OR MANAGER] of a firm, a
31 license subject to the change shall be surrendered to the director within 10 days either

1 personally or by certified mail and the division shall reissue the license reflecting the
2 changes if the licensee continues to satisfy the qualifications under this chapter.

3 * **Sec. 30.** AS 21.27.540(g) is amended to read:

4 (g) In addition to any other penalty provided by law, if the director determines
5 under AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew
6 of or should have known that a trainee insurance producer violated this section, the
7 employing licensed insurance producer and firm, and the compliance officer
8 [PRINCIPAL AND MANAGER], if any, are subject to the penalties provided under
9 AS 21.27.440.

10 * **Sec. 31.** AS 21.27.560(a) is amended to read:

11 (a) A client who appoints an insurance producer as its broker in this state or
12 relative to a subject resident, located, or to be performed in this state shall execute a
13 written contract that specifically sets out the duties, functions, powers, authority, and
14 compensation of the insurance producer, if the broker is compensated by a fee paid by
15 the client or by a combination of a fee paid by a client and a commission paid by an
16 insurer with which coverage has been placed. The written contract shall be kept in the
17 permanent records of the insurance producer and be open to inspection by the director.

18 * **Sec. 32.** AS 21.27.600(g) is amended to read:

19 (g) In addition to any other penalty provided by law

20 (1) the director shall revoke the trainee license of a trainee managing
21 general agent who the director determines has violated the provisions of this section: a
22 licensee or other person having possession or custody of the license shall immediately
23 surrender the license to the director either personally or by certified mail;

24 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
25 employing managing general agent knew of or should have known that a trainee
26 managing general agent violated this section, the employing managing general agent
27 and firm, and the compliance officer [PRINCIPAL, AND MANAGER], if any, are
28 subject to the penalties provided under AS 21.27.440.

29 * **Sec. 33.** AS 21.27.620 is amended by adding a new subsection to read:

30 (l) In this section, "transact" has the meaning given in AS 21.90.900.

31 * **Sec. 34.** AS 21.27.640(b) is repealed and reenacted to read:

1 (b) To qualify for issuance or renewal of a registration, an applicant or
2 registrant shall comply with this title, regulations adopted under AS 21.06.090, and

3 (1) be a trustworthy person;

4 (2) have active working experience in administrative functions that, in
5 the director's opinion, exhibits the ability to competently perform the administrative
6 functions of a third-party administrator;

7 (3) not have committed an act that is a cause for denial, nonrenewal,
8 suspension, or revocation of a registration or license in this state or another
9 jurisdiction;

10 (4) maintain a lawfully established place of business as described in
11 AS 21.27.330 in this state, unless licensed as a nonresident under AS 21.27.270;

12 (5) disclose to the director all owners, officers, directors, or partners, if
13 any;

14 (6) designate a compliance officer for the firm;

15 (7) provide in or with its application

16 (A) all basic organizational documents of the third-party
17 administrator, including articles of incorporation, articles of association,
18 partnership agreement, trade name certificate, trust agreement, shareholder
19 agreement, and other applicable documents and all endorsements to the
20 required documents;

21 (B) the bylaws, rules, regulations, or similar documents
22 regulating the internal affairs of the administrator;

23 (C) the names, mailing addresses, physical addresses, official
24 positions, and professional qualifications of persons who are responsible for
25 the conduct of affairs of the third-party administrator, including the members
26 of the board of directors, board of trustees, executive committee, or other
27 governing board or committee: the principal officers in the case of a
28 corporation, or the partners or members in the case of a partnership, limited
29 liability company, limited liability partnership, or association; shareholders
30 holding directly or indirectly 10 percent or more of the voting securities of the
31 third-party administrator; and any other person who exercises control or

1 influence over the affairs of the third-party administrator;

2 (D) certified financial statements for the preceding two years,
3 or for each year and partial year that the applicant has been in business if less
4 than two years, prepared by an independent certified public accountant
5 establishing that the applicant is solvent, that the applicant's system of
6 accounting, internal control, and procedure is operating effectively to provide
7 reasonable assurance that money is promptly accounted for and paid to the
8 person entitled to the money, and any other information that the director may
9 require to review the current financial condition of the applicant; and

10 (E) a statement describing the business plan, including
11 information on staffing levels and activities proposed in this state and in other
12 jurisdictions and providing details establishing the third-party administrator's
13 capability for providing a sufficient number of experienced and qualified
14 personnel in the areas of claims handling, underwriting, and record keeping;

15 (8) provide to the director documents necessary to verify the
16 statements contained in or in connection with the application; and

17 (9) notify the director, in writing, within 30 days of

18 (A) a change in compliance officer, residence, place of
19 business, mailing address, or phone number;

20 (B) the suspension or revocation of an insurance license or
21 registration by another state or jurisdiction; or

22 (C) a conviction of a misdemeanor or felony of the third-party
23 administrator, its officers, directors, partners, owners, or employees.

24 * Sec. 35. AS 21.27.650 is amended by adding a new subsection to read:

25 (p) In this section, "transact" has the meaning given in AS 21.90.900.

26 * Sec. 36. AS 21.27.680(g) is amended to read:

27 (g) In addition to any other penalty provided by law,

28 (1) the director shall revoke the license of a trainee reinsurance
29 intermediary broker who the director determines has violated the provisions of this
30 section; a licensee or other person having possession or custody of the license shall
31 immediately surrender the license to the director either personally or by certified mail;

1 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
2 employing reinsurance intermediary broker knew of or should have known that a
3 trainee reinsurance intermediary broker violated this section, the employing
4 reinsurance intermediary broker and firm and compliance officer [, PRINCIPAL
5 AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

6 * Sec. 37. AS 21.27.690 is amended by adding a new subsection to read:

7 (g) In this section, "transact" has the meaning given in AS 21.90.900.

8 * Sec. 38. AS 21.27.760 is amended by adding a new subsection to read:

9 (l) In this section, "transact" has the meaning given in AS 21.90.900.

10 * Sec. 39. AS 21.27.790(2) is amended to read:

11 (2) the director may by regulation require a surplus lines broker to
12 maintain a bond as described in AS 21.27.190 in an amount acceptable to the
13 director [HAVE AND MAINTAIN WHILE LICENSED, A BOND IN THE SUM
14 OF NOT LESS THAN \$200,000 AGGREGATE LIABILITY AND] with the
15 conditions that the surplus lines broker conduct business under the provisions of this
16 title, promptly remit the taxes and fees provided by law, return premiums promptly
17 when due, and pay proper losses promptly;

18 * Sec. 40. AS 21.27.800(g) is amended to read:

19 (g) In addition to any other penalty provided by law,

20 (1) the director shall revoke the license of a trainee surplus lines broker
21 who the director determines has violated the provisions of this section: a licensee or
22 other person having possession or custody of the license shall immediately surrender
23 the license to the director either personally or by certified mail:

24 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
25 employing surplus lines broker knew of or should have known that a trainee licensed
26 under this section violated this section, the employing surplus lines broker and firm,
27 and the compliance officer [PRINCIPAL, AND MANAGER], if any, are subject to
28 the penalties provided under AS 21.27.440.

29 * Sec. 41. AS 21.27.840(f) is amended to read:

30 (f) A trainee independent adjuster shall at all times be working at the direction
31 and under the supervision of the employing licensed independent adjuster, and the file

1 and record documentation shall reflect the direction and supervision. The employing
2 licensed independent adjuster and its firm, and the compliance officer [MANAGER,
3 AND PRINCIPAL], if any, are responsible for all insurance actions of the trainee
4 independent adjuster.

5 * **Sec. 42.** AS 21.27.840(i) is amended to read:

6 (i) In addition to any other penalty provided by law,

7 (1) a trainee independent adjuster who the director determines has
8 violated the provisions of this section shall have its license terminated; a licensee or
9 other person having possession or custody of the license shall within 30 days surrender
10 the license to the director either personally or by certified mail;

11 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
12 employing licensed independent adjuster knew of or should have known that a trainee
13 independent adjuster violated this section, the employing licensed independent
14 adjuster and firm, and the compliance officer [PRINCIPAL AND MANAGER], if
15 any, are subject to the penalties provided under AS 21.27.440.

16 * **Sec. 43.** AS 21.27.900(10) is amended to read:

17 (10) "individual" means a natural person required to be licensed under
18 AS 21.27.010 [WHO IS NOT ACTING IN ASSOCIATION WITH TWO OR MORE
19 LICENSEES, EITHER IN PARTNERSHIP, CORPORATION, OR OTHERWISE,
20 OR AN ORGANIZATION IN WHICH A SINGLE LICENSEE HAS 50 PERCENT
21 OR MORE OWNERSHIP INTEREST IN THE ORGANIZATION];

22 * **Sec. 44.** AS 21.27.900 is amended by adding new paragraphs to read:

23 (23) "compliance officer" means a licensee under this chapter that is
24 responsible for a firm's compliance with the insurance statutes and regulations of this
25 state;

26 (24) "home state" means the District of Columbia or a state or territory
27 of the United States in which an insurance producer maintains the producer's principal
28 place of residence or principal place of business and is licensed to act as an insurance
29 producer;

30 (25) "insurance producer" means a person who sells, solicits, or
31 negotiates insurance or insurance products;

1 (26) "license" means, unless the context requires otherwise, a
2 document issued by the director of insurance authorizing a person to act for the type,
3 class, and lines of authority specified in the document;

4 (27) "limited lines credit insurance" includes credit life, credit
5 disability, credit property, credit unemployment, involuntary unemployment, mortgage
6 life, mortgage guaranty, mortgage disability, guaranteed automobile protection
7 insurance, and any other form of insurance offered in connection with an extension of
8 credit that is limited to partially or wholly extinguishing that credit obligation that the
9 director of insurance determines must be designated a form of limited lines credit
10 insurance;

11 (28) "limited lines" means those lines of insurance defined in
12 AS 21.27.150 or any other line of insurance that the director of insurance designates
13 by order as a limited line;

14 (29) "negotiate" means the act of conferring directly with or offering
15 advice directly to a purchaser or prospective purchaser of a particular contract of
16 insurance concerning any of the substantive benefits, terms, or conditions of the
17 contract if the person engaged in that act either sells insurance or obtains insurance
18 from insurers for purchasers;

19 (30) "sells" means to exchange a contract of insurance by any means,
20 for money or its equivalent, on behalf of an insurance company;

21 (31) "solicit" means attempting to sell insurance or asking or urging a
22 person to apply for a particular kind of insurance from a particular company;

23 (32) "transact" or "transact business" means sell, solicit, or negotiate
24 insurance or insurance products;

25 (33) "uniform application" means the most recent version of the
26 uniform application of the National Association of Insurance Commissioners;

27 (34) "uniform business entity application" means the most recent
28 version of the uniform business entity application of the National Association of
29 Insurance Commissioners.

30 * **Sec. 45.** AS 21.36 is amended by adding new sections to read:

31 **Sec. 21.36.162. Nondisclosure of personal information.** (a) Except as

1 provided in 15 U.S.C. 6801 - 6809 (Title V, Gramm-Leach-Bliley Act, P.L. 106 -
2 102), a person may not disclose personal information records regarding an individual
3 who seeks to obtain, obtains, or has obtained an insurance product or service from a
4 licensee that is to be used primarily for personal, family, or household purposes.

5 (b) The director shall adopt regulations regarding the release of financial and
6 health information regarding an individual who seeks to obtain, obtains, or has
7 obtained an insurance product or service from a licensee that is to be used primarily
8 for personal, family, or household purposes. The regulations must be consistent with,
9 but no less restrictive than, 15 U.S.C. 6801 - 6809 (Title V, Gramm-Leach-Bliley Act,
10 P.L. 106 - 102).

11 **Sec. 21.36.164. Licensing of persons in a financial institution.** A financial
12 institution may not allow a person to transact insurance in an office of the institution
13 or on behalf of the institution, unless the person is licensed as required under
14 AS 21.27.

15 * **Sec. 46.** AS 21.36.165 is amended to read:

16 **Sec. 21.36.165. Anticoercion and antitving [FAVORED AGENT OR**
17 **INSURER; COERCION OF DEBTORS].** A person may not

18 (1) require, as a condition to the lending of money or extension of
19 credit, or a renewal of the loan or extension of credit, that the obligee of the money or
20 credit negotiate a policy or contract of insurance through any particular person or
21 group of persons:

22 (2) disapprove the insurance policy provided by a borrower for the
23 protection of property securing credit or a loan [LIEN] if disapproval is based on other
24 than reasonable standards uniformly applied and relating to the extent of coverage
25 required and the financial soundness and the services of the insurer; the standards may
26 not discriminate against a particular type of insurer [,] or call for the disapproval of a
27 policy containing coverage in addition to that required;

28 (3) unless charges are required when the person handling the
29 insurance transaction is a licensee, require a consumer [BORROWER,
30 MORTGAGOR, PURCHASER], insurer, broker, or agent to pay a separate charge for
31 handling an insurance policy required as security for a loan on real property, or to pay

1 a separate charge to substitute the insurance policy of one insurer for that of another.
2 except that interest may be charged on premium loans or [OF] premium advancements
3 in accordance with the security instrument [;

4 (4) USE OR DISCLOSE INFORMATION RESULTING FROM A
5 REQUIREMENT THAT A BORROWER, MORTGAGOR, OR PURCHASER
6 FURNISH INSURANCE OF ANY KIND ON REAL PROPERTY BEING
7 CONVEYED OR USED AS COLLATERAL SECURITY TO A LOAN, WHEN THE
8 INFORMATION IS TO THE ADVANTAGE OF THE MORTGAGEE, VENDOR,
9 OR LENDER, OR IS TO THE DETRIMENT OF THE BORROWER,
10 MORTGAGOR, PURCHASER, INSURER, AGENT, OR BROKER COMPLYING
11 WITH THE REQUIREMENT].

12 * Sec. 47. AS 21.36.165 is amended by adding new subsections to read:

13 (b) A person shall

14 (1) use separate documents for an insurance transaction, other than
15 credit insurance or flood insurance, and for a credit transaction; and

16 (2) maintain separate and distinct records relating to insurance
17 transactions, including consumer complaint information, and make the records
18 available to the director for inspection upon notice.

19 (c) A person may not include insurance premiums in a primary credit
20 transaction without the consent of the consumer.

21 (d) Nothing in this section prohibits a person from informing a consumer or
22 prospective consumer that insurance is required in order to obtain a loan or credit, that
23 loan or credit approval is contingent on the procurement of acceptable insurance by
24 the consumer, or that insurance is available from the person.

25 * Sec. 48. AS 21.36 is amended by adding new sections to read:

26 **Sec. 21.36.167. Misrepresentation in financial institution sales.** In the sale
27 of insurance by a financial institution, a person may not engage in any practice or use
28 an advertisement that may tend to mislead or deceive a consumer or cause a consumer
29 to erroneously believe that

30 (1) the insurance is backed by or a return on the insurance is
31 guaranteed by the state, the federal government, the person, or the Federal Deposit

1 Insurance Corporation;

2 (2) the state or federal government

3 (A) will pay a claim under an insurance contract that is an
4 obligation of or was sold by the person;

5 (B) is responsible for the insurance sales activities of the
6 person: or

7 (C) guarantees the credit of the person;

8 (3) for insurance that contains investment risk, the insurance does not
9 contain investment risk, the principal may not be lost, or the value of the insurance
10 may not decline:

11 (4) the lending of money, extension of credit, or a renewal of a loan is
12 conditioned on the purchase of insurance from the person and that insurance may not
13 be purchased from another source.

14 **Sec. 21.36.168. Disclosures required in financial institution sales.** (a) In
15 the sale of insurance by a financial institution, a person shall disclose both orally and
16 in writing to a consumer before the initial purchase of insurance that

17 (1) the insurance is not a deposit or other obligation of the person;

18 (2) the insurance is not guaranteed by the person or the person
19 soliciting insurance;

20 (3) the insurance is not insured by the Federal Deposit Insurance
21 Corporation or other agency of the United States, the financial institution, or the
22 person;

23 (4) if the insurance contains risk, the insurance contains investment
24 risk and the insurance may lose value;

25 (5) the consumer is not required to negotiate a policy or contract of
26 insurance through any particular person or group of persons as a condition to the
27 lending of money or extension of credit, or a renewal of the loan or extension of
28 credit, except that the person may impose reasonable requirements uniformly applied
29 and relating to the extent of coverage required and the financial soundness and the
30 services of the insurer and that the standards may not discriminate against a particular
31 type of insurer or require disapproval of a policy containing coverage in addition to

1 that required.

2 (b) A person shall also provide the disclosures required in (a) of this section to
3 a consumer both orally and in writing at the time of application for an extension of
4 credit.

5 (c) If an application for insurance is made by telephone, written disclosure as
6 required in (a) of this section must be mailed to the consumer within three working
7 days.

8 (d) A person may provide the disclosures required in (a) of this section
9 electronically, if

10 (1) the consumer affirmatively consents to electronic disclosure; and

11 (2) the disclosures are provided in a format that the consumer is able to
12 access at a later time by a method such as through printing or storing the disclosures
13 electronically.

14 (e) A person shall provide the disclosures required in (a) of this section in a
15 meaningful form and in a conspicuous, simple, direct, and understandable manner that
16 is designed to call attention to the information provided.

17 (f) A person shall obtain a written acknowledgment or, in the case of an
18 electronic disclosure provided in compliance with (d) of this section, a written or
19 electronic acknowledgment, by the consumer that the consumer received the
20 disclosures as required in this section.

21 (g) This section does not require that a person provide the disclosures required
22 in this section in advertisements that are of a general nature or that describe or list the
23 services or products offered by a financial institution or on behalf of a financial
24 institution.

25 (h) In this section, "meaningful form" means

26 (1) for other than an electronic form, a form of disclosure that is
27 provided to a consumer orally and in writing;

28 (2) for an electronic form, a disclosure that a consumer cannot
29 electronically bypass before purchasing insurance.

30 **Sec. 21.36.169. Definitions for AS 21.36.164 - 21.36.169.** In AS 21.36.164 -
31 21.36.169, unless the context otherwise requires,

1 (1) "consumer" means a person who obtains, applies to obtain, or is
2 solicited to obtain insurance from or on behalf of a financial institution;

3 (2) "financial institution" means a bank holding company under
4 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C.
5 1752 (Federal Credit Union Act), a bank, savings bank, savings and loan association,
6 or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any
7 other person authorized to take federally insured deposits and make loans in the state;
8 "financial institution" includes any employee or agent of a financial institution and any
9 nondepository affiliate or subsidiary of a financial institution but only in the instances
10 when the nondepository affiliate or subsidiary is soliciting the sale or purchase of
11 insurance recommended or sponsored by, on the premises of, or in connection with a
12 product offering of the financial institution; "financial institution" does not include an
13 insurer.

14 * **Sec. 49.** AS 21.36 is amended by adding a new section to read:

15 **Sec. 21.36.355. Felony convictions involving dishonesty or breach of trust.**

16 (a) A person who has a conviction for a felony involving dishonesty or a breach of
17 trust may not engage or participate in the business of insurance without receiving prior
18 written consent by the director as required under 18 U.S.C. 1033 and 1034 (Violent
19 Crime Control and Law Enforcement Act of 1994).

20 (b) A person who fails to seek prior written consent from the director under (a)
21 of this section is in violation of this chapter.

22 (c) A person who is engaged in the business of insurance may not knowingly
23 permit the participation in the business of insurance by a person who has been
24 convicted of a felony involving dishonesty or breach of trust except as allowed under
25 (a) of this section.

26 * **Sec. 50.** AS 21.36.430(a) is amended to read:

27 (a) A person transacting [AN INSURER OFFERING] insurance in this state
28 may not (1) refuse to issue or renew insurance coverage; (2) limit the scope of
29 insurance coverage; (3) cancel an existing policy of insurance; (4) [(3)] deny a
30 covered claim; or (5) [(4)] increase the premium on an insurance policy if the refusal,
31 cancellation, denial, or increase results only from the fact that the person was a victim

1 of domestic violence or a provider of services to victims of domestic violence.

2 * **Sec. 51.** AS 21.36.430 is amended by adding a new subsection to read:

3 (c) In this section, "domestic violence" means the occurrence of one or more
4 of the following by a current or former family member, household member, intimate
5 partner, or caretaker:

6 (1) attempting to cause, causing, or threatening another person with
7 physical harm, severe emotional distress, psychological trauma, rape, or sexual
8 assault;

9 (2) engaging in a course of conduct or repeatedly committing acts
10 toward another person, including following the person without proper authority, under
11 circumstances that place the person in reasonable fear of bodily injury or physical
12 harm;

13 (3) subjecting another person to false imprisonment; or

14 (4) attempting to cause or causing damage to property so as to
15 intimidate or attempt to control the behavior of another person.

16 * **Sec. 52.** AS 21.89.080 is repealed and reenacted to read:

17 **Sec. 21.89.080. Electronic submissions.** The director may, by regulation or
18 by order, provide for the electronic submission of any information or written
19 submission required by this title and for an electronic confirmation of a required
20 submission.

21 * **Sec. 53.** AS 21.90.900(24) is repealed and reenacted to read:

22 (24) "insurance producer" has the meaning given in AS 21.27.900;

23 * **Sec. 54.** AS 21.27.150(b), 21.27.170, 21.27.405(c), 21.27.530(5), 21.27.900(14), and
24 21.27.900(16) are repealed.

25 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **INDIRECT COURT RULE AMENDMENT.** (a) The provisions of AS 21.27.110(h),
28 as repealed and reenacted by Sec. 15 of this Act, have the effect of amending Rule 402,
29 Alaska Rules of Evidence, by making inadmissible in court, except under certain
30 circumstances, the statement of reasons for termination of an appointment under
31 AS 21.27.110.

1 (b) The provisions of AS 21.27.110(h), as repealed and reenacted by sec. 15 of this
2 Act, that relate to admissibility of evidence in court take effect only if (a) of this section
3 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
4 of the State of Alaska.

5 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **TRANSITION: REGULATIONS.** Notwithstanding secs. 58 and 59 of this Act, the
8 director of insurance may immediately proceed to adopt regulations necessary to implement
9 the changes made by this Act. The regulations take effect under AS 44.62 (Administrative
10 Procedure Act), but not before the effective date of the statutory change.

11 * **Sec. 57.** Sections 1, 9, 10, 52, and 56 of this Act take effect immediately under
12 AS 01.10.070(c).

13 * **Sec. 58.** Sections 45 - 51 of this Act take effect July 1, 2001.

14 * **Sec. 59.** Except as provided in secs. 57 and 58 of this Act, this Act takes effect January 1,
15 2002.