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Chapter No.
67

AN ACT

Relating to the licensing, accreditation, examination, regulation, and solvency of persons engaged in the insurance business, including insurers and nonadmitted insurers; relating to the management of and the filing of reports by persons licensed or otherwise doing business under the insurance code; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 15, 1992

Actual Effective Date: Sections 2, 20, 25, 61, 62, 95, 96, and 188 take effect January 1, 1994; remainder of Act takes effect July 1, 1992

AN ACT

1 Relating to the licensing, accreditation, examination, regulation, and solvency of persons engaged in the
2 insurance business, including insurers and nonadmitted insurers; relating to the management of and the
3 filing of reports by persons licensed or otherwise doing business under the insurance code; and providing
4 for an effective date.

5

6 * Section 1. AS 21.06.120(a) is amended to read:

7 (a) The director may examine the affairs, transactions, accounts, records, and assets of
8 each authorized and formerly authorized insurer and each licensed and formerly licensed
9 managing general agent, reinsurance intermediary broker, reinsurance intermediary
10 manager, surplus lines broker, and surplus lines association as often as the director considers
11 advisable. In scheduling and determining the nature, scope, and frequency of examinations,
12 the director may consider any factor or material that the director determines is
13 appropriate, including the results of financial statement analysis and ratios, competency of
14 management or change of ownership, actuarial opinions, reports of independent certified

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1 public accountants, number and nature of consumer complaints, results of prior
2 examinations, frequency of prior violations of statute and regulation, and criteria set out
3 in the Examiners' Handbook most recently approved by the National Association of
4 Insurance Commissioners and in effect when the director conducts an examination [THE
5 DIRECTOR SHALL SO EXAMINE EACH DOMESTIC INSURER AT LEAST ONCE EVERY
6 THREE YEARS]. Examination of an alien insurer may be limited to its insurance transactions
7 and affairs in the United States. Examination of a reciprocal insurer may also include
8 examination of its attorney-in-fact to the extent that the transactions of the attorney-in-fact relate
9 to the insurer.

10 * Sec. 2. AS 21.06.120(c) is amended to read:

11 (c) In place of an examination by the director, the director may accept a full report of
12 the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory
13 official of another state, territory, commonwealth, or district of the United States if

14 (1) the insurance regulatory agency conducting the examination was at the
15 time of the examination accredited by the National Association of Insurance Commissioners;

16 (2) the examination is performed under the supervision of an insurance
17 regulatory agency accredited by the National Association of Insurance Commissioners; and
18 the supervising examiner after a review of the examination work papers and report states
19 under oath that the examination and report comply with the standards and procedures
20 required by their accredited state insurance regulatory agency; or

21 (3) the examiner conducting the examination was employed by an insurance
22 regulatory agency accredited at the time of the examination by the National Association of
23 Insurance Commissioners and the examiner, after review of the examination work papers
24 and report, states under oath that the examination and report comply with the standards
25 and procedures required by the accredited insurance regulatory agency.

26 * Sec. 3. AS 21.06.120(e) is amended to read:

27 (e) The director may use a contract examiner to carry out the functions of this section.
28 The selection of a contract examiner and the award of a contract is subject to AS 36.30 (State
29 Procurement Code), except when the director makes a written determination that an
30 emergency selection and contract award is necessary.

31 * Sec. 4. AS 21.06.120 is amended by adding new subsections to read:

1 (f) For the purpose of completing an examination of a person under this title, the director
2 may examine or investigate any person, or the business of any person, if the director determines
3 that the examination or investigation is necessary or material to the examination of the person.

4 (g) The director shall examine a domestic insurer at least once every three years. The
5 director may examine a domestic insurer at any time when the director determines that an
6 examination or investigation is necessary. Unless the director determines an insurer is in danger
7 of becoming impaired, when the director intends to conduct an interim examination of a domestic
8 insurer covering the same subjects that were included in the scope of the last examination report,
9 the director shall give at least 10 days prior written notice stating the scope and purpose of the
10 examination. In this subsection, "interim examination" means an examination of a domestic
11 insurer that occurs within three years after the start of the domestic insurer's last examination.

12 * Sec. 5. AS 21.06.130(a) is amended to read:

13 (a) To determine compliance with this title, the director may as often as the director
14 considers advisable examine or require a written report from a person of the accounts, records,
15 documents, and transactions pertaining to or affecting the insurance affairs or proposed insurance
16 affairs of

17 (1) an insurance producer [AGENT, BROKER, SOLICITOR, GENERAL
18 AGENT,] or independent adjuster; or

19 (2) [A PERSON HAVING A CONTRACT UNDER WHICH THE PERSON
20 ENJOYS IN FACT THE EXCLUSIVE OR DOMINANT RIGHT TO MANAGE OR CONTROL
21 AN INSURER;

22 (3) A PERSON HOLDING THE SHARES OF VOTING STOCK OR
23 POLICYHOLDER PROXIES OF A DOMESTIC INSURER, FOR THE PURPOSE OF
24 CONTROLLING ITS MANAGEMENT, AS VOTING TRUSTEE OR OTHERWISE;

25 (4) a person engaged in or proposing to be engaged in or assisting in the
26 promotion or formation of a domestic insurer or insurance holding corporation, or corporation
27 to finance a domestic insurer or the production of its business.

28 * Sec. 6. AS 21.06.140(b) is amended to read:

29 (b) Every person being examined, or from whom information is sought, and its
30 officers, employees, agents, and representatives shall provide [PRODUCE AND MAKE FREELY
31 AVAILABLE] to the director timely, convenient, and free access, at all reasonable hours at

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1 its office, the books, accounts, records, documents, files, information, assets, and matters in their
2 possession or control relating to the subject of the examination including all computer or other
3 recordings relating to the property, assets, business, and affairs of the person being
4 examined, and shall facilitate and aid the examination as far as it is in their power to do so
5 [REASONABLY POSSIBLE], including providing to the director, at the expense of the person
6 being examined, a copy of any document requested during the examination. The director may
7 suspend, revoke, or refuse to issue or renew a license or authority of a person engaging in
8 the business of insurance or other business under the jurisdiction of the director if the
9 person or an officer, director, employee, or agent of the person refuses to submit to
10 examination or to comply with a reasonable written request of an examiner.

11 * Sec. 7. AS 21.06.140(c) is amended to read:

12 (c) If the director finds financial or other records [ACCOUNTS] to be inadequate or
13 inadequately kept or posted or if an insurer's financial records are not kept as required by
14 the Accounting Practices and Procedures Manual currently approved by the National
15 Association of Insurance Commissioners after the director has issued an order citing [GIVEN
16 THE PERSON NOTICE OF] the inadequacy of the accounts and given a reasonable opportunity
17 to complete or correct the accounting, the director may employ experts to rewrite, post, or
18 balance them at the expense of the person being examined.

19 * Sec. 8. AS 21.06.140(d) is repealed and reenacted to read:

20 (d) When conducting an examination under this section, the director may retain attorneys,
21 appraisers, independent actuaries, independent certified public accountants, or other professionals
22 and specialists as examiners, the reasonable cost of which shall be paid by the person being
23 examined under AS 21.06.160(a).

24 * Sec. 9. AS 21.06.140 is amended by adding new subsections to read:

25 (f) In conducting an examination under this section, the examiner shall observe at a
26 minimum those guidelines and procedures set out in the Examiners' Handbook currently
27 approved by the National Association of Insurance Commissioners that are consistent with this
28 title.

29 (g) An examiner may not be appointed by the director if the examiner, either directly or
30 indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary
31 interest in a person subject to examination under this title. This section may not be construed

1 to automatically preclude an examiner from being, in the ordinary course of business,

2 (1) a policyholder or claimant under an insurance policy;

3 (2) a grantor of a mortgage or similar instrument on the examiner's residence to
4 a regulated entity if obtained under customary terms;

5 (3) an investment owner in shares of regulated mutual fund companies; or

6 (4) a settlor or beneficiary of a blind trust into which otherwise impermissible
7 holdings have been placed.

8 (h) The director may terminate or suspend an examination in order to pursue other legal
9 or regulatory action under this title.

10 (i) In a judicial or administrative proceeding a factual determination made in an
11 examination report approved under AS 21.06.150(b)(1) is prima facie evidence of the fact.

12 * Sec. 10. AS 21.06.150 is repealed and reenacted to read:

13 Sec. 21.06.150. EXAMINATION REPORTS. (a) An examination report may only
14 consist of facts appearing upon the books, records, or other documents of the examined person,
15 the person's agents, or other persons examined, or facts determined from the testimony of
16 officers, agents, or other persons examined concerning the person's affairs, and the conclusions
17 and recommendations that the examiners find reasonably warranted from the facts.

18 (b) The examiner shall file with the division a written report of an examination, signed
19 by the examiner under oath, not later than 60 days following the last day of examination field
20 work. The period for filing the report may be extended for 60 additional days upon approval of
21 the director. Upon receipt of the report, the division shall transmit the report to the person being
22 examined, together with a notice that gives the person being examined a period of 30 days to
23 make a written submission or rebuttal with respect to matters contained in the examination report.
24 Within 30 days of the end of the period allowed for the receipt of written submissions or
25 rebuttals, the director shall fully consider and review the report, together with any written
26 submissions or rebuttals, and any relevant portions of the examiner's work papers and enter an
27 order

28 (1) approving the examination report as filed or approving the examination report
29 with modification or corrections;

30 (2) rejecting the examination report with directions to the examiners to reopen the
31 examination for the purpose of obtaining additional data, documentation, or information and

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1 refiling the report under this section; or

2 (3) setting an investigatory hearing under the procedures of AS 21.06.200 and
3 21.06.210(a) - (d) for purposes of obtaining additional information and testimony.

4 (c) In the event the director determines that regulatory action is appropriate as a result
5 of an examination, the director may enter orders and initiate proceedings as provided by law.
6 The director may use an examination report, work papers or other documents, the testimony of
7 the examiners, or other information discovered or developed during the course of an examination
8 in a judicial or administrative proceeding, whether or not a written report of the examination at
9 the time has been made, transmitted, or approved by the director.

10 (d) The director may disclose the content of an examination report, preliminary
11 examination report or results, or a matter relating to it to the insurance division of this or another
12 state or country and to law enforcement officers of this or another jurisdiction. Except as
13 allowed by this section or other provision of law, the director may not disclose the contents of
14 a preliminary examination report before the report is filed in the office of the director under
15 AS 21.06.060.

16 (e) An order entered under (b)(1) of this section must be accompanied by findings of fact
17 and conclusions of law resulting from the director's consideration and review of the examination
18 report, relevant examiner work papers, and written submissions or rebuttals.

19 (f) Within 30 days of the receipt of the approved report, the person examined shall file
20 affidavits executed by each director and the chief executive officer or equivalent officer stating
21 under oath that they have received and reviewed a copy of the approved report and related orders.

22 (g) The director may withhold a document, information, account, record, examination,
23 or report from the public inspection for as long as the director finds the withholding is necessary
24 to protect a person against unwarranted injury or is in the public interest. The director may
25 publish the examination report or a summary of it in a newspaper in the state if the director
26 determines that the publication is in the public interest.

27 * Sec. 11. AS 21.06.160(b) is amended to read:

28 (b) The director shall pay into the general fund of the state all money received under (a)
29 of this section. Instead of charging and collecting the costs and expenses of the examination
30 under (a) of this section [MAKING A DEPOSIT INTO THE GENERAL FUND], the director
31 may give written authorization for [ORDER] the person examined to make direct payment to

1 the contract examiner for all or part of the contract examiner's compensation or expenses. The
2 contract between the state and a contract examiner who will receive direct payment under this
3 subsection must require that the examiner provide the director with a copy of each billing for the
4 examination.

5 * Sec. 12. AS 21.06.165 is amended by adding a new subsection to read:

6 (d) A person may not bring a civil action if the civil action arises out of the act of
7 communicating or delivering information to the director, a representative of the director, or an
8 examiner who is performing an examination under this title.

9 * Sec. 13. AS 21.06.210 is amended by adding new subsections to read:

10 (f) If the parties agree, the director may conduct a hearing under this section by
11 teleconference.

12 (g) A witness at a hearing under this section may testify telephonically.

13 * Sec. 14. AS 21.09.090(a) is amended to read:

14 (a) This section applies to all insurers [OTHER THAN TITLE INSURERS].

15 * Sec. 15. AS 21.09 is amended by adding a new section to read:

16 Sec. 21.09.175. DETERMINATION OF IMPAIRMENT. If the director determines that
17 an insurer transacting business in this state is impaired or in imminent danger of becoming
18 impaired, the director may order an insurer to limit or change the insurer's business practices,
19 increase the insurer's capital and surplus, or file additional reports with the director. If an insurer
20 is aggrieved by an order under this section, the insurer may request a hearing under
21 AS 21.06.170 - 21.06.230.

22 * Sec. 16. AS 21.09.210(a) is amended to read:

23 (a) Each authorized insurer, and each formerly authorized insurer with respect to
24 premiums received while an authorized insurer in this state, shall file with the director, on or
25 before March 1 [MARCH 2] in each year, a report of all insurance business written or contracted
26 in the state₁ [(] with proper proportionate allocation of premium for the property, subjects, or
27 risks in the state insured under policies or contracts covering property, subjects, or risks located
28 or resident in more than one state₂ [)] during the preceding year ending December 31. The report
29 must show

30 (1) the amounts paid policyholders on losses;

31 (2) the total direct premium income including policy membership and other fees,

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1 premiums paid by application of dividends, refunds, savings coupon, and similar returns or credits
2 to payment of premiums for new or additional or extended or renewed insurance, charges for
3 payment of premium in installments, and all other consideration for insurance from all kinds and
4 classes of insurance whether designated a premium or otherwise;

5 (3) the amounts paid policyholders as returned premiums;

6 (4) the amounts paid policyholders as dividends.

7 * Sec. 17. AS 21.09.210(b) is amended to read:

8 (b) Each insurer, and each formerly authorized insurer with respect to premiums received
9 while an authorized insurer in this state, shall pay a tax on the total direct premium income
10 received during the year ending on the preceding December 31 and paid for the insurance of
11 property or risks resident or located in the state other than wet marine and transportation
12 insurance, after deducting from the total direct premium income the applicable cancellations,
13 returned premiums, the unabsorbed portion of any deposit premium, all policy dividends,
14 unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons, and other
15 similar returns paid or credited to policyholders with respect to their policies. No deductions may
16 be made of cash surrender value of policies. Considerations received on annuity contracts are
17 not included in the direct premium income and are not subject to tax. The tax shall be paid to
18 the director annually on or before March 1 [APRIL 1], and is computed at the rate of

19 (1) for domestic and foreign insurers, except hospital and medical service
20 corporations, 2.7 percent;

21 (2) for hospital and medical service corporations, six percent of their gross
22 premiums less claims paid.

23 * Sec. 18. AS 21.09.210(d) is amended to read:

24 (d) An authorized insurer shall, with respect to all wet marine and transportation contracts
25 written in this state during the preceding calendar year, on or before March 1 [APRIL 1] of each
26 year, pay to the director a tax of three-quarters of one percent on its gross underwriting profit.
27 The gross underwriting profit is computed by deducting from the net premiums [(I.E., GROSS
28 PREMIUMS LESS ALL RETURN PREMIUMS AND PREMIUMS FOR REINSURANCE),] on
29 wet marine and transportation insurance contracts, the net losses paid [(I.E., GROSS LOSSES
30 PAID, LESS SALVAGE AND RECOVERIES ON REINSURANCE CEDED)] during the
31 calendar year under the contracts. In the case of an insurer issuing participating contracts, the

1 gross underwriting profit may [SHALL] not include, for computation of the tax prescribed by
2 this section, the amounts refunded or paid as participation dividends by the insurers to the holders
3 of the contracts. In this subsection,

4 (1) "net losses" means gross losses less salvage and recoveries on reinsurance
5 ceded;

6 (2) "net premiums" means gross premiums less all return premiums and
7 premiums for reinsurance.

8 * Sec. 19. AS 21.12.020(a) is amended to read:

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

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

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

16 (A) files evidence of submission [SUBMITS] to this state's jurisdiction,
17 submits to this state's authority to examine its books and records under AS 21.06.120,
18 and is licensed to transact insurance or reinsurance in at least one state, or in the case
19 of a United States branch of an alien admitted insurer, is entered through and
20 licensed to transact insurance or reinsurance in at least one state; [OR]

21 (B) [IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN
22 ASSUMING INSURER, IS ENTERED THROUGH, AND LICENSED TO TRANSACT
23 INSURANCE OR REINSURANCE IN, AT LEAST ONE STATE, FILES ANNUALLY
24 WITH THE DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT
25 IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS STATE OF
26 DOMICILE, AND] maintains at least \$20,000,000 in policyholder surplus and whose
27 accreditation has not been denied by the director within 90 days of application to the
28 director, or maintains less than \$20,000,000 in policyholder surplus and whose
29 application for accreditation has been approved by the director; and

30 (C) files annually with the director a copy of the reinsurer's annual
31 financial statement filed with the insurance department of the reinsurer's state of

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1 domicile [; THE SURPLUS REQUIREMENTS IN THIS SUBPARAGRAPH DO NOT
2 APPLY TO REINSURANCE CEDED AND ASSUMED UNDER A POOLING
3 ARRANGEMENT AMONG INSURERS IN THE SAME HOLDING COMPANY
4 SYSTEM];

5 (3) assuming insurer that is domiciled in a state, or in the case of a United States
6 branch of an alien assuming insurer, is entered through a state that employs standards regarding
7 credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this
8 subsection, the assuming insurer maintains a policyholder surplus of at least \$20,000,000, and
9 the assuming insurer submits to the authority of this state to examine its books and records; the
10 surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a
11 pooling arrangement among insurers in the same holding company system;

12 (4) assuming alien insurer that

13 (A) maintains a trust fund in a qualified United States financial institution
14 for the payment of the valid claims of its United States policyholders and ceding insurers,
15 and their assigns and successors in interest, that conforms to the following requirements:

16 (i) the trust shall be established in a form approved by the director;
17 the trust instrument must provide that contested claims are valid and enforceable
18 upon the final order of any court of competent jurisdiction in the United States;
19 the trust shall vest legal title to its assets in the trustees of the trust for its United
20 States policyholders and ceding insurers, their assigns, and successors in interest;
21 the trust and the assuming insurer are subject to examination as determined by the
22 director; the trust must remain in effect for so long as the assuming insurer has
23 outstanding liabilities due under the reinsurance agreements subject to the trust;

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

29 (iii) in the case of a single assuming insurer, the trust shall consist
30 of trust money representing the assuming insurer's liabilities attributable to
31 business written in the United States and, in addition, include a trust surplus of not

1 less than \$20,000,000; the single assuming insurer shall make available to the
2 director an annual certification of the insurer's solvency by the insurer's
3 domiciliary regulator and by an independent public accountant;

4 (iv) in the case of a group of individual unincorporated insurers,
5 the trust shall consist of trust money representing the group's liabilities attributable
6 to business written in the United States and, in addition, include a trust surplus not
7 less than \$100,000,000 [\$50,000,000]; the group shall make available to the
8 director an annual certification of the solvency of each of the individual
9 unincorporated insurers by the group's domiciliary regulator and by an
10 independent certified public accountant, or for a Canadian or British insurer,
11 an independent Canadian or British chartered accountant;

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

30 (B) reports annually to the director information substantially the same as
31 that required to be reported on the National Association of Insurance Commissioners'

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1 annual statement form by licensed insurers to enable the director to determine the
2 sufficiency of the trust fund;

3 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
4 subsection, but only with respect to the insurance of risks located in jurisdictions where the
5 reinsurance is required by applicable law or regulation of that jurisdiction.

6 * Sec. 20. AS 21.12.020(a) is repealed and reenacted to read:

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

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

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

14 (A) submits to this state's jurisdiction, submits to this state's authority to
15 examine its books and records, is licensed to transact insurance or reinsurance in at least
16 one state, that is accredited by the National Association of Insurance Commissioners, and
17 files annually with the director a copy of the reinsurer's annual statement filed with the
18 insurance department of the reinsurer's state of domicile and a copy of the reinsurer's
19 most recent audited financial statement; or

20 (B) in the case of a United States branch of an alien assuming insurer, is
21 entered through, and licensed to transact insurance or reinsurance in, at least one state
22 accredited by the National Association of Insurance Commissioners, files annually with
23 the director a copy of its annual financial statement that is filed with the insurance
24 regulatory agency of its state of domicile, and maintains at least \$20,000,000 in
25 policyholder surplus; the surplus requirements in this subparagraph do not apply to
26 reinsurance ceded and assumed under a pooling arrangement among insurers in the same
27 holding company system;

28 (3) assuming insurer that is domiciled in a state, or in the case of a United States
29 branch of an alien assuming insurer, is entered through a state accredited by the National
30 Association of Insurance Commissioners that employs standards regarding credit for reinsurance
31 ceded substantially similar to those applicable under (1) and (2) of this subsection, the assuming

1 insurer maintains a policyholder surplus of at least \$20,000,000, and the assuming insurer submits
2 to the authority of this state to examine its books and records; the surplus requirements in this
3 paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among
4 insurers in the same holding company system;

5 (4) assuming alien insurer that

6 (A) maintains a trust fund in a qualified United States financial institution
7 for the payment of the valid claims of its United States policyholders and ceding insurers,
8 and their assigns and successors in interest, that conforms to the following requirements:

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

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

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

28 (iv) in the case of a group of individual unincorporated insurers,
29 the trust shall consist of trust money representing the group's liabilities attributable
30 to business written in the United States and, in addition, include a trust surplus not
31 less than \$100,000,000; the group shall make available to the director an annual

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1 certification of the solvency of each of the individual unincorporated insurers by
2 the group's domiciliary regulator and by an independent certified public
3 accountant;

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

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

23 (5) assuming insurer that does not meet the requirements of (1) - (4) of this
24 subsection, but only with respect to the insurance of risks located in jurisdictions where the
25 reinsurance is required by applicable law or regulation of that jurisdiction.

26 * Sec. 21. AS 21.12.020(c) is amended to read:

27 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting
28 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities
29 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or
30 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a
31 reinsurance contract with the assuming insurer as security for the payment of obligations under

1 it, if the security is held in the United States subject to withdrawal solely by, and under the
 2 exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States
 3 financial institution. The security must be in the form of

4 (1) cash;

5 (2) securities listed by the Securities Valuation Office of the National Association
 6 of Insurance Commissioners that qualify as admitted assets under AS 21.21;

7 (3) clean, irrevocable, unconditional letters of credit that contain an evergreen
 8 clause issued or confirmed by a qualified United States financial institution not later than
 9 December 31 in the year for which filing is made, and in the possession of the ceding
 10 insurer on or before the filing date of the ceding insurer's annual statement; letters of credit
 11 meeting applicable standards of issuer acceptability as of the dates of their issuance or
 12 confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to
 13 meet applicable standards of issuer acceptability, continue to be acceptable as security until their
 14 expiration, extension, renewal, modification, or amendment, whichever occurs first; or

15 (4) other security acceptable to and approved in advance by the director.

16 * Sec. 22. AS 21.12.020 is amended by adding new subsections to read:

17 (h) A life insurer may receive credit for reinsurance transactions if the reinsurance
 18 agreement meets all applicable requirements established by the director.

19 (i) A domestic ceding insurer may not be allowed credit if the assuming insurer's
 20 accreditation has been revoked by the director.

21 * Sec. 23. AS 21.18.100 is amended to read:

22 Sec. 21.18.100. INCREASE OF [INADEQUATE] RESERVES. If loss experience shows
 23 that an insurer's loss reserves or reserves for incurred but not reported losses, however
 24 computed or estimated, are inadequate, the director shall require the insurer to maintain loss
 25 reserves or reserves for incurred but not reported losses in the increased amount needed to
 26 make them adequate.

27 * Sec. 24. AS 21.18.110 is amended by adding new subsections to read:

28 (m) A life insurer doing business in the state shall annually submit to the director an
 29 opinion of a qualified actuary as to whether the reserves and related actuarial items held in
 30 support of a policy or contract are computed appropriately, are based on assumptions that satisfy
 31 contractual provisions, are consistent with prior reported amounts, and comply with the applicable

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1 laws of this state.

2 (n) The actuarial opinion must

3 (1) be submitted with the annual statement reflecting the valuation of the reserve
4 liabilities;

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

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

8 (4) include an assessment as to whether the reserves and related actuarial items
9 held in support of the policies and contracts, when considered in light of the assets held by an
10 insurer with respect to the reserves and related actuarial items, including investment earnings on
11 the assets and considerations anticipated to be received and retained under policies and contracts,
12 make adequate provision for an insurer's obligations under a policy or contract including the
13 benefits under and expenses associated with a policy or contract.

14 (o) In the case of an actuarial opinion submitted by a foreign or alien insurer, the director
15 may accept an opinion filed by the insurer with the insurance supervisory official of another state
16 if the director determines that the opinion meets the requirements applicable to an insurer
17 domiciled in this state.

18 (p) The director may adopt regulations to provide a transition period for establishing
19 higher reserves that a qualified actuary may consider necessary in order to render the opinion
20 required under (n) of this section.

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

22 (1) is not liable for damages to a person, other than the insurance company and
23 the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion
24 except in a case of fraud or wilful misconduct;

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

26 (3) shall include a memorandum, in form and substance acceptable to the director,
27 to support the actuarial opinion.

28 (r) If the insurer fails to provide a supporting memorandum required by (q)(3) of this
29 section within a period specified by regulation or the director determines that the supporting
30 memorandum fails to meet the standards adopted by regulation or is otherwise unacceptable to
31 the director, the director may engage a qualified actuary, at the expense of the insurer, to review

1 the opinion and the basis for the opinion and to prepare a supporting memorandum as required
2 under (q) of this section.

3 (s) A memorandum in support of an actuarial opinion and other supporting material
4 provided by an insurer to the director is confidential and may not be made public by the director
5 or another person and is not subject to a civil subpoena, except for the purpose of defending an
6 action seeking damages from a person by reason of an action required by this section. The
7 memorandum or other material may be released by the director with the written consent of the
8 insurer or to the American Academy of Actuaries upon a request stating that the memorandum
9 or other material is required for the purpose of a disciplinary proceeding and setting out
10 procedures satisfactory to the director for preserving the confidentiality of the memorandum or
11 other material. Once a portion of the memorandum or other material is cited by the insurer in
12 its marketing, is cited before a governmental agency other than a state insurance department, or
13 is released by the company to the news media, the remainder of the confidential memorandum
14 or other material is no longer confidential.

15 (t) An insurer's aggregate reserves for

16 (1) all life insurance policies, excluding disability and accidental death benefits,
17 issued on or after the effective date of this act, may not be less than the aggregate reserves
18 calculated under (b)(2), (5), (8), and (l) of this section, and the mortality table and rates of
19 interest used in calculating nonforfeiture benefits for the policies; and

20 (2) all policies, contracts, and benefits may not be less than the aggregate reserves
21 determined by a qualified actuary to be necessary to render the opinion required under (m) of this
22 section.

23 (u) An insurer who submits an actuarial opinion that the insurer knew or should have
24 known was not in compliance with this section is subject to suspension or revocation of the
25 insurer's certificate of authority under AS 21.09.150(a).

26 * Sec. 25. AS 21.18.110(o) is repealed and reenacted to read:

27 (o) In the case of an actuarial opinion submitted by a foreign or alien insurer, the director
28 may accept an opinion filed by the insurer with the insurance supervisory official of another state
29 that is accredited by the National Association of Insurance Commissioners if the director
30 determines that the opinion meets the requirements applicable to an insurer domiciled in this
31 state.

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1 * Sec. 26. AS 21.18.130 is amended to read:

2 Sec. 21.18.130. VALUATION OF OTHER SECURITIES. (a) Securities, other than
3 those referred to in AS 21.18.120 or AS 21.21.260, held by an insurer shall be valued, in the
4 discretion of the director, at [THEIR MARKET VALUE, OR AT] their appraised value as
5 determined by a competent appraisal acceptable to the director, or at prices determined by
6 the director as representing their fair market value, all consistent with the current method for the
7 valuation of a security formulated or approved by the National Association of Insurance
8 Commissioners.

9 (b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried
10 at a fixed value in lieu of market value at the discretion of the director and consistent [IN
11 ACCORDANCE] with the method of computation the director approves.

12 * Sec. 27. AS 21.18.130 is amended by adding a new subsection to read:

13 (c) Securities referred to in AS 21.21.260 at any time after the date of investment by an
14 insurer shall be valued on that insurer's quarterly and annual statement at an amount that may
15 not exceed the larger of the following amounts:

16 (1) 100 percent of the market value of the real property or leasehold securing the
17 same as determined by a competent appraisal acceptable to the director or at values determined
18 by the director as representing fair market value of the real property or leasehold;

19 (2) the amount of insurance or guaranty of the loan by the United States or by
20 an agency or instrumentality of the United States; or

21 (3) the amount provided in (1) of this subsection plus the amount by which the
22 excess of the loan over the amount provided in (1) of this subsection is insured or guaranteed by
23 the United States or by an agency or instrumentality of the United States.

24 * Sec. 28. AS 21.18.140(b) is amended to read:

25 (b) Other real property held by an insurer shall [MAY NOT] be valued at the lower of
26 cost or [AN AMOUNT IN EXCESS OF] fair market value as determined by recent appraisal.
27 If valuation is based on an appraisal more than three years old, the director may call for and
28 require a new appraisal in order to determine fair market value. The reasonable cost of the
29 appraisal shall be borne by the insurer, if the director has a reasonable belief that the
30 appraised value has decreased.

31 * Sec. 29. AS 21.21.050 is amended to read:

1 Sec. 21.21.050. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in
2 or hold as admitted assets categories of investments only within applicable limits as follows:

3 (1) an insurer may not, except with the consent of the director, have a
4 combination of investments in or loans upon the security of the obligations, property, or securities
5 of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's
6 assets; this restriction does not apply to

7 (A) general obligations of the United States; or

8 (B) general obligations of a state of the United States that is not insolvent
9 and whose securities are not then in default; or

10 (C) policy loans made under AS 21.21.210;

11 (2) an insurer may not invest in or hold at any one time more than 10 percent of
12 the outstanding voting stock of a corporation, except with the consent of the director given with
13 respect to voting rights of preference stock during default of dividends; this paragraph does not
14 apply to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer
15 acquired under AS 21.21.170;

16 (3) an insurer, other than title insurer, shall invest and maintain invested funds
17 in an amount not less than the higher of

18 [(A)] the minimum basic capital for stock insurers or basic guarantee
19 surplus for mutual insurers and additional surplus for both stock and mutual insurers
20 required under AS 21.09.070₂ [:] or

21 [(B)] 50 percent of the total capital and surplus shown on the most recent
22 statement of the insurer's financial condition as filed with the director under
23 AS 21.09.200, but the insurer may not invest or maintain funds except in [ONLY IN]

24 [(A)] [(i)] cash;

25 [(B)] [(ii)] the fully insured portion of bank deposits when the insurance is
26 provided by a solvent agency of the United States government or by collateral in the form
27 of the securities provided for under AS 21.21.060 and 21.21.080; [OR]

28 [(C)] [(iii)] the securities provided for under AS 21.21.060 and 21.21.080;

29 or

30 [(D)] the securities provided for under AS 21.21.090 issued by this state
31 or a political subdivision of this state, but only if rated Class I by the securities

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1 valuation office for the period during which the securities are held for the purposes
2 of this section, and only if the insurer invests and maintains not more than 15
3 percent of its total capital and surplus in the securities as shown on the most recent
4 statement of the insurer's financial condition filed with the director under
5 AS 21.09.200;

6 (4) a life insurer shall invest and keep invested its funds in an amount not less
7 than the reserves under its life insurance policies and annuity contracts, other than variable
8 annuities, in force, in cash or the securities or investments provided for under this chapter;

9 (5) except with the director's written consent, an insurer may not have invested
10 at any one time more than 20 percent of its assets in the class of securities described in
11 AS 21.21.140, exclusive of obligations of public utilities;

12 (6) an insurer may invest and have invested at any one time in aggregate amount
13 not more than 10 percent of its assets in all stocks under AS 21.21.160, 21.21.170, and
14 21.21.200, except with the director's written consent; determination of the amount that an insurer
15 has invested in common stocks for the purposes of this paragraph is based on the cost of the
16 stocks to the insurer; this paragraph does not apply to stock of a controlled or subsidiary
17 insurance corporation or other corporation held under AS 21.21.170 and 21.21.180;

18 (7) except with the director's written consent, an insurer may not have invested
19 at any one time more than 10 percent of its assets in any one of the class of securities described
20 in AS 21.21.100, 21.21.150, 21.21.190, [OR] 21.21.250(c), or 21.21.260.

21 * Sec. 30. AS 21.21.170(b) is amended to read:

22 (b) With the director's consent an insurer may acquire and hold the controlling interest
23 in the outstanding voting stock of another stock insurer formed under the laws of this or another
24 state. All stocks under this subsection shall be subject to the limitations on acquisition
25 [LIMITATION AS TO AMOUNT] as provided in AS 21.21.180.

26 * Sec. 31. AS 21.21.180 is repealed and reenacted to read:

27 Sec. 21.21.180. INVESTMENTS IN SUBSIDIARIES. (a) A domestic insurer, either
28 alone or in cooperation with one or more persons, may organize or acquire one or more
29 subsidiaries engaged in the following kinds of business:

30 (1) insurance business authorized by this title;

31 (2) acting as an insurance producer or as an insurance agent for the insurer's

1 parent or for any of the insurer's parent's insurer subsidiaries and controlled affiliates;

2 (3) investing, reinvesting, or trading in securities for the insurer's own account,
3 that of the insurer's parent, a subsidiary of the insurer's parent, an affiliate, or a subsidiary;

4 (4) management of an investment company subject to or registered under 15
5 U.S.C. 80 (Investment Company Act of 1940, as amended), including related sales and services;

6 (5) acting as a broker-dealer subject to or registered under 15 U.S.C. 77 - 78
7 (Securities Exchange Act of 1934, as amended);

8 (6) rendering investment advice to a government, government agency, corporation,
9 or other organization or group;

10 (7) rendering other services related to the operations of an insurance business
11 including actuarial, loss prevention, safety engineering, data processing, accounting, claims,
12 appraisal, and collection services;

13 (8) ownership and management of assets that the parent corporation could own
14 or manage;

15 (9) acting as administrative agent for a governmental instrumentality that is
16 performing an insurance function;

17 (10) financing insurance premiums, agents, and other forms of consumer
18 financing;

19 (11) any other business activity determined by the director in writing using the
20 standards set out in this section to be reasonably ancillary to an insurance business; or

21 (12) owning a corporation engaged or organized to engage exclusively in one or
22 more of the businesses specified in this section.

23 (b) A domestic insurer may also

24 (1) invest in securities described in AS 21.21.140 - 21.21.160 of one or more
25 subsidiaries in amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50
26 percent of the insurer's surplus regarding policyholders, if, after the investment, the insurer's
27 surplus regarding policyholders will be reasonable in relation to the insurer's outstanding
28 liabilities and adequate to the insurer's financial needs; in calculating the amount of the
29 investment, investment in domestic or foreign insurance subsidiaries shall be excluded, but the
30 following shall be included:

31 (A) total net moneys or other consideration expended and all obligations

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1 assumed in the acquisition or formation of a subsidiary, including all organizational
2 expenses and contributions to capital and surplus of the subsidiary if represented or not
3 represented by the purchase of capital stock or issuance of other securities; and

4 (B) all amounts expended in acquiring additional securities described in
5 AS 21.21.140 - 21.21.160 and all contributions to the capital or surplus of a subsidiary
6 subsequent to the subsidiary's acquisition or formation;

7 (2) invest an amount in securities described in AS 21.21.140 - 21.21.160 of one
8 or more subsidiaries engaged or organized to engage exclusively in the ownership and
9 management of assets authorized as an investment for the insurer if that subsidiary agrees to limit
10 the subsidiary's investment in an asset in a way that the investment does not cause the amount
11 of the total investment of the insurer to exceed the investment limitations specified in (1) of this
12 subsection or AS 21.21.050; for the purpose of this paragraph, the total investment of the insurer
13 includes:

14 (A) a direct investment by the insurer in an asset; and

15 (B) the insurer's proportionate share of an investment in an asset by a
16 subsidiary of the insurer calculated by multiplying the amount of the subsidiary's
17 investment by the percentage of the ownership in the subsidiary; or

18 (3) with the prior written approval of the director, invest a greater amount in those
19 securities described in AS 21.21.140 - 21.21.160 of one or more subsidiaries if after the
20 investment the insurer's surplus regarding policyholders is reasonable in relation to the insurer's
21 outstanding liabilities and adequate to the insurer's financial needs.

22 (c) A domestic insurer shall determine if an investment meets the applicable requirements
23 under (b) of this section before the investment is made by calculating the applicable investment
24 limitations under AS 21.21.020(d) as though the investment had already been made and by taking
25 into account the then outstanding principal balance on all previous investments under
26 AS 21.21.140 - 21.21.160, calculated at statement value, giving effect to a return of capital
27 invested and not giving effect to dividends.

28 (d) If an insurer ceases to control a subsidiary, it shall dispose of an investment in the
29 subsidiary made under this section within three years from the time of the cessation of control
30 or within a further time that the director prescribes unless, at any time after the investment has
31 been made, the investment meets the requirements for investment under another section of this

1 chapter and the insurer has notified the director regarding the application of another section of
2 this chapter to the investment.

3 * Sec. 32. AS 21.21.255 is amended to read:

4 Sec. 21.21.255. REGULATION OF SECURITIES HELD BY INSURERS. As provided
5 under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of 1984),
6 securities that are purchased, held, or invested in by an insurer shall be regulated under
7 AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270, [AS 21.66.030,] and other applicable
8 provisions of this title.

9 * Sec. 33. AS 21.21.350(b) is amended to read:

10 (b) Before completing investment activities with or through affiliated or controlling
11 persons or completing a transaction of the type listed in AS 21.21.180, an insurer shall fully
12 disclose and document in writing to its board of directors and the committee authorized by the
13 board and charged with the supervision or making of the investment or loan involved, the
14 material facts concerning the affiliation or circumstances of control. An insurer may not
15 complete an investment activity with or through affiliated or controlling persons [,] unless the
16 board of directors₂ by specific board action, authorizes the transaction and concludes that the
17 transaction complies with (c) and (d) of this section. The vote of the board authorizing the
18 transaction must be recorded in the minutes, on a member-by-member basis, and must indicate
19 each vote approving, disapproving, or abstaining on the transaction.

20 * Sec. 34. AS 21.21 is amended by adding new sections to read:

21 Sec. 21.21.370. INVESTMENTS IN MEDIUM GRADE AND LOWER GRADE
22 OBLIGATIONS. (a) A domestic insurer may not acquire, directly or indirectly, a medium grade
23 or lower grade obligation of an institution if, after giving effect to the acquisition,

24 (1) the aggregate amount of all medium grade and lower grade obligations held
25 by the domestic insurer exceeds 20 percent of its admitted assets if not more than

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

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

30 (C) one percent of its admitted assets consist of obligations rated six by
31 the securities valuation office; or

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1 (2) the aggregate amount of all medium grade or lower grade obligations held by
2 the domestic insurer exceeds 30 percent of its policyholders' surplus account as shown by the
3 insurer's most recent report filed under AS 21.06.150, AS 21.09.200, or 21.09.205.

4 (b) Attaining or exceeding the limit of one category does not preclude an insurer from
5 acquiring an obligation in another category subject to the specific or multi-category limits.

6 (c) A domestic insurer may not invest in medium grade and lower grade obligations
7 issued, guaranteed, or insured by a single institution in an aggregate amount greater than

8 (1) one percent of its admitted assets in medium grade obligations;

9 (2) one-half of one percent of its admitted assets in lower grade obligations; and

10 (3) one percent of its admitted assets in a combination of medium grade or lower
11 grade obligations.

12 (d) The investment limitations in this section apply in addition to the limits on
13 investments under AS 21.21.050 and 21.21.250.

14 (e) The investment limitations in this section and AS 21.21.380(b) shall be calculated
15 after including, as though they were already owned, the medium grade and lower grade
16 obligations that the domestic insurer is committed to acquire at the time of the calculation.

17 Sec. 21.21.380. EXCEPTIONS TO LIMITATIONS ON INVESTMENTS IN MEDIUM
18 GRADE AND LOWER GRADE OBLIGATIONS. (a) AS 21.21.370 does not prohibit a
19 domestic insurer from acquiring an obligation that it has committed to acquire if the insurer
20 would have been permitted to acquire that obligation under AS 21.21.370 on the date on which
21 the insurer committed to purchase that obligation.

22 (b) Notwithstanding AS 21.21.370, a domestic insurer may acquire an obligation of an
23 institution in which the insurer already has an obligation if the obligation is acquired in order to
24 protect an investment previously made in the obligations of the institution, if all the acquired
25 obligations do not exceed one-half of one percent of the insurer's admitted assets.

26 (c) AS 21.21.370 does not prohibit a domestic insurer from acquiring an obligation
27 created by a restructuring of a medium grade or lower grade obligation that is already held.

28 (d) AS 21.21.370 does not require a domestic insurer to sell or otherwise dispose of an
29 obligation legally acquired before July 1, 1992. However, AS 21.21.400 applies to those
30 obligations.

31 Sec. 21.21.390. WRITTEN PLAN REQUIREMENT FOR INVESTMENT IN MEDIUM

1 GRADE AND LOWER GRADE OBLIGATIONS. (a) The board of directors of a domestic
2 insurer that acquires or invests, directly or indirectly, more than two percent of its admitted assets
3 in medium grade and lower grade obligations, shall adopt a written plan for making these
4 investments.

5 (b) The written plan adopted under (a) of this section must contain

6 (1) guidelines for the quality of the issues in which investments are to be made;

7 and

8 (2) diversification standards including standards for issuer, industry, duration,
9 liquidity, and geographic locations.

10 Sec. 21.21.400. DISPOSITION OR WRITE-DOWN OF LOWER GRADE
11 OBLIGATIONS. If the limitation in AS 21.21.370(a)(2) is exceeded and the director determines
12 that the continued holding of the insurer's medium grade and lower grade obligations would be
13 detrimental to the interests of policyholders, the director may issue an order under AS 21.06.100
14 requiring one or more of the following:

15 (1) the disposition of lower grade obligations;

16 (2) the write-down of lower grade obligations to current market value as
17 determined by the securities valuation office or other person upon whom the director may rely;
18 or

19 (3) action under AS 21.09.150.

20 * Sec. 35. AS 21.21.600 is amended by adding new paragraphs to read:

21 (17) "admitted asset" has the meaning given in AS 21.18.900;

22 (18) "aggregate amount" means the aggregate statutory statement value of medium
23 grade and lower grade obligations;

24 (19) "institution" means a corporation, joint stock company, association, trust,
25 business partnership, business joint venture, or similar entity;

26 (20) "lower grade obligation" means an obligation that is rated four, five, or six
27 by the securities valuation office or its successor;

28 (21) "medium grade obligation" means an obligation that is rated three by the
29 securities valuation office or its successor;

30 (22) "securities valuation office" means the organization designated by the
31 National Association of Insurance Commissioners to determine the carrying or admitted asset

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1 value of obligations owned by the insurer.

2 * Sec. 36. AS 21.22.030 is amended by adding a new subsection to read:

3 (c) When evaluating the effect of a merger or other acquisition under (a)(2) of this
4 section, the director may consider relevant factors including market shares, volatility of ranking
5 market leaders, number of competitors, concentration, trend of concentration in the industry, and
6 ease of entry into and exit out of the market, but may not consider the standards under
7 AS 21.22.065(d)(3), (4), or (e).

8 * Sec. 37. AS 21.22.060 is amended by adding new subsections to read:

9 (k) An insurer subject to registration under (a) of this section shall register annually by
10 April 1 of each year for the previous calendar year unless, for good cause shown, the director
11 extends the time for registration. The director may require an insurer authorized to do business
12 in the state, that is a member of a holding company system and that is not subject to registration
13 under (a) of this section, to furnish a copy of the registration statement, the summary specified
14 in (l) of this section, or other information filed by the insurer with the insurance regulatory
15 authority of the insurer's state of domicile.

16 (l) An annual registration statement filed under (k) of this section must contain a
17 summary outline of items in the current registration statement representing changes from the prior
18 registration statement.

19 * Sec. 38. AS 21.22 is amended by adding a new section to read:

20 Sec. 21.22.065. ACQUISITIONS INVOLVING CHANGE OF CONTROL. (a) Unless
21 exempted in (j) of this section, this section applies to any acquisition in which there is a change
22 in control of an insurer authorized to do business in this state.

23 (b) If an acquisition violates the standards established in (d) and (f) of this section, the
24 director may enter an order requiring an involved insurer to cease doing business in this state
25 with respect to the line or lines of insurance involved in the violation or denying the application
26 of an acquired or acquiring insurer for a license to do business in this state. Within 30 days of
27 the issuance of the order, the involved insurer may submit a plan to remedy the anticompetitive
28 effect of the acquisition within a reasonable time. Based upon a plan or other information
29 submitted, the director shall specify the conditions, if any, under a time period during which the
30 aspects of the acquisition causing a violation of the standards of this section would be remedied
31 and the order vacated or modified. The order is stayed by the insurer's submission of a plan and

1 shall be rescinded if the acquisition is not consummated.

2 (c) An acquisition that meets the requirements under (a) of this section is subject to an
3 order under (b) of this section unless the acquiring person files a preacquisition notification and
4 the waiting period has expired. The person to be acquired may file a preacquisition notification.
5 A preacquisition notification by a person to be acquired may not be filed in place of a
6 preacquisition filing by an acquiring person. The preacquisition notification

7 (1) must be in a form and contain the information prescribed in regulations
8 adopted by the director relating to insurance markets that, under (j)(5) of this section, cause the
9 acquisition not to be exempt from the provisions of this section; the director may require
10 additional material and information the director considers necessary to determine whether the
11 proposed acquisition, if consummated, would violate the competitive standards of this section;

12 (2) may include an opinion of an economist regarding the competitive effect of
13 the acquisition in this state accompanied by a summary of the education and experience
14 indicating the economist's ability to render an informed opinion; and

15 (3) must be followed by a waiting period beginning on the date of receipt by the
16 director of a preacquisition notification and ending on the earlier of the 30th day after the date
17 of receipt or termination of the waiting period by the director unless, before the end of the
18 waiting period, the director requires the submission of additional information relevant to the
19 proposed acquisition, in which event the waiting period shall end on the 30th day after receipt
20 of the additional information by the director or termination of the waiting period by the director,
21 whichever is earlier.

22 (d) The director may enter an order under (b) of this section regarding an acquisition if

23 (1) the insurer fails to file adequate information in compliance with (c) of this
24 section;

25 (2) there is substantial evidence that the acquisition may substantially lessen
26 competition, create a monopoly in a line of insurance in this state or significantly increase an
27 insurer's market concentration;

28 (3) there is substantial evidence when the aggregate market share of any grouping
29 of the largest insurers in the market, from the two largest to the eighth largest, has increased by
30 seven percent or more of the market over a period of time extending from any base year five to
31 10 years before the acquisition up to the time of the acquisition;

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(4) after considering an acquisition covered under (a) of this section involving two or more insurers competing in the same market there is evidence of a violation of the competitive standards contained in the following tables:

(A) if the market is highly concentrated, the involved insurers possess the following shares of the market:

| Insurer A | Insurer B |
|------------|--------------------|
| 4 percent | 4 percent or more |
| 10 percent | 2 percent or more |
| 15 percent | 1 percent or more; |

(B) if the market is not highly concentrated, the involved insurers possess the following shares of the market:

| Insurer A | Insurer B |
|------------|--------------------|
| 5 percent | 5 percent or more |
| 10 percent | 4 percent or more |
| 15 percent | 3 percent or more |
| 19 percent | 1 percent or more. |

(e) A percentage not shown in the tables contained in (d) of this section may be interpolated proportionately to the percentage that is shown. The insurer with the largest share of the market shall be considered Insurer A. If more than two insurers are involved, a market share that exceeds the total of the two columns in the table by the insurers involved is prima facie evidence of a violation of the competitive standards contained in (d) of this section.

(f) Even though an acquisition does not violate the competitive standard under (d) of this section, the director may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition does violate the competitive standard under (d) of this section, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under (d) of this section include market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry into and exit out of the market. The burden of showing substantial evidence of a violation of the competitive standards rests with the director.

(g) An order may not be entered under (b) of this section if

1 (1) the acquisition will yield substantial economy of scale or economy in resource
2 utilization that cannot be achieved in another way and the public benefits that would arise from
3 the economy exceed the public benefits that would arise from not lessening competition; or

4 (2) the acquisition will substantially increase the availability of insurance and the
5 public benefits of the increase exceed the public benefits that would arise from not lessening
6 competition.

7 (h) A person who violates a cease and desist order of the director under (b) of this
8 section may, after hearing and on order of the director, be subject to the suspension or revocation
9 of a license, a civil penalty not to exceed \$10,000 for each day of violation, or both.

10 (i) An insurer or other person who fails to make a preacquisition filing required by (c)
11 of this section and who also fails to demonstrate a good faith effort to comply with filing
12 requirements shall be subject to a fine of not more than \$50,000.

13 (j) This section does not apply to

14 (1) an acquisition subject to approval or disapproval by the director under
15 AS 21.22.010;

16 (2) a purchase of securities solely for investment purposes if the securities are not
17 used by voting or otherwise to cause or attempt to cause the substantial lessening of competition
18 in an insurance market in this state; if a purchase of securities for investment purposes results
19 in a presumption of control under AS 21.22.200(2), it is not solely for investment purposes unless
20 the insurance supervisory official of the insurer's state of domicile accepts a disclaimer of control
21 or affirmatively finds that control does not exist and the disclaimer action or affirmative finding
22 is communicated by the domiciliary insurance supervisory official to the director;

23 (3) the acquisition of a person by another person resulting in a change of control
24 of an insurer when both persons are neither directly nor through affiliates primarily engaged in
25 the business of insurance if preacquisition notification is filed with the director under (c) of this
26 section 30 days before the proposed effective date of the acquisition; however, the preacquisition
27 notification is not required for exclusion if the acquisition would otherwise be excluded under
28 this subsection;

29 (4) the acquisition of an already affiliated person;

30 (5) an acquisition if, as an immediate result of the acquisition,

31 (A) the combined market share of the involved insurers would not exceed

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1 five percent of a market;

2 (B) there would not be an increase in a market share of the larger writer;

3 or

4 (C) the combined market share of the involved insurers would not exceed
5 12 percent of a market and the market share of the larger writer would not increase by
6 more than two percent of a market;

7 (6) an acquisition for which a preacquisition notification would be required under
8 this section due solely to the resulting effect on the ocean marine insurance line of business; or

9 (7) an acquisition of an insurer whose domiciliary supervisory insurance official
10 affirmatively finds that the insurer is in a failing condition, there are no feasible alternatives to
11 improving this condition, the public benefits of improving the insurer's condition through the
12 acquisition exceed the public benefits that would arise from not lessening competition, and these
13 findings are communicated by the domiciliary supervisory insurance official to this state's
14 director.

15 (k) AS 21.22.150 - 21.22.160 and 21.22.180 do not apply to acquisitions covered under
16 this section.

17 * Sec. 39. AS 21.22.080 is amended to read:

18 Sec. 21.22.080. TRANSACTIONS WITH AFFILIATES. Material transactions by
19 registered insurers with their affiliates are subject to the following standards:

20 (1) the terms shall be fair and reasonable;

21 (2) charges or fees for services performed shall be reasonable;

22 (3) expenses incurred and payment received shall be allocated to the insurer
23 in conformity with customary insurance accounting practices consistently applied;

24 (4) the books, accounts, and records of each party shall be maintained so as to
25 disclose clearly and accurately the precise nature and details of the transactions including
26 accounting information that is necessary to support the reasonableness of the charges or
27 fees to the respective parties; and

28 (5) [(3)] the insurer's surplus as regards policyholders following any dividends
29 or distributions to shareholder affiliates or performance under a material transaction with an
30 affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its
31 financial needs.

1 * Sec. 40. AS 21.22 is amended by adding a new section to read:

2 Sec. 21.22.085. TRANSACTIONS INVOLVING A DOMESTIC INSURER REQUIRING
3 DIRECTOR REVIEW. (a) The following transactions involving a domestic insurer and a person
4 in its holding company system may not be entered into unless the insurer has notified the director
5 in writing of the insurer's intention to enter into the transaction at least 30 days before the
6 transaction, or a shorter period if allowed by the director, and the director has not disapproved
7 the transaction within the required notice period:

8 (1) a sale, purchase, exchange, loan or extension of credit, guarantee, or
9 investment, provided the transaction is equal to or exceeds

10 (A) with respect to insurers other than life insurers, the lesser of three
11 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
12 policyholder surplus, each calculated under AS 21.21.020(d); or

13 (B) with respect to life insurers, three percent of the insurer's admitted
14 assets calculated under AS 21.21.020(d);

15 (2) a loan or extension of credit to a person who is not an affiliate, where the
16 insurer makes loans or extensions of credit with the agreement or understanding that the proceeds
17 of the transaction, in whole or in substantial part, are to be used to make a loan or extension of
18 credit to, purchase an asset of, or make an investment in an affiliate of the insurer making the
19 loan or extension of credit provided the transaction is equal to or exceeds

20 (A) with respect to insurers other than life insurers, the lesser of three
21 percent of the insurer's admitted assets or 25 percent of surplus that pertains to
22 policyholder surplus, each calculated under AS 21.21.020(d); or

23 (B) with respect to life insurers, three percent of the insurer's admitted
24 assets calculated under AS 21.21.020(d);

25 (3) a reinsurance agreement or modification in which the reinsurance premium
26 or change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus that
27 pertains to policyholder surplus, calculated under AS 21.21.020(d), including an agreement that
28 may require as consideration the transfer of assets from an insurer to a nonaffiliate if an
29 agreement or understanding exists between the insurer and nonaffiliate that a portion of the assets
30 will be transferred to an affiliate of the insurer;

31 (4) a management agreement, service contract, or cost-sharing arrangement; and

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(5) a material transaction specified by regulation that the director determines may adversely affect the interests of the insurer's policyholders.

(b) Nothing in (a) of this section authorizes or permits a transaction that, in the case of an insurer not a member of the same holding company system, would violate a provision of law.

(c) A domestic insurer may not enter into a transaction that is part of a plan or series of similar transactions with persons within the holding company system if the purpose of the separate transaction is to avoid the statutory threshold amount and avoid review that would otherwise occur. If the director determines that this separate transaction is entered into over a 12-month period for this purpose, the director may impose penalties under AS 21.22.065(i), 21.22.170, AS 21.36.320, and 21.36.360(a).

(d) The director, in reviewing a transaction under this section, shall consider whether the transaction complies with the standards provided in AS 21.22.080 and whether the transaction may adversely affect the interests of policyholders.

(e) A domestic insurer shall notify the director within 30 days of an investment of a domestic insurer in a corporation if, after the investment, the total investment by the insurance holding company system in a corporation exceeds 10 percent of the corporation's voting securities.

* Sec. 41. AS 21.22.090 is amended to read:

Sec. 21.22.090. ADEQUACY OF SURPLUS. For the purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risk;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification, and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the value [SIZE] of the insurer's

1 investments [SURPLUS AS REGARDS POLICYHOLDERS];

2 (8) the surplus as regards policyholders maintained by other comparable insurers;

3 (9) the adequacy of the insurer's reserves; and

4 (10) the quality and liquidity of investments in affiliates [SUBSIDIARIES] made
5 under AS 21.21; the director may treat any such investment as a disallowed asset for purposes
6 of determining the adequacy of surplus as regards policyholders whenever the director determines
7 the investment warrants it.

8 * Sec. 42. AS 21.22.100(a) is amended to read:

9 (a) A domestic insurer [SUBJECT TO REGISTRATION UNDER AS 21.22.060] may
10 not pay any extraordinary dividend or make any other extraordinary distribution to its
11 shareholders until

12 (1) 30 days after the director has received notice of the declaration of the dividend
13 or distribution and has not within that period disapproved its payment; or

14 (2) the director has approved its payment within the 30-day period.

15 * Sec. 43. AS 21.22.100(b) is amended to read:

16 (b) For purposes of this section, an extraordinary dividend or distribution includes a
17 [ANY] dividend or distribution of cash or other property, the fair market value of which together
18 with that of other dividends or distributions made within the preceding 12 months exceeds the
19 lesser [GREATER] of (1) 10 percent of the insurer's surplus as regards policyholders as of
20 December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the
21 insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the
22 12-month period ending December 31 of the preceding year; but does not include pro rata
23 distributions of any class of the insurer's own securities. In determining whether a dividend
24 or distribution is extraordinary, an insurer other than a life insurer may carry forward net
25 income from the previous two calendar years that has not already been paid out as
26 dividends. The carry forward provision shall be computed by taking the net income from
27 the second and third preceding calendar years, not including realized capital gains, less
28 dividends paid in the second and immediate preceding calendar years.

29 * Sec. 44. AS 21.22 is amended by adding a new section to read:

30 Sec. 21.22.105. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO
31 REGISTRATION. (a) Notwithstanding the control of a domestic insurer by any person, the

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1 officers and directors of the insurer may not be relieved of an obligation or liability to which the
2 officers and directors would otherwise be subject to by law, and the insurer shall be managed so
3 as to assure the insurer's separate operating identity consistent with this title.

4 (b) This section does not preclude a domestic insurer from having or sharing a common
5 management or cooperative or joint use of personnel, property, or services with one or more
6 other persons under arrangements meeting the standards of AS 21.22.080.

7 * Sec. 45. AS 21.22.120 is amended to read:

8 Sec. 21.22.120. CONFIDENTIALITY. All information, documents, and copies of the
9 information and documents obtained by or disclosed to the director or any other person in the
10 course of an examination or investigation made under AS 21.22.110 and all information reported
11 under AS 21.22.060 and all preacquisition notification information received under
12 AS 21.22.065, shall be given confidential treatment and may not be made public by the director
13 or any other person, except to insurance agencies [DEPARTMENTS] of other states, without the
14 prior written consent of the insurer to which it pertains. However, if the director, after giving
15 the insurer and its affiliates who would be affected by publication of the information notice and
16 opportunity to be heard, determines that the interests of policyholders, shareholders, or the public
17 will be served by the publication of the information, the director may publish all or part of the
18 information in the manner the director considers appropriate.

19 * Sec. 46. AS 21.22.150 is amended by adding a new subsection to read:

20 (c) This section does not apply to a security that constitutes an acquisition covered by
21 AS 21.22.065.

22 * Sec. 47. AS 21.22.160 is amended by adding a new subsection to read:

23 (b) This section does not apply to a security that constitutes an acquisition covered by
24 AS 21.22.065.

25 * Sec. 48. AS 21.22.180 is amended by adding a new subsection to read:

26 (b) This section does not apply to a violation involving a security that constitutes an
27 acquisition covered by AS 21.22.065.

28 * Sec. 49. AS 21.22.200 is amended by adding new paragraphs to read:

29 (11) "acquisition" means an agreement, arrangement, or activity the consummation
30 of which results in a person acquiring directly or indirectly the control of another person, and
31 includes the acquisition of voting securities, assets, bulk reinsurance, and mergers;

1 (12) "highly concentrated" means a market in which the share of the four largest
2 insurers is 75 percent or more of the market;

3 (13) "insurer" has the meaning given in AS 21.90.900 and includes a company
4 or group of companies under common management, ownership, or control;

5 (14) "involved insurer" means an insurer that either acquires or is acquired, is
6 affiliated with an acquirer or acquired, or is the result of a merger;

7 (15) "market" or "insurance market" means direct written insurance premium in
8 this state for a line of business as contained in the annual statement required to be filed by
9 insurers licensed to do business in this state; in determining the relevant product and geographical
10 markets, the director shall give due consideration to, among other things, the definitions or
11 guidelines adopted by the National Association of Insurance Commissioners and to information
12 submitted by parties to the acquisition; in the absence of sufficient information to the contrary,
13 the relevant product market is assumed to be the direct written insurance premium for a line of
14 business, the line being that used in the annual statement required to be filed by insurers doing
15 business in this state, and the relevant geographical market is assumed to be this state;

16 (16) "statement value" means the value that an insurer is instructed by the
17 securities valuation office of the National Association of Insurance Commissioners to carry on
18 the insurer's financial statement and that represents an investment.

19 * Sec. 50. AS 21.27.010 is repealed and reenacted to read:

20 Sec. 21.27.010. LICENSE REQUIRED. (a) A person may not act as or represent to be
21 an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance
22 intermediary manager, surplus lines broker, or independent adjuster in this state or relative to a
23 subject resident, located, or to be performed in this state unless licensed under this chapter. A
24 person may not act as or represent to be a managing general agent, reinsurance intermediary
25 broker, or reinsurance intermediary manager representing an insurer domiciled in this state
26 regarding a risk located outside this state unless licensed by this state.

27 (b) An insurance producer, a managing general agent, a reinsurance intermediary broker,
28 a reinsurance intermediary manager, or a surplus lines broker may not solicit or take applications
29 for, procure, place for others, or otherwise transact business for a kind or class of insurance for
30 which the person is not licensed.

31 (c) A person who for a resident of this state, or for a resident of another jurisdiction from

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1 a place of business in this state, performs administrative functions, including claims
2 administration and payment, marketing administrative functions, premium accounting, premium
3 billing, coverage verification, underwriting authority, or certificate issuance only in regard to life
4 insurance, disability insurance, or annuities is not required to be licensed as a managing general
5 agent if the person

6 (1) is registered under this chapter as a third-party administrator; or

7 (2) only investigates and adjusts claims and is licensed under this chapter as an
8 independent adjuster.

9 (d) A licensee may not use a fictitious name or alias unless the licensee's legal name and
10 fictitious name or alias are on the license.

11 (e) A person who is an employee of an admitted insurer, who acts within the course and
12 scope of that employment, and within the scope of the insurer's certificate of authority is not
13 required to be additionally licensed under this section.

14 (f) A person who performs management services under a written contract for an admitted
15 insurer is not required to be licensed as a managing general agent, if

16 (1) either

17 (A) the person is a United States manager of the United States branch of
18 an alien admitted insurer; or

19 (B) the person's compensation is not based on the volume of premium
20 written; and

21 (2) the person

22 (A) is a wholly-owned subsidiary of the admitted insurer;

23 (B) wholly owns the admitted insurer;

24 (C) is a wholly-owned subsidiary of the insurance holding company
25 subject to AS 21.22 that owns or controls the admitted insurer.

26 (g) A person who performs management services for an admitted reinsurer is not required
27 to be licensed as a reinsurance intermediary manager if

28 (1) the person's compensation is not based on the volume of premium written and
29 the person

30 (A) is a wholly-owned subsidiary of the admitted insurer;

31 (B) wholly owns the admitted insurer; or

1 (C) is a wholly-owned subsidiary of an insurance holding company subject
2 to AS 21.22 that owns or controls the admitted insurer;

3 (2) the person is a United States manager of the United States branch of an alien
4 admitted insurer; or

5 (3) the person is the manager of a group, association, pool, or organization of
6 insurers that does joint underwriting and that is subject to examination by its resident insurance
7 regulator in a state that

8 (A) the director has determined has enacted provisions substantially similar
9 to those contained in this chapter; and

10 (B) is accredited by the National Association of Insurance Commissioners.

11 (h) This chapter does not apply to a person licensed to practice as an attorney at law
12 while the person is acting as an attorney at law.

13 (i) A person licensed under AS 21.75 as an attorney-in-fact is not required to be
14 additionally licensed under this chapter while acting on behalf of subscribers and within the scope
15 and authority of a subscribers agreement of a reciprocal insurer or exchange licensed under
16 AS 21.75.

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

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

20 (2) only secures and forwards information required for the purposes of group
21 insurance covering the unpaid balance, or remaining payments proposed to be made, in
22 connection with the purchase of merchandise or services, if the person receives no compensation,
23 directly or indirectly, arising out of or in any way relating to the insurance transactions; or

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

27 (A) furnish premium estimates from published or printed lists of standard
28 rates if the person does not advise, counsel, or suggest what coverage may be needed, or
29 otherwise solicit insurance coverage;

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

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

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

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

(k) In addition to the business activities expressly exempt from licensing under this section, the director may adopt regulations that exempt other activities from the licensing requirements of this section.

* Sec. 51. AS 21.27.020 is amended to read:

Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the director may not issue or renew a license except in compliance with this chapter and may not issue a license to a person, or to be exercised by a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under this chapter.

* Sec. 52. AS 21.27.020 is amended by adding new subsections to read:

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

(1) be 19 years of age or older with a high school or General Education Development diploma or equivalent;

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

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

(4) be a trustworthy person;

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

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

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

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

7 (2) have the principal or manager licensed as an individual in the firm;

8 (3) if a corporation or partnership,

9 (A) maintain a lawfully established place of business in this state, except
10 when licensed as a nonresident as provided in AS 21.27.270;

11 (B) disclose to the director all officers, directors, or partners, and whether
12 or not they are licensed;

13 (C) designate a licensed officer or partner responsible for the firm's
14 compliance with the insurance statutes and regulations of this state; and

15 (D) provide to the director documents necessary to verify the information
16 contained in or made in connection with the application;

17 (4) notify the director within 30 days in writing by certified mail of a change in
18 a principal or manager of the firm or the termination of employment of an individual in the firm
19 licensee.

20 (d) If the director finds that the applicant or licensee is qualified and that application,
21 license, or renewal fees have been paid, the director may issue or renew the license.

22 (e) A licensed individual in the firm who changes employers remains licensed under this
23 chapter pending the issuance of a new license if the licensee otherwise meets the requirements
24 of this chapter.

25 * Sec. 53. AS 21.27 is amended by adding a new section to read:

26 Sec. 21.27.025. REQUIRED NOTICE BY LICENSEE. (a) A licensee shall notify the
27 director within 30 days in writing by certified mail of a change in residence, employment that
28 is licensed under this chapter, place of business, mailing address, or phone number; a suspension
29 or revocation of a license by another state or jurisdiction; or a conviction of a misdemeanor or
30 felony.

31 (b) A principal or manager shall notify the director in writing within 30 days of a

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1 termination of employment of a licensed individual in the firm. Notice required under this
2 subsection must include the licensee's name; the firm's name and address; the date of hire, self-
3 employment, or termination; and other information required by the director.

4 (c) In addition to any other penalty provided by law, a failure to notify the director as
5 required by this section is cause for denial, nonrenewal, suspension, or revocation of a license.

6 * Sec. 54. AS 21.27.030(a) is repealed and reenacted to read:

7 (a) The director may not issue an insurance producer, a managing general agent, or a
8 surplus lines broker license to a person if the director has reasonable cause to believe that the
9 applicant for the license would, during the 12-month period immediately following issuance of
10 the license, earn or receive an aggregate amount in commission, service fees, brokerage, or other
11 valuable consideration, directly or indirectly, by whatever name called, represented by the
12 controlled business that exceeds 50 percent of the aggregate amount of compensation,
13 commission, service fees, brokerage, or other valuable consideration represented by all other
14 insurance business that would be procured by or through the applicant.

15 * Sec. 55. AS 21.27.030(c) is repealed and reenacted to read:

16 (c) A licensee may not earn or receive an aggregate amount in commission, service fees,
17 brokerage, or other valuable consideration, directly or indirectly, by whatever name called,
18 represented by the controlled business that exceeds 50 percent of the aggregate amount in
19 compensation, commission, service fees, brokerage, or other valuable consideration represented
20 by all other insurance business in a calendar year.

21 * Sec. 56. AS 21.27.030 is amended by adding a new subsection to read:

22 (e) In addition to any other penalty provided by law, a person who violates this section
23 is subject to the penalties provided under AS 21.27.440.

24 * Sec. 57. AS 21.27.040(a) is amended to read:

25 (a) Application for a license shall be made to the director upon forms prescribed [AND
26 FURNISHED] by the director. As a part of or in connection with the application, the applicant
27 shall furnish information concerning the identity, personal history, experience, business record,
28 purposes of the applicant [,] and other pertinent facts concerning the applicant that the director
29 may reasonably require. The applicant shall declare under penalty of denial, nonrenewal,
30 suspension, or revocation of a license issued by the director that the statements made in or
31 in connection with the application are true, correct, and complete to the best of the

1 applicant's knowledge and belief. Payment of an application fee established under
2 AS 21.06.250 must be submitted with the application.

3 * Sec. 58. AS 21.27.040(c) is amended to read:

4 (c) In addition to any other penalty provided by law, a [A] person wilfully
5 misrepresenting a fact required to be disclosed in or in connection with the application or other
6 information required by this section is subject to the penalties provided for under
7 AS 21.27.440 [IN THIS TITLE].

8 * Sec. 59. AS 21.27.040 is amended by adding a new subsection to read:

9 (d) The director may require an applicant or licensee at any time, including at the time
10 of license renewal, to supply current information of the type made in or supplemental to an
11 application.

12 * Sec. 60. AS 21.27.060 is repealed and reenacted to read:

13 Sec. 21.27.060. EXAMINATION OF APPLICANTS AND LICENSEES. (a) Except as
14 provided in this chapter, an applicant for an individual license and a principal or manager
15 applicant for a firm license shall, before the issuance of the license, personally take and pass, to
16 the satisfaction of the director, an examination that tests the knowledge and competence of the
17 applicant as to the applicant's duties and responsibilities as a licensee and the insurance laws and
18 regulations of the state.

19 (b) If the director determines that a licensee has violated this title or that a licensee has
20 conducted affairs under the license that cause the director reasonably to desire further evidence
21 of the qualifications of the licensee, the director may at any time require the licensee to
22 personally take and pass, to the satisfaction of the director, an examination that tests the
23 knowledge and competence of the licensee as to the licensee's duties and responsibilities as a
24 licensee, or the insurance laws of the state.

25 (c) An applicant who files a current letter of clearance from a prior state of residence
26 certifying that the applicant was in good standing and has held a license in that state that had the
27 same qualifications as the license applied for in this state, including passing an examination, shall
28 personally take and pass, to the satisfaction of the director, an examination pertaining to this
29 state's statutes and regulations and any kind or class of insurance not covered under the license
30 held in the prior state of residence, provided the filing of the letter of clearance is made within
31 180 days of cancellation of the prior state's resident license.

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- 1 (d) This section does not apply to an applicant
2 (1) for a limited license under AS 21.27.150;
3 (2) who, at any time within the two-year period immediately preceding the date
4 the current pending application is received by the division, had been licensed in good standing
5 in this state under a license requiring substantially similar qualifications as required by the license
6 applied for; or
7 (3) whose license in the resident jurisdiction requires the same qualifications as
8 the license applied for in this state if the license in all jurisdictions is in good standing.

9 (e) The director may make available a printed manual specifying in general terms the
10 subjects that may be covered in an examination for a particular license.

11 * Sec. 61. AS 21.27.060(c) is repealed and reenacted to read:

12 (c) An applicant who files a current letter of clearance from a prior state of residence
13 certifying that the applicant was in good standing and has held a license in that state that had the
14 same qualifications as the license applied for in this state, including passing an examination, shall
15 personally take and pass, to the satisfaction of the director, an examination pertaining to this
16 state's statutes and regulations and any kind or class of insurance not covered under the license
17 held in the prior state of residence, provided the filing of the letter of clearance is made within
18 180 days of cancellation of the prior state's resident license. This subsection only applies if the
19 prior resident state is accredited by the National Association of Insurance Commissioners.

20 * Sec. 62. AS 21.27.060(d) is repealed and reenacted to read:

- 21 (d) This section does not apply to an applicant
22 (1) for a limited license under AS 21.27.150;
23 (2) who, at any time within the two-year period immediately preceding the date
24 the current pending application is received by the division, had been licensed in good standing
25 in this state under a license requiring substantially similar qualifications as required by the license
26 applied for; or
27 (3) whose license in the resident jurisdiction requires the same qualifications as
28 the license applied for in this state if the license in all jurisdictions is in good standing and its
29 resident jurisdiction is accredited by the National Association of Insurance Commissioners.

30 * Sec. 63. AS 21.27.080(b) is amended to read

- 31 (b) The director shall give examinations at the times and places [WITHIN THIS STATE]

1 that the director considers necessary to reasonably serve the convenience of [BOTH] the director,
2 [AND] applicants, and licensees.

3 * Sec. 64. AS 21.27.100 is repealed and reenacted to read:

4 Sec. 21.27.100. APPOINTMENT OF INSURANCE PRODUCER, MANAGING
5 GENERAL AGENT, AND REINSURANCE INTERMEDIARY MANAGER. (a) On forms
6 prescribed by the director, an appointment shall be filed with the director at least 10 days before
7 its proposed effective date by the following licensees:

8 (1) an admitted insurer appointing a managing general agent in this state or
9 relative to a subject resident, located, or to be performed in this state;

10 (2) a managing general agent appointing an insurance producer as its subagent
11 in this state or relative to subjects resident, located, or to be performed in this state;

12 (3) a domestic reinsurer appointing a reinsurance intermediary manager; and

13 (4) a reinsurance intermediary manager appointing an insurance producer as its
14 subagent in this state.

15 (b) On forms prescribed by the director, an admitted insurer appointing an insurance
16 producer as its agent in this state or relative to a subject resident, located, or to be performed in
17 this state shall file written notice of appointment not later than 30 days from the date the written
18 agency contract is executed or the first insurance application is submitted to the admitted insurer
19 by the licensed insurance producer. If the licensed insurance producer has not received written
20 acknowledgement of the appointment from the director within 45 days from the date the written
21 agency contract is executed or the first insurance application is submitted to the admitted insurer
22 by the insurance producer, whichever is later, the insurance producer shall immediately
23 discontinue acting as an insurance producer on behalf of the insurer until an acknowledgement
24 has been received.

25 (c) If the appointee is licensed, the director shall provide written acknowledgement of
26 the appointment, including the effective date to the person making the appointment, to the
27 appointee, and to the insurer or reinsurer.

28 (d) The person making the appointment, the appointee, and the insurer shall review the
29 acknowledgement for accuracy and advise the director of an error within 30 days for correction.

30 * Sec. 65. AS 21.27.110 is repealed and reenacted to read:

31 Sec. 21.27.110. TERM OF APPOINTMENT. (a) An appointment under AS 21.27.100

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1 continues in force until the appointment is terminated

2 (1) by the insurer, reinsurer, managing general agent as authorized by the insurer,
3 or reinsurance intermediary manager as authorized by the reinsurer; a written notice of
4 termination shall be mailed at least 10 days before the effective date of the termination to the last
5 known address of the appointee and to the director by first class certified mail, first class
6 registered mail, or first class with a certificate of mailing from the United States Postal Service;
7 or

8 (2) by the director; a written notice of termination shall be mailed at least 10 days
9 before the effective date of the termination by first class certified mail to the last address of
10 record with the director of the appointee and insurer, reinsurer, managing general agent, or
11 reinsurance intermediary.

12 (b) A notice of termination submitted to the director under (a) of this section must
13 include a statement of the reasons for the termination. A statement of the reasons for termination
14 is privileged and may not be admitted as evidence in an action or proceeding against the insurer,
15 reinsurer, managing general agent, or reinsurance intermediary or their representatives by or on
16 behalf of a person affected by the termination, except in an action involving perjury, false
17 statement, fraud, or failure to comply with this subsection.

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

24 * Sec. 66. AS 21.27.130 is amended to read:

25 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license [AGENT,
26 GENERAL AGENT, ADJUSTER, SOLICITOR, AND BROKER LICENSES] must be in the
27 form the director prescribes [,] and must set out

28 (1) the name and mailing address of the licensee, and [OR] if the licensee is
29 required to have a place of business, the physical address of the place of business;

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

31 (3) the kind or class [KINDS] of insurance the licensee is licensed to handle;

1 (4) the effective date and expiration date of the license [IF A SOLICITOR'S
2 LICENSE, THE NAME AND ADDRESS OF THE AGENT OR BROKER REPRESENTED BY
3 THE SOLICITOR];

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

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

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

7 and

8 (8) other information required by the director.

9 * Sec. 67. AS 21.27.140 is repealed and reenacted to read:

10 Sec. 21.27.140. FIRM LICENSES. (a) A firm shall have a firm license of the same
11 scope as each individual employee of the firm.

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

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

23 * Sec. 68. AS 21.27.150 is repealed and reenacted to read:

24 Sec. 21.27.150. LIMITED LICENSES. The director may issue a

25 (1) travel insurance limited producer license to a person whose place of business
26 is located in this state, who sells transportation tickets of a common carrier of persons or
27 property, who is appointed under AS 21.27.100, and whose sole purpose is to be appointed by
28 and to act as an agent for transportation ticket policies of disability insurance, baggage insurance
29 on personal effects, and trip cancellation or trip interruption insurance;

30 (2) disability insurance limited producer license to a resident of this state whose
31 sole purpose is to be appointed by and act as an agent for disability insurance pertaining to sports

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1 and recreation;

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

5 (4) bail bond limited producer license to a person whose place of business is
6 located in this state and whose sole purpose is to be appointed by and act on behalf of a surety
7 insurer pertaining to bail bonds;

8 (5) fraternal benefit society limited producer license to a person whose sole
9 purpose is to be appointed by and to act on behalf of a fraternal benefit society licensed under
10 AS 21.84;

11 (6) retired insurance producer license to a resident who is retired or retiring from
12 the business of insurance and surrenders all in-force licenses to allow the person to receive a
13 continuing commission in regard to insurance transacted before retirement; a retired insurance
14 producer licensee may not solicit, induce, negotiate, or effectuate contracts of insurance; the
15 director may renew a retired insurance producer license if the licensee ceases to be a resident of
16 this state;

17 (7) the director may waive the bond required under AS 21.27.530(5) for a person
18 licensed under this section.

19 * Sec. 69. AS 21.27.160 is repealed and reenacted to read:

20 Sec. 21.27.160. SCOPE OF LICENSES. An insurance producer, managing general
21 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker,
22 or independent adjuster is only required to have one license inclusive of all kinds or combination
23 of kinds or all classes or combination of classes of insurance the insurance producer, managing
24 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
25 broker, or independent adjuster is licensed to handle.

26 * Sec. 70. AS 21.27.170 is amended to read:

27 Sec. 21.27.170. INSURANCE VENDING MACHINES LICENSE. (a) A licensed
28 insurance producer that has a place of business in this state [RESIDENT AGENT] may
29 solicit applications for and issue policies on behalf of an admitted insurer providing [OF]
30 personal travel accident insurance by means of a mechanical vending machine supervised by the
31 licensed insurance producer [AGENT] and placed at airports, railroad stations, bus stations, and

1 similar places where transportation tickets are sold as a convenience to the traveling public, if
2 the director finds that

3 (1) the policy to be sold provides reasonable coverage and benefits, is reasonably
4 suited for sale and issuance through vending machines, and that use of a machine in a particular
5 proposed location would be of material convenience to the public;

6 (2) the type of vending machine proposed to be used is reasonably suitable and
7 practical for the purpose;

8 (3) reasonable means are provided for informing the prospective purchaser of the
9 policy of the coverage and restrictions of the policy;

10 (4) reasonable means are provided for refund to the applicant or prospective
11 applicant of money inserted in defective machines and for which no insurance, or a less amount
12 than that paid for is actually received.

13 (b) The director shall issue to the licensed insurance producer [AGENT] a special
14 vending machine license for each machine to be used. The license must specify the name and
15 mailing address of the insurer and insurance producer [AGENT], the name of the policy to be
16 sold, the serial number of the machine, and the physical location [PLACE] where the machine
17 is to be in operation. The special vending machine license is subject to nonrenewal,
18 suspension, or revocation coincidentally with that of the insurance producer [AGENT]. The
19 director shall also revoke the license on a machine if the director finds that the conditions upon
20 which the machine was licensed, under (a) of this section, no longer exist. Proof of the existence
21 of a license shall be displayed on or about each vending machine in use in the manner the
22 director may [REASONABLY] require.

23 * Sec. 71. AS 21.27.190 is repealed and reenacted to read:

24 Sec. 21.27.190. BOND. (a) In addition to any other requirements in this title, a bond
25 required under this title or an alternative indemnity permitted under this section shall meet the
26 following requirements:

27 (1) it shall be continuous in form;

28 (2) it shall remain in force until the licensee is released from liability by the
29 director or until cancelled by the issuer;

30 (3) without prejudice to any liability accrued before the effective cancellation, it
31 may be cancelled if the director receives 60 days advance written notice;

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(4) the amount required to be maintained must be maintained unimpaired; and

(5) it shall be in favor of insurers, insureds, and this state.

(b) A bond may only be issued by an admitted insurer authorized to transact surety insurance in this state, or by a surplus lines insurer on the most recent list of eligible surplus lines insurers published by the director, that is acceptable to the director.

(c) For a firm licensee, a single bond or an alternative indemnity permitted under this section may combine the sureties required

(1) by separate sections of this title; and

(2) for separate places of business.

(d) An individual in the firm who acts solely on behalf of a firm that has and maintains a bond or an alternative permitted under this section may not be required to also have and maintain a bond if the individual in the firm deposits all money into the firm's fiduciary account.

(e) Except as provided in this title, the director may adopt, by regulation, a deposit of cash, a certificate of deposit, or letter of credit as an alternative to a bond if the deposit of cash, certificate of deposit, or letter of credit meets the requirements of this section, other provisions of this title, and other requirements established by the director.

* Sec. 72. AS 21.27.270(a) is amended to read:

(a) The director may license as a nonresident licensee [INSURANCE AGENT, GENERAL AGENT, BROKER, OR ADJUSTER] a person who otherwise qualifies under this title, but who is not a resident of [OR DOMICILED IN] the state.

* Sec. 73. AS 21.27.270(c) is repealed and reenacted to read:

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

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

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

* Sec. 74. AS 21.27.270 is amended by adding new subsections to read:

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

5 (e) Upon receiving a service of process, the director shall immediately send one of the
6 copies of the process by certified mail with return receipt requested to the licensed or formerly
7 licensed nonresident licensee at the last address of record filed with the director.

8 (f) If, under the law of another state or foreign country, a tax, license, fee, fine, penalty,
9 deposit requirement or other material obligation, prohibition or restriction is or may be imposed
10 upon a licensee of this state that is in excess of the tax, license, fee, fine, penalty, deposit
11 requirement or other material obligation, prohibition or restriction directly imposed upon a similar
12 licensee of another state or country under the statutes of this state, the same tax, license, fee, fine,
13 penalty, deposit requirement or other material obligation, prohibition or restriction may, in the
14 discretion of the director, be imposed by the director upon the licensee of the other state or
15 country transacting or seeking to transact business in this state or relative to a subject resident,
16 located, or to be performed in this state. For the purposes of this section, a tax, license, fee, or
17 other obligation imposed by a city, borough, or other political subdivision or agency or another
18 state or country on a licensee of this state shall be considered imposed by the state or country.

19 * Sec. 75. AS 21.27.330 is repealed and reenacted to read:

20 Sec. 21.27.330. PLACE OF BUSINESS. A licensed insurance producer, managing
21 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
22 broker, and independent adjuster, other than those licensed for life or disability insurance or
23 annuity only, shall have and maintain a place of business physically accessible to the public
24 where the licensee principally conducts transactions under the license in this state, or if a
25 nonresident licensee, in the state of residence. The address of the place of business must appear
26 on each license, and the licensee shall within 30 days notify the director in writing by certified
27 mail of a change of address or place of business. If the licensee maintains more than one place
28 of business, the licensee shall obtain a separate license for each place of business and pay a
29 license fee for each license.

30 * Sec. 76. AS 21.27.340 is repealed and reenacted to read:

31 Sec. 21.27.340. PUBLIC DISPLAY OF LICENSE. The license of a licensee other than

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1 a licensee whose license has a scope of only life or disability insurance or annuity shall be
2 conspicuously displayed in that part of the place of business that is customarily open to the
3 public.

4 * Sec. 77. AS 21.27.350 is repealed and reenacted to read:

5 Sec. 21.27.350. RECORDS OF LICENSEES. (a) A licensee shall document each action
6 taken in regard to an insurance transaction. The documentation must contain all notes, work
7 papers, documents, and similar material, and be in sufficient detail that relevant events, the dates
8 of those events, and all persons participating in those events can be identified. The
9 documentation must include a record of each insurance contract procured, issued, or
10 countersigned, together with the names of the insurers and insureds, the amount of premium paid
11 or to be paid, and a statement of the subject of the insurance; the names of other licensees from
12 whom business is accepted, and of persons to whom commissions or allowances are promised
13 or paid; and a record of each investigation or adjustment undertaken or consummated, and a
14 statement of the fee, commission, or other compensation received or to be received on account
15 of the investigation or adjustment.

16 (b) A licensee shall keep at the licensee's place of business or at the place of business
17 of an admitted insurer a complete record of transactions under the license. An admitted insurer
18 shall maintain records received from a licensee as required by this section.

19 (c) The records of a particular transaction shall be retained and kept open for examination
20 and inspection by the director at any business time during the five years immediately after the
21 date of the completion of the transaction or 10 years for reinsurance transactions, unless the
22 director orders a longer period of retention. If a licensee assumes the business of another
23 licensee or former licensee by merger, purchase, or otherwise, the principal or manager of the
24 assuming licensee firm shall provide to the director in writing each location where the assumed
25 licensee's records are maintained by the assuming licensee during the period in which the records
26 must be kept available and open to the inspection of the director. A formerly licensed person
27 shall provide to the director in writing each location where records shall be maintained during
28 the period in which the records of a particular transaction must be kept available and open to the
29 examination and inspection of the director. A formerly licensed person may, with the permission
30 of the director, arrange to have a current licensee or the home office of the last known insurer
31 of each policyholder, maintain the records open to the examination and inspection of the director

1 during the period in which the records must be maintained.

2 (d) In addition to the record required under (a) of this section, a licensee shall have and
3 maintain at the licensee's principal place of business current accounting and financial records
4 maintained under generally accepted accounting principles.

5 (e) A licensee shall reply in writing within 10 working days to a records inquiry of the
6 director. The director may inspect or request summary or detailed copies of records for
7 examination by the division. Accounting and financial records inspected or examined under this
8 section are confidential when in the possession of the division, but may be used by the director
9 in a proceeding against the licensee. For purposes of this section, the records of a firm shall
10 include and be considered the records of an individual licensee acting on behalf of the firm.

11 * Sec. 78. AS 21.27.360(b) is amended to read:

12 (b) All money, except that made payable to the insurer, representing premium taxes
13 and fees, premiums or return premiums received by the licensee, shall be received in the
14 fiduciary account of the licensee [AND SHALL BE DEPOSITED IN A BANK ACCOUNT OR
15 DEPOSITORY SEPARATE FROM ANY OTHER ACCOUNT OR DEPOSITORY,] and shall
16 be promptly accounted for and paid to the person [INSURED, INSURER, OR AGENT] entitled
17 to the money. For purposes of this section [SUBSECTION], the fiduciary account of the firm
18 shall be considered the fiduciary account of an individual licensee acting on behalf of the firm
19 and shall be the responsibility of the firm. Money deposited into a fiduciary account may not
20 be commingled or otherwise combined with other money, except as allowed under (d) of this
21 section and AS 21.27.365.

22 * Sec. 79. AS 21.27.360(c) is repealed and reenacted to read:

23 (c) In addition to any other penalty provided by law, a person who the director has
24 determined has acted to divert or appropriate fiduciary account money for personal use shall be
25 ordered to make restitution and shall be subject to suspension or revocation under AS 21.27.420 -
26 21.27.435 of all licenses and a civil penalty not to exceed \$50,000 for each violation.

27 * Sec. 80. AS 21.27.360(d) is amended to read:

28 (d) A licensee may only commingle premium taxes and fees, premiums, and return
29 premiums with [PREMIUM MONEY,] additional money for the purpose of advancing
30 premiums, establishing reserves for the payment of return premiums, or reserves for receiving
31 and transmitting premium or return premium money. Money collected for the payment of

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1 premium taxes, policy or filing fees, late payment charges, and interest from fiduciary money on
2 deposit, may be commingled in a fiduciary account, but shall be separately accounted for and
3 periodically removed from the fiduciary account.

4 * Sec. 81. AS 21.27.360(e) is amended to read:

5 (e) A licensee may not treat money required to be in a fiduciary account as a personal
6 asset, as collateral for a personal or business loan, or as a personal asset or income on a financial
7 statement, except that money in a fiduciary account may be included in a financial statement of
8 the licensee if clearly identified as fiduciary account assets and liabilities.

9 * Sec. 82. AS 21.27.360(f) is repealed and reenacted to read:

10 (f) This section does not apply to an individual in the firm who acts solely on behalf of
11 a firm that maintains compliance with this section and deposits all money into the firm's
12 fiduciary account.

13 * Sec. 83. AS 21.27 is amended by adding a new section to read:

14 Sec. 21.27.365. DEPOSIT OR SURETY BOND IN PLACE OF FIDUCIARY
15 ACCOUNT. (a) Instead of maintaining a separate fiduciary account for premium trust funds,
16 a licensed firm, eligible under (c) of this section, may apply in writing to the director for
17 permission to maintain, while licensed or thereafter as the director may require, the deposit or
18 surety bond described in (b) of this section.

19 (b) A deposit in a financial institution as defined by regulation or a surety bond executed
20 by an authorized insurer acceptable to the director shall be maintained in an amount not less than
21 10 percent of the eligible licensee's prior year's gross written premium on insurance in this state
22 or relative to a risk resident, located, or to be performed in this state, and in trust in favor of the
23 director for the protection of an insurer, insured, and this state.

24 (c) To become and to remain eligible under this section, a licensed firm shall

25 (1) have been licensed in good standing in this state for the last two calendar
26 years;

27 (2) file with the director with its application, and by June 1 of each subsequent
28 year

29 (A) a premium report certified by an independent certified public
30 accountant licensed in this state, of the prior two calendar year's gross written premiums
31 on insurance in this state or relative to a risk resident, located, or to be performed in this

1 state; this report may include all places of business of the firm; and

2 (B) a report that certifies that the licensee's system of accounting, internal
3 control, and procedure is operating effectively to provide reasonable assurance that
4 premium taxes and fees, premiums, and return premiums are promptly accounted for and
5 paid to the person entitled to the money;

6 (3) be current in paying this state's taxes and fees; and

7 (4) satisfy additional requirements that the director may establish by regulation.

8 (d) Deposits under (b) of this section shall be administered under the procedures
9 described in AS 21.24.030 - 21.24.090 and 21.24.120 - 21.24.130, as if the licensee were the
10 insurer. Income from the deposit is the property of the firm making the deposit.

11 (e) If the director approves a licensee's application, the licensee as a fiduciary shall
12 account for premium taxes and fees, premiums, and return premiums received and promptly pay
13 the money to the person entitled to its receipt. The director may exempt the licensee from trust
14 accounting requirements established by regulation.

15 * Sec. 84. AS 21.27.370 is repealed and reenacted to read:

16 Sec. 21.27.370. SHARING COMPENSATION. (a) A licensee may not compensate or
17 offer to compensate a person, other than an insurance producer, managing general agent,
18 reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker,
19 licensed by this state who is acting within the scope of their license, for procuring or in any
20 manner helping to procure applications for insurance or to place insurance in this state or relative
21 to a risk resident, located, or to be performed in this state. Nothing in this subsection prohibits
22 the payment of compensation to a regular employee of an insurance producer or managing
23 general agent by the employing licensee that is not contingent upon the volume of business
24 transacted.

25 (b) A licensee may not be promised or paid, directly or indirectly, compensation for
26 procuring an application or for placing a kind or class of insurance for which the licensee is not
27 then licensed to procure or place or for insurance that the licensee is prohibited by this title from
28 procuring or placing.

29 (c) In addition to any other penalty provided by law, the director may suspend or revoke
30 the license of an individual licensee and a firm licensee participating in a violation of this
31 section. The director may order a licensee who violates this section to pay a penalty of not more

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1 than three times the compensation promised or paid.

2 * Sec. 85. AS 21.27.380 is repealed and reenacted to read:

3 Sec. 21.27.380. LICENSE RENEWAL, LAPSE, AND REINSTATEMENT. (a) Except
4 as provided in this title, the director may renew a license biennially on a date set by the director
5 if the licensee continues to be qualified under this chapter and if renewal license fees set under
6 AS 21.06.250 for each license are received by the director on or before the close of business of
7 the renewal date. A licensee is responsible for knowing the date that a license lapses and for
8 renewing a license before expiration. The director shall mail a renewal notice to the licensee's
9 current address on file with the director 30 days before the renewal date.

10 (b) If a license is not renewed on or before the renewal date set by the director, the
11 license lapses. A licensee may not act as or represent to be an insurance producer, managing
12 general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
13 broker, or independent adjuster during the time a license has lapsed. The director may reinstate
14 a lapsed license if the person continues to qualify for the license, pays renewal license fees, and
15 a delayed renewal penalty. Reinstatement does not exempt a person from a penalty provided
16 by law for transacting business while unlicensed. A license may not be renewed if it has lapsed
17 for two years or longer.

18 (c) If a licensee does not wish to renew a license issued under this chapter, the licensee
19 shall surrender the license to the director on or before the close of business of the renewal date
20 in the manner prescribed in AS 21.27.460.

21 (d) Notice of lapse from the director stating the reason for the lapse shall be mailed to
22 a licensee at the licensee's last address on record with the director. The director shall obtain a
23 certificate of mailing from the United States Postal Service.

24 (e) A trainee license issued to an insurance producer or an independent adjuster shall be
25 for a term not to exceed 12 months and may not be renewed.

26 (f) A two-year trainee license issued to a managing general agent, reinsurance
27 intermediary broker, reinsurance intermediary manager, or surplus lines broker may be renewed
28 only once.

29 * Sec. 86. AS 21.27.390 is repealed and reenacted to read:

30 Sec. 21.27.390. TEMPORARY LICENSE. (a) The director may issue a temporary
31 license only to a person who, except for experience, training, or the taking of an examination,

1 meets all qualifications for a permanent license and if the person is

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

4 (2) the spouse, next of kin, employee, or legal guardian of a licensed insurance
5 producer or managing general agent who is disabled from transacting insurance because of
6 sickness, insanity, or injury;

7 (3) a surviving member, officer, or employee of a firm licensed as insurance
8 producer or managing general agent upon the death of the principal or manager of the firm
9 holding the same licenses as the firm; or

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

13 (b) A temporary license may not be in effect for more than 90 consecutive days, and may
14 not be renewed or reissued for more than one additional 90-day period.

15 (c) A temporary licensee may not be appointed by an insurer for which a licensed
16 insurance producer or managing general agent was not appointed at the time of death or
17 commencement of disability.

18 * Sec. 87. AS 21.27 is amended by adding a new section to read:

19 Sec. 21.27.405. HEARING AND ORDER ON VIOLATION. (a) On the complaint of
20 a person or on the motion of the director, the director may conduct an investigation to determine
21 whether a person has violated this chapter.

22 (b) If the director determines that a person has violated this chapter, the director shall
23 serve an order upon the person charged requiring that person to cease and desist from engaging
24 in the act or practice. Service required under this subsection shall be by mail with a certificate
25 of mailing from the United States Postal Service. A person aggrieved by the cease and desist
26 order may demand a hearing under AS 21.06.170 - 21.06.240.

27 (c) If the director believes that a person has violated a cease and desist order issued
28 under (b) of this section, the director may certify the relevant facts to the superior court for
29 proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in
30 AS 44.62.590, the superior court, upon finding that the cease and desist order has been violated,
31 may order the violator to comply with the order, pay a penalty of not more than \$100,000 for

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1 each violation, revoke or suspend the violator's license, and bar the violator from transacting the
2 business of insurance in the future.

3 * Sec. 88. AS 21.27.410 is repealed and reenacted to read:

4 Sec. 21.27.410. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF
5 LICENSES. (a) The director may deny issuance of or not renew a license, or may suspend or
6 revoke a license issued under this chapter for any of the following:

7 (1) a cause for which issuance of the license or its renewal could have been
8 denied had it then existed and been known to the director;

9 (2) a violation or participation in a violation of a provision of this title;

10 (3) wilful misrepresentation or fraud by the licensee or applicant to obtain or
11 attempt to obtain a license;

12 (4) misappropriation, conversion to personal use, or illegally withholding money
13 required to be held in a fiduciary capacity by a licensee or applicant;

14 (5) with intent to deceive, material misrepresentation of the terms or effect of an
15 insurance contract by a licensee or applicant;

16 (6) twisting in violation of AS 21.36.050 or rebating in violation of AS 21.36.100
17 by a licensee or applicant;

18 (7) conviction of a felony;

19 (8) the conduct of affairs under a license if the licensee exhibits conduct
20 considered by the director to reflect incompetence or untrustworthiness, or to be a source of
21 potential injury and loss to the public;

22 (9) the licensee or applicant dealing with, or attempting to deal with, or to
23 exercise a power relative to, insurance outside the scope of the license of the licensee or
24 applicant;

25 (10) failure to surrender a license as required by this chapter, or revocation of a
26 license within the 12 months preceding the date a new application is received;

27 (11) failure to pass an examination required under this chapter;

28 (12) cheating on an examination required under this title;

29 (13) a licensee or applicant engaging in or about to engage in an unfair or
30 fraudulent insurance transaction;

31 (14) suspension or revocation of a license in another jurisdiction;

1 (15) forgery of another's name to an application for insurance by a licensee or
2 applicant;

3 (16) accepting insurance business from a person not licensed as required by this
4 title if the applicant or licensee knew or should have known that the person was unlicensed.

5 (b) The license of a firm and its principal or manager may be denied, nonrenewed,
6 suspended, or revoked for a violation or cause that relates to a person representing or acting on
7 behalf of the firm.

8 * Sec. 89. AS 21.27.420 is repealed and reenacted to read:

9 Sec. 21.27.420. PROCEDURE FOR SUSPENDING, REVOKING, OR CONDITIONING
10 A LICENSE. (a) After a hearing under AS 21.06.170 - 21.06.240, if the director determines that
11 a person has violated a provision of this title and that the person's license should be suspended
12 or revoked, the director shall issue an order effective 10 days after the date of issuing that the
13 license is suspended or revoked.

14 (b) After a hearing under AS 21.06.170 - 21.06.240, if the director determines the person
15 has violated a provision of this title, the director may place conditions on a person's license if
16 the director finds that the conditions will protect the public from injury or potential injury.

17 * Sec. 90. AS 21.27.430 is repealed and reenacted to read:

18 Sec. 21.27.430. SUSPENSIONS AND REVOCATIONS. (a) An order suspending a
19 license shall specify the period during which the license is suspended. A period of suspension
20 may not exceed 12 months.

21 (b) An order revoking a license shall specify the period during which the person may not
22 seek to be licensed in this state or licensed relative to a subject resident, located, or to be
23 performed in this state.

24 (c) In addition to any other penalty provided by law, a person whose license has been
25 suspended or revoked shall pay a penalty equal to all or a portion of the compensation received
26 during the suspension or revocation relating to the transaction of insurance.

27 * Sec. 91. AS 21.27.440 is repealed and reenacted to read:

28 Sec. 21.27.440. PENALTIES. (a) In addition to any other penalty provided by law, a
29 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
30 of this chapter is subject to

31 (1) a civil penalty equal to the compensation promised, paid, or to be paid,

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1 directly or indirectly, to a licensee in regard to each violation;

2 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
3 penalty of not more than \$25,000 for each violation if the director determines that the person
4 willfully violated the provisions of this chapter; and

5 (3) denial, nonrenewal, suspension, or revocation of a license.

6 (b) An order issued by the director that levies a civil penalty shall specify the time period
7 within which the civil penalty must be fully paid. The period may not be less than 15 days or
8 more than one year after the date of the order. Upon failure to pay a civil penalty when due, the
9 director shall revoke, without further hearing, all licenses of the licensee not already revoked.

10 * Sec. 92. AS 21.27.460(a) is amended to read:

11 (a) A license issued under this chapter is the property of the state. Within 10 days of
12 an order or notice of nonrenewal [UPON THE TERMINATION], suspension, or revocation
13 of the license, the licensee or other person having possession or custody of the license shall
14 [IMMEDIATELY] deliver it to the director either personally or by certified mail.

15 * Sec. 93. AS 21.27.460 is amended by adding a new subsection to read:

16 (c) Upon a change in the state of residence, a place of business, a mailing address, or in
17 the principal or manager of a firm, a license subject to the change shall be surrendered to the
18 director within 10 days either personally or by certified mail and the division shall reissue the
19 license reflecting the changes if the licensee continues to satisfy the qualifications under this
20 chapter.

21 * Sec. 94. AS 21.27 is amended by adding new sections to read:

22 ARTICLE 2. INSURANCE PRODUCERS.

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

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

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

30 (3) for a fraternal society limited insurance producer license, shall file with the
31 application a statement by an officer or director of the appointing fraternal society that affirms

1 that the society has satisfied itself that the applicant is trustworthy and competent to act as its
2 insurance agent;

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

7 (5) except for an applicant or licensee who represents to be and acts solely on
8 behalf of admitted insurers as an agent and who does not receive money required to be received
9 in the fiduciary account of the licensee, shall file with the application and maintain in force while
10 licensed a bond in the amount of \$10,000, unless a greater amount is required by another
11 provision of this title.

12 Sec. 21.27.540. TRAINEE INSURANCE PRODUCERS. (a) Except for life, disability,
13 and annuity insurance, a person who has not passed the examinations required under
14 AS 21.27.060 but who otherwise meets the requirements of AS 21.27.530, may be employed by
15 a licensed insurance producer as a trainee insurance producer.

16 (b) Before a trainee may transact insurance, the licensed insurance producer employing
17 the trainee insurance producer shall submit to the director the application of the trainee insurance
18 producer, with the fee set under AS 21.06.250, and receive the trainee insurance producer license.

19 (c) The director shall terminate a trainee insurance producer license unless the individual
20 has

21 (1) not later than four months after the effective date of the trainee insurance
22 producer license, complied with the insurance producer licensing requirements of AS 21.27.060
23 concerning the insurance laws and regulations of this state; and

24 (2) within eight months after the effective date of the trainee insurance producer
25 license, complied with the insurance producer licensing requirements of AS 21.27.060 concerning
26 the knowledge and competence of the licensee and the licensee's duties and responsibilities as
27 a licensee.

28 (d) Upon satisfying the requirements of (c) of this section, a trainee insurance producer
29 shall apply within 30 days for an insurance producer license.

30 (e) A licensed trainee insurance producer

31 (1) shall at all times be working at the direction and under the supervision of the

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1 employing licensed insurance producer; file and record documentation must reflect the direction
2 and supervision, and activities must be in the name of the employing licensed insurance producer,
3 who is responsible for all actions of the trainee insurance producer;

4 (2) is restricted to assisting the employing licensed insurance producer to prepare
5 applications; binders; certificates of insurance; schedules of equipment, vehicles, drivers; loss
6 notices to insurers; and invoices; and to performing clerical functions for which a license is not
7 required; file and record documentation must reflect compliance with these restrictions;

8 (3) may not transact business away from the place of business with clients or
9 insurers unless a licensed insurance producer physically accompanies the trainee.

10 (f) In addition to any other penalty provided by law, the director shall revoke the trainee
11 license of a trainee insurance producer that the director determines has violated the provisions
12 of this section. A licensee or other person having possession or custody of the license shall
13 immediately surrender the license to the director either personally or by certified mail.

14 (g) In addition to any other penalty provided by law, if the director determines under
15 AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have
16 known that a trainee insurance producer violated this section, the employing licensed insurance
17 producer and firm, principal and manager, if any, are subject to the penalties provided under
18 AS 21.27.440.

19 Sec. 21.27.550. APPOINTMENT OF INSURANCE PRODUCER AS AN AGENT. (a)
20 A person may not act as or represent to be a representative of, authorized or appointed agent of,
21 or other term implying a contractual relationship with a particular admitted insurer, or accept
22 applications on behalf of an admitted insurer, unless the person is licensed as an insurance
23 producer under this chapter and is or becomes an appointed agent of the admitted insurer under
24 AS 21.27.100.

25 (b) An admitted insurer or managing general agent of an admitted insurer may not enter
26 into an agency agreement with an insurance producer unless the managing general agent and the
27 insurance producer are licensed under this chapter, and there is in effect a written agency
28 agreement that specifically sets out the duties, functions, powers, authority, and compensation of
29 all parties to the contract. The written agreement shall be kept in the permanent records of the
30 insurer or managing general agent, if any, and the insurance producer, and be open to inspection
31 by the director.

1 (c) All money collected for the account of an insurer shall be held by the insurance
2 producer in a fiduciary account as described under AS 21.27.360, and the insurance producer
3 shall comply with all applicable fiduciary account statutes and regulations.

4 (d) An agency agreement may not be assigned in whole or in part by the insurance
5 producer.

6 (e) If the agency agreement permits the insurance producer to settle a claim on behalf
7 of the insurer

8 (1) a claim must be reported to the insurer within 30 days;

9 (2) a copy of the claim file shall be sent to the insurer;

10 (3) all insurance claim files shall be the property of the insurer or managing
11 general agent, if any, and insurance producer, but upon an order of liquidation of the insurer, the
12 files shall become the sole property of the insurer or the insurer's estate; the insurance producer
13 shall have reasonable access to and the right to copy the files on a timely basis.

14 (f) An insurance producer is subject to the unfair trade practice and fraud provisions
15 under AS 21.36.

16 (g) The insurance producer may not

17 (1) bind reinsurance or retrocessions on behalf of the insurer;

18 (2) commit the insurer to participate in insurance or reinsurance syndicates;

19 (3) appoint an agent or subagent;

20 (4) jointly employ an individual who is employed by the insurer or by the
21 managing general agent; or

22 (5) delegate insurance producer authority to another person.

23 (h) Except as provided under AS 21.27.560, an agency appointment may not extend,
24 directly or indirectly, to a client for whom the insurance producer is a producing broker or for
25 whom insurance is exported to nonadmitted insurers under AS 21.34.

26 (i) A reinsurance intermediary manager may not enter into an agency agreement with an
27 insurance producer unless both parties are licensed under this chapter, and there is in effect a
28 written agency agreement that specifically sets out the duties, functions, powers, authority, and
29 compensation of all parties to the agreement. The written agreement shall be kept in the
30 permanent records of the reinsurance intermediary manager, the reinsurer, and the insurance
31 producer, and be open to inspection by the director. A written agreement must contain the

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1 following minimum provisions:

2 (1) money collected for the account of a reinsurer must be held by the insurance
3 producer in a fiduciary account as described under AS 21.27.360; the insurance producer shall
4 comply with all applicable fiduciary account statutes and regulations;

5 (2) the agreement may not be assigned in whole or in part by the insurance
6 producer;

7 (3) the agreement may not permit the insurance producer to settle claims on
8 behalf of the reinsurer or reinsurance intermediary manager; and

9 (4) the insurance producer may not

10 (A) jointly employ an individual who is employed with the reinsurer or
11 reinsurance intermediary manager; or

12 (B) delegate insurance producer authority to another person.

13 Sec. 21.27.560. APPOINTMENT OF INSURANCE PRODUCERS AS BROKERS. (a)

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

21 (b) The insurance producer may not knowingly accept payment of a premium for
22 coverage until the coverage has been authorized by the insurer. This subsection does not apply
23 to renewal of existing coverage placed by the insurance producer, or to a premium deposit for
24 the purchase of insurance. A premium deposit shall be returned to the client if coverage is not
25 obtained within 10 working days.

26 (c) An insurance producer appointed as a client's broker may only receive compensation
27 if the compensation is a

28 (1) fee that requires the insurance producer to offset or reimburse the client for
29 the full amount of a commission earned by the insurance producer;

30 (2) combination of a fee paid by a client and a commission paid by an insurer
31 with which coverage is placed that may offset or reimburse a client for all or part of a

1 commission earned by the insurance producer if the amount of the commission is disclosed to
2 the client; or

3 (3) commission paid by an insurer with which coverage has been placed.

4 (d) A contract between a client and an insurance producer may not be assigned in whole
5 or in part by the insurance producer.

6 (e) An insurance producer appointed as a broker by a client may act as an appointed
7 agent of an admitted insurer and may accept an application, bind coverage, and collect a premium
8 from the client on behalf of the admitted insurer.

9 (f) A controlling insurance producer may not be appointed as a broker by a client in this
10 state or relative to a subject resident, located, or to be performed in this state unless, in a form
11 acceptable to the director, the controlling insurance producer has disclosed in writing to the client
12 the relationship between the controlling insurance producer and the controlled insurer, each client
13 has acknowledged receipt of the disclosure, and a copy of the acknowledged disclosure is
14 maintained by the controlling insurance producer in its records. The records shall be available
15 for inspection by the director.

16 (g) Money paid by a client to an insurance producer for insurance premiums shall be held
17 by the insurance producer in a fiduciary account as described under AS 21.27.360, and the
18 insurance producer shall comply with applicable fiduciary account statutes and regulations.

19 (h) An insured shall be entitled to coverage or a return premium and the premium shall
20 be considered received by the insurer if the premium payment made to the insurance producer
21 was, at the time made, designated for specific coverage, and the insurer accepted or
22 acknowledged coverage by issuing a policy binder or other evidence of temporary insurance, or
23 the insurance producer received information from the insurer in the normal course of business
24 that the insurance had been granted.

25 (i) Except as provided under (c) and (e) of this section, this section does not alter the
26 common law of agency as applied to transactions under this title.

27 Sec. 21.27.570. OPERATING REQUIREMENTS FOR CONTROLLING INSURANCE
28 PRODUCERS. (a) If the aggregate amount of gross written premium on business placed by a
29 controlling insurance producer exceeds five percent of the admitted assets of the controlled
30 insurer for a calendar year as reported in the insurer's most recent financial statement filed with
31 the director, the controlling insurance producer may not place business with the controlled insurer

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1 and the controlled insurer may not accept business from the controlling insurance producer unless
2 a written contract is in effect between the parties that

3 (1) establishes the responsibilities of each party, indicates each party's share of
4 responsibility for each particular function, and specifies the division of responsibilities;

5 (2) has been approved by the board of directors of the controlled insurer;

6 (3) contains the following minimum provisions:

7 (A) the controlled insurer may terminate the contract for cause upon
8 written notice sent by certified mail to the controlling producer and shall suspend the
9 authority of the controlling insurance producer to write business during a dispute
10 regarding the cause for termination;

11 (B) the controlling insurance producer shall render accounts to the
12 controlled insurer detailing all transactions including information necessary to support
13 compensation, commissions, charges, and other fees received by, or owing to, the
14 controlling producer;

15 (C) the controlling insurance producer shall remit money due under the
16 contract to the controlled insurer at least monthly;

17 (D) premiums or installments collected shall be due not later than 90 days
18 after the effective date of coverage placed with the controlled insurer;

19 (E) money collected for the account of a controlled insurer shall be held
20 by the controlling insurance producer in a fiduciary account as described under
21 AS 21.27.360, except a controlling insurance producer not required to be licensed under
22 this chapter shall maintain its fiduciary account in compliance with the requirements of
23 its domiciliary jurisdiction;

24 (F) a licensed controlling insurance producer shall comply with all
25 applicable fiduciary account statutes and regulations;

26 (G) a fiduciary account must be used for all payments on behalf of the
27 controlled insurer;

28 (H) the controlling insurance producer shall maintain separate records for
29 each controlled insurer in a form usable by the controlled insurer; the controlled insurer
30 or its authorized representative shall have the right to audit and the right to copy all
31 accounts and records related to the controlled insurer's business; the director, in addition

1 to authority granted in this title, shall have access to all books, bank accounts, and records
2 of the controlling insurance producer in a form usable to the director;

3 (I) the contract may not be assigned in whole or in part by the controlling
4 insurance producer;

5 (J) the controlled insurer shall provide, and the controlling producer shall
6 follow, written underwriting standards, rules, procedures, and manuals that must include
7 the conditions for acceptance or rejection of risks, including types of risks that may be
8 written, maximum limits of liability, applicable exclusions, territorial limitations, policy
9 cancellation provisions, the maximum policy term, the rating system, and basis of the
10 rates to be charged;

11 (K) the underwriting standards, rules, procedures, and manuals shall be the
12 same as those applicable to comparable business placed with the controlled insurer by
13 licensees other than the controlling licensee;

14 (L) the rates and terms of the controlling insurance producer's
15 compensation including commissions, charges, and other fees may not be greater than
16 those applicable to comparable business placed with the controlled insurer by licensees
17 other than the controlling licensee;

18 (M) the controlled insurer shall establish a limit, that may be different for
19 each kind or class of business, on the amount of premium that the controlling insurance
20 producer may place with the controlled insurer in relation to the controlled insurer's
21 surplus and total writings;

22 (N) the controlled insurer shall notify the controlling insurance producer
23 if an applicable limit is approached and the controlling insurance producer may not place
24 and the controlled insurer may not accept business if the limit under (M) of this paragraph
25 has been reached;

26 (O) if the contract provides that the controlling insurance producer, on
27 insurance placed with the controlled insurer, is to be compensated contingent upon the
28 controlling insurer's profits on the placed insurance, the contingent compensation may not
29 be determined or paid until

30 (i) at least five years after the premiums are earned on casualty
31 business and at least one year after the premiums are earned on any other

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1 insurance;
2 (ii) a later period established by the director for specified kinds or
3 classes of insurance; and
4 (iii) not until the profits have been verified under (b) of this
5 section;

6 (P) the controlling insurance producer may negotiate but may not bind
7 reinsurance on behalf of the controlled insurer on insurance that the controlling insurance
8 producer places with the controlled insurer, except that the controlling insurance producer
9 may bind facultative reinsurance contracts under obligatory agreements if the contract
10 with the controlled insurer contains reinsurance underwriting guidelines including, for
11 both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements
12 are in effect, the coverage and amounts or percentages that may be reinsured, and
13 commission schedules; and

14 (4) provides that the controlled insurer has an audit committee composed of
15 independent members of the board of directors that meet at least annually with management, the
16 insurer's independent certified public accountants, and an independent actuary specialist
17 acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and
18 outstanding.

19 (b) In addition to any other required loss reserve certification, the controlled insurer shall
20 annually obtain the opinion of an independent qualified actuary attesting to the adequacy of loss
21 reserves established for losses incurred and outstanding on business produced by the controlling
22 insurance producer. The controlled insurer shall file with the director on or before April 1 of
23 each year an opinion of an independent actuary attesting to the adequacy of the reserves for
24 losses incurred and outstanding and reporting the loss ratios for each kind and class of business
25 placed with the controlled insurer by the controlling producer.

26 (c) The controlled insurer shall annually report by kind and class of insurance in a form
27 acceptable to the director the amount of compensation paid to the controlling producer, the
28 percentage the compensation represents to the net premiums written, the amount of compensation
29 paid to uncontrolling producers, and the percentage the compensation represents to the net
30 premiums written.

31 (d) A controlling insurance producer may be examined by the director as if it were the

1 controlled insurer.

2 (e) If the conservator, rehabilitator, or liquidator of a controlled insurer or formerly
3 controlled insurer has reason to believe that the controlled insurer or formerly controlled insurer
4 suffered loss or damage arising out of a failure to comply with this section by the controlling
5 producer or another person, the conservator, rehabilitator, or liquidator may maintain a civil
6 action for recovery of damages or other relief for the benefit of the controlled insurer or its
7 estate.

8 (f) In addition to any other liability and without intent to limit in any manner the rights
9 of policyholders, claimants, auditors, creditors, or third parties, if the director determines after
10 a hearing under AS 21.06.170 - 21.06.240 that a controlling insurance producer caused losses
11 arising out of a violation of this section to a controlled insurer, the director may order the
12 controlling insurance producer to make restitution to the controlled insurer, the rehabilitator, or
13 the liquidator of the controlled insurer for the loss.

14 (g) In addition to any other penalty provided by law, a person who violates this section
15 is subject to the penalties provided under AS 21.27.440 and a controlled insurer's certificate of
16 authority may be suspended or revoked. The director may also order the controlling producer
17 to cease placing business with the controlled insurer.

18 (h) This section does not apply to

19 (1) a person appointed to act on behalf of the controlled insurer as a managing
20 general agent under this chapter;

21 (2) a person who receives no compensation based upon the amount of premiums
22 written with the controlled insurer and who places insurance only with the controlled insurer,
23 only with the controlled insurer and an admitted member or admitted members of the insurer's
24 holding company system, or only with the controlled insurer's parent, affiliate, or subsidiary if
25 admitted in this state;

26 (3) a person who does not accept insurance placements directly from an insured
27 and who only accepts insurance placements from a nonaffiliated subagent;

28 (4) a controlled insurer and its controlling insurance producer if, except for
29 insurance written through a residual market facility under this title, insurance placements are
30 accepted only from a controlling producer, an insurance producer controlled by the controlled
31 insurer, or a producer that is a subsidiary of the controlled insurer;

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1 (5) a risk retention group under 15 U.S.C. 3901; or

2 (6) a risk apportionment plan under AS 21.39.150 or an assigned risk pool under
3 AS 21.39.155.

4 ARTICLE 3. MANAGING GENERAL AGENTS.

5 Sec. 21.27.590. MANAGING GENERAL AGENT QUALIFICATIONS. (a) In addition
6 to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of a
7 managing general agent license, an applicant or licensee shall have at least three years active
8 working experience within the previous 10 calendar years in insurance administrative functions
9 which, in the director's opinion, exhibits the applicant's ability to competently perform the
10 administrative functions for all kinds and classes of insurance applied for.

11 (b) The director may require that a managing general agent maintain

12 (1) a bond in an amount acceptable to the director and conditioned in that the
13 managing general agent will conduct business as required by this title; and

14 (2) an errors and omissions insurance policy acceptable to the director.

15 Sec. 21.27.600. TRAINEE MANAGING GENERAL AGENTS. (a) An individual
16 licensed in this state as an insurance producer who does not have the experience required to be
17 licensed as a managing general agent, but who otherwise meets the requirements of
18 AS 21.27.590, may be employed by a licensed managing general agent as a trainee managing
19 general agent, subject to the provisions of this section.

20 (b) Before an individual may transact insurance as a managing general agent, a managing
21 general agent employing the trainee managing general agent shall submit to the director the
22 application of the trainee managing general agent, with the fee set under AS 21.06.250, and
23 receive the trainee managing general agent license.

24 (c) Upon satisfying the managing general agent experience requirement, a trainee
25 managing general agent shall apply within 30 days for a managing general agent license.

26 (d) A trainee managing general agent shall at all times be working at the direction and
27 under the supervision of the employing licensed managing general agent, and file and record
28 documentation must reflect the direction and supervision. The activities of a managing general
29 agent trainee must be in the name of the employing managing general agent. A managing
30 general agent who employs a trainee is responsible for all actions of the trainee managing
31 general agent.

1 (e) A trainee managing general agent is restricted to assisting the employing licensed
2 managing general agent in preparing applications; binders; certificates of insurance; schedules of
3 equipment, vehicles, drivers; loss notices to insurers; and invoices; and to performing clerical
4 functions for which a license is not required. The file and record documentation must reflect
5 compliance with this subsection.

6 (f) A trainee managing general agent may not transact business away from the place of
7 business with clients or insurers unless a licensed managing general agent physically accompanies
8 the trainee.

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

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

14 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
15 managing general agent knew of or should have known that a trainee managing general agent
16 violated this section, the employing managing general agent and firm, principal, and manager,
17 if any, are subject to the penalties provided under AS 21.27.440.

18 Sec. 21.27.610. AUTHORITY OF MANAGING GENERAL AGENTS. A managing
19 general agent has only the authority consistent with this title that is conferred by an admitted
20 insurer. A managing general agent, resident or nonresident, qualified and licensed under this
21 chapter, may exercise the powers conferred by this title upon insurance producers and
22 independent adjusters only for the kinds or classes of insurance and within the scope authorized
23 by the insurer appointing the managing general agent.

24 Sec. 21.27.620. OPERATING REQUIREMENTS FOR MANAGING GENERAL
25 AGENTS. (a) An insurer may not transact business with a managing general agent unless

26 (1) the insurer holds a certificate of authority in this state;

27 (2) the managing general agent is licensed under this chapter or, when the
28 managing general agent is operating only for a foreign insurer, is licensed by its resident
29 insurance regulator in a state that the director has determined has enacted provisions substantially
30 similar to those contained in this chapter and the state is accredited by the National Association
31 of Insurance Commissioners;

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1 (3) a written contract is in effect between the parties that establishes the
2 responsibilities of each party, indicates both party's share of responsibility for a particular
3 function, and specifies the division of responsibilities;

4 (4) a written contract between an insurer and a managing general agent contains
5 the following provisions:

6 (A) the insurer may terminate the contract for cause upon written notice
7 sent by certified mail to the managing general agent and may suspend the underwriting
8 authority of the managing general agent during a dispute regarding the cause for
9 termination;

10 (B) the managing general agent shall render accounts to the insurer
11 detailing all transactions and remit all money due under the contract to the insurer at least
12 monthly;

13 (C) all money collected for the account of an insurer shall be held by the
14 managing general agent in a fiduciary account as described under AS 21.27.360;

15 (D) the managing general agent shall comply with all applicable fiduciary
16 account statutes and regulations;

17 (E) a fiduciary account shall be used for all payments on behalf of the
18 insurer;

19 (F) the managing general agent may not retain more than three months
20 estimated claims payments and allocated loss adjustment expenses;

21 (G) the managing general agent shall maintain separate records for each
22 insurer in a form usable by the insurer; the insurer or its authorized representative shall
23 have the right to audit and the right to copy all accounts and records related to the
24 insurer's business; the director, in addition to authority granted in this title, shall have
25 access to all books, bank accounts, and records of the managing general agent in a form
26 usable to the director;

27 (H) the contract may not be assigned in whole or in part by the managing
28 general agent;

29 (I) if the contract permits the managing general agent to do underwriting,
30 the contract must include the following:

31 (i) the managing general agent's maximum annual premium

1 volume;

2 (ii) the rating system and basis of the rates to be charged;

3 (iii) the types of risks that may be written;

4 (iv) maximum limits of liability;

5 (v) applicable exclusions;

6 (vi) territorial limitations;

7 (vii) policy cancellation provisions;

8 (viii) the maximum policy term; and

9 (ix) that the insurer shall have the right to cancel or not renew a
10 policy of insurance subject to applicable state law;

11 (J) if the contract permits the managing general agent to settle claims on
12 behalf of the insurer, the contract must include the following:

13 (i) written settlement authority must be provided by the insurer and
14 may be terminated for cause upon the insurer's written notice sent by certified
15 mail to the managing general agent or upon the termination of the contract, but
16 the insurer may suspend the settlement authority during a dispute regarding the
17 cause of termination;

18 (ii) claims shall be reported to the insurer within 30 days;

19 (iii) a copy of the claim file shall be sent to the insurer upon
20 request or as soon as it becomes known that the claim has the potential to exceed
21 an amount determined by the director or exceeds the limit set by the insurer,
22 whichever is less, involves a coverage dispute, may exceed the managing general
23 agent's claims settlement authority, is open for more than six months, involves
24 extra contractual allegations, or is closed by payment in excess of an amount set
25 by the director or an amount set by the insurer, whichever is less;

26 (iv) each party shall comply with unfair claims settlement statutes
27 and regulations;

28 (v) transmission of electronic data at least monthly if electronic
29 claim files are in existence; and

30 (vi) claim files shall be the property of both the insurer and
31 managing general agent; upon an order of liquidation of the insurer, the files shall

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1 become the sole property of the insurer or the insurer's estate; the managing
2 general agent shall have reasonable access to and the right to copy the files on a
3 timely basis;

4 (K) if the contract provides for sharing of interim profits by the managing
5 general agent, and the managing general agent has the authority to determine the amount
6 of the interim profits by establishing loss reserves, by controlling claim payments, or in
7 any other manner, interim profits may not be paid to the managing general agent until

8 (i) one year after they are earned for property insurance business
9 and five years after they are earned on casualty business;

10 (ii) a later period established by the director for specified kinds or
11 classes of insurance; and

12 (iii) not until the profits have been verified under (d) of this
13 section;

14 (L) if the insurer is domiciled in this state or the managing general agent
15 has a place of business in this state, a copy of the contract must be filed with and
16 approved by the director at least 30 days before the managing general agent transacts
17 business on behalf of the insurer; and

18 (M) if the contract is not required to be approved in advance by the
19 director, the insurer shall provide written notification to the director within 30 days of the
20 entry into or termination of a contract with a managing general agent; the notice must
21 include a statement of duties to be performed by the managing general agent on behalf
22 of the insurer, the kinds and classes of insurance for which the managing general agent
23 has authorization to act, and other information required by the director.

24 (b) The managing general agent may not

25 (1) bind reinsurance or retrocessions on behalf of the insurer, except that the
26 managing general agent may bind facultative reinsurance contracts under obligatory agreements
27 if the contract with the insurer contains reinsurance underwriting guidelines including, for both
28 reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in
29 effect, the coverage and amounts or percentages that may be reinsured, and commission
30 schedules;

31 (2) commit the insurer to participate in insurance or reinsurance syndicates;

1 (3) appoint a subagent unless the scope of the subagent's license as an insurance
2 producer includes the kinds and classes of insurance for which the subagent is appointed;

3 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of
4 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last
5 completed calendar year without the prior written approval of the insurer for the settlement and
6 the approval is received after the insurer has been notified in writing that the claim settlement
7 will exceed one percent of the insurer's policyholder's surplus as of December 31 of the last
8 completed calendar year;

9 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement
10 with a reinsurer without prior written approval of the insurer, but if prior written approval is
11 given, a complete report must be forwarded to the insurer within 30 days;

12 (6) permit a subagent to serve on the insurer's board of directors;

13 (7) jointly employ an individual who is employed with the insurer; or

14 (8) delegate managing general agent authority to another person.

15 (c) In a form acceptable to the director, a managing general agent shall annually provide
16 and an insurer shall annually obtain a copy of certified financial statements of each managing
17 general agent with which the insurer has done business. The financial statements shall be
18 prepared by an independent certified public accountant if the managing general agent, with or
19 without authority, either separately or with affiliates, directly or indirectly produces or
20 underwrites an amount of gross written premium equal to or more than five percent of the policy
21 holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

22 (d) In addition to any other required loss reserve certification, if a managing general
23 agent establishes loss reserves, the insurer shall annually obtain the opinion of an independent
24 qualified actuary attesting to the adequacy of loss reserves established for losses incurred and
25 outstanding on business produced by the managing general agent. The insurer retains an
26 independent responsibility to determine the adequacy of its loss reserves, including those
27 established by its managing general agents.

28 (e) An insurer shall at least semiannually conduct an on-site review of the underwriting
29 and claims processing operations of the managing general agent if the managing general agent,
30 with or without authority, either separately or with affiliates, directly or indirectly produces or
31 underwrites an amount of gross written premium equal to or more than five percent of the policy

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holder's surplus in a quarter or year, as reported in the insurer's last annual statement.

(f) An insurer shall review its books and records quarterly to determine if a person or insurance producer has acted as its managing general agent. If an insurer determines that a person or insurance producer has acted as its managing general agent, the insurer shall promptly notify the person or insurance producer and the director of the determination and the insurer and person or insurance producer must fully comply with the provisions of this chapter within 30 days.

(g) An insurer may not appoint to its board of directors an officer, director, employee, subagent, insurance producer, or controlling shareholder of its managing general agent.

(h) The actual or apparently authorized acts of the managing general agent are considered the acts of the insurer upon whose behalf it is acting.

(i) A managing general agent may be examined by the director as if it were the insurer.

(j) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a managing general agent caused loss arising out of a violation of AS 21.27.590 - 21.27.630 to an insurer, the director may order the managing general agent to make restitution to the insurer, the rehabilitator, or the liquidator of the insurer for the loss. Restitution ordered under this subsection is in addition to any other liability of the managing general agent and does not affect the rights of a policy holder, claimant, creditor, or third party.

(k) In addition to any other penalty provided by law, a person who violates this section is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority may be suspended or revoked.

ARTICLE 4. THIRD-PARTY ADMINISTRATORS.

Sec. 21.27.630. REGISTRATION REQUIRED. (a) A person may not act as or represent to be a third-party administrator in this state or relative to a subject resident, located, or to be performed in this state, unless registered under this chapter or in another jurisdiction under AS 21.27.650. A person may not act as or represent to be a third-party administrator representing an insurer domiciled in this state regarding a risk located outside this state unless registered by this state under the provisions of this chapter.

(b) A third-party administrator may not transact business for a kind or class of insurance for which the person is not registered.

(c) A person who performs administrative functions, including claims administration and

1 payment, marketing administrative functions, premium accounting, premium billing, coverage
2 verification, underwriting authority, or certificate issuance in regard to insurance as a third-party
3 administrator shall be registered as a third-party administrator unless the person only investigates
4 and adjusts claims and is licensed under this chapter as an independent adjuster.

5 (d) A third-party administrator may not use a fictitious name or alias unless the licensee's
6 legal name and fictitious name or alias are on the registration.

7 (e) A person who is an employee of an admitted insurer, who acts within the course and
8 scope of that employment, and within the scope of the insurer's certificate of authority is not
9 required to be registered under this section.

10 (f) A person who performs management services for an admitted insurer is not required
11 to be registered as a third-party administrator if the person's compensation is not based on the
12 volume of premium written and the person

13 (1) is a wholly-owned subsidiary of the admitted insurer;

14 (2) wholly owns the admitted insurer;

15 (3) is a wholly-owned subsidiary of the insurance holding company that owns or
16 controls the admitted insurer;

17 (4) is a United States manager of the United States branch of an alien admitted
18 insurer; or

19 (5) is the manager of a group, association, pool, or organization of admitted
20 insurers that does joint underwriting if it is subject to examination by the authorized insurance
21 regulator in the state in which the person's principal place of business is located.

22 (g) A credit union or a financial institution subject to supervision or examination by
23 federal or state banking authorities, or a mortgage lender, that performs no functions other than
24 advancing premiums to the insurer and collecting a debt from the insured is not required to be
25 registered as a third-party administrator.

26 (h) A credit card issuing company that performs no functions, including adjustment or
27 settlement of claims, other than advancing and collecting premiums from its credit card holders
28 who have authorized collection is not required to be registered as a third-party administrator.

29 (i) A person who only provides services to bona fide employee benefit plans that are
30 established by an employer or an employee organization, or both, for which the insurance laws
31 of this state are preempted under the Employee Retirement Income Security Act of 1974, is not

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1 required to be additionally registered as a third-party administrator if the person certifies to the
2 director on or before February 1 of each year its exempt status.

3 (j) A third-party administrator

4 (1) shall apply for registration under the procedures of AS 21.27.040;

5 (2) shall renew its registration under the procedures of AS 21.27.380; and

6 (3) is subject to hearings and orders on violations; denial, nonrenewal, suspension,
7 or revocation of registration; penalties; and surrender of registration under the procedures set out
8 in AS 21.27.405 - 21.27.460.

9 Sec. 21.27.640. THIRD-PARTY ADMINISTRATOR QUALIFICATIONS. (a) The
10 director may not issue or renew a registration except in compliance with this chapter and may
11 not issue a registration to a person, or to be exercised by a person, found by the director to be
12 untrustworthy, incompetent, financially irresponsible, or who has not established to the
13 satisfaction of the director that the person is qualified under this chapter.

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

16 (1) be a trustworthy person;

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

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

22 (4) if a corporation or partnership,

23 (A) maintain a lawfully established place of business as described in
24 AS 21.27.330 in this state, except when licensed as a nonresident as provided in
25 AS 21.27.270;

26 (B) disclose to the director all officers, directors, or partners, and whether
27 or not they are licensed in this state or another jurisdiction;

28 (C) designate an officer or partner responsible for the firm's compliance
29 with the insurance statutes and regulations of this state;

30 (5) provide in or with its application

31 (A) all basic organizational documents of the third-party administrator,

1 including articles of incorporation, articles of association, partnership agreement, trade
2 name certificate, trust agreement, shareholder agreement and other applicable documents
3 and all endorsements to the required documents;

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

6 (C) the names, mailing addresses, physical addresses, official positions,
7 and professional qualifications of persons who are responsible for the conduct of affairs
8 of the third-party administrator; including the members of the board of directors, board
9 of trustees, executive committee or other governing board or committee; the principal
10 officers in the case of a corporation or the partners or members in the case of partnership
11 or association; shareholders holding directly or indirectly 10 percent or more of the voting
12 securities of the third-party administrator; and any other person who exercises control or
13 influence over the affairs of the third-party administrator;

14 (D) certified financial statements for the prior two years prepared by an
15 independent certified public accountant that establish that the applicant is solvent, that the
16 applicant's system of accounting, internal control, and procedure is operating effectively
17 to provide reasonable assurance that money is promptly accounted for and paid to the
18 person entitled to the money, and any other information that the director may require to
19 review the current financial condition of the applicant; and

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

25 (6) provide to the director documents necessary to verify the statements contained
26 in or in connection with the application; and

27 (7) notify the director within 30 days in writing by certified mail of a change in
28 principal or manager, residence, place of business, mailing address, phone number; suspension
29 or revocation of an insurance license or registration by another state or jurisdiction; or a
30 conviction of a misdemeanor or felony of the third-party administrator, its officers, directors,
31 partners, owners, or employees.

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1 (c) The director may require that a third-party administrator maintain

2 (1) a bond as described in AS 21.27.190 in an amount acceptable to the director
3 and conditioned in that the third-party administrator will conduct business as required by this
4 title; and

5 (2) an errors and omissions insurance policy acceptable to the director.

6 (d) If the director finds that the applicant or registrant is qualified and that application,
7 registration, or renewal fees have been paid, the director may issue or renew the registration.

8 Sec. 21.27.650. OPERATING REQUIREMENTS FOR THIRD-PARTY
9 ADMINISTRATORS. (a) An insurer may not transact business with a third-party administrator
10 unless

11 (1) the insurer holds a certificate of authority in this state;

12 (2) the third-party administrator is registered under this chapter or, when the third-
13 party administrator is operating only for a foreign insurer, is registered as a third-party
14 administrator by the third-party administrator's resident insurance regulator in a state that the
15 director has determined has enacted provisions substantially similar to those contained in
16 AS 21.27.630 - 21.27.650 and that is accredited by the National Association of Insurance
17 Commissioners;

18 (3) the third-party administrator provides the director on January 1, April 1,
19 July 1, and October 1 of each year

20 (A) a list of current employees, identifying those transacting business in
21 this state or upon a subject resident, located or to be performed in this state;

22 (B) a list of current insurers under contract; and

23 (C) other information the director may require;

24 (4) a written contract is in effect between the parties that establishes the
25 responsibilities of each party, indicates both parties' share of responsibility for a particular
26 function, and specifies the division of responsibilities;

27 (5) there is in effect a written contract between the insurer and third-party
28 administrator that contains the following provisions:

29 (A) the insurer may terminate the contract for cause upon written notice
30 sent by certified mail to the third-party administrator and may suspend the underwriting
31 authority of the third-party administrator during a dispute regarding the cause for

1 termination; but the insurer must fulfill all lawful obligations with respect to policies
2 affected by the written agreement, regardless of any dispute between the insurer and the
3 third-party administrator;

4 (B) the third-party administrator shall render accounts to the insurer
5 detailing all transactions and remit all money due under the contract to the insurer at least
6 monthly;

7 (C) all money collected for the account of an insurer shall be held by the
8 third-party administrator in a fiduciary account as described under AS 21.27.360;

9 (D) the third-party administrator shall comply with all applicable fiduciary
10 account statutes and regulations;

11 (E) a fiduciary account shall be used for all payments on behalf of the
12 insurer;

13 (F) the third-party administrator may not retain more than three months
14 estimated claims payments and allocated loss adjustment expenses;

15 (G) the third-party administrator shall maintain separate records for each
16 insurer in a form usable by the insurer; the insurer or its authorized representative shall
17 have the right to audit and the right to copy all accounts and records related to the
18 insurer's business; the director, in addition to other authority granted in this title, shall
19 have access to all books, bank accounts, and records of the third-party administrator in
20 a form usable to the director; any trade secrets contained in books and records reviewed
21 by the director, including the identity and addresses of policyholders and certificate
22 holders, shall be kept confidential, except that the director may use the information in a
23 proceeding instituted against the third-party administrator or the insurer;

24 (H) the contract may not be assigned in whole or in part by the third-party
25 administrator;

26 (I) if the contract permits the third-party administrator to do underwriting,
27 the contract must include the following:

28 (i) the third-party administrator's maximum annual premium
29 volume;

30 (ii) the rating system and basis of the rates to be charged;

31 (iii) the types of risks that may be written;

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1 (iv) maximum limits of liability;

2 (v) applicable exclusions;

3 (vi) territorial limitations;

4 (vii) policy cancellation provisions;

5 (viii) the maximum policy term; and

6 (ix) that the insurer shall have the right to cancel or not renew a
7 policy of insurance subject to applicable state law;

8 (J) if the contract permits the third-party administrator to administer claims
9 on behalf of the insurer, the contract must include the following:

10 (i) written settlement authority must be provided by the insurer and
11 may be terminated for cause upon the insurer's written notice sent by certified
12 mail to the third-party administrator or upon the termination of the contract, but
13 the insurer may suspend the settlement authority during a dispute regarding the
14 cause of termination;

15 (ii) claims shall be reported to the insurer within 30 days;

16 (iii) a copy of the claim file shall be sent to the insurer upon
17 request or as soon as it becomes known that the claim has the potential to exceed
18 an amount determined by the director or exceeds the limit set by the insurer,
19 whichever is less, involves a coverage dispute, may exceed the third-party
20 administrator's claims settlement authority, is open for more than six months,
21 involves extra contractual allegations, or is closed by payment in excess of an
22 amount set by the director or an amount set by the insurer, whichever is less;

23 (iv) each party to the contract shall comply with unfair claims
24 settlement statutes and regulations;

25 (v) transmission of electronic data must occur at least monthly if
26 electronic claim files are in existence; and

27 (vi) claim files shall be the sole property of the insurer; upon an
28 order of liquidation of the insurer, the third-party administrator shall have
29 reasonable access to and the right to copy the files on a timely basis; and

30 (K) the contract may not provide for commissions, fees, or charges
31 contingent upon savings obtained in the adjustment, settlement, and payment of losses

1 covered by the insurer's obligations; but a third-party administrator may receive
2 performance-based compensation for providing hospital or other auditing services or may
3 receive compensation based on premiums or charges collected or the number of claims
4 paid or processed.

5 (b) If the insurer is domiciled in this state or the third-party administrator has a place of
6 business in this state, a copy of the contract must be filed with and approved by the director at
7 least 30 days before the third-party administrator transacts business on behalf of the insurer. If
8 the contract is not required to be approved in advance by the director, the insurer shall provide
9 written notification to the director within 30 days of the entry into or termination of a contract
10 with a third-party administrator; the notice must include a statement of duties to be performed
11 by the third-party administrator on behalf of the insurer, the kinds and classes of insurance for
12 which the third-party administrator has authorization to act, and other information required by
13 the director.

14 (c) If the contract provides for the third-party administrator to receive or collect
15 premiums, payment by or on behalf of the insured of premiums for insurance to the third-party
16 administrator shall be presumed to have been received by the insurer; payment of return
17 premiums or claim payments forwarded by the insurer to the third-party administrator may not
18 be presumed to have been received by the person entitled to the money until the payments are
19 received by the insured or claimant. Nothing in this subsection limits the rights that the insurer
20 may have against the third-party administrator resulting from the failure of the third-party
21 administrator to make payments to persons entitled to money.

22 (d) Policies, certificates, booklets, termination notices or other written communications
23 delivered by the insurer to the third-party administrator for delivery to the insured or covered
24 individuals shall be delivered by the third-party administrator within 10 days after receipt of
25 instructions from the insurer to deliver them.

26 (e) When the services of a third-party administrator are utilized, the third-party
27 administrator shall provide a written notice, approved in writing by the insurer, to a covered
28 person advising the person of the identity of the insurer and the relationship between the third-
29 party administrator, the policyholder, and the insurer.

30 (f) The third-party administrator may not

31 (1) bind reinsurance or retrocessions on behalf of the insurer;

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- 1 (2) commit the insurer to participate in insurance or reinsurance syndicates;
- 2 (3) appoint a subagent unless the scope of the subagent's license as an insurance
- 3 producer includes the kinds and classes of insurance for which the subagent is appointed and
- 4 there is in effect a written agency agreement that specifically sets out the duties, functions,
- 5 powers, authority, and compensation of all parties to the contract;
- 6 (4) pay or commit the insurer to pay a claim, net of reinsurance, the amount of
- 7 which exceeds one percent of the insurer's policyholder's surplus as of December 31 of the last
- 8 completed calendar year without prior written approval of the insurer for the settlement; the
- 9 approval of an insurer must be received after the insurer has been notified in writing that the
- 10 claim settlement will exceed one percent of the insurer's policyholder's surplus as of
- 11 December 31 of the last completed calendar year;
- 12 (5) collect a payment from a reinsurer or commit the insurer to a claim settlement
- 13 with a reinsurer without prior written approval of the insurer, but if prior written approval is
- 14 given, a complete report must be forwarded to the insurer within 30 days;
- 15 (6) serve on the insurer's board of directors;
- 16 (7) jointly employ an individual who is employed by the insurer;
- 17 (8) delegate third-party administrator authority to another person;
- 18 (9) solicit applications for insurance or renewals of insurance directly through
- 19 employees or by appointments of insurance producers as its subagents unless its employees or
- 20 the insurance producers appointed under the procedures set out in AS 21.27.100 and 21.27.110
- 21 are licensed for the kinds or classes of insurance and the solicitation or renewals are within the
- 22 scope of authority granted by the insurer contracting with the third-party administrator; or
- 23 (10) advertise the business underwritten by an insurer unless the advertising has
- 24 been approved in writing by the insurer in advance of its use.
- 25 (g) In a form acceptable to the director, a third-party administrator shall annually provide
- 26 to the insurer and an insurer shall annually obtain a copy of certified financial statements
- 27 prepared by an independent certified public accountant of each third-party administrator with
- 28 which the insurer has done business.
- 29 (h) In addition to any other required loss reserve certification, if a third-party
- 30 administrator establishes loss reserves, the insurer shall annually obtain the opinion of an
- 31 independent qualified actuary attesting to the adequacy of loss reserves established for losses

1 incurred and outstanding on business produced by the third-party administrator. The insurer
2 retains an independent responsibility to determine the adequacy of its loss reserves, including
3 those established by its third-party administrators.

4 (i) If a third-party administrator provides services for more than 100 certificate holders
5 on behalf of an insurer, the insurer shall at least semiannually conduct a review of the operations
6 of the third-party administrator. At least one review required under this subsection must be an
7 on-site review.

8 (j) A third-party administrator shall maintain records as described in AS 21.27.350.

9 (k) An insurer may not appoint to its board of directors an officer, director, employee,
10 subagent, insurance producer, or controlling shareholder of its third-party administrator.

11 (l) An actual or apparently authorized act of the third-party administrator is considered
12 to be the act of the insurer upon whose behalf the third-party administrator is acting.

13 (m) A third-party administrator may be examined by the director under AS 21.06.120 as
14 if it were the insurer.

15 (n) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a third-
16 party administrator caused loss arising out of a violation of AS 21.27.630 - 21.27.650 to an
17 insurer, the director may order the third-party administrator to reimburse the insurer, the
18 rehabilitator, or the liquidator of the insurer for the loss. Reimbursement ordered under this
19 subsection is in addition to any other liability of the third-party administrator and does not affect
20 the rights of a policyholder, claimant, creditor, or third-party.

21 (o) In addition to any other penalty provided by law, a person who violates this section
22 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
23 may be suspended or revoked.

24 ARTICLE 5. REINSURANCE INTERMEDIARY BROKERS.

25 Sec. 21.27.670. REINSURANCE INTERMEDIARY BROKER QUALIFICATIONS. (a)
26 In addition to the general qualifications under AS 21.27.020, to qualify for issuance or renewal
27 of a reinsurance intermediary broker license, an applicant or licensee shall have at least three
28 years active working experience within the previous 10 calendar years in insurance administrative
29 functions, that, in the director's opinion, exhibit the applicant's ability to competently perform
30 the functions for all kinds and classes of insurance applied for.

31 (b) The director may require that a reinsurance intermediary broker maintain

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1 (1) a bond in an amount acceptable to the director in favor of insurers and this
2 state, and with a condition in that the reinsurance intermediary broker conduct business as
3 required under this title; and

4 (2) an errors and omissions insurance policy acceptable to the director.

5 Sec. 21.27.680. TRAINEE REINSURANCE INTERMEDIARY BROKERS. (a) An
6 individual licensed in this state as an insurance producer, who does not have the experience
7 required of a reinsurance intermediary broker but who otherwise meets the requirements of
8 AS 21.27.670, may be employed by a licensed reinsurance intermediary broker as a trainee
9 reinsurance intermediary broker, subject to the provisions of this section.

10 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
11 broker, the reinsurance intermediary broker employing the trainee reinsurance intermediary broker
12 shall submit to the director the application of the trainee reinsurance intermediary broker, with
13 the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary broker license.

14 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary broker
15 shall apply within 30 days for a reinsurance intermediary broker license.

16 (d) A trainee reinsurance intermediary broker shall at all times be working at the
17 direction and under the supervision of the employing licensed reinsurance intermediary broker,
18 and the file and record documentation must reflect the direction and supervision. Insurance
19 activities must be in the name of the employing reinsurance intermediary broker who is
20 responsible for all actions of the trainee reinsurance intermediary broker.

21 (e) A trainee reinsurance intermediary broker is restricted to assisting the employing
22 licensed reinsurance intermediary broker in preparing applications; binders; certificates of
23 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
24 and to performing clerical functions for which a license is not required. The file and record
25 documentation must reflect compliance with this subsection.

26 (f) A trainee reinsurance intermediary broker may not transact business away from the
27 place of business with clients, insurers, or reinsurers unless a licensed reinsurance intermediary
28 broker physically accompanies the trainee.

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

30 (1) the director shall revoke the license of a trainee reinsurance intermediary
31 broker who the director determines has violated the provisions of this section; a licensee or other

1 person having possession or custody of the license shall immediately surrender the license to the
2 director either personally or by certified mail;

3 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
4 reinsurance intermediary broker knew of or should have known that a trainee reinsurance
5 intermediary broker violated this section, the employing reinsurance intermediary broker and firm,
6 principal and manager, if any, are subject to the penalties provided under AS 21.27.440.

7 Sec. 21.27.690. OPERATING REQUIREMENTS FOR REINSURANCE
8 INTERMEDIARY BROKERS. (a) Except as provided in (b) of this section, an insurer may not

9 transact business with a reinsurance intermediary broker unless the insurer holds a certificate of
10 authority in this state, the reinsurance intermediary broker is licensed in this state, and there is
11 in effect a written contract between the parties that establishes the responsibilities of each party,
12 indicates each party's share of responsibility for each particular function, and specifies the
13 division of responsibilities. The written contract shall be kept in the permanent records of the
14 insurer and the reinsurance intermediary broker, be open to inspection by the director, and must
15 contain the following minimum provisions:

16 (1) the insurer may terminate the reinsurance intermediary broker's authority at
17 any time by written notice sent by certified mail;

18 (2) the reinsurance intermediary broker shall render accounts to the insurer
19 detailing all transactions including information necessary to support all commissions, charges, and
20 other fees received by or owing to the reinsurance intermediary broker and remit the money due
21 under the contract to the insurer within 30 days of receipt;

22 (3) money collected for the account of an insurer shall be held by the reinsurance
23 intermediary broker in a fiduciary account required under AS 21.27.360; the reinsurance
24 intermediary broker shall comply with applicable fiduciary account statutes and regulations;

25 (4) the reinsurance intermediary broker shall maintain separate accounts and
26 records for each insurer and maintain the records in a form usable by the insurer; the insurer or
27 the authorized representative of the insurer shall have access and the right to audit and the right
28 to copy all accounts and records related to the insurer's business; the director, in addition to the
29 other authority granted in this title, shall have access to all books, bank accounts, and records of
30 the insurance intermediary broker in a form usable to the director;

31 (5) the insurer shall establish written standards for the cession or retrocession of

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1 all risks, and the reinsurance intermediary broker shall comply with those standards;

2 (6) the reinsurance intermediary broker shall disclose to the insurer all its
3 relationships with insurers and reinsurers to whom risks are ceded or retroceded; and

4 (7) the contract may not be assigned in whole or in part by the reinsurance
5 intermediary broker.

6 (b) A domestic insurer may use a nonresident reinsurance intermediary broker who is not
7 licensed under this chapter if the person is licensed in good standing as a resident reinsurance
8 intermediary broker by an insurance regulator of another state that is accredited by the National
9 Association of Insurance Commissioners. Upon written request, the director may grant written
10 permission for a domestic insurer to use an alien reinsurance intermediary broker not licensed
11 by and without a place of business in a jurisdiction subject to accreditation by the National
12 Association of Insurance Commissioners if the alien reinsurance intermediary broker is licensed
13 in good standing by its domiciliary insurance regulator. The domestic insurer and unlicensed
14 reinsurance intermediary broker are subject to all other requirements of this section.

15 (c) An insurer may not employ a person who is employed by a reinsurance intermediary
16 broker with which it transacts business, unless the reinsurance intermediary broker is under
17 common control with the insurer and subject to AS 21.22.

18 (d) In a form acceptable to the director, a reinsurance intermediary broker shall annually
19 provide and an insurer shall annually obtain a copy of certified financial statements of each
20 reinsurance intermediary broker with which the insurer has done business, prepared by the
21 independent certified public accountant.

22 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240 that a
23 reinsurance intermediary broker caused losses arising out of a violation of AS 21.27.670 -
24 21.27.700 to an insurer or reinsurer, the director may order the reinsurance intermediary broker
25 to make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer
26 for the net losses incurred by the insurer or reinsurer. Restitution ordered under this subsection
27 is in addition to any other liability of the reinsurance intermediary broker and does not affect the
28 rights of a policyholder, claimant, creditor, or third party.

29 (f) In addition to any other penalty provided by law, a person who violates this section
30 is subject to the penalties provided under AS 21.27.440 and an insurer's certificate of authority
31 may be suspended or revoked.

1 Sec. 21.27.700. REINSURANCE INTERMEDIARY BROKER RECORDS. In addition
2 to any other records requirements under this title, a reinsurance intermediary broker shall
3 maintain in organized form a record of each transaction including

4 (1) the type of contract, limits, underwriting restrictions, classes or risks, and
5 territory;

6 (2) the period of coverage, including effective and expiration dates, cancellation
7 provisions, and required notice of cancellation;

8 (3) the reporting and settlement requirements of balances;

9 (4) the rate used to compute the reinsurance premium;

10 (5) the names and addresses of reinsurers;

11 (6) the rate of all reinsurance commissions, including the commissions on
12 retrocessions handled by the reinsurance intermediary broker;

13 (7) the related correspondence and memoranda;

14 (8) the proof of placement;

15 (9) the details regarding retrocessions handled by the reinsurance intermediary
16 broker including the identity of retrocessionaires and the percentage of each contract assumed or
17 ceded;

18 (10) the financial records of premium and loss accounts;

19 (11) if the reinsurance intermediary broker procures a reinsurance contract on
20 behalf of an admitted ceding insurer

21 (A) written evidence directly from an assuming reinsurer that it has agreed
22 to assume the risk; or

23 (B) written evidence, if placed through a representative of the assuming
24 reinsurer other than an employee, that the reinsurer had delegated binding authority to the
25 representative; and

26 (12) additional information that is customary or that may be required by the
27 director.

28 ARTICLE 6. REINSURANCE INTERMEDIARY MANAGERS.

29 Sec. 21.27.730. REINSURANCE INTERMEDIARY MANAGER QUALIFICATIONS.

30 (a) In addition to the general qualifications under AS 21.27.020, to qualify for issuance or
31 renewal of a reinsurance intermediary manager license, an applicant or licensee shall have at least

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1 three years active working experience within the previous 10 calendar years in insurance
2 administrative functions, that, in the director's opinion, exhibit the applicant's abilities to
3 competently perform the functions for all kinds and classes of insurance applied for.

4 (b) The director may require that a reinsurance intermediary manager maintain

5 (1) a bond in an amount acceptable to the director and with a condition that the
6 reinsurance intermediary manager conduct business as required under this title; and

7 (2) an errors and omissions insurance policy acceptable to the director.

8 Sec. 21.27.740. TRAINEE REINSURANCE INTERMEDIARY MANAGERS. (a) An
9 individual licensed in this state as an insurance producer who does not have the experience
10 required of a reinsurance intermediary manager, but who otherwise meets the requirements of
11 AS 21.27.730, may be employed by a licensed reinsurance intermediary manager as a trainee
12 reinsurance intermediary manager, subject to the provisions of this section.

13 (b) Before an individual may transact insurance as a trainee reinsurance intermediary
14 manager, the reinsurance intermediary manager employing the trainee reinsurance intermediary
15 manager shall submit to the director the application of the trainee reinsurance intermediary
16 manager, with the fee set under AS 21.06.250, and receive the trainee reinsurance intermediary
17 manager license.

18 (c) Upon satisfying the experience requirement, a trainee reinsurance intermediary
19 manager shall apply within 30 days for a reinsurance intermediary manager license.

20 (d) A trainee reinsurance intermediary manager shall at all times be working at the
21 direction and under the supervision of the employing licensed reinsurance intermediary manager,
22 and the file and record documentation must reflect the direction and supervision. Insurance
23 activities must be in the name of the employing reinsurance intermediary manager, who is
24 responsible for all insurance actions of the trainee reinsurance intermediary manager.

25 (e) A trainee reinsurance intermediary manager is restricted to assisting the employing
26 licensed reinsurance intermediary manager in preparing applications; binders; certificates of
27 insurance; schedules of equipment, vehicles, and drivers; loss notices to insurers; and invoices;
28 and to performing clerical functions for which a license is not required. The file and record
29 documentation must reflect compliance with this subsection.

30 (f) A trainee reinsurance intermediary manager may not transact business away from the
31 place of business with clients, insurers, or reinsurers unless a reinsurance intermediary manager

1 physically accompanies the trainee.

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

3 (1) a trainee reinsurance intermediary manager who the director determines has
4 violated the provisions of this section shall have its license revoked; a licensee or other person
5 having possession or custody of the license shall immediately surrender the license to the director
6 either personally or by certified mail;

7 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
8 reinsurance intermediary manager knew of or should have known that a trainee reinsurance
9 intermediary manager violated this section, the employing reinsurance intermediary manager and
10 firm, principal, and manager, if any, are subject to the penalties provided under AS 21.27.440.

11 Sec. 21.27.750. AUTHORITY OF REINSURANCE INTERMEDIARY MANAGERS.

12 A reinsurance intermediary manager has only the authority that is consistent with this title and
13 that is conferred by the reinsurer. A reinsurance intermediary manager, resident or nonresident,
14 qualified and licensed under this chapter, may exercise the powers conferred by this title upon
15 insurance producers and independent adjusters only for the kinds or classes of insurance and
16 within the scope that reinsurance intermediary is authorized by the reinsurer appointing the
17 reinsurance intermediary manager.

18 Sec. 21.27.760. OPERATING REQUIREMENTS FOR REINSURANCE
19 INTERMEDIARY MANAGERS. (a) A reinsurer may not transact business with a reinsurance
20 intermediary manager unless there is in effect a written contract approved by the reinsurer's
21 board of directors between the parties that establishes the responsibilities of each party, indicates
22 each party's share of responsibility for each particular function, and specifies the division of
23 responsibilities.

24 (b) The contract required under (a) of this section must include the following provisions:

25 (1) the reinsurer may terminate the contract for cause upon written notice sent by
26 certified mail to the reinsurance intermediary manager and may suspend the underwriting
27 authority of the reinsurance intermediary manager during a dispute regarding the cause for
28 termination;

29 (2) the reinsurance intermediary manager shall render accounts to the reinsurer
30 detailing all transactions including information necessary to support all commissions, charges, and
31 other fees received by or owing to the reinsurance intermediary manager and remit all money due

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1 under the contract to the insurer at least monthly;

2 (3) money collected for the account of a reinsurer shall be held by the reinsurance
3 intermediary manager in a fiduciary account as described under AS 21.27.360;

4 (4) the reinsurance intermediary manager shall comply with applicable fiduciary
5 account statutes and regulations;

6 (5) the reinsurance intermediary manager shall maintain a separate bank account
7 for each reinsurer that it represents;

8 (6) a fiduciary account must be used for all payments on behalf of the reinsurer;

9 (7) the reinsurance intermediary manager may retain not more than three months
10 estimated claims payments and allocated loss adjustment expenses;

11 (8) the reinsurance intermediary manager shall maintain separate accounts and
12 records for each reinsurer and maintain the records in a form usable by the reinsurer; the
13 reinsurer or its authorized representative shall have access and the right to audit and the right to
14 copy all accounts and records related to the reinsurer's business; the director, in addition to the
15 other authority granted in this title, shall have access to all books, bank accounts, and records of
16 the reinsurance intermediary manager in a form usable to the director;

17 (9) the contract may not be assigned in whole or in part by the reinsurance
18 intermediary manager;

19 (10) the reinsurer shall establish written underwriting and rating standards for the
20 acceptance, rejection, or cession of all risks and the reinsurance intermediary manager shall
21 comply with the standards;

22 (11) compensation including rates, terms, purposes of commissions, charges, and
23 other fees that the reinsurance intermediary manager may levy against the reinsurer;

24 (12) if the contract permits the reinsurance intermediary manager to settle claims
25 on behalf of the reinsurer,

26 (A) written settlement authority must be provided by the reinsurer and
27 may be terminated for cause upon the insurer's written notice by certified mail to the
28 reinsurance intermediary manager or upon the termination of the contract; the reinsurer
29 may suspend the settlement authority during a dispute regarding the cause of termination;

30 (B) claims shall be reported to the reinsurer within 30 days;

31 (C) a copy of the claim file shall be sent to the reinsurer upon request or

1 as soon as it becomes known that the claim

2 (i) has the potential to exceed an amount determined by the
3 director or exceeds the limit set by the insurer, whichever is less;

4 (ii) involves a coverage dispute;

5 (iii) may exceed the reinsurance intermediary manager's claims
6 settlement authority;

7 (iv) is open for more than six months;

8 (v) involves extra contractual allegations; or

9 (vi) is closed by payment in excess of an amount set by the
10 director or an amount set by the insurer, whichever is less;

11 (D) the reinsurance intermediary manager shall comply with unfair claims
12 settlement statutes and regulations;

13 (E) transmission of electronic data at least once a month if electronic
14 claims files are in existence;

15 (F) claim files shall be the property of both the reinsurer and reinsurance
16 intermediary manager, but upon an order of liquidation of the reinsurer, the files shall
17 become the sole property of the reinsurer or the reinsurer's estate; the reinsurance
18 intermediary manager shall have reasonable access to and the right to copy the files on
19 a timely basis;

20 (13) if the contract provides for sharing of interim profits by the reinsurance
21 intermediary manager, the interim profits may not be paid until

22 (A) one calendar year after the end of each underwriting period for
23 property risks and five years after the end of each underwriting period for casualty risks;

24 (B) a later period established by the director for specified kinds or classes
25 of insurance; and

26 (C) the profits have been verified under (e)(2) of this section;

27 (14) the reinsurance intermediary manager may not

28 (A) cede retrocessions on behalf of the reinsurer, except that the
29 reinsurance intermediary manager may cede facultative retrocessions under obligatory
30 agreements if the contract with the reinsurer contains reinsurance underwriting guidelines
31 including a list of reinsurers with which automatic agreements are in effect, and, for each

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1 reinsurer, the coverage and amounts or percentages that may be reinsured, and
2 commission schedules;

3 (B) commit the reinsurer to participate in reinsurance syndicates;

4 (C) appoint a subagent unless the scope of the subagent's license as an
5 insurance producer includes the kinds and classes of insurance for which the subagent is
6 appointed;

7 (D) pay or commit the reinsurer to pay a claim, net of retrocessions, the
8 amount of which exceeds one percent of the reinsurer's policyholder's surplus as of
9 December 31 of the last completed calendar year without the prior written approval of the
10 reinsurer for the settlement and the approval is received after the reinsurer has been
11 notified in writing that the claim settlement will exceed one percent of the reinsurer's
12 policyholder's surplus as of December 31 of the last completed calendar year;

13 (E) collect payment from a retrocessionaire or commit the reinsurer to a
14 claim settlement with a retrocessionaire without prior written approval of the reinsurer,
15 but if prior written approval is given, a complete report shall be forwarded to the reinsurer
16 within 30 days;

17 (F) jointly employ an individual who is employed with the reinsurer; or

18 (G) delegate reinsurance intermediary manager authority to another person;

19 (15) if the insurer is domiciled in this state or the reinsurance intermediary
20 manager has a place of business in this state, a copy of the contract must be filed with and
21 approved by the director at least 30 days before the reinsurance intermediary manager transacts
22 business on behalf of the reinsurer; and

23 (16) if the contract is not required to be approved in advance by the director, the
24 insurer shall provide written notification to the director within 30 days of the entry into or
25 termination of a contract with a reinsurance intermediary manager; the notice must include a
26 statement of duties to be performed by the reinsurance intermediary manager on behalf of the
27 reinsurer, the kinds and classes of insurance for which the reinsurance intermediary manager has
28 authorization to act, and other information required by the director.

29 (c) Binding authority for all retrocession contracts or participation in reinsurance
30 syndicates may only rest with an officer of the reinsurer who is not affiliated with a reinsurance
31 intermediary manager.

1 (d) In a form acceptable to the director, a reinsurance intermediary manager shall
2 annually provide and a reinsurer shall annually obtain a copy of certified financial statements of
3 each reinsurance intermediary manager that the reinsurer has used, prepared by an independent
4 certified public accountant.

5 (e) The reinsurer shall

6 (1) at least semiannually conduct an on-site review of the underwriting and claims
7 processing operations of each reinsurance intermediary manager;

8 (2) in addition to any other required loss reserve certification, annually obtain the
9 opinion of an independent qualified actuary attesting to the adequacy of loss reserves established
10 for losses incurred and outstanding on business produced by the reinsurance intermediary
11 manager if a reinsurance intermediary manager establishes loss reserves; the reinsurer retains an
12 independent responsibility to determine the adequacy of its loss reserves, including those
13 established by its reinsurance intermediary manager; and

14 (3) provide written notification to the director by certified mail within 30 days
15 of the termination of a contract with a reinsurance intermediary manager.

16 (f) The reinsurance intermediary manager shall disclose to the reinsurer a relationship
17 with an insurer before ceding or assuming risks with the insurer under the contract.

18 (g) A reinsurer may not appoint to its board of directors an officer, director, employee,
19 subagent, insurance producer, or controlling shareholder of its reinsurance intermediary manager.

20 (h) Within the scope of the actual or apparent authority, the acts of the reinsurance
21 intermediary manager are considered the acts of the reinsurer upon whose behalf it is acting.

22 (i) A reinsurance intermediary manager may be examined by the director as if it were
23 the insurer.

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

31 (k) In addition to any other penalty provided by law, a person who violates this section

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1 is subject to the penalties provided under AS 21.27.440 and an insurer's or reinsurer's certificate
2 of authority may be suspended or revoked.

3 Sec. 21.27.770. REINSURANCE INTERMEDIARY MANAGER RECORDS. In
4 addition to any other records requirements under this chapter, a reinsurance intermediary manager
5 shall maintain in organized form a complete record of each transaction including

6 (1) the type of contract, limits, underwriting restrictions, classes or risks, and
7 territory;

8 (2) the period of coverage, including effective and expiration dates, cancellation
9 provisions, and required notice of cancellation;

10 (3) disposition of outstanding reserves on covered risks;

11 (4) the reporting and settlement requirements of balances;

12 (5) the rate used to compute the reinsurance premium;

13 (6) the names and addresses of reinsurers;

14 (7) the rate of all reinsurance commissions, including the commissions on
15 retrocessions handled by the reinsurance intermediary broker and reinsurance intermediary
16 manager,

17 (8) related correspondence and memoranda;

18 (9) proof of placement;

19 (10) details regarding retrocessions handled by the reinsurance intermediary broker
20 and reinsurance intermediary manager including the identity of retrocessionaires and the
21 percentage of each contract assumed or ceded;

22 (11) financial records of premium and loss accounts; and

23 (12) if the reinsurance intermediary broker procures a reinsurance contract on
24 behalf of an admitted ceding insurer or when the reinsurance intermediary manager places a
25 reinsurance contract on behalf of a ceding insurer, written evidence

26 (A) directly from an assuming reinsurer that it has agreed to assume the
27 risk; or

28 (B) that the reinsurer had delegated binding authority to the representative,
29 if placed through a representative of the assuming reinsurer other than an employee of the
30 assuming reinsurer.

31 ARTICLE 7. SURPLUS LINES BROKER.

1 Sec. 21.27.790. SURPLUS LINES BROKER QUALIFICATIONS. In addition to the
2 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a surplus
3 lines broker license, an applicant or licensee shall

4 (1) have a minimum two years active working experience within the previous five
5 calendar years as an insurance producer, managing general agent, reinsurance intermediary
6 broker, reinsurance intermediary manager, independent adjuster, or underwriter or claims adjuster
7 employee of an insurer and, in the director's opinion, exhibit the ability to competently perform
8 the responsibilities of the license applied for;

9 (2) have and maintain while licensed, a bond in the sum of not less than \$200,000
10 aggregate liability and with the conditions that the surplus lines broker conduct business under
11 the provisions of this title, promptly remit the taxes and fees provided by law, return premiums
12 promptly when due, and pay proper losses promptly;

13 (3) if the director requires, maintain an errors and omissions insurance policy
14 acceptable to the director.

15 Sec. 21.27.800. TRAINEE SURPLUS LINES BROKER. (a) An individual licensed in
16 this state as an insurance producer who does not have the experience required of a surplus lines
17 broker, but who otherwise meets the requirements of AS 21.27.790, may be employed by a
18 licensed surplus lines broker as a trainee surplus lines broker, subject to the provisions of this
19 section.

20 (b) Before an individual may transact insurance as a trainee surplus lines broker, the
21 licensed surplus lines broker employing the trainee surplus lines broker shall submit to the
22 director the application of the trainee surplus lines broker, with the fee set under AS 21.06.250,
23 and receive the trainee surplus lines broker license.

24 (c) Upon satisfying the experience requirement, a trainee surplus lines broker shall apply
25 within 30 days for a surplus lines broker license.

26 (d) A trainee licensed under this section shall at all times be working at the direction and
27 under the supervision of the employing licensed surplus lines broker, and the file and record
28 documentation shall reflect the direction and supervision. Insurance activities must be in the
29 name of the employing licensed surplus lines broker, who is responsible for all actions of the
30 trainee surplus lines broker.

31 (e) A trainee licensed under this section is restricted to assisting the employing licensed

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1 surplus lines broker in preparing applications; binders; certificates of insurance; schedules of
2 equipment, vehicles, and drivers; loss notices to insurers; and invoices; and to perform clerical
3 functions for which a license is not required. The file and record documentation must reflect
4 compliance with this subsection.

5 (f) A trainee surplus line broker licensed under this section may not transact business
6 away from the place of business with clients or insurers unless a licensed surplus lines broker
7 physically accompanies the trainee.

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

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

13 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
14 surplus lines broker knew of or should have known that a trainee licensed under this section
15 violated this section, the employing surplus lines broker and firm, principal, and manager, if any,
16 are subject to the penalties provided under AS 21.27.440.

17 Sec. 21.27.810. SURPLUS LINES BROKER RECORDS. In addition to any other records
18 requirements under this chapter, a surplus lines broker shall maintain in organized form a
19 complete record including

- 20 (1) the amount of insurance and perils insured;
- 21 (2) a complete description of property insured and the location of the property;
- 22 (3) gross premium charged;
- 23 (4) a return premium paid;
- 24 (5) the rate of premium charged upon the several items of property;
- 25 (6) the effective date of the contract and the terms of the contract;
- 26 (7) the name and address of the insured;
- 27 (8) the name and address of the insurer;
- 28 (9) the amount of tax and other sums to be collected from the insured;
- 29 (10) the allocation of taxes by state under AS 21.34.180;
- 30 (11) evidence of insurance issued in compliance with AS 21.34.100;
- 31 (12) the identity and license number of the producing broker;

1 (13) any confirming correspondence from the insurer or the representative of the
2 insurer; and

3 (14) the application.

4 Sec. 21.27.820. DENIAL, NONRENEWAL, SUSPENSION, OR REVOCATION OF
5 SURPLUS LINES BROKER LICENSE. In addition to other action available under this title, the
6 director may deny issuance of or not renew a license, or may suspend or revoke a license of a
7 surplus lines broker issued under this chapter for any of the following causes:

8 (1) removal of the resident surplus lines broker's office from this state;

9 (2) removal of the resident surplus lines broker's accounts and records from this
10 state during the period within which the accounts and records are required to be maintained under
11 this chapter;

12 (3) removal of the nonresident surplus lines broker's accounts and records
13 required to be maintained under this chapter from the location described in the license without
14 prior approval of the director;

15 (4) closing of the surplus lines broker's office for a period of more than 45
16 calendar days, unless permission is granted by the director;

17 (5) failure to make a required report;

18 (6) failure to transmit a required tax or fee on a surplus line premium to this state
19 or a reciprocal state to which a tax is owing;

20 (7) failure to maintain a required bond.

21 ARTICLE 8. INDEPENDENT ADJUSTERS.

22 Sec. 21.27.830. INDEPENDENT ADJUSTER QUALIFICATIONS. In addition to the
23 general qualifications under AS 21.27.020, to qualify for issuance or renewal of an independent
24 adjuster license, an applicant or licensee shall

25 (1) have at least six months active working experience within the previous two
26 calendar years as either an independent adjuster trainee, an insurance producer, a managing
27 general agent, a reinsurance intermediary broker, a reinsurance intermediary manager, a surplus
28 lines broker, an independent adjuster, or an underwriter or claims adjuster employee of an insurer,
29 and, in the director's opinion, exhibit the ability to competently perform the responsibilities of
30 an independent adjuster; or

31 (2) have been previously licensed in good standing in this state as an independent

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1 adjuster within the previous four calendar years and not have had a license suspended or revoked.

2 Sec.21.27.840. TRAINEE INDEPENDENT ADJUSTERS. (a) An individual resident
3 who does not have the experience with reference to the handling of loss claims but who
4 otherwise meets the requirements of AS 21.27.830, may be employed by a licensed independent
5 adjuster as a trainee independent adjuster, subject to the provisions of this section.

6 (b) Before the individual may handle loss claims, the licensed independent adjuster
7 employing the trainee independent adjuster shall submit to the director the application of the
8 trainee independent adjuster, with the fee set under AS 21.06.250, and receive the trainee
9 independent adjuster license.

10 (c) The director shall revoke a trainee independent adjuster license unless the individual
11 has

12 (1) not later than four months after the effective date of the trainee adjuster
13 license, complied with the independent adjuster licensing requirements of AS 21.27.060
14 concerning the insurance laws and regulations of this state;

15 (2) not later than eight months after the effective date of the trainee adjuster
16 license, complied with the independent adjuster licensing requirements of AS 21.27.060
17 concerning the knowledge and competence of the licensee concerning handling of loss claims and
18 the licensee's duties and responsibilities as a licensee; and

19 (3) within 12 months after the effective date of the trainee adjuster license,
20 complied with all other independent adjuster licensing requirements.

21 (d) A person whose trainee independent adjuster license was revoked for failure to meet
22 a requirement of (c) of this section may submit a new application for a trainee independent
23 adjuster license after the person has successfully passed both tests required under (c) of this
24 section.

25 (e) Upon satisfying the requirements of (c) of this section, a trainee independent adjuster
26 shall apply within 30 days for an independent adjuster license.

27 (f) A trainee independent adjuster shall at all times be working at the direction and under
28 the supervision of the employing licensed independent adjuster, and the file and record
29 documentation shall reflect the direction and supervision. The employing licensed independent
30 adjuster and its firm, manager, and principal, if any, are responsible for all insurance actions of
31 the trainee independent adjuster.

1 (g) A trainee independent adjuster is restricted to participation in a factual investigation
2 and a tentative closing of a loss subject to review and final determination by the employing
3 licensed independent adjuster, and file and record documentation shall reflect compliance with
4 this subsection.

5 (h) A trainee independent adjuster may not participate in a factual investigation and a
6 tentative closing of a loss away from the place of business unless a licensed independent adjuster
7 physically accompanies the trainee.

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

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

13 (2) if the director determines under AS 21.06.170 - 21.06.240 that the employing
14 licensed independent adjuster knew of or should have known that a trainee independent adjuster
15 violated this section, the employing licensed independent adjuster and firm, principal and
16 manager, if any, are subject to the penalties provided under AS 21.27.440.

17 Sec. 21.27.850. INSURANCE PRODUCER, MANAGING GENERAL AGENT,
18 REINSURANCE INTERMEDIARY BROKER, REINSURANCE INTERMEDIARY MANAGER,
19 SURPLUS LINES BROKER AS INDEPENDENT ADJUSTER. Without being required by this
20 chapter to be licensed also as an independent adjuster

21 (1) a licensed insurance producer and a licensed managing general agent,
22 incidental to acting as an insurance producer, may act as an adjuster and investigate, adjust, and
23 report upon claims on behalf of and as authorized by an admitted insurer that has appointed the
24 insurance producer or the managing general agent as its agent under AS 21.27.100;

25 (2) a surplus lines broker may act as an adjuster and investigate, adjust, and report
26 upon claims on behalf of and as authorized by a nonadmitted insurer; and

27 (3) a reinsurance intermediary broker or a reinsurance intermediary manager may
28 act as an adjuster and investigate, adjust, and report upon claims on behalf of and as authorized
29 by an insurer or reinsurer under the contract required by this chapter.

30 Sec. 21.27.860. UNLICENSED NONRESIDENT ADJUSTERS. (a) A nonresident
31 independent adjuster not licensed by this state who is licensed by and in good standing with its

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1 resident state may act as an adjuster and adjust a single loss in this state during a calendar year,
2 or may act as an adjuster and adjust losses arising out of a catastrophe as declared by the
3 director, if, within 10 days after the start of an investigation or adjustment under this section, the
4 nonresident independent adjuster has advised the director in writing of the adjustment and
5 provided the following information:

- 6 (1) the individual and firm name;
- 7 (2) the business mailing address;
- 8 (3) the business physical address and phone number;
- 9 (4) the licensing state of residence;
- 10 (5) the resident license number; and
- 11 (6) other facts that the director may require.

12 (b) A nonresident independent adjuster may be sued upon a cause of action arising in this
13 state arising from an adjustment under this section under the procedure provided in AS 21.33.

14 Sec. 21.27.870. INDEPENDENT ADJUSTER RECORDS. In addition to any other
15 records requirements under this chapter, an independent adjuster shall maintain in organized form
16 a complete record of each investigation or adjustment undertaken or consummated, and a
17 statement of the fee, commission, or other compensation received or to be received by the
18 adjuster on account of the investigation or adjustment.

19 ARTICLE 9. DEFINITIONS.

20 Sec. 21.27.900. DEFINITIONS. In this chapter,

- 21 (1) "affiliate" or "affiliated" has the meaning given in AS 21.22.200;
- 22 (2) "cession" means a unit of insurance, passed to a reinsurer by a primary insurer
23 that issued the policy to the original insured, that may transfer part or all of a single risk, defined
24 in the policy, or a defined group of business as agreed to in a contract of reinsurance;
- 25 (3) "comparable business" means the same lines or kinds of insurance, the same
26 classes of risks, similar policy limits, and quality of business;
- 27 (4) "control," "controlling," and "controlled by" have the meaning given in
28 AS 21.22.200;
- 29 (5) "controlled insurer" means an admitted insurer that is controlled, directly or
30 indirectly, by an insurance producer;
- 31 (6) "controlling insurance producer" means an insurance producer that, directly

1 or indirectly, controls an insurer;

2 (7) "fiduciary account" means an account in which the licensee holds money as
3 a trustee for the person entitled to the money;

4 (8) "firm" means an organization of two or more licensees acting in association
5 with each other, either in a partnership, corporation, or otherwise, or an organization in which
6 a single licensee has less than 50 percent ownership interest in the organization;

7 (9) "independent qualified actuary" means an actuary who is a member of the
8 American Academy of Actuaries and who is not affiliated with, an employee, principal, the direct
9 owner or indirect owner of, or in any way controlled by the insurer, managing general agent,
10 reinsurance intermediary broker, or reinsurance intermediary manager;

11 (10) "individual" means a natural person required to be licensed under
12 AS 21.27.010 who is not acting in association with two or more licensees, either in partnership,
13 corporation, or otherwise, or an organization in which a single licensee has 50 percent or more
14 ownership interest in the organization;

15 (11) "individual in the firm" means a natural person required to be licensed under
16 AS 21.27.010 who is employed by a firm;

17 (12) "insurance holding company system" has the meaning given in AS 21.22.200;

18 (13) "interim profits" means the excess of income over expenses and claim
19 reserves determined before the expiration of all claim liabilities and contract obligations of the
20 insurer to the insured;

21 (14) "manager" means the individual in the firm who is designated by the firm
22 to be responsible for the firm's operations and the firm's compliance with insurance laws and
23 regulations at the place of business in which the manager principally works;

24 (15) "physical presence or physically present" means contemporaneously available
25 in the licensee's place of business;

26 (16) "principal" means the sole proprietor, partner, or officer of a firm who is
27 licensed as an individual in the firm and who is designated by the firm to be responsible for the
28 firm's operations and the firm's compliance with insurance laws and regulations;

29 (17) "reinsurance" means an insurance transaction by which the assuming insurer
30 agrees to indemnify the ceding insurer in whole or in part against liability or losses that the
31 ceding insurer might incur under a separate contract of insurance with its insured;

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1 (18) "resident" means

2 (A) for an individual or an individual in the firm, a natural person who
3 is domiciled in this state, whose principal place of business is in this state, who has a
4 present intent to remain in this state while licensed, and who manifests that intent by
5 establishing an ongoing physical presence in this state;

6 (B) for a firm, a person whose principal place of business is in this state;

7 (19) "retrocession" means a transaction in which a reinsurer cedes to another
8 reinsurer all or part of the risk that the reinsurer has previously assumed;

9 (20) "subagent" means an agent reporting to a managing general agent or
10 reinsurance intermediary manager and not directly to an insurer;

11 (21) "subsidiary" has the meaning given in AS 21.22.200;

12 (22) "underwrite" means the authority to accept or reject risk on behalf of the
13 insurer.

14 * Sec. 95. AS 21.27.620(a)(4)(L) is repealed and reenacted to read:

15 (L) if the insurer is domiciled in this state or the managing general agent
16 has a place of business in this state, a copy of the contract must be filed with and
17 approved by the director at least 30 days before the managing general agent transacts
18 business on behalf of the insurer; if the insurer is not domiciled in this state or the
19 managing general agent transacts business relative to a subject resident, located, or to be
20 performed in this state from a place of business not physically located in this state, a copy
21 of the contract required in this section must be filed with and approved by the director
22 at least 30 days before the managing general agent transacts business on behalf of the
23 insurer in this state or relative to a subject resident, located, or to be performed in this
24 state if the insurer or the managing general agent are domiciled in a state not accredited
25 by the National Association of Insurance Commissioners; and

26 * Sec. 96. AS 21.27.760(b)(15) is repealed and reenacted to read:

27 (15) if the insurer is domiciled in this state or the reinsurance intermediary
28 manager has a place of business in this state, a copy of the contract must be filed with and
29 approved by the director at least 30 days before the reinsurance intermediary manager transacts
30 business on behalf of the reinsurer; if the reinsurer is not domiciled in this state or the
31 reinsurance intermediary manager transacts business relative to a subject resident, located, or to

1 be performed in this state from a place of business not physically located in this state, a copy of
2 the contract required in this section must be filed with and approved by the director at least 30
3 days before the reinsurance intermediary manager transacts business on behalf of the insurer in
4 this state or relative to a subject resident, located, or to be performed in this state if the insurer
5 or the reinsurance intermediary manager are domiciled in a state not accredited by the National
6 Association of Insurance Commissioners; and

7 * Sec. 97. AS 21.33.011 is amended to read:

8 Sec. 21.33.011. PURPOSE. The legislature declares that insurance transactions with
9 nonadmitted insurers are so affected with a public interest as to require regulation, taxation,
10 supervision, and control of the transactions and matters relating to nonadmitted insurance as
11 provided in this chapter in order to

12 (1) protect the insureds and claimants of this state in transactions involving the
13 purchase of insurance from nonadmitted insurers;

14 (2) avoid the obstacle of resorting to distant forums for the purpose of asserting
15 legal rights under policies issued by nonadmitted insurers;

16 (3) provide a method of substituted service of process upon nonadmitted insurers
17 for proceedings before the director and in the courts in this state;

18 (4) provide for the public the ability to self-procure insurance directly from
19 nonadmitted insurers [, TO THE EXTENT THAT INSURANCE IS NOT PROCURABLE
20 FROM ADMITTED INSURERS, OR FROM ELIGIBLE SURPLUS LINES INSURERS
21 THROUGH SURPLUS LINES BROKERS];

22 (5) protect the revenue of the state;

23 (6) protect regulated, admitted insurers from unregulated and unfair competition
24 by nonadmitted insurers;

25 (7) regulate and supervise the effectuation of nonadmitted insurance under [IN
26 ACCORDANCE WITH] the laws of this state and 15 U.S.C. 1011 [P.L. 79-15 (1945)
27 (CHAPTER 20, 1ST SESS., S.340), 59 STAT. 33]; and

28 (8) maintain reliable insurance markets.

29 * Sec. 98. AS 21.33.021(a) is amended to read:

30 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
31 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon

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1 the person or insurer, the executor, administrator, or personal representative of the person or
2 insurer, or its successor in interest if a corporation, of the director and the successors of the
3 director in office to be the lawful attorney of that person or insurer upon whom may be served
4 all legal process in any action, suit, or proceeding in any court arising out of a transaction of
5 insurance in this state or relative to a subject resident, located, or to be performed in this
6 state by that person or nonadmitted insurer, except in an action, suit, or proceeding by the
7 director or by the state. The transaction of insurance by an unauthorized person or nonadmitted
8 insurer is acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer
9 that legal process so served has [IS OF] the same legal force and validity as personal service of
10 process in this state upon the person or insurer, or upon the executor, administrator, or personal
11 representative of the person or insurer, or its successor in interest if a corporation.

12 * Sec. 99. AS 21.33.025(a) is amended to read:

13 (a) The transaction of insurance by an unauthorized person or nonadmitted insurer is
14 equivalent to and constitutes an irrevocable appointment by that person or insurer, binding upon
15 the person or insurer, the executor, administrator, or personal representative of the person or
16 insurer, or its successor in interest if a corporation, of the lieutenant governor and the successors
17 in office of the lieutenant governor to be the lawful attorney of that person or insurer upon whom
18 may be served all legal process in any action, suit, or proceeding in any court by the director or
19 by the state and upon whom may be served any notice, order, pleading, or process in any
20 proceeding before the director and which arises out of the transaction of insurance in this state
21 or relative to a subject resident, located, or to be performed in this state by that person or
22 insurer. The transaction of insurance by an unauthorized person or nonadmitted insurer is
23 acceptance by [SIGNIFICATION OF THE AGREEMENT OF] that person or insurer that legal
24 process in the court action, suit, or proceeding and any notice, order, pleading, or process in an
25 administrative proceeding before the director so served has [IS OF] the same legal force and
26 validity as personal service of process in this state upon the person or insurer, or upon the
27 executor, administrator, or personal representative of that person or insurer, or its successor in
28 interest if a corporation.

29 * Sec. 100. AS 21.33.031(a) is amended to read:

30 (a) Before an unauthorized person or nonadmitted insurer files or causes to be filed a
31 pleading, a court action, suit, or proceeding or a notice, order, pleading, or process in an

administrative proceeding before the director instituted against the person or insurer, by service made as provided in AS 21.33.021 or 21.33.025, the person or insurer shall either

(1) deposit with the clerk of the court in which the action, suit, or proceeding is pending, or with the director in administrative proceedings before the director, cash or securities or bond with an admitted insurer [GOOD AND SUFFICIENT SURETIES] to be approved by the court, or the director, in an amount to be fixed by the court or the director sufficient to secure the payment of a final judgment that may be rendered in the court proceeding or in the administrative proceeding before the director; however the court, or the director in administrative proceedings before the director, may in its or the director's discretion make an order dispensing with the deposit or bond where the insurer makes a showing satisfactory to the court or the director that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy a final judgment that may be entered in the court action, suit, or proceeding or in an administrative proceeding before the director; or

(2) obtain admission to transact insurance in this state through a certificate of authority issued under this title.

* Sec. 101. AS 21.33.031(c) is amended to read:

(c) Nothing in (a) of this section may be construed to prevent an unauthorized person or nonadmitted insurer from filing a motion to quash a writ or to set aside service made as provided in AS 21.33.021 or 21.33.025 on the ground that the unauthorized person or insurer has not transacted insurance in this state or relative to a subject resident, located, or to be performed in this state or that the person on whom service was made under AS 21.33.021(d) was not transacting insurance in this state or relative to a subject resident, located, or to be performed in this state.

* Sec. 102. AS 21.33.037(b) is amended to read:

(b) This section does not apply to

- (1) matters authorized to be done by the director;
- (2) surplus lines insurance effected and written under AS 21.34;
- (3) transactions for which a certificate of authority is not required under this title;
- (4) reinsurance;
- (5) the property and operations of railroads or aircraft engaged in interstate or foreign commerce and wet marine and transportation insurance;

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

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

* Sec. 103. AS 21.33.037(c) is amended to read:

(c) In addition to other penalties under this title, a [A] person who represents or aids a nonadmitted insurer in violation of this chapter [SECTION] is subject to the penalties provided in AS 21.33.065. This chapter does [AN INSURANCE CONTRACT ENTERED INTO IN VIOLATION OF THIS SECTION SHALL] not preclude the insured from enforcing, under [THE INSURED'S RIGHTS IN ACCORDANCE WITH] the terms and provisions of the contract and the laws of this state, the insured's rights under a contract entered into in violation of this chapter.

* Sec. 104. AS 21.33.042 is amended to read:

Sec. 21.33.042. SUITS BY NONADMITTED INSURERS. A nonadmitted insurer may not commence or maintain an action in law or equity in this state to enforce a right arising out of a transaction of insurance in this state except with respect to

(1) claims under policies lawfully written in this state;

(2) liquidation of assets and liabilities, other than the collection of new premiums, resulting from its former admitted operations in this state;

(3) transactions subsequent to issuance of a policy not covering a subject resident, located, or to be performed in this state [DOMESTIC RISKS] at time of issuance [,] and lawfully solicited, written, or delivered outside this state;

(4) surplus lines insurance coverage exported under [IN ACCORDANCE WITH] AS 21.34;

(5) reinsurance;

(6) the continuation and servicing of life insurance, disability insurance policies, or annuity contracts remaining in force as to residents of this state where the insurer has withdrawn from the state and is not transacting new insurance;

(7) servicing of policies written by an admitted insurer in a state to which the insured has moved but in which the insured is not licensed, until the term of the policy expires;

1 (8) claims under policies covering wet marine and transportation insurance,
2 including vessels of 50 displacement tons or less.

3 * Sec. 105. AS 21.33.045(a) is amended to read:

4 (a) When the director has reason to believe that insurance has been effectuated by or for
5 a person in this state with a nonadmitted insurer, the director shall in writing order the person
6 to produce for examination all insurance contracts and other documents evidencing insurance with
7 nonadmitted insurers and to disclose to the director the amount of insurance, name and address
8 of each insurer, gross amount of premium paid [,] or to be paid, [AND] the name and address
9 of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of the
10 insurance, and other information required by the director.

11 * Sec. 106. AS 21.33.055(a) is amended to read:

12 (a) Except as to premiums on lawfully procured surplus lines insurance exported under
13 AS 21.34 and premiums on independently procured insurance on which a tax has been paid under
14 AS 21.33.061, every nonadmitted insurer shall pay to the director on or before March 1
15 [APRIL 1] following the calendar year in which the insurance was so effectuated, continued, or
16 renewed a premium-receipts tax of three percent of gross premiums charged for the insurance
17 other than wet marine and transportation insurance and a premium-receipts tax of three-fourths
18 of one percent of gross premiums charged for the wet marine and transportation insurance on
19 subjects resident, located, or to be performed in this state. The insurance on subjects resident,
20 located, or to be performed in this state procured through negotiations or an application, in whole
21 or in part occurring or made in or from in or out of this state, or for which premiums in whole
22 or in part are remitted directly or indirectly from in or out of this state, shall be considered to
23 be insurance procured or continued or renewed in this state. The term "premium" includes all
24 premiums, membership fees, assessments, dues, and any other consideration for insurance. The
25 tax is in lieu of all taxes and fire department dues. On default of a nonadmitted insurer in the
26 payment of the tax, the insured shall pay the tax within 30 days of written notice from the
27 director of the default by the nonadmitted insurer. If the tax prescribed by this section is not
28 paid by the nonadmitted insurer within the time stated or by the insured within the time
29 stated after notice of default by the nonadmitted insurer, the tax may [SHALL] be increased
30 by

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

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1 greater;

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

4 (3) a [PENALTY OF 25 PERCENT AND BY THE AMOUNT OF AN
5 ADDITIONAL] penalty not to exceed \$100 a day or 25 percent of the tax due, whichever is
6 greater, from the date the payment was due to the date paid.

7 * Sec. 107. AS 21.33.055(b) is repealed and reenacted to read:

8 (b) In determining the amount of premiums taxable in this state, all premiums written,
9 procured, or received in this state shall be considered written on property or a subject located or
10 resident in this state, except premiums that are properly allocated or apportioned and reported as
11 taxable premiums of another state. In determining the amount of gross premiums taxable in this
12 state covering a subject resident, located, or to be performed both inside and outside the state,
13 the tax due shall be computed on that portion of the policy premium that is attributable to the
14 subject resident, located, or to be performed in this state and that relates to the kind of insurance
15 being placed as determined by reference to an allocation schedule as follows:

16 (1) if a policy covers more than one classification,

17 (A) for any portion of the coverage identified by a classification on the
18 allocation schedule, the tax shall be computed by using the allocation schedule for the
19 corresponding portion of the premium;

20 (B) for any portion of the coverage not identified by a classification on
21 the allocation schedule, the tax shall be computed by using an alternative equitable
22 method of allocation for the property or subject;

23 (C) for any portion of the coverage where the premium is indivisible, the
24 tax shall be computed by using the method of allocation that pertains to the classification
25 describing the predominant coverage.

26 (2) if the information provided is insufficient to substantiate the method of
27 allocation used or if the director determines that the method is incorrect, the director shall
28 determine the equitable and appropriate amount of tax due to the state as follows:

29 (A) by use of the allocation schedule where the subject is appropriately
30 identified in the schedule;

31 (B) where the allocation schedule does not identify a classification

1 appropriate to the coverage, the director may give acceptance by significant weight to
2 documented evidence of the underwriting bases and other criteria used by the insurer or
3 may give consideration to other available information to the extent it is sufficient and
4 relevant, including the percentage of the insured's physical assets in this state, the
5 percentage of the insured's sales in this state, the percentage of income or resources
6 derived from this state, and the amount of premium tax paid to another jurisdiction for
7 the policy.

8 * Sec. 108. AS 21.33.055 is amended by adding a new subsection to read:

9 (c) This section does not apply to insurance of risks of the state, a political subdivision
10 of the state, or to insurance of aircraft regularly engaged in interstate or foreign commerce.

11 * Sec. 109. AS 21.33.061(a) is amended to read:

12 (a) Every insured who procures or causes to be procured or continues or renews
13 insurance with a nonadmitted insurer, or an insured or self-insurer who so procures or continues
14 excess loss, catastrophe or other insurance, upon a subject of insurance resident, located, or to
15 be performed in this state, other than insurance lawfully procured through a surplus lines broker
16 under AS 21.34 shall, within 30 days after the date the insurance was procured, continued, or
17 renewed, file a report with the director in writing and in a form prescribed [UPON FORMS
18 DESIGNATED] by the director [AND FURNISHED TO THE INSURED UPON REQUEST].
19 The report must show the name and address of the insured, name and address of the insurer, the
20 subject of the insurance, a general description of the coverage, the amount of premium currently
21 charged, and additional pertinent information required [THAT IS REASONABLY
22 REQUESTED] by the director.

23 * Sec. 110. AS 21.33.061(c) is amended to read:

24 (c) There is levied upon the obligation, chose in action, or right represented by the
25 premium charged for the insurance, a premium receipts tax of three per cent of gross premiums
26 charged for the insurance other than wet marine and transportation insurance and a premium
27 receipts tax of three-fourths of one percent of gross premiums charged for the wet marine and
28 transportation insurance. The term "premium" includes all premiums, membership fees,
29 assessments, dues, and any other consideration for insurance. The tax is in lieu of all taxes and
30 fire department dues. The insured shall, on or before March 1 [APRIL 1] following the calendar
31 year in which the insurance was procured, continued, or renewed, pay the amount of the tax to

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

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

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

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

11 * Sec. 111. AS 21.33.061(d) is repealed and reenacted to read:

12 (d) In determining the amount of premiums taxable in this state, all premiums written,
13 procured, or received in this state shall be considered written on property or a subject located or
14 resident in this state, except premiums that are properly allocated or apportioned and reported as
15 taxable premiums of another state. In determining the amount of gross premiums taxable in this
16 state, the tax due shall be computed on that portion of the policy premium that is attributable to
17 a subject resident, located, or to be performed in this state and that relates to the kind of
18 insurance being placed as determined by reference to an allocation schedule as follows:

19 (1) if a policy covers more than one classification,

20 (A) for any portion of the coverage identified by a classification on the
21 allocation schedule, the tax shall be computed by using the allocation schedule for the
22 corresponding portion of the premium;

23 (B) for any portion of the coverage not identified by a classification on
24 the allocation schedule, the tax shall be computed by using an alternative equitable
25 method of allocation for the property or subject;

26 (C) for any portion of the coverage where the premium is indivisible, the
27 tax shall be computed by using the method of allocation that pertains to the classification
28 describing the predominant coverage;

29 (2) if the information provided is insufficient to substantiate the method of
30 allocation used, or if the director determines that the method is incorrect, the director shall
31 determine the equitable and appropriate amount of tax due to this state as follows:

1 (A) by use of the allocation schedule where the subject is appropriately
2 identified in the schedule;

3 (B) where the allocation schedule does not identify a classification
4 appropriate to the coverage, the director may give significant weight to documented
5 evidence of the underwriting bases and other criteria used by the insurer or may give
6 consideration to other available information to the extent sufficient and relevant, including
7 the percentage of the insured's physical assets in this state, the percentage of the insured's
8 sales in this state, the percentage of income or resources derived from this state, and the
9 amount of premium tax paid to another jurisdiction for the policy.

10 * Sec. 112. AS 21.33.061(g) is amended to read:

11 (g) This section does not apply to insurance of risks of the state, a political
12 subdivision of the state, insurance of aircraft regularly engaged in interstate or foreign
13 commerce, to life insurance, [INDIVIDUAL LIFE OR INDIVIDUAL] disability insurance, or
14 annuity contracts.

15 * Sec. 113. AS 21.33.065(a) is amended to read:

16 (a) A person other than an insured, who in this state represents or aids a nonadmitted
17 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than \$50,000
18 [\$5,000] in addition to applicable criminal penalties and other penalties prescribed in this title
19 [CHAPTER].

20 * Sec. 114. AS 21.33.065(b) is amended to read:

21 (b) In addition to any other penalty provided, a person who violates a provision of this
22 chapter is [SHALL BE] subject to a civil penalty of not more than \$10,000 [\$1,000] for the first
23 offense and not more than \$100,000 [\$2,000] for each succeeding violation.

24 * Sec. 115. AS 21.33.900 is amended to read:

25 Sec. 21.33.900. RECORDS OF INSUREDS. In order that the director may effectively
26 administer this chapter, a [EACH] person who has placed insurance with an unauthorized insurer
27 shall, upon the director's order, produce for the examination of the director all policies and other
28 documents evidencing the insurance and shall disclose to the director the amount of premiums
29 paid or agreed to be paid for the insurance and other information required by the director.
30 For each refusal to obey the order, in addition to any other penalties prescribed in this title,
31 the person is subject to a civil penalty of not more than \$25,000 [\$2,500] following an

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1 appropriate hearing as provided in AS 21.06.170 - 21.06.230.

2 * Sec. 116. AS 21.33.910 is repealed and reenacted to read:

3 Sec. 21.33.910. DEFINITIONS. In this chapter,

4 (1) "export" means to place surplus lines insurance with a nonadmitted insurer;

5 (2) "transaction of insurance" means the solicitation, negotiation, procurement,
6 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
7 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
8 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
9 insurance and arising out of it;

10 (3) "unauthorized person" means a person not licensed as a surplus lines broker,
11 or not a salaried employee of the insured;

12 (4) "wet marine and transportation insurance" has the meaning given in
13 AS 21.34.900.

14 * Sec. 117. AS 21.34.020 is repealed and reenacted to read:

15 Sec. 21.34.020. PLACEMENT OF SURPLUS LINES INSURANCE. Insurance other
16 than reinsurance, wet marine and transportation insurance, insurance independently procured, life
17 insurance, disability insurance, and annuity contracts may be procured through a surplus lines
18 broker licensed under AS 21.27 from nonadmitted insurers if

19 (1) the insurer is an eligible surplus lines insurer;

20 (2) the full amount, kind, or class of insurance cannot be obtained from insurers
21 who are admitted to do business in this state;

22 (3) the producing broker has conducted and documented a diligent search among
23 insurers who are admitted to transact business in this state and are actually writing the particular
24 kind or class of insurance required by the client in this state;

25 (4) the director authorizes an exception to (2) of this section by regulation or by
26 written authorization for an individual placement upon written request by the broker; and

27 (5) all other requirements of this chapter are met.

28 * Sec. 118. AS 21.34 is amended by adding a new section to read:

29 Sec. 21.34.025. SUBSCRIPTION POLICIES OR JOINT UNDERWRITING IN
30 COMBINATION WITH ADMITTED INSURERS. Subscription policies or joint underwriting
31 of insurance other than reinsurance, wet marine and transportation insurance, insurance

1 independently procured, life insurance, disability insurance, and annuity contracts by a
 2 combination of authorized insurers and nonadmitted insurers is a surplus lines insurance
 3 placement in its entirety, is subject to this chapter, is not subject to AS 21.39 or AS 21.42.120 -
 4 21.42.130, and losses or claims are not covered by AS 21.80 (Alaska Insurance Guaranty
 5 Association Act).

6 * Sec. 119. AS 21.34.040(a) is amended to read:

7 (a) Coverage may be placed in a nonadmitted insurer by a surplus lines broker only [,]
 8 if

9 (1) at the time of placement, the nonadmitted insurer meets all the requirements
 10 of this section; and

11 (2) the surplus lines broker is licensed under AS 21.27.

12 * Sec. 120. AS 21.34.040(c) is amended to read:

13 (c) A nonadmitted insurer may be eligible to provide coverage in this state if it qualifies
 14 under one of the following:

15 (1) a foreign but nonalien stock insurer may qualify under this subsection if it has
 16 the minimum unimpaired basic capital and additional surplus equal to that required in its
 17 domiciliary jurisdiction, or maintains [\$5,000,000 AS OF JUNE 20, 1987, \$6,000,000 AS OF
 18 DECEMBER 31, 1990,] \$10,000,000 as of December 31, 1991, \$12,500,000 as of December 31,
 19 1992, and \$15,000,000 as of December 31, 1993, whichever is greater;

20 (2) a foreign but nonalien mutual insurer, a reciprocal insurer, or a mutual
 21 protection and indemnity association may qualify under this subsection if it has the minimum
 22 unimpaired basic surplus and additional surplus equal to that required in its domiciliary
 23 jurisdiction or maintains [\$6,000,000 AS OF DECEMBER 31, 1990,] \$10,000,000 as of
 24 December 31, 1991, \$12,500,000 as of December 31, 1992, and \$15,000,000 as of December 31,
 25 1993, whichever is greater;

26 (3) an alien insurer other than an alien mutual protection and indemnity
 27 association may qualify under this subsection if it meets the minimum requirements in (1) or
 28 (2) of this subsection and maintains in the United States an irrevocable trust fund [IN EITHER
 29 A NATIONAL BANK OR A MEMBER OF THE FEDERAL RESERVE SYSTEM,] in an
 30 amount not less than \$2,500,000 in a solvent federally insured bank acceptable to the
 31 director, as security to the full amount, for the protection of all its policyholders and creditors

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1 of each member of the mutual insurer, reciprocal insurer, or mutual protection and indemnity
2 association in the United States; the trust fund must consist of instruments of substantially the
3 same character and quality as those that are eligible investments for the capital and statutory
4 reserves of admitted insurers authorized to write like kinds of insurance in this state or of
5 irrevocable, clean, and unconditional letters of credit; the trust fund must have an expiration date
6 that at no time is less than five years;

7 (4) a Lloyd's or other similar unincorporated group of alien individual insurers
8 may qualify if it maintains a trust fund in an amount not less than \$50,000,000, as security to
9 the full amount, for the protection of all its policy holders and creditors of each member of the
10 group in the United States; the trust fund must consist of instruments of substantially the same
11 character and quality as those that are eligible investments for the capital and statutory reserves
12 of admitted insurers authorized to write like kinds of insurance in this state or of irrevocable,
13 clean, and unconditional letters of credit; the trust fund must have an expiration date that at no
14 time is less than five years;

15 (5) an ["] insurance exchange ["] created by the laws of individual states may
16 qualify if it maintains capital and surplus, or the substantial equivalent, of not less than
17 \$50,000,000 in the aggregate; for insurance exchanges that maintain funds for the protection of
18 all insurance exchange policyholders, each individual syndicate shall maintain minimum capital
19 and surplus, or the substantial equivalent, of not less than \$3,000,000; in the event the insurance
20 exchange does not maintain funds for the protection of all its policyholders, each individual
21 syndicate shall meet the minimum requirements of (1) or (2) of this subsection;

22 (6) an alien mutual protection and indemnity association may qualify under
23 this subsection if it has the minimum unimpaired basic capital and additional surplus equal
24 to that required in its domiciliary jurisdiction or \$10,000,000, whichever is greater, and
25 maintains in the United States an irrevocable trust fund in an amount not less than
26 \$1,000,000 in a federally insured bank acceptable to the director, as security to the full
27 amount, for the protection of all its policyholders and creditors or each member of the
28 mutual protection and indemnity association in the United States; the trust fund must
29 consist of instruments of substantially the same character and quality as those that are
30 eligible investments for the capital and statutory reserves of admitted insurers authorized
31 to write wet marine and transportation insurance in this state or of irrevocable, clean, and

1 unconditional letters of credit; the trust fund must have an expiration date that at no time
2 is less than five years.

3 * Sec. 121. AS 21.34.040 is amended by adding a new subsection to read:

4 (e) The capital and surplus requirements of this section shall be calculated based upon
5 generally accepted accounting practices used in the United States of America.

6 * Sec. 122. AS 21.34.060 is amended to read:

7 Sec. 21.34.060. OTHER NONADMITTED INSURERS. Only that portion of a risk
8 eligible for export for which the full amount of coverage is not procurable from eligible surplus
9 lines insurers may be placed with another nonadmitted insurer that does not appear on the list
10 of eligible surplus lines insurers published under AS 21.34.050 but nonetheless meets the
11 requirements of AS 21.34.040 and a regulation adopted under this chapter. The surplus lines
12 broker seeking to provide coverage through an unlisted nonadmitted insurer shall within 30 days
13 after placing the coverage notify the director in writing on a form prescribed by the
14 director [MAKE A FILING SPECIFYING] the amount and percentage of each risk to be placed
15 and naming each nonadmitted insurer with which placements are intended. Within 30 days after
16 placing the coverage, the surplus lines broker shall also send written notice to the insured and
17 [OR] the producing broker that the insurance, or a portion of it, has been placed with the unlisted
18 nonadmitted insurer.

19 * Sec. 123. AS 21.34.070(b) is amended to read:

20 (b) The director may issue an order declaring [DECLARE] a nonadmitted insurer
21 ineligible if at any time the director has reason to believe that the nonadmitted insurer

22 (1) is in unsound financial condition;

23 (2) is no longer eligible under AS 21.34.040;

24 (3) has wilfully violated the laws of this state or another state; or

25 (4) does not reasonably investigate and make [REASONABLY] prompt payment
26 of just losses and claims in this state or another state [ELSEWHERE].

27 * Sec. 124. AS 21.34.080 is repealed and reenacted to read:

28 Sec. 21.34.080. EVIDENCE OF INSURANCE, AFFIDAVITS, DUTY TO FILE. (a)
29 A surplus lines broker shall execute and file with the monthly report required by AS 21.34.170
30 a written report, which shall be kept confidential, regarding each surplus lines insurance
31 transaction occurring in the preceding calendar month. The report must include

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- 1 (1) the name and address of the insured;
- 2 (2) the identity of each insurer including the National Association of Insurance
3 Commissioners group and company insurer number and the percentage of coverage provided by
4 each;
- 5 (3) a complete description of the subject and location of the risk;
- 6 (4) the amount of premium charged for the insurance; and
- 7 (5) other information required by the director.

8 (b) Instead of the report required in (a) of this section, the director may order that
9 evidence of insurance be filed with the surplus lines association and that the surplus lines
10 association provide periodic reports regarding insurance transactions to the director.

11 (c) A producing broker shall execute and deliver to the surplus lines broker not later than
12 the end of each month on a form prescribed by the director, and a surplus lines broker shall file
13 with the director with the report required by (a) of this section or with the surplus lines
14 association with the evidence of insurance required by (b) of this section, for surplus lines
15 insurance first placed or renewed in the preceding calendar month, an affidavit that shall be open
16 to public inspection, as to the diligent efforts to place the coverage with admitted insurers, and
17 the results of those efforts. The affidavit must contain a statement by the broker that the insured
18 was expressly informed in writing before placement of the surplus lines insurance that the surplus
19 lines insurer with whom the insurance was to be placed is not licensed in this state, is not subject
20 to this state's supervision, and in the event of the insolvency of the surplus lines insurer, losses
21 will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

22 * Sec. 125. AS 21.34.090(a) is amended to read:

- 23 (a) A surplus lines association of surplus lines brokers may be formed to
- 24 (1) facilitate and encourage compliance by its members with the laws of this state
25 and the regulations relative to surplus lines insurance;
- 26 (2) attend National Association of Insurance Commissioners meetings and
27 participate in task forces and work groups [PROVIDE MEANS FOR THE EXAMINATION,
28 WHICH SHALL REMAIN CONFIDENTIAL, OF ALL SURPLUS LINES COVERAGES
29 WRITTEN BY ITS MEMBERS TO DETERMINE WHETHER THE COVERAGES COMPLY
30 WITH THE LAWS AND REGULATIONS OF THIS STATE];
- 31 (3) communicate with organizations of admitted insurers with respect to the

1 proper use of the surplus lines market;

2 (4) receive and disseminate to its members information relative to surplus lines
3 coverages; and

4 (5) contract with the director to receive reports and affidavits under
5 AS 21.34.080, verify that coverage has been placed with eligible surplus lines insurers, verify
6 the amount of taxes under AS 21.34.180 and fees under AS 21.34.190 for surplus lines
7 insurance for each surplus lines broker, and to prepare periodic reports as required by the
8 director [RECEIVE AND COLLECT ON BEHALF OF THE STATE AND REMIT TO THE
9 STATE PREMIUM RECEIPTS TAX FOR SURPLUS LINES INSURANCE].

10 * Sec. 126. AS 21.34.090(c) is repealed and reenacted to read:

11 (c) A surplus lines association is subject to the same penalties under this title as a surplus
12 lines broker.

13 * Sec. 127. AS 21.34.090 is amended by adding a new subsection to read:

14 (e) The surplus lines association shall maintain its place of business in this state.

15 * Sec. 128. AS 21.34.100(a) is amended to read:

16 (a) When surplus lines insurance is placed, the surplus lines broker shall within 30 days
17 after placing the coverage [PROMPTLY] deliver to the insured or the producing broker the
18 policy, or if the policy is not then available, a certificate, cover note, binder, or other evidence
19 of insurance. The certificate, cover note, binder, or other evidence of insurance shall be executed
20 by the surplus lines broker and must [SHALL] contain a complete record of all policy insuring
21 agreements, conditions, exclusions, clauses, endorsements, other material facts that would
22 regularly be included in the policy, description, and location of the subject of insurance, a general
23 description of the coverages of the insurance, the premium and rate charged and taxes to be
24 collected from the insured, the name and address of the insured, the name of each surplus lines
25 insurer and the percentage of the entire risk assumed by each, the name of the surplus lines
26 broker, and the license number of the surplus lines broker.

27 * Sec. 129. AS 21.34.110 is amended to read:

28 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY INSURED. A
29 contract of insurance placed by a surplus lines broker under this chapter is [SHALL] not [BE]
30 binding upon the insured and a premium charged is [SHALL] not [BE] due and payable until the
31 surplus lines broker has notified the insured in writing, a copy of which shall be maintained by

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1 the licensee with the records of the contract, available for examination, that the insurer with
2 which the surplus lines broker places the insurance does not hold a certificate of authority
3 issued [IS NOT LICENSED] by this state and is not subject to its supervision, and in the event
4 of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska
5 Insurance Guaranty Association Act) [PAID BY THE STATE INSURANCE GUARANTY
6 FUND]. Nothing in this section shall nullify an agreement by an insurer to provide insurance.

7 * Sec. 130. AS 21.34.130 is amended to read:

8 Sec. 21.34.130. EFFECT OF PAYMENT TO SURPLUS LINES BROKER. A payment
9 of premium to a surplus lines broker acting for a person other than itself [ONESELF] in
10 negotiating, continuing, or reviewing a policy of insurance under this chapter, is considered to
11 be payment to the insurer, notwithstanding conditions or stipulations in the policy or contract to
12 the contrary.

13 * Sec. 131. AS 21.34.150 is amended to read:

14 Sec. 21.34.150. SURPLUS LINES BROKERS MAY ACCEPT BUSINESS FROM
15 OTHER BROKERS. A surplus lines broker licensed by this state may originate surplus lines
16 insurance or accept surplus lines insurance from another [BROKER OR] surplus lines broker
17 licensed by [IN] this state or a producing broker licensed by this state as to the kind and class
18 of insurance involved. The surplus lines broker may compensate the producing [LICENSED]
19 broker or surplus lines broker for the insurance.

20 * Sec. 132. AS 21.34.170 is repealed and reenacted to read:

21 Sec. 21.34.170. MONTHLY REPORTS, SUMMARY OF EXPORTED BUSINESS. (a)
22 A surplus lines broker shall file with the director on or before the end of each month, on forms
23 prescribed by the director, a verified report in duplicate of all surplus lines insurance, by type of
24 insurance as required to be reported in the annual statement that must be filed with the director
25 by admitted insurers. The report must include all surplus lines insurance transactions during the
26 preceding calendar month showing the aggregate gross premiums written, the aggregate return
27 premiums, the amount of aggregate tax remitted to this state, and the amount of aggregate tax
28 remitted to each other state for which an allocation is made under AS 21.34.150.

29 (b) Instead of the report required under (a) of this section, the director may order that
30 evidence of insurance be filed with surplus lines association and that the association file periodic
31 reports regarding insurance transactions to the director.

1 * Sec. 133. AS 21.34.190 is amended to read:

2 Sec. 21.34.190. FILING FEE. The fee for filing the statement under AS 21.34.180(b)
3 is an amount equal to one percent on gross premium charged less any return premiums during
4 the preceding calendar quarter [YEAR]. The surplus lines broker shall pay the fee at the time
5 of filing of the statement.

6 * Sec. 134. AS 21.34.190 is amended by adding a new subsection to read:

7 (b) If the filing fee is not paid when due, an additional late payment fee of \$250 plus two
8 percent of the fee due per month, or part of a month, shall become due and payable by the
9 surplus lines broker.

10 * Sec. 135. AS 21.34.200(a) is amended to read:

11 (a) If the tax collectible under AS 21.34.180 or the fee collectible under AS 21.34.190
12 by a surplus lines broker is not paid within the time prescribed, the tax, fee, or both, and late
13 payment fees, along with appropriate penalties may be collected by distraint or by an action in
14 court, against the surplus lines licensee and the surety on the bond filed under AS 21.27.790
15 [AS 21.34.140(b)(4)].

16 * Sec. 136. AS 21.34.230 is repealed and reenacted to read:

17 Sec. 21.34.230. PENALTIES. (a) In addition to any other penalty provided by law, a
18 person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions
19 of this chapter is subject to

20 (1) a civil penalty equal to the compensation promised, paid or to be paid, directly
21 or indirectly, to a licensee in regard to each violation; and

22 (2) either a civil penalty of not more than \$10,000 for each violation or a civil
23 penalty of not more than \$25,000 for each violation if the director determines that the person
24 wilfully violated the provisions of this chapter.

25 (b) A violation of this chapter is cause for denial, nonrenewal, suspension, or revocation
26 of a license.

27 * Sec. 137. AS 21.34.900 is repealed and reenacted to read:

28 Sec. 21.34.900. DEFINITIONS. In this chapter,

29 (1) "capital" means money paid in for stock or other evidence of ownership;

30 (2) "eligible surplus lines insurer" means a nonadmitted insurer with which a
31 surplus lines broker may place surplus lines insurance under AS 21.34.040;

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1 (3) "export" means to place surplus lines insurance with a nonadmitted insurer;
2 (4) "kind of insurance" means one of the kinds of insurance defined in
3 AS 21.12.040 - 21.12.110;

4 (5) "producing broker" means the insurance producer or surplus lines broker
5 licensed under AS 21.27 dealing directly with the client seeking insurance;

6 (6) "reciprocal state" means a state that the director has determined has enacted
7 provisions substantially similar to those contained in AS 21.34.160 - 21.34.180 and 21.34.210.

8 (7) "surplus," as used in the financial requirements of AS 21.34.040, means
9 money over and above liabilities and capital of the insurer for the protection of policyholders;

10 (8) "transaction of insurance" means the solicitation, negotiation, procurement,
11 effectuation, or renewal of insurance; forwarding of applications; delivery of policies or contracts;
12 inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or
13 forwarding of premiums; or transaction of matters subsequent to effectuation of the contract of
14 insurance and arising out of it;

15 (9) "wet marine and transportation insurance" means

16 (A) insurance upon, of interest in, or relating to vessels, crafts, hulls,
17 except vessels of 50 displacement tons or less;

18 (B) insurance of marine builders risks, marine war risks, and contracts of
19 marine protection and indemnity insurance;

20 (C) insurance of freight and disbursements pertaining to a subject of
21 insurance coming within this paragraph; and

22 (D) insurance of personal property and interests in personal property, in
23 course of exportation from or importation into a country or in the course of coastal or
24 inland water transportation, including transportation by land, water, or air from point of
25 origin to final destination in connection with any and all risks or perils of navigation,
26 transit, or transportation, and while being repaired for and while awaiting shipment, and
27 during any delays, transshipment, or reshipment incident to them.

28 * Sec. 138. AS 21.36.020 is amended to read:

29 Sec. 21.36.020. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. A person
30 may not engage [IN THIS STATE] in a trade practice in this state or relative to a subject
31 resident, located, or to be performed in this state that is defined in this chapter as, or

1 determined under this chapter to be, an unfair method of competition or an unfair or deceptive
2 act or practice in the business of insurance.

3 * Sec. 139. AS 21.36.090(d) is amended to read:

4 (d) Except to the extent necessary to comply with AS 21.42.365, a person may not
5 practice or permit unfair discrimination against a person who provides a service covered under
6 a group disability policy that extends coverage on an expense incurred basis, or under a group
7 service or indemnity type contract issued by a nonprofit corporation, if the service is within the
8 scope of the provider's occupational license. In this subsection, "provider" means a state licensed
9 physician, dentist, osteopath, optometrist, chiropractor, nurse midwife, advanced nurse
10 practitioner, naturopath, physical therapist, [OR] occupational therapist, psychologist,
11 psychological associate, or licensed clinical social worker.

12 * Sec. 140. AS 21.36 is amended by adding a new section to read:

13 Sec. 21.36.145. UNFAIR FINANCIAL PLANNING PRACTICES. (a) A person may
14 not represent, directly or indirectly, to be a financial planner, investment adviser, consultant,
15 financial counselor, or similar specialist engaged in the business of giving financial planning or
16 advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when
17 the person is in fact only engaging in the sale of insurance.

18 (b) A person may not engage in the business of financial planning and solicit the sale
19 of a product or service on the basis that the person is an insurance salesperson or that a
20 commission for the sale of an insurance product will be received in addition to a fee for financial
21 planning without full disclosure to the client before the execution of the agreement required in
22 (c) of this section.

23 (c) A person licensed under this title may not charge a fee other than a commission for
24 financial planning unless the fee is based upon a written agreement signed before the
25 performance of a service under the agreement. The insurance salesperson shall provide the client
26 a copy of the signed agreement at the time of signing. The agreement must specifically state the
27 service for which a fee is to be charged and how the fee will be determined or calculated. The
28 agreement must provide that the client is under no obligation to purchase an insurance product.
29 The licensee shall retain a copy of the agreement for not less than five years after completion of
30 services and the agreement shall be available to the director upon request.

31 * Sec. 141. AS 21.36.150(b) is amended to read:

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(b) If the report charges a violation of this chapter and if the method of competition, act, or practice has not been discontinued, the director may, through the attorney general of this state, at any time after the service of the report, cause an action to be instituted to enjoin and restrain the person from engaging in the method, act, or practice. In the action the court may grant a restraining order or injunction upon just terms, but the state may [SHALL] not be required to give security before the issuance of the order or injunction. If a [STENOGRAPH] record of the proceedings in the hearing before the director was made, a certified transcript, including all evidence taken and the report and findings, shall be received in evidence in the action.

* Sec. 142. AS 21.36.150 is amended by adding a new subsection to read:

(d) In addition to the unfair methods and unfair or deceptive acts or practices expressly defined in this title, the director may adopt regulations to define other methods of competition and other acts and practices related to the business of insurance that are unfair or deceptive.

* Sec. 143. AS 21.36.220(c) is amended to read:

(c) If an insurer cancels a policy under this section, it shall return or credit any unearned premium to the agent or broker of record or directly to the insured or premium finance company, if applicable, before the effective date of cancellation, except that

(1) an unearned premium shall be returned or credited within 45 [30] days after notice of cancellation is given, if cancellation is for

(A) nonpayment of premium, including nonpayment of additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property, a change in its occupancy or use, or a change in payroll, receipts, values, or other exposure units;

(B) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against;

(C) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy;

(D) failure or refusal of the insured to provide the information necessary to confirm exposure or necessary to determine the policy premium;

(E) a reason described in AS 21.36.210(a)(2);

(2) the insurer shall perform or waive the audit before the effective date of the

1 cancellation and return or credit any estimated unearned premium before the effective date of
2 cancellation if the policy is subject to audit and is cancelled for a reason other than those
3 described in (1)(A) - (D) of this subsection.

4 * Sec. 144. AS 21.36.255(a) is amended to read:

5 (a) If an insurance policy is cancelled, rejected, or rescinded by the

6 (1) insurer, the insurer shall return or credit any [REFUND THE] unearned
7 premium paid to the agent or broker of record, or directly to the insured or premium finance
8 company, if applicable; or

9 (2) insured, the insurer shall return or credit any unearned premium to the agent
10 or broker of record or directly [PAID] to the insured or premium finance company, if
11 applicable, less a cancellation fee not to exceed 7.5 percent of the unearned premium; a
12 cancellation fee may not be charged unless the fee is clearly stated in the policy; the insurer
13 shall return or credit the unearned premium less a lawful cancellation fee

14 (A) within 45 days of receipt of the request for cancellation or the
15 effective date of cancellation, whichever is later; or

16 (B) if the policy is selected for audit, within 45 days of completion of
17 an audit; the insurer shall perform and complete an audit within 45 days of receipt
18 of the request for cancellation or the effective date of cancellation, whichever is later.

19 * Sec. 145. AS 21.36.310(1) is amended to read:

20 (1) "business or commercial insurance" means insurance other than personal
21 insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title
22 insurance, [WET MARINE AND TRANSPORTATION INSURANCE AS DEFINED IN
23 AS 21.34.900,] or an annuity contract;

24 * Sec. 146. AS 21.36.320(a) is amended to read:

25 (a) On the complaint of a person or on the motion of the director, the director may
26 conduct an investigation to determine whether a person [IN THIS STATE] is engaged in an
27 unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

28 * Sec. 147. AS 21.36.320(c) is amended to read:

29 (c) If the director determines that a person violated [ON A FINDING OF A
30 VIOLATION OF] this chapter, the director shall serve upon the person charged an order
31 requiring that person to cease and desist from engaging in the act or practice [STOP THE

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1 ACTS OR PRACTICES].

2 * Sec. 148. AS 21.36.320(d) is amended to read:

3 (d) In addition to an order issued under (c) of this section, the director may, after a
4 hearing, order restitution, assess [ALSO ORDER] a penalty of not more than \$2,500 [\$1,000]
5 for each violation [ACT] or \$25,000 [\$10,000] for engaging in a general business practice in
6 violation of this chapter.

7 * Sec. 149. AS 21.36.320(e) is amended to read:

8 (e) If the director determines after a hearing that the person charged knew or should
9 have known that the person was in violation of this chapter, in addition to the [A] penalty [IN
10 ADDITION TO THAT] prescribed in (d) of this section, a suspension or revocation of the
11 person's license and a penalty of not more than \$25,000 [\$1,000] for each violation [ACT] or
12 \$250,000 [\$25,000] for engaging in the general business practice in violation of this chapter [,
13 OR SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE, OR BOTH,] may also
14 be ordered by the director.

15 * Sec. 150. AS 21.36.320(f) is amended to read:

16 (f) If the director believes that a person has violated a cease and desist [STOP] order
17 issued under (c) of this section, the director may certify the relevant facts to the superior court
18 in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and
19 remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist
20 [STOP] order has been violated, may order the violator to comply with the order, pay an
21 additional [A] penalty of not more than \$1,000,000 [\$10,000] for each violation, [AND] may
22 revoke or suspend the violator's license, and may bar the violator from transacting the
23 business of insurance in the future [OR BOTH].

24 * Sec. 151. AS 21.36.320 is amended by adding a new section to read:

25 (g) In determining the penalty imposed under (d) and (e) of this section, the director shall
26 consider the amount of loss caused by the violation and the amount of benefit derived by the
27 person by reason of the violation and may consider other factors, including the seriousness of the
28 violation, and deterrence of the violator or others.

29 * Sec. 152. AS 21.36.370 is amended to read:

30 Sec. 21.36.370. EXCEPTIONS. For the purpose of AS 21.36.360, [THE FOLLOWING
31 ACTIONS ARE NOT CONSIDERED A PREMIUM OR CHARGE FOR INSURANCE:

1 (1) the charging and collection by surplus line brokers licensed under AS 21.27
2 [AS 21.33] of the amount of applicable state and federal taxes and filing fees under AS 21.34
3 is not considered a premium or charge for insurance [AS 21.34.180 - 21.34.190;

4 (2) THE CHARGING AND COLLECTION BY A LIFE INSURER OF
5 AMOUNTS ACTUALLY TO BE EXPENDED FOR MEDICAL EXAMINATION OF AN
6 APPLICANT FOR LIFE INSURANCE OR FOR REINSTATEMENT OF A LIFE INSURANCE
7 POLICY].

8 * Sec. 153. AS 21.66.010(a) is amended to read:

9 (a) Before a domestic or foreign title insurance company is entitled to a certificate of
10 authority to transact a title insurance business in this state it shall have basic capital, additional
11 surplus when first authorized, and additional maintained surplus as required by
12 AS 21.09.070 including a deposit as required in AS 21.09.090 [A PAID-UP UNIMPAIRED
13 CASH CAPITAL EQUAL TO NOT LESS THAN \$250,000, \$100,000 OF WHICH SHALL BE
14 DEPOSITED WITH THE DIRECTOR OF INSURANCE AS A GUARANTY FUND FOR THE
15 PROTECTION OF THE INSURED UNDER POLICIES OF TITLE INSURANCE ISSUED BY
16 THE COMPANY].

17 * Sec. 154. AS 21.66.010(b) is amended to read:

18 (b) A domestic or foreign title insurance company shall have on deposit with the director
19 or insurance commissioner of the state of its domicile, before the issuance of any policy of title
20 insurance in this state, the amount required by AS 21.09.090 for the purpose described in that
21 section [SUM OF \$100,000 AS A GUARANTEE FUND FOR THE SECURITY AND
22 PROTECTION OF ITS POLICYHOLDERS OR THEIR BENEFICIARIES WHEREVER
23 SITUATED]. The amount of this deposit shall be increased by the sum of \$50,000 for each state
24 or territorial subdivision of the United States or the District of Columbia, other than the state of
25 its domicile, in which it becomes qualified to engage in the business of title insurance, less the
26 amount required by and deposited in the other states or territorial subdivisions, provided [;
27 HOWEVER,] the deposits shall be for the security and protection of its policyholders or their
28 beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states
29 or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further
30 deposit is required of the title insurance company as a condition of engaging in the business of
31 title insurance in this state.

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1 * Sec. 155. AS 21.66.020 is amended to read:

2 Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of
3 each annual statement the title insurance company shall deposit with the director a sum equal to
4 10 percent of the premiums received by it during the preceding year covering property in this
5 state, as shown by the annual statement, until the accumulated deposits, added to the sums
6 originally deposited with the director, as provided in this chapter, total \$750,000 [\$100,000] but
7 [IN NO EVENT MAY] the title insurance company may not be required to deposit more than
8 \$50,000 [\$10,000] in any one year.

9 * Sec. 156. AS 21.66.060 is amended to read:

10 Sec. 21.66.060. DIVIDENDS. A title insurance company may not pay dividends except
11 from net profits remaining on hand after retaining unimpaired

12 (1) the subscribed capital stock;

13 (2) the amount required to be set aside as unearned premium reserve fund under
14 AS 21.18.073;

15 (3) a sum sufficient to pay current liabilities for operating expenses and taxes, and
16 losses established or in process of settlement, without impairment of the unearned premium
17 reserve fund required under AS 21.18.073.

18 * Sec. 157. AS 21.66.080(a) is amended to read:

19 (a) Every [TITLE INSURANCE] company, on or before March 1 of each year, shall
20 furnish the director a sworn statement of assets and liabilities, and of all title premiums received
21 by it during the preceding calendar year, setting out among other things the amounts that
22 [THREE PERCENT OF ALL GROSS PREMIUMS ON TITLE INSURANCE POLICIES
23 ISSUED BY IT DURING THE YEAR, COVERING PROPERTY IN THIS STATE,] have been
24 set aside and held by it in an account required under AS 21.18.073 [KNOWN AS THE TITLE
25 INSURANCE UNEARNED PREMIUM RESERVE FUND, AS PROVIDED IN THIS
26 CHAPTER]. The reporting format for a given year is the most recently approved National
27 Association of Insurance Commissioners [COMMISSIONERS'] Annual Financial Statement
28 blank form and instructions, supplemented for additional information as required by the director.
29 The director may require the statement to be filed on electronic media. The statement must also
30 show all unpaid losses and claims upon title insurance policies of which the title insurance
31 company has received due notice in writing from or on behalf of the insured. With the filing of

1 the statement the title insurance company shall pay a filing fee set under AS 21.06.250.

2 * Sec. 158. AS 21.66.090(a) is amended to read:

3 (a) Every company, before engaging in a title insurance business in this state, shall apply
4 to the director for a certificate of authority to transact business under AS 21.09. [THE
5 COMPANY SHALL SUBMIT WITH THE APPLICATION A STATEMENT SWORN TO BY
6 THE PROPER OFFICERS OF THE COMPANY SHOWING ITS ASSETS AND LIABILITIES
7 AND THAT IT HAS COMPLIED WITH THE CAPITAL REQUIREMENTS AND INITIAL
8 GUARANTEE FUND DEPOSIT PRESCRIBED BY THIS CHAPTER.]

9 * Sec. 159. AS 21.66.110 is amended to read:

10 Sec. 21.66.110. ANNUAL TAX ON TITLE INSURANCE PREMIUMS. Annually each
11 title insurance company shall pay on or before March 1 [APRIL 1], a tax of one percent of the
12 amount of gross title insurance premiums received by it including as premium income received
13 from guaranteed certificates of title and other guarantees of title during the preceding calendar
14 year covering property in this state, as shown by its annual statement to the director.

15 * Sec. 160. AS 21.66.170(a) is amended to read:

16 (a) A policy or contract of title insurance may not be written until the title insurance
17 company conducts or has conducted a reasonable search and examination of the title and has
18 made a determination of insurability of title in accordance with its established underwriting
19 practices. Evidence of the determination shall be preserved and retained in the files of the title
20 insurance company or its agent for a period of not less than 15 years after the policy or contract
21 of title insurance has been issued. In lieu of retaining the original evidence, the title insurance
22 company or the title insurance limited producer [AGENT], may, in the regular course of
23 business, establish a system by which all or part of these writings are recorded, copied, or
24 reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or
25 other process that accurately reproduces or forms a durable medium for reproducing the original.

26 * Sec. 161. AS 21.66.180 is amended to read:

27 Sec. 21.66.180. GENERAL POWERS. A title insurance company may

28 (1) do business as defined in AS 21.66.480;

29 (2) do any act, directly or through a title insurance limited producer [AGENT],
30 incidental to making a contract or policy of title insurance, including, but not limited to,
31 conducting or holding an escrow, settlement, or closing of a transaction; and,

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1 (3) provide other services relative or incidental to the sale and transfer of real or
2 personal property.

3 * Sec. 162. AS 21.66.210(a) is amended to read:

4 (a) Two or more title insurance companies or two or more title insurance limited
5 producers, or a combination of title insurance companies and title insurance limited
6 producers [AND ONE OR MORE TITLE INSURANCE AGENTS] may apply to the director
7 of insurance to form an association, corporation, or other legal entity, for the purpose of engaging
8 in the business of preparing abstracts of title searches from public records or from records to be
9 owned by the entity, upon the basis of which a title insurance limited producer [AGENT] or a
10 title insurance company will issue title policies. The owners or participants are considered to be
11 in compliance with the provisions of this section if the title plant of the association, corporation,
12 or other legal entity complies with the provisions of this section. The application must contain

13 (1) a copy of the proposed articles of incorporation or association and the bylaws
14 or agreement governing the operation of the entity;

15 (2) a list of the owners or participants;

16 (3) the names and addresses of the persons who will operate the entity, with a
17 description of their experience and qualifications;

18 (4) the conditions under which ownership or participation in the entity may be
19 sold or acquired;

20 (5) a statement of whether or not title information will be compiled and sold to
21 persons other than owners of or participants in the entity;

22 (6) a pro forma balance sheet and other financial information to indicate the
23 sufficiency of financing the entity.

24 * Sec. 163. AS 21.66.270 is amended to read:

25 Sec. 21.66.270. TITLE INSURANCE LIMITED PRODUCERS [AGENTS] TO BE
26 LICENSED. A title [TITLE] insurance limited producer [AGENTS] shall be licensed in the
27 manner provided for [AGENTS OF INSURANCE COMPANIES] in AS 21.27. A title
28 insurance limited producer may not be licensed to sell insurance other than title insurance.

29 * Sec. 164. AS 21.66.280 is amended to read:

30 Sec. 21.66.280. TITLE INSURANCE LIMITED PRODUCERS [AGENTS], BOOKS,
31 AND RECORDS. (a) In addition to any other requirement of this title, a [EACH] title

1 insurance limited producer licensee [AGENT] shall maintain books of accounts and records and
 2 vouchers pertaining to the business of title insurance in a manner that the director, or an
 3 authorized representative, may readily ascertain whether the licensee [AGENT] has complied with
 4 the provisions of this chapter.

5 (b) A title insurance limited producer licensee [AGENT] may engage in the business
 6 of handling escrows, settlements, and closings in connection with the business of title insurance;
 7 however,

8 (1) the licensee [AGENT] shall maintain a separate record of all receipts and
 9 disbursements of escrow funds and may not commingle the funds with personal funds or with
 10 funds held by the licensee [AGENT] in any other capacity;

11 (2) the licensee [AGENT] shall comply with the standards of solvency that the
 12 director requires; and

13 (3) the licensee [AGENT] shall submit financial statements that the director
 14 requires.

15 (c) In addition to any other penalty provided by law, if [IF] the director determines
 16 that a title insurance limited producer licensee [AN AGENT] has failed to comply with a
 17 provision of this section, the director may, after a hearing, revoke the limited producer license
 18 [OF THE AGENT].

19 * Sec. 165. AS 21.66.290 is amended to read:

20 Sec. 21.66.290. TITLE INSURANCE LIMITED PRODUCER [AGENT] REPLIES
 21 TO DIRECTOR INQUIRIES. A [EACH] title insurance limited producer [AGENT] shall reply
 22 in writing promptly, with a copy of the reply mailed to each title insurance company for which
 23 the licensee [AGENT] is acting, to an inquiry of the director relating to the licensee's
 24 [AGENT'S] acts as a title insurance limited producer [AGENT]. In addition to any other
 25 penalty provided by law, failure [FAILURE] to reply is a ground for revocation of the
 26 [AGENT'S] license. A [IN ADDITION, A] copy of the inquiry shall be sent by the director to
 27 each title insurance company for which the licensee [AGENT] is acting.

28 * Sec. 166. AS 21.66.300 is amended to read:

29 Sec. 21.66.300. CERTAIN [AGENCY] NAMES PROHIBITED. A title insurance
 30 limited producer [AFTER AUGUST 14, 1974, AN AGENT] for a title insurance company may
 31 not adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee",

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1 unless the words are followed by the words "agent" or "agency" in the same size and type as the
2 words preceding them. This section does not apply to a title insurance company acting as an
3 agent for another title insurance company.

4 * Sec. 167. AS 21.66.310(a) is amended to read:

5 (a) A title insurer, or officer, employee, attorney, or title insurance limited producer
6 [AGENT, OR SOLICITOR] of a title insurer, may not pay, allow, or give or offer to pay, allow,
7 or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate,
8 reduction, or abatement of a rate or charge made incident to the issuance of the title insurance,
9 a special favor or advantage, money consideration, or other inducement. A charge made incident
10 to the issuance of the insurance is construed to include, without limitation, escrow, settlement,
11 and closing charges.

12 * Sec. 168. AS 21.66.310(c) is amended to read:

13 (c) Nothing in this section prohibits

14 (1) the payment of fees for services actually rendered as a result of a title
15 insurance transaction; or

16 (2) the payment of a commission to a legally appointed title insurance limited
17 producer [AGENT] who issues the policy of title insurance.

18 * Sec. 169. AS 21.66.330 is amended to read:

19 Sec. 21.66.330. EXAMINATION OF RECORDS. If the director has reason to believe
20 that a title insurance limited producer [AGENT] has violated or is in violation of AS 21.66.310,
21 the director shall immediately examine the title insurance limited producer's [AGENT'S] books
22 of account and record and vouchers pertaining to the business of title insurance. The title
23 insurance limited producer [AGENT] shall pay to the director the cost of an examination
24 conducted under this section.

25 * Sec. 170. AS 21.66.350 is amended to read:

26 Sec. 21.66.350. DIVISION OF RATES. Nothing in this chapter prohibits the division
27 of rates and charges between or among a title insurance company and its agent, two or more title
28 insurance companies, one or more title insurance companies and one or more title insurance
29 limited producers [AGENTS], or two or more title insurance limited producers [AGENTS,]
30 if the division of rates and charges does not constitute an unlawful rebate and is not in payment
31 of a forwarding fee or finder's fee.

1 * Sec. 171. AS 21.66.370(a) is amended to read:

2 (a) A title insurance company shall file with the director its schedules of rates, manuals
3 of classifications, rules and plans relating to schedules of rates or manuals of classification, and
4 every modification of the schedules or manuals that it proposes to use in this state. A filing
5 under this section must contain the effective dates of the documents filed, and indicate the
6 character and extent of the coverage contemplated. [A TITLE INSURANCE COMPANY MAY
7 SATISFY ITS OBLIGATIONS TO MAKE THESE FILINGS BY BECOMING A MEMBER OF,
8 OR A SUBSCRIBER TO, A LICENSED TITLE INSURANCE RATING ORGANIZATION
9 THAT MAKES SUCH FILINGS, AND BY AUTHORIZING THE COMMISSIONER TO
10 ACCEPT THE FILINGS ON ITS BEHALF.]

11 * Sec. 172. AS 21.66.370(c) is amended to read:

12 (c) Subject to the provisions of (e) of this section, a [EACH] filing shall be on file for
13 a period of 30 days before it becomes effective. The director may, upon written notice given
14 within the 30-day period to the person making the filing, extend the waiting period for an
15 additional period, not to exceed 30 days, in order to complete the review of the filing. Additional
16 extensions of the waiting period may also be made with the consent of the title insurance
17 company [OR RATING ORGANIZATION]. Upon written application by the title insurance
18 company [OR RATING ORGANIZATION], the director, after review of the application, may
19 authorize a filing or any part of it to become effective upon the expiration of the waiting period
20 or its extension.

21 * Sec. 173. AS 21.66.370(f) is amended to read:

22 (f) A title insurance company or title insurance limited producer [AGENT OF A
23 TITLE INSURANCE COMPANY] may not charge a rate for a policy or contract of title
24 insurance except in accordance with filings or rates that are in effect for the title insurance
25 company as provided in this chapter.

26 * Sec. 174. AS 21.66.380(a) is amended to read:

27 (a) A rate filing shall be accompanied by a statement of the title insurance company [OR
28 TITLE INSURANCE RATING ORGANIZATION] making the filing, setting out the basis on
29 which the rate was determined, with the rates computed. A filing of rates may be justified by

30 (1) the experience or judgment of the title insurance company [OR TITLE
31 INSURANCE RATING ORGANIZATION] making the filing;

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- 1 (2) its interpretation of any statistical data relied upon;
2 (3) the experience of other title insurance companies [OR TITLE INSURANCE
3 RATING ORGANIZATIONS] making the filings; or
4 (4) any other factors that the title insurance company [OR TITLE INSURANCE
5 RATING ORGANIZATION] considers relevant.

6 * Sec. 175. AS 21.66.390 is amended to read:

7 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company [THAT MAKES
8 ITS OWN RATES AND EACH TITLE INSURANCE RATING ORGANIZATION] shall make
9 rates that are not excessive or inadequate and that do not unfairly discriminate between risks in
10 this state that involve essentially the same exposure to loss and expense elements, and that give
11 due consideration to

- 12 (1) the desirability for stability of rate structures;
13 (2) the necessity of assuring the financial solvency of title insurance companies
14 in periods of economic depression by encouraging growth in assets of title insurance companies
15 in periods of high business activity; and
16 (3) the necessity for assuring a reasonable margin of underwriting and operating
17 profit.

18 (b) A title insurance company [THAT MAKES ITS OWN RATES AND EACH TITLE
19 INSURANCE RATING ORGANIZATION] shall adopt basic classifications of policies or
20 contracts of title insurance that [WHICH] shall be used as the basis for rate-making.

21 * Sec. 176. AS 21.66.400(a) is amended to read:

22 (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that
23 a filing does not meet the requirements of this chapter, the director shall send to the title
24 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made the filing,
25 written notice of disapproval of the filing specifying in what respects the director finds the filing
26 fails to meet the requirements of this chapter and stating that the filing may not become effective.

27 * Sec. 177. AS 21.66.400(b) is amended to read:

28 (b) If at any time after the applicable review period provided for in AS 21.66.370(c) the
29 director finds that a filing does not meet the requirements of this chapter, the director shall,
30 before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice,
31 specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall

1 be given to each title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
2 that made the filing, and if, after the hearing, the director finds that the filing or a part of the
3 filing does not meet the requirements of this chapter, the director shall issue an order specifying
4 how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is
5 considered no longer effective. A title insurance company [OR TITLE INSURANCE RATING
6 ORGANIZATION] has the right to withdraw a filing or a part of a filing. Copies of the order
7 issued under this section shall be sent to every title insurance company [AND TITLE
8 INSURANCE RATING ORGANIZATION] affected. The order does not affect a contract or
9 policy made or issued before the expiration of the period set out in the order.

10 * Sec. 178. AS 21.66.400(c) is amended to read:

11 (c) A person or organization aggrieved with respect to a filing that is in effect may make
12 a written application to the director for a hearing on the filing. The title insurance company [OR
13 TITLE INSURANCE RATING ORGANIZATION] that made the filing may not proceed under
14 this subsection. The application shall specify in reasonable detail the grounds to be relied on by
15 the applicant. If the director finds that the application is made in good faith, that the applicant
16 would be aggrieved if the applicant's grounds are established, and that the applicant's grounds
17 otherwise justify holding a hearing, the director shall, within 60 days after receipt of the
18 application, hold a hearing upon not less than 10 days written notice to the applicant and to each
19 title insurance company [OR TITLE INSURANCE RATING ORGANIZATION] that made such
20 a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the
21 requirements of this chapter, the director shall issue an order specifying how the filing or a part
22 of it fails to meet the requirements of this chapter, stating when, within a reasonable period after
23 the order is issued, the filing or a part of it is considered no longer effective. Copies of the order
24 shall be sent to the applicant and to every affected title insurance company [OR TITLE
25 INSURANCE RATING ORGANIZATION]. The order does not affect a contract or policy made
26 or issued before the expiration of the period set out in the order.

27 * Sec. 179. AS 21.66.400(d) is amended to read:

28 (d) A title insurance company [OR TITLE INSURANCE RATING ORGANIZATION]
29 to which the director has issued an order made without a hearing may, within 30 days after notice
30 to it of the order, make a written request to the director for a hearing. The director shall hear
31 the party or parties within 60 days after receipt of the request and shall give not less than 10 days

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1 written notice of the time and place of the hearing. Within 15 days after the hearing the director
2 shall affirm, reverse, or modify the previous action, specifying the reasons. Pending the hearing
3 and decision the director may suspend or postpone the effective date of the previous action.

4 * Sec. 180. AS 21.66.410(c) is amended to read:

5 (c) In order to more uniformly administer rate regulations, the director and each title
6 insurance company [OR TITLE INSURANCE RATING ORGANIZATION] may exchange
7 information and experience data with insurance supervisory officials, title insurance companies,
8 and title insurance rating organizations in other states, and may consult with them and with each
9 other with respect to rate making and the application of rating systems.

10 * Sec. 181. AS 21.66.420 is amended to read:

11 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. A title insurance company
12 or title insurance limited producer [AGENT] may not wilfully withhold information from, or
13 knowingly give false or misleading information to the director [OR TO ANY TITLE
14 INSURANCE RATING ORGANIZATION OF WHICH THE TITLE INSURANCE COMPANY
15 IS A MEMBER OR SUBSCRIBER] that will affect the rates chargeable under this chapter.

16 * Sec. 182. AS 21.66.480(4) is amended to read:

17 (4) "rate" means a charge for title insurance risk, abstracting, searching,
18 examination or determination of insurability, and every other activity, exclusive of escrow,
19 settlement, or closing charges, whether denominated premium or otherwise, made by a title
20 insurance company or an agent of a title insurance company to an insured or to an applicant for
21 insurance, for a policy or contract of title insurance; however, "rate" does not include charges
22 paid to and retained by an attorney at law, abstractor, surveyor, tax service, or any other person
23 acting in a capacity other than as a title insurance limited producer [AGENT] and on behalf of
24 a client other than a title insurance company, or charges made for special services, even though
25 performed in connection with a title insurance policy or contract;

26 * Sec. 183. AS 21.66.480(7) is amended to read:

27 (7) "title insurance limited producer [AGENT]" means a person, firm,
28 association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized
29 in writing by a title insurance company to solicit title insurance, collect premiums, determine
30 insurability in accordance with the underwriting rules and standards prescribed by the title
31 insurance company that the licensee [AGENT] represents, and issue policies in its behalf;

1 however, the term "title insurance limited producer [AGENT]" does not include officers and
2 salaried employees of a title insurance company;

3 * Sec. 184. AS 21.66.480(8) is amended to read:

4 (8) "title insurance company" means a domestic company organized under the
5 provisions of this title for the purpose of carrying on the business of title insurance, or any
6 foreign title insurance company issued a certificate of authority to transact a title insurance
7 business in this state and any title insurance company having the power and authority to transact
8 a title insurance business within this state [AS OF AUGUST 14, 1974].

9 * Sec. 185. AS 21.69.390 is amended by adding a new subsection to read:

10 (d) To meet the requirements of (a) of this section, a domestic insurer shall keep at its
11 principal place of business in the state the following records of assets, transactions, and affairs:

- 12 (1) a general ledger;
- 13 (2) copies of reports prepared to comply with AS 21.09.200 - 21.09.210;
- 14 (3) if prepared in the normal course of business, financial statements prepared
15 under general accepted accounting principals on which a licensed certified public accountant has
16 expressed an opinion;
- 17 (4) filings made by a domestic insurer or affiliates of the domestic insurer with
18 a government agency with which a domestic insurer or affiliates of the domestic insurer's
19 securities may be registered;
- 20 (5) a state certificate of authority;
- 21 (6) filings made under AS 21.21;
- 22 (7) original policy and claim files for insurance of property or a risk resident or
23 located in the state;
- 24 (8) a corporate minutes book;
- 25 (9) articles of incorporation;
- 26 (10) corporate bylaws;
- 27 (11) contracts; and
- 28 (12) other records required by the director by regulation.

29 * Sec. 186. AS 21.72.120(c) is amended to read:

30 (c) A copy of the annual statement certified by the director must be filed on or before
31 the first day of March [APRIL] each year by the association in the office of the magistrate in

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1 the judicial district in which the business office of the association is located.

2 * Sec. 187. AS 21.75.040(b) is amended to read:

3 (b) The attorney-in-fact [ATTORNEY] of a foreign or alien reciprocal insurer, that [,
4 WHICH INSURER] is authorized to transact insurance in this state, may not, by virtue of
5 discharge of its duties as the attorney-in-fact [ATTORNEY] with respect to the insurer's
6 transactions in this state, be considered to be doing business in this state within the meaning of
7 a law of this state applying to foreign firms or corporations.

8 * Sec. 188. AS 21.75 is amended by adding a new section to read:

9 Sec. 21.75.045. LICENSING OF ATTORNEYS-IN-FACT. (a) A person may not act
10 in the capacity of attorney-in-fact for a subscriber regarding a subject that is resident, located,
11 or to be performed in this state or for a reciprocal insurer licensed to do business in this state
12 unless the person is licensed under this chapter. The director may adopt regulations that establish
13 qualifications for being licensed as an attorney-in-fact. The attorney-in-fact for a domestic
14 reciprocal insurer transacting all of its insurance activities on a subject resident, located, and to
15 be performed in this state is exempt from licensing under this title if the attorney-in-fact

16 (1) is a wholly-owned subsidiary of the reciprocal; and

17 (2) does not act as attorney-in-fact for another unaffiliated reciprocal insurer.

18 (b) The director may not issue or renew a license under this chapter to a person, or to
19 be exercised by a person, found by the director to be untrustworthy, incompetent, financially
20 irresponsible, or who has not established to the satisfaction of the director that the person is
21 qualified under this chapter.

22 (c) To qualify for issuance or renewal of a license under this chapter, an applicant or
23 licensee shall comply with this title and

24 (1) be a trustworthy person;

25 (2) have active working experience in administrative functions that, in the
26 director's opinion, exhibits the ability to competently perform the administrative functions of an
27 attorney-in-fact;

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

30 (4) have and maintain a lawfully established place of business physically
31 accessible to the public where the attorney-in-fact principally conducts transactions under the

1 license in this state, or if for a foreign reciprocal, in the state of domicile;

2 (5) disclose to the director all officers, directors, partners, principals, or managers
3 and whether or not they are licensed in this state or another jurisdiction;

4 (6) designate an officer, partner, or principal responsible for the firm's compliance
5 with the insurance statutes and regulations of this state;

6 (7) provide certified financial statements for the prior two years prepared by an
7 independent certified public accountant that establish that the applicant is solvent, that the
8 applicant's system of accounting, internal control, and procedure is operating effectively to
9 provide reasonable assurance that money is promptly accounted for and paid to the person
10 entitled to the money, and any other information that the director may require to review the
11 current financial condition of the applicant;

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

14 (9) notify the director within 30 days in writing by certified mail of a change in
15 officer, director, partner, principal, or manager; place of business; mailing address; telephone
16 number; suspension or revocation of an insurance license by another state or jurisdiction; or a
17 conviction of a misdemeanor or felony of the attorney-in-fact, its officers, directors, partners,
18 owners, or employees.

19 (d) The director may adopt regulations establishing education requirements, experience
20 requirements, or examination requirements for applicants or licensees under this chapter.

21 (e) The director may require that an attorney-in-fact maintain an errors and omissions
22 insurance policy acceptable to the director.

23 (f) If the director finds that the applicant or licensee is qualified and that application,
24 license, or renewal fees set under AS 21.06.250 have been paid, the director may issue or renew
25 the license.

26 (g) A license issued under this chapter shall be renewed each year by the attorney-in-fact
27 when the annual statement is filed under AS 21.75.130.

28 (h) An attorney-in-fact shall be subject to hearings and orders on violations; denial,
29 nonrenewal, suspension, or revocation of license; penalties; and surrender of a license under the
30 procedures of AS 21.27.405 - 21.27.460.

31 * Sec. 189. AS 21.75.060(b) is amended to read:

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1 (b) The proposed attorney-in-fact [ATTORNEY] shall fulfill the requirements of and
2 shall execute and file with the director when applying for a certificate of authority, a declaration
3 setting out

4 (1) the name of the insurer;

5 (2) the location of the insurer's principal office, which shall be the same as that
6 of the attorney-in-fact [ATTORNEY] and shall be maintained in this state;

7 (3) the kinds of insurance proposed to be transacted;

8 (4) the names and addresses of the original subscribers;

9 (5) the designation and appointment of the proposed attorney-in-fact
10 [ATTORNEY] and a copy of the power of attorney;

11 (6) the names and addresses of the officers and directors of the attorney-in-fact
12 [ATTORNEY], if a corporation, or its members, if a firm;

13 (7) the powers of the subscribers' advisory committee, and the names and terms
14 of office of the members;

15 (8) that all money paid to the reciprocal insurer shall, after deducting any sum
16 payable to the attorney-in-fact [ATTORNEY], be held in the name of the insurer and for
17 the purposes specified in the subscribers' agreement;

18 (9) a copy of the subscribers' agreement;

19 (10) a statement that each of the original subscribers has in good faith applied for
20 insurance of a kind proposed to be transacted, and that the insurer has received from each
21 subscriber the full premium or premium deposit required for the policy applied for, for
22 a term of not less than six months at an adequate rate filed with and approved by the
23 director;

24 (11) a statement of the financial condition of the insurer, a schedule of its assets,
25 and a statement that the surplus as required by AS 21.75.050 is on hand;

26 (12) a copy of each policy, endorsement, and application form it then proposes
27 to issue or use.

28 * Sec. 190. AS 21.75.060(c) is amended to read:

29 (c) The declaration shall be acknowledged by the attorney-in-fact [ATTORNEY] in the
30 manner required for the acknowledgment of deeds.

31 * Sec. 191. AS 21.75.080 is repealed and reenacted to read:

1 Sec. 21.75.080. AUTHORITY OF ATTORNEY-IN-FACT. (a) A subscriber's agreement
2 providing for an advisory committee consistent with AS 21.75.170 shall be executed by each
3 subscriber and shall grant authority to the attorney-in-fact to manage the affairs of the reciprocal
4 insurer.

5 (b) The duties of the attorney-in-fact shall be specified in the subscriber's agreement.
6 The agreement shall be approved by the director and amendments shall be approved by the
7 director and the advisory committee. The agreement must, at a minimum, provide that

8 (1) the attorney-in-fact shall provide written notice of and make the necessary
9 arrangements for the election, in person or by proxy, of the members of the advisory committee;
10 the cost of notice, ballot, or proxy for a meeting and the cost of a meeting that may be called for
11 an election shall be paid by the reciprocal insurer;

12 (2) the attorney-in-fact shall provide written notice to the members of the advisory
13 committee of not less than 10 business days for a regular meeting or a special meeting called
14 under AS 21.75.170(e); the cost of notice shall be paid by the reciprocal insurer;

15 (3) the advisory committee may, upon majority vote of its members at a regular
16 or special meeting and upon written notice of the vote to the director and the attorney-in-fact,
17 recommend termination of the attorney-in-fact for a stated cause and the appointment of a new
18 attorney-in-fact;

19 (4) termination of the attorney-in-fact shall require the approval of a two-thirds
20 majority of the subscribers present in person or by proxy at a meeting called for that purpose;
21 the attorney-in-fact shall provide written notice to all subscribers by certified mail not less than
22 30 days before the meeting; the notice must include the recommendation of termination and
23 replacement drafted by the advisory committee and other appropriate documents drafted by the
24 attorney-in-fact; a copy of all documents mailed and certification of mailing to all subscribers
25 must be provided to all members of the advisory committee; the cost of notice and proxy for the
26 meeting shall be paid by the reciprocal insurer; at least 25 percent of all subscribers shall
27 constitute a quorum for reciprocal insurers with less than 10,000 subscribers; 2,500 subscribers
28 or five percent of all subscribers, whichever is greater, shall constitute a quorum for all other
29 reciprocals;

30 (5) the assets of the reciprocal insurer and its subscribers shall be invested under
31 AS 21.21; investment guidelines shall be approved by the advisory committee and shall be

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- 1 properly accounted for on the financial records of the reciprocal insurer as being held for or on
2 behalf of the subscribers; the cash assets of the reciprocal insurer and its subscribers not
3 otherwise invested in short-term securities, covering policy obligations arising out of policies
4 issued, or issued for delivery in the United States shall be held in one or more appropriately
5 identified accounts in banks that are members of the Federal Reserve System; these accounts
6 shall be drawn on by the attorney-in-fact or by employees or representatives of the reciprocal
7 insurer authorized by the attorney-in-fact for payments on behalf of the reciprocal insurer;
- 8 (6) if the attorney-in-fact is acting for more than one reciprocal insurer, separate
9 records and accounts shall be maintained for each reciprocal;
- 10 (7) the attorney-in-fact may not assign responsibilities detailed in the subscriber's
11 agreement in whole or in part without prior approval of the advisory committee and the director;
- 12 (8) the attorney-in-fact shall
- 13 (A) establish and maintain underwriting procedures and manuals that state
14 the rates and conditions for the acceptance or rejection of risks;
- 15 (B) make a report to the advisory committee at each regular meeting of
16 the committee on the financial condition of the reciprocal insurer and all material
17 transactions entered into during the period since the last meeting;
- 18 (C) annually provide to each member of the advisory committee
- 19 (i) on or before March 2, a copy of the reciprocal insurer's annual
20 statement and the accompanying statement of actuarial opinion filed with the
21 director under AS 21.75.130; and
- 22 (ii) on or before June 1, a copy of a statement prepared by an
23 independent certified public accountant addressing the financial condition and
24 solvency of the attorney-in-fact;
- 25 (D) maintain a financially solvent condition;
- 26 (9) the forms, amounts, and formulas of compensation the attorney-in-fact will
27 receive for services rendered are specified;
- 28 (10) the books, accounts, and records of the reciprocal insurer, its subscribers, and
29 the attorney-in-fact are maintained to clearly and accurately disclose the nature and details of
30 each transaction, including all notes, workpapers, documents, and similar material in sufficient
31 detail that relevant events, dates, and persons participating can be identified and information

1 necessary to determine that the compensation received by or owing to the attorney-in-fact
2 conforms to the subscriber's agreement; the books, accounts, and records of the reciprocal insurer
3 are the sole property of the reciprocal insurer;

4 (11) if the subscriber's agreement provides that any of the attorney-in-fact's
5 compensation is contingent upon the reciprocal insurer's profits, that compensation may not be
6 determined and paid until at least five years after the premiums on casualty insurance are earned,
7 at least one year after the premiums are earned on any other kind of insurance, and not until the
8 adequacy of loss reserves on the remaining claims, known and unknown, have been verified
9 under (8) of this subsection; and

10 (12) the attorney-in-fact shall conduct the affairs of the reciprocal insurer as
11 required under this title.

12 (c) Unless subject to AS 21.22, a material transaction between the reciprocal insurer, its
13 subscribers, the attorney-in-fact, and an affiliate of the attorney-in-fact may not be entered into
14 unless it has been filed with the director of the reciprocal insurer's state of domicile, if accredited
15 by the National Association of Insurance Commissioners, or with the director of this state, if not
16 accredited, at least 30 days before its effective date and the director of the accredited state has
17 not disapproved it; however, a transaction involving five percent or more of admitted assets is
18 subject to prior approval of the director of the reciprocal insurer's state of domicile and the
19 transaction must meet the following standards:

20 (1) the terms shall be fair and equitable;

21 (2) charges or fees for services performed shall be reasonable;

22 (3) expenses incurred and payments received shall be allocated to the reciprocal
23 insurer on an equitable basis in conformity with statutory insurance accounting practices being
24 consistently applied; and

25 (4) the books, accounts, and records of each party shall be maintained to disclose
26 clearly and accurately the precise nature and details of the transaction, including accounting
27 information that is necessary to support the reasonableness of the charges or fees to the respective
28 parties.

29 (d) A subscriber's agreement containing the duties of the attorney-in-fact shall be
30 provided by the attorney-in-fact to all subscribers. Renewing subscribers shall be informed that
31 their failure to return a signed rejection of the subscriber's agreement within 30 days after the

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1 renewal date will be considered acceptance of the subscriber's agreement.

2 * Sec. 192. AS 21.75.090 is amended to read:

3 Sec. 21.75.090. MODIFICATIONS. Modifications of the terms of the subscribers'
4 agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by
5 the attorney-in-fact [ATTORNEY] and the subscribers' advisory committee. A modification
6 may not be effective retroactively, or apply to an insurance contract issued before the
7 modification.

8 * Sec. 193. AS 21.75.100(a) is amended to read:

9 (a) Concurrently with the filing of the declaration provided in AS 21.75.060, the
10 attorney-in-fact [ATTORNEY] of a domestic reciprocal insurer shall file with the director a
11 bond in favor of this state for the benefit of all persons damaged as a result of a breach by the
12 attorney-in-fact [ATTORNEY] of the conditions of the bond as set out in (b) of this section.
13 The bond shall be executed by the attorney-in-fact [ATTORNEY] and by an authorized
14 corporate surety, shall meet the requirements established under AS 21.27.190 and shall be
15 subject to the director's approval.

16 * Sec. 194. AS 21.75.100(b) is amended to read:

17 (b) The bond shall be in the [PENAL] sum of \$100,000 [\$25,000], aggregate in form,
18 conditioned that the attorney-in-fact [ATTORNEY] will faithfully account for all money and
19 other property of the insurer coming into the hands of the attorney-in-fact [ATTORNEY] and
20 that the attorney-in-fact [ATTORNEY] will not withdraw or appropriate to personal use from
21 the funds of the insurer, money or property to which the attorney-in-fact [ATTORNEY] is not
22 entitled under the subscriber's agreement [POWER OF ATTORNEY].

23 * Sec. 195. AS 21.75.100 is amended by adding a new subsection to read:

24 (d) The director may require the attorney-in-fact, unless wholly owned by the reciprocal
25 insurer, to maintain an errors and omissions policy issued by an admitted insurer acceptable to
26 the director providing coverage in an amount and issued by an insurer approved by the director.
27 This requirement is satisfied if the attorney-in-fact maintains an errors and omissions policy to
28 satisfy the laws of another state in an amount approved by the director.

29 * Sec. 196. AS 21.75.110 is amended to read:

30 Sec. 21.75.110. ACTION ON BOND. Action on the attorney-in-fact's [ATTORNEY'S]
31 bond or to recover against a deposit made in lieu of the bond [THEREOF] may be brought at

1 any time by one or more subscribers suffering loss through a violation of its conditions, or by
2 a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and
3 become part of the insurer's funds. The total aggregate liability of the surety shall be limited to
4 the amount of the penalty of the bond.

5 * Sec. 197. AS 21.75 is amended by adding a new section to read:

6 Sec. 21.75.115. EXAMINATION OF AN ATTORNEY-IN-FACT. An attorney-in-fact
7 of a reciprocal insurer is subject to examination by order of the director under AS 21.06.120 and
8 21.06.140 - 21.06.160 for the purpose of determining compliance with this title relating to the
9 operations of the reciprocal insurer or its attorney-in-fact that the director determines cannot be
10 obtained by examination of the reciprocal insurer. The cost of the examination shall be paid by
11 the attorney-in-fact.

12 * Sec. 198. AS 21.75.120(a) is amended to read:

13 (a) Legal process shall be served upon a domestic reciprocal insurer by serving the
14 insurer's attorney-in-fact [ATTORNEY] at the principal offices of the attorney-in-fact
15 [ATTORNEY] or by serving the director as the insurer's process agent under AS 21.09.180 and
16 21.09.190.

17 * Sec. 199. AS 21.75.130(a) is amended to read:

18 (a) The annual statement of a reciprocal insurer shall be made by its attorney-in-fact
19 [ATTORNEY] and filed with the director, as provided in AS 21.09.200.

20 * Sec. 200. AS 21.75.140 is amended to read:

21 Sec. 21.75.140. CONTRIBUTIONS TO INSURER. The attorney-in-fact [ATTORNEY]
22 or other parties may advance to a domestic reciprocal insurer upon reasonable terms the funds
23 it may require from time to time in its operations. Sums advanced may not be treated as a
24 liability of the insurer, and, except upon liquidation of the insurer, may not be withdrawn or
25 repaid except out of the insurer's realized earned surplus in excess of its minimum required
26 surplus. A withdrawal or repayment may not be made without the advance approval of the
27 director. This section does not apply to bank loans or to loans for which security is given.

28 * Sec. 201. AS 21.75.150 is amended to read:

29 Sec. 21.75.150. DETERMINATION OF FINANCIAL CONDITION. In determining
30 the financial condition of a reciprocal insurer the director shall apply the following rules:

31 (1) the same reserves as are required of incorporated insurers issuing

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- 1 nonassessable policies on a reserve basis shall be charged as liabilities;
- 2 (2) the surplus deposits of subscribers shall be allowed as assets, except the
- 3 premium deposits delinquent for 90 days shall first be charged against the surplus deposit;
- 4 (3) the surplus deposits of subscribers may [SHALL] not be charged as a liability;
- 5 (4) all premium deposits delinquent less than 90 days shall be allowed as assets;
- 6 (5) an assessment levied upon subscribers, and not collected, may not be allowed
- 7 as an asset;
- 8 (6) the contingent liability of subscribers may not be allowed as an asset;
- 9 (7) the computation of reserves shall be based upon premium deposits other than
- 10 membership fees and without deductions for expenses and the compensation of the attorney-in-
- 11 fact [ATTORNEY].

12 * Sec. 202. AS 21.75.170 is repealed and reenacted to read:

13 Sec. 21.75.170. SUBSCRIBER'S ADVISORY COMMITTEE. (a) The subscriber's

14 advisory committee shall meet at least annually and shall consist of not less than nine individuals

15 elected by the subscribers, at least two-thirds of whom are subscribers or officers or directors of

16 subscriber corporations and, except for a reciprocal insurer that wholly owns its attorney-in-fact,

17 not more than one-third of whom may be

18 (1) the attorney-in-fact or an employee, officer, director, affiliate, or a person

19 having a financial interest in the attorney-in-fact; or

20 (2) a person representing the attorney-in-fact or an employee, officer, director,

21 affiliate, or other person having a financial interest in the attorney-in-fact; a person shall be

22 treated as having a financial interest in the attorney-in-fact if the person

23 (A) owns, directly or indirectly, more than one percent of the outstanding

24 stock in the attorney-in-fact;

25 (B) has an outstanding loan from the attorney-in-fact; or

26 (C) earns a commission or other compensation as a producer for the

27 reciprocal insurer.

28 (b) A member of the subscriber's advisory committee may be elected to a term of office

29 of not less than one year nor more than four years. A member may be reelected for an unlimited

30 number of terms. Terms of office may be staggered to provide for continuity.

31 (c) The chair of the committee shall be elected by the members of the committee and the

1 committee shall adopt rules consistent with the purposes of the committee.

2 (d) The attorney-in-fact shall appoint a secretary.

3 (e) Special meetings of the committee may be called by the attorney-in-fact, the chair
4 of the committee, three members of the committee, or a signed petition of at least one percent
5 of the subscribers as of the most recent annual report of the reciprocal insurer.

6 (f) The committee shall

7 (1) supervise the finances of the reciprocal insurer;

8 (2) supervise the reciprocal insurer's operations to assure conformity with the
9 subscriber's agreement;

10 (3) procure the audit of the accounts and records of the reciprocal insurer and of
11 the attorney-in-fact at the expense of the reciprocal insurer; and

12 (4) have additional powers and functions that may be conferred by the
13 subscriber's agreement.

14 * Sec. 203. AS 21.75.200(a) is amended to read:

15 (a) Assessments may from time to time be levied upon subscribers of a domestic
16 reciprocal insurer liable [THEREFOR] under the terms of their policies by the attorney-in-fact
17 [ATTORNEY] upon approval in advance by the subscribers' advisory committee and the director,
18 or by the director in liquidation of the insurer.

19 * Sec. 204. AS 21.75.210 is amended to read:

20 Sec. 21.75.210. TIME LIMIT FOR ASSESSMENTS. A [EACH] subscriber of a
21 domestic reciprocal insurer having contingent liability is liable for and shall pay the subscriber's
22 share of any assessment, as computed and limited under [IN ACCORDANCE WITH] this
23 chapter, if

24 (1) while the subscriber's policy is in force or within one year after its
25 termination, the subscriber is notified by either the attorney-in-fact [ATTORNEY] or the director
26 of an intention to levy the assessment; [,] or

27 (2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator
28 of the insurer should not be appointed is issued while the subscriber's policy is in force or within
29 one year after its termination.

30 * Sec. 205. AS 21.75.230(a) is amended to read:

31 (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the

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1 minimum capital and surplus required of a domestic stock insurer authorized to transact like
2 kinds of insurance, upon application of the attorney-in-fact [ATTORNEY] and as approved by
3 the subscribers' advisory committee, the director shall issue a certificate authorizing the insurer
4 to extinguish the contingent liability of subscribers under its policies then in force in this state,
5 and to omit provisions imposing contingent liability in all policies delivered or issued for delivery
6 in this state for as long as all the surplus remains unimpaired.

7 * Sec. 206. AS 21.75.250 is amended to read:

8 Sec. 21.75.250. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a
9 domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy
10 obligations, the return of contributions of the attorney-in-fact [ATTORNEY] or other persons
11 to its surplus made as provided in AS 21.75.140, and the return of an unused premium, savings,
12 or credits then standing on subscribers' account, shall be distributed to its subscribers who were
13 subscribers within the 12 months before the last termination of its certificate of authority,
14 according to a reasonable formula that the director may approve.

15 * Sec. 207. AS 21.75.270 is amended to read:

16 Sec. 21.75.270. FINANCIAL IMPAIRMENT; DETERMINATION OF
17 INSOLVENCY [IMPAIRED RECIPROCALLS]. (a) If the assets of a reciprocal insurer are at
18 any time insufficient to discharge its liabilities, other than a liability on account of funds
19 contributed by the attorney-in-fact [ATTORNEY] or others, and to maintain the required
20 surplus, its attorney-in-fact [ATTORNEY] shall immediately make up the deficiency or levy an
21 assessment upon the subscribers for the amount needed to make up the deficiency; but subject
22 to the limitation set out in the subscriber's agreement [POWER OF ATTORNEY OR POLICY].

23 (b) If the attorney-in-fact [ATTORNEY] fails to make up the deficiency or to make the
24 assessment within 30 days after the director orders the attorney-in-fact [ATTORNEY] to do so,
25 or if the deficiency is not fully made up within 60 days after the date the assessment was made,
26 the insurer shall be considered insolvent and shall be proceeded against as authorized by this title.

27 (c) If liquidation of an insurer is ordered, an assessment shall be levied upon the
28 subscriber for an amount, subject to limits as provided by this chapter, that the director
29 determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds
30 contributed by the attorney-in-fact [ATTORNEY] or other persons, but including the reasonable
31 cost of the liquidation.

1 * **Sec. 208.** AS 21.75.270 is amended by adding a new subsection to read:

2 (d) If liquidation of a domestic reciprocal insurer is ordered, the receiver appointed under
3 the order has a right to recover on behalf of the reciprocal insurer a payment in the form of a
4 bonus, termination settlement, or extraordinary lump-sum compensation adjustment made by the
5 reciprocal insurer or its subscribers to the attorney-in-fact if the distribution or payment is made
6 during the 12 months preceding the order of liquidation, unless it can be shown that the payment
7 was lawful and reasonable and that the reciprocal insurer did not know and, using due diligence,
8 could not have known that the distribution might adversely affect the ability of the reciprocal
9 insurer to fulfill its subscriber's contractual obligation.

10 * **Sec. 209.** AS 21.75 is amended by adding a new section to read:

11 Sec. 21.75.345. DEFINITION. In this chapter, a "material transaction" means a
12 transaction, other than a claim payment, involving more than one-half of one percent of the
13 reciprocal insurer's admitted assets as of December 31 of the prior year.

14 * **Sec. 210.** AS 21.78 is amended by adding a new section to read:

15 Sec. 21.78.325. RECOVERY FROM AFFILIATES. (a) If an order for liquidation or
16 rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has
17 a right to recover on behalf of the insurer (1) from a parent corporation or holding company or
18 person or affiliate who otherwise controlled the insurer, the amount of distributions, other than
19 a distribution of shares of the same class of stock, paid by the insurer on the insurer's capital
20 stock; or (2) a payment in the form of a bonus, termination settlement, or extraordinary lump sum
21 salary adjustment made by the insurer or the insurer's subsidiary to a director, officer, or
22 employee. If the distribution or payment is made during the 12 months preceding the petition
23 for liquidation, conservation, or rehabilitation, the distribution or payment is subject to the
24 limitations of (b) - (d) of this section.

25 (b) A distribution may not be recovered if the parent or affiliate shows that when paid
26 the distribution was lawful and reasonable and that the insurer did not know and could not
27 reasonably have known that the distribution might adversely affect the ability of the insurer to
28 fulfill its contractual obligations.

29 (c) A person who was a parent corporation or holding company or a person who
30 otherwise controlled the insurer or affiliate at the time the distribution was paid is liable up to
31 the amount of the distribution or payment that the person received. If two or more persons are

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1 liable with respect to the same distribution, the persons are jointly and severally liable.

2 (d) The maximum amount recoverable under this section is the amount needed in excess
3 of all other available assets of the impaired or insolvent insurer to pay the contractual obligations
4 of the impaired or insolvent insurer and to reimburse any guaranty funds that expended funds or
5 incurred expenses or may expend funds or may incur expenses in connection with the impaired
6 or insolvent insurer.

7 (e) To the extent that a person liable under (c) of this section is insolvent or otherwise
8 fails to pay a claim due under (c) of this section, the person's parent corporation or holding
9 company or person who otherwise controlled the parent corporation or holding company at the
10 time the distribution was paid is jointly and severally liable for the resulting deficiency in the
11 amount recovered from the parent corporation or holding company or the person who otherwise
12 controlled the parent corporation or holding company.

13 * Sec. 211. AS 21.84.010 is amended to read:

14 Sec. 21.84.010. CHAPTER EXCLUSIVE. Except as otherwise provided, societies shall
15 be governed by this chapter and shall be exempt from all other provisions of the insurance laws
16 of this state, not only in governmental relations with the state, but for every other purpose. [A
17 LAW ENACTED AFTER JULY 1, 1966, MAY NOT APPLY TO SOCIETIES UNLESS THEY
18 ARE EXPRESSLY DESIGNATED IN THE LAW.]

19 * Sec. 212. AS 21.84.350(a) is amended to read:

20 (a) As a part of the annual statement required under AS 21.84.340, each society shall,
21 before the second day of March, file with the director a valuation of its certificates in force on
22 the preceding December 31, provided, the director may, for cause shown, extend the time for
23 filing the valuation for not more than two calendar months. The report of valuation must
24 include an opinion of a qualified actuary as to whether the reserves and related actuarial
25 items held in support of the certificates in force are computed appropriately, are based on
26 assumptions that satisfy contractual provisions, are consistent with prior reported amounts,
27 and comply with applicable laws of this state. The report of valuation shall show, as reserve
28 liabilities, the difference between the present mid-year value of the promised benefits provided
29 in the certificates of the society in force and the present mid-year value of the future net
30 premiums as the same are in practice actually collected, not including any value for the right to
31 make extra assessments and not including any amount by which the present mid-year value of

1 future net premiums exceeds the present mid-year value of promised benefits on individual
 2 certificates. At the option of a society, in lieu of the above, the valuation may show the net
 3 tabular value. The net tabular value on certificates issued before July 1, 1967, shall be
 4 determined under [IN ACCORDANCE WITH] the law applicable before July 1, 1966, and on
 5 certificates issued on or after July 1, 1967, may not be less than the reserves determined
 6 according to the Commissioner's Reserve Valuation Method as defined in this section. If the
 7 premium charged is less than the tabular net premium according to the basis of valuation used,
 8 an additional reserve equal to the present value of the deficiency in the premiums shall be set up
 9 and maintained as a liability. The reserve liabilities shall be properly adjusted if the mid-year
 10 or tabular values are not appropriate.

11 * Sec. 213. AS 21.84.480(b) is amended to read:

12 (b) A society, by itself or any other party, and a fraternal benefit society limited
 13 producer [AN AGENT OR SOLICITOR], personally or by any other party, may not offer,
 14 promise, allow, give, set off, or pay, directly or indirectly, a valuable consideration or inducement
 15 to or for insurance on a risk authorized to be taken by the society that [, WHICH] is not
 16 specified in the certificate. A member may not receive or accept, directly or indirectly, a rebate
 17 of premium or part of a premium, or a fraternal benefit society limited producer's [AGENT'S
 18 OR SOLICITOR'S] commission payable on a certificate, or receive or accept a favor or
 19 advantage or share in the dividends or other benefits to accrue on, or any valuable consideration
 20 or inducement not specified in the contract of insurance.

21 * Sec. 214. AS 21.84.590 is amended to read:

22 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions
 23 contained in this chapter, the following provisions of this title apply to fraternal benefit societies
 24 to the extent applicable and not in conflict with the express provisions of this chapter and the
 25 reasonable implications of this chapter:

- 26 (1) AS 21.03
 27 (2) AS 21.06
 28 (3) AS 21.09.050 and 21.09.100
 29 (4) AS 21.09.200 and 21.09.205
 30 (5) AS 21.18
 31 (6) AS 21.21

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

9 * Sec. 215. AS 21.84 is amended by adding a new section to read:

10 Sec. 21.84.900. DEFINITIONS. In this chapter,

11 (1) "fraternal benefit society" means an incorporated society, order, or supreme
12 lodge, without capital stock, including one exempted under AS 21.84.020(a), whether
13 incorporated or not, conducted solely for the benefit of its members and their beneficiaries and
14 not for profit, operated on a lodge system with ritualistic form of work, having a representative
15 form of government, and that makes provision for the payment of benefits under this chapter;

16 (2) "lodge system" means a society having a supreme legislative or governing
17 body and subordinate lodges or branches by whatever name known, into which members are
18 elected, initiated, or admitted under its constitution, laws, ritual, and rules; subordinate lodges or
19 branches are required by law of the society to hold regular meetings at least once in each month;

20 (3) "premiums" means rates or other required contribution by whatever name
21 known;

22 (4) "representative form of government" means a society in which

23 (A) there is provision in its constitution or laws for a supreme legislative
24 or governing body, composed of representatives elected either by the members or by
25 delegates elected directly or indirectly by the members, together with other members of
26 the body prescribed by the society's constitution and laws;

27 (B) the representatives elected constitute a majority in number and have
28 not less than two-thirds of the votes or less than the votes required to amend its
29 constitution and laws;

30 (C) the meetings of the supreme legislative or governing body and the
31 election of officers, representatives, or delegates are held as often as once in four calendar

1 years;

2 (D) the society has a board of directors charged with the responsibility for
3 managing its affairs in the interim between meetings of its supreme legislative or
4 governing body, subject to control by the body and having powers and duties delegated
5 to it in the constitution or laws of the society;

6 (E) the board of directors is elected by the supreme legislative or
7 governing body, except in case of filling a vacancy in the interim between meetings of
8 the body;

9 (F) the officers are elected either by the supreme legislative or governing
10 body or by the board of directors; and

11 (G) the members, officers, representatives, or delegates may not vote by
12 proxy;

13 (5) "society" unless otherwise indicated, means fraternal benefit society.

14 * Sec. 216. AS 21.89.020(c) is amended to read:

15 (c) An insurance company offering automobile liability insurance in this state for bodily
16 injury or death shall, initially and at each renewal, offer coverage prescribed in AS 28.20.440 and
17 28.20.445 or AS 28.22 for the protection of the persons insured under the policy who are legally
18 entitled to recover damages for bodily injury or death from owners or operators of uninsured or
19 underinsured motor vehicles. The limit written may not be less than the limit in AS 28.20.440.
20 Coverage required to be offered under this section must [SHALL] include the following options:

21 (1) policy limits equal to the limits voluntarily purchased to cover the liability of
22 the person insured for bodily injury or death;

23 (2) except when the coverage consists of motorcycle liability insurance, policy
24 limits in the following amounts when these limits are greater than those offered under (1) of this
25 subsection:

26 (A) \$100,000 because of bodily injury to or death of one person in one
27 accident, and, subject to the same limit for one person, \$300,000 because of bodily injury
28 to or death of two or more persons in one accident;

29 (B) \$300,000 because of bodily injury to or death of one person in one
30 accident, and, subject to the same limit for one person, \$500,000 because of bodily injury
31 to or death of two or more persons in one accident;

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1 (C) \$500,000 because of bodily injury to or death of one person in one
2 accident, and, subject to the same limit for one person, \$500,000 because of bodily injury
3 to or death of two or more persons in one accident;

4 (D) \$500,000 because of bodily injury to or death of one person in one
5 accident, and, subject to the same limit for one person, \$1,000,000 because of bodily
6 injury to or death of two or more persons in one accident;

7 (E) \$1,000,000 because of bodily injury to or death of one person in one
8 accident, and, subject to the same limit for one person, \$2,000,000 because of bodily
9 injury to or death of two or more persons in one accident;

10 (3) other policy limits at the option of the insurer.

11 * Sec. 217. AS 21.89.025(a) is amended to read:

12 (a) An insurer shall provide an appropriate reduction in the premium charged for a
13 personal motor vehicle liability [CASUALTY] insurance policy when the principal operator of
14 the motor vehicle covered by the insurance policy

15 (1) is 55 years of age or older;

16 (2) at renewal requests the insurer to provide the reduction;

17 (3) has had no chargeable accidents as set by established underwriting
18 guidelines in use by the insurer or moving motor vehicle citations within three years
19 preceding the request for the discount;

20 (4) provides the insurer with proof satisfactory to the director that the operator
21 has within the three years before requesting the reduction taken and successfully completed a
22 motor vehicle accident prevention course approved by the Department of Public Safety under
23 AS 28.05.035; and

24 (5) [(4)] did not take and complete the accident prevention course described in
25 (4) [(3)] of this subsection as a result of an order or sentence imposed by a court.

26 * Sec. 218. AS 21.89.025(c) is amended to read:

27 (c) The reduced rate provided for an operator under (a) of this section may not extend
28 beyond three years after the last day of the operator's most recently successfully completed motor
29 vehicle accident prevention course described in (a)(4) [(a)(3)] of this section.

30 * Sec. 219. AS 21.89.025 is amended by adding a new subsection to read:

31 (d) The director shall establish by regulation the manner in which insurers inform

1 applicants and insureds of the rate reduction available under this section. An insurer shall inform
2 applicants and insureds as required by this subsection.

3 * Sec. 220. AS 21.89 is amended by adding a new section to read:

4 Sec. 21.89.035. MANDATORY APPRAISAL. A motor vehicle or similar policy, a
5 policy providing property coverage, or any other policy providing first party property, casualty,
6 or inland marine coverage, issued or delivered in this state, must include an appraisal clause
7 providing a contractual means to resolve a dispute between the insured and the insurer over the
8 value of a covered first party loss for real property, personal property, business property, or
9 similar risks. If the insured and the insurer fail to agree on the amount of a covered first party
10 loss, either may make written demand upon the other to submit the dispute for appraisal. Within
11 10 days of the written demand, the insured and insurer must notify the other of the competent
12 appraiser each has selected. The two appraisers will promptly choose a competent and impartial
13 umpire. Not later than 15 days after the umpire has been chosen, unless the time period is
14 extended by the umpire, each appraiser will separately state in writing the amount of the loss.
15 If the appraisers submit a written report of agreement on the amount of the loss, the agreed
16 amount will be binding upon the insured and insurer. If the appraisers fail to agree, the
17 appraisers will promptly submit their differences to the umpire. A decision agreed to by one of
18 the appraisers and the umpire will be binding upon the insured and insurer. All expenses and
19 fees, not including counsel or adjuster fees, incurred because of the appraisal shall be paid as
20 determined by the umpire. Except as specifically provided, nothing in this section is intended
21 to or shall in any manner limit or restrict the rights of insureds or insurers or confer any rights
22 to an insured or insurer.

23 * Sec. 221. AS 21.90.900 is amended to read:

24 Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires
25 otherwise,

26 (1) "admitted insurer" means an authorized insurer ["ADJUSTER" MEANS
27 A PERSON WHO, FOR COMPENSATION AS AN INDEPENDENT CONTRACTOR OR
28 AS AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, OR FOR FEE OR
29 COMMISSION, INVESTIGATES AND ADJUSTS CLAIMS ARISING UNDER INSURANCE
30 CONTRACTS ON BEHALF OF THE INSURER, BUT DOES NOT INCLUDE AN ATTORNEY
31 AT LAW WHO ADJUSTS INSURANCE LOSSES FROM TIME TO TIME INCIDENTAL TO

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1 THE PRACTICE OF LAW OR A SALARIED EMPLOYEE OF AN INSURER];

2 (2) "agent" means a person appointed by an insurer to solicit applications for
3 insurance or annuities on its behalf, and if authorized to do so, to effectuate and countersign
4 insurance contracts, except life or disability insurance or annuities, and to collect premiums on
5 insurance or annuities;

6 (3) "alien insurer" means an insurer formed under the laws of a country other than
7 the United States of America, its states, districts, territories, and commonwealths;

8 (4) "attorney-in-fact" means a person designated and appointed by the
9 subscribers of a reciprocal insurer to act for and bind the subscribers in transactions
10 relating to or arising out of the operations of a reciprocal insurer, subject to the limitations
11 that may be lawfully provided;

12 (5) "authorized insurer" means an insurer authorized by a certificate of authority
13 issued by the director to transact insurance in this state;

14 (6) [(5)] "broker" means a person who is not an agent of the insurer and who, on
15 behalf of the insured, for compensation as an independent contractor by commission or fee,
16 solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance of
17 insurance or reinsurance; or in any manner aids in the solicitation, negotiation, procurement,
18 renewal, or continuance of insurance or reinsurance, for insureds or prospective insureds not
19 including the broker;

20 (7) [(6)] "commissioner" means the commissioner of commerce and economic
21 development;

22 (8) [(7)] "court" means superior court;

23 (9) [(8)] "director" means the director of the division of insurance;

24 (10) [(9)] "division" means the division of insurance, Department of Commerce
25 and Economic Development;

26 (11) [(10)] "domestic insurer" means an insurer formed under the laws of this
27 state;

28 (12) "evergreen clause" means a contract clause that provides that the
29 contract is automatically renewed unless notice to the contrary is given by one of the parties
30 to the contract;

31 (13) "examiner" means an individual or firm that has been authorized by the

1 director to conduct an examination under this title;

2 (14) "facultative reinsurance" means a contract of reinsurance for individual
3 risks where the insurer retains the ability to accept or reject each risk offered by the ceding
4 company;

5 (15) [(11)] "firm" means an organization of two or more licensees acting in
6 association with each other, either in a partnership, corporation, or otherwise, or an organization
7 in which a single licensee has less than 50 percent ownership interest in the organization;

8 (16) [(12)] "foreign insurer" means an insurer formed under the laws of a
9 jurisdiction other than this state and includes an alien insurer;

10 (17) [(13)] "GENERAL AGENT" MEANS A PERSON, FIRM, OR
11 CORPORATION THAT

12 (A) HAS AUTHORITY TO EXERCISE GENERAL SUPERVISION
13 OVER THE BUSINESS, OR ANY PART OF THE BUSINESS, OF ONE OR MORE
14 AUTHORIZED INSURERS IN THIS STATE, WITH THE AUTHORITY TO APPOINT
15 AGENTS FOR THE INSURER AND TO TERMINATE THE APPOINTMENT; AND

16 (B) FOR COMPENSATION FROM AN AUTHORIZED INSURER
17 PERFORMS ADMINISTRATIVE FUNCTIONS NORMALLY PERFORMED BY THE
18 INSURER INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,
19 MARKETING ADMINISTRATION, AGENT APPOINTMENT, PREMIUM
20 ACCOUNTING, PREMIUM BILLING, COVERAGE VERIFICATION, FINAL
21 UNDERWRITING AUTHORITY, AND CERTIFICATE ISSUANCE; "GENERAL
22 AGENT" INCLUDES A THIRD-PARTY ADMINISTRATOR;

23 (14)] "impaired" or "impairment" means that

24 (A) an insurer's policyholder surplus is greater than zero but less than that
25 required by AS 21.09.070 for the authority to transact the kinds of insurance being
26 transacted; or

27 (B) an insurer is being operated in a manner that has caused or might
28 cause irreparable loss and injury to the insurer or to the public;

29 (18) [(15)] "independent adjuster" means a person who, for compensation as an
30 independent contractor or as an employee of an independent contractor, for fee or
31 commission, investigates and adjusts losses or claims arising under insurance contracts on

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1 behalf of an insurer;

2 (19) "independently procured insurance" means insurance procured directly
3 from a nonadmitted insurer directly by an insured, but does not include insurance lawfully
4 procured through a surplus lines broker under AS 21.34 [AN ADJUSTER REPRESENTING
5 THE INTERESTS OF THE INSURER];

6 (20) [(16)] "industrial life insurance" means that form of life insurance written
7 under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted
8 on the face as part of the descriptive matter, and under which premiums are payable monthly or
9 more often;

10 (21) [(17)] "insolvent" or "insolvency" means that an insurer's policyholder surplus
11 is less than or equal to zero;

12 (22) [(18)] "insurance" means a contract whereby one undertakes to indemnify
13 another or pay or provide a specified or determinable amount or benefit upon determinable
14 contingencies;

15 (23) "insurance producer" means a person who solicits, negotiates, effects,
16 procures, or delivers a policy of insurance, or to the extent authorized by the insurer,
17 renews, continues, or binds a policy of insurance;

18 (24) [(19)] "insurer" includes a person engaged as indemnitor, surety, or contractor
19 in the business of entering into contracts of insurance or of annuity;

20 (25) [(20)] "licensee" means a person or firm licensed as provided in AS 21.27
21 [OR AS 21.34];

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

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

25 (B) performs administrative functions normally performed by the
26 insurer including claims administration and payment, marketing administration,
27 agent appointment, premium accounting, premium billing, coverage verification, final
28 underwriting authority, and certificate issuance;

29 (27) "nonadmitted insurer" means an unauthorized insurer;

30 (28) [(21)] "person" has the meaning given in AS 01.10.060 and includes an
31 insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in

1 AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged
2 in the business of transacting insurance, including agents, brokers, and claims adjusters;

3 (29) [(22)] "policy" means the written contract of or written agreement for or
4 effecting insurance, by whatever name called, and includes all clauses, riders, endorsements, and
5 papers attached to it and a part of it;

6 (30) [(23)] "policyholder surplus" means

7 (A) for a stock insurer, the sum of its capital, as represented by the
8 aggregate par value to its outstanding capital stock, and its surplus, if any;

9 (B) for a mutual insurer, its surplus, both basic guaranteed and additional,
10 if any;

11 (C) for an insurer other than a stock or mutual insurer, the net worth of
12 the insurer, calculated as its recorded assets less its liabilities, as determined by the
13 accounting criteria set out in this title;

14 (31) [(24)] "premium" means the consideration for insurance, by whatever name
15 called, and by whatever method paid or collected, including an assessment, or membership,
16 policy, survey, inspection, service or similar fee or charge made in consideration for an insurance
17 contract;

18 (32) "reinsurance intermediary" means a person who acts as a producer in
19 soliciting, negotiating, or procuring the making of a reinsurance contract or binder on
20 behalf of a ceding admitted insurer or acts as a producer in accepting a reinsurance
21 contract or binder on behalf of an assuming admitted insurer;

22 (33) "reinsurance intermediary broker" means a person who solicits,
23 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding admitted
24 insurer without the authority or power to bind reinsurance on behalf of the insurer;

25 (34) "reinsurance intermediary manager" means a person including an
26 insurer who has authority to bind or manage all or part of the assumed reinsurance
27 business of an admitted reinsurer, including the management of a separate division,
28 department, or underwriting office, and who acts as an agent for the reinsurer [(25)

29 "SOLICITOR" MEANS AN INDIVIDUAL AUTHORIZED BY AN AGENT OR BROKER TO
30 SOLICIT APPLICATIONS FOR INSURANCE AS A REPRESENTATIVE OF THE AGENT
31 OR BROKER AND TO COLLECT PREMIUMS IN CONNECTION WITH THE INSURANCE];

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1 (35) [(26)] "state" means a state, District of Columbia, territory, commonwealth,
2 or possession of the United States of America;

3 (36) "surplus lines broker" means a person licensed under AS 21.27 to place
4 insurance in this state or relative to a subject resident, located, or to be performed in this
5 state with eligible surplus lines insurers under AS 21.34;

6 (37) "surplus lines insurance" means any insurance in this state or relative
7 to a subject resident, located, or to be performed in this state that is permitted under
8 AS 21.34 to be placed through a surplus lines broker licensed under AS 21.27 with
9 nonadmitted insurers eligible to accept insurance other than reinsurance, wet marine and
10 transportation insurance, insurance independently procured, life insurance, and an annuity
11 contract;

12 (38) "third-party administrator" means a person who for residents of this
13 state, or for residents of another jurisdiction from a place of business in this state, performs
14 administrative functions including claims administration and payment, marketing
15 administrative functions, premium accounting, premium billing, coverage verification,
16 underwriting authority, or certificate issuance in regard to life insurance, disability
17 insurance, or annuities;

18 (39) [(27)] "transact" with respect to insurance includes
19 (A) solicitation and inducement;
20 (B) preliminary negotiations;
21 (C) effectuation of a contract of insurance;
22 (D) transaction of matters subsequent to effectuation of the contract of
23 insurance and arising out of it;

24 (40) [(28)] "unauthorized insurer" means an insurer not authorized to transact
25 insurance in this state.

26 * Sec. 222. AS 28.05.035 is amended to read:

27 Sec. 28.05.035. APPROVAL OF ACCIDENT PREVENTION COURSES. For the
28 purposes of AS 21.89.025(a)(4) [AS 21.89.025(a)(3)], the commissioner may approve driver
29 education courses intended to prevent motor vehicle accidents and promote safe driving practices.

30 * Sec. 223. AS 21.06.130(b); AS 21.27.050, 21.27.070, 21.27.090, 21.27.095, 21.27.120, 21.27.200,
31 21.27.210, 21.27.240, 21.27.250, 21.27.260, 21.27.280, 21.27.310, 21.27.320, 21.27.360(g), 21.27.400,

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1 21.27.450; AS 21.33.061(e), 21.33.061(i), 21.33.065(c); AS 21.34.140, 21.34.160, 21.34.200(b),
2 21.34.210; AS 21.66.030, 21.66.040, 21.66.050, 21.66.100, 21.66.120(b), 21.66.130, 21.66.140,
3 21.66.160, 21.66.260, 21.66.401, 21.66.402, 21.66.403, 21.66.430, 21.66.440; AS 21.75.040(a),
4 21.75.100(c); AS 21.84.290, 21.84.410, 21.84.420, 21.84.430, 21.84.440, 21.84.450, 21.84.460,
5 21.84.560, 21.84.570, 21.84.580; and AS 21.90.910 are repealed.

6 * **Sec. 224. APPLICABILITY.** The actuarial opinion required under AS 21.18.110(m), as enacted
7 by sec. 24 of this Act, shall be submitted with the annual statement beginning with the year ending
8 December 31, 1993.

9 * **Sec. 225.** Sections 2, 20, 25, 61, 62, 95, 96, and 188 of this Act take effect January 1, 1994.

10 * **Sec. 226.** Except as provided in sec. 225 of this Act, this Act takes effect July 1, 1992.