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Source

CSHB 398(JUD)

Chapter No.

119

AN ACT

Relating to the Alaska Life and Health Insurance Guaranty Association.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 6, 2000

Actual Effective Date: September 4, 2000

AN ACT

1 Relating to the Alaska Life and Health Insurance Guaranty Association.

2

3 * **Section 1.** AS 21.79.010 is repealed and reenacted to read:

4 **Sec. 21.79.010. Purpose.** The purpose of this chapter is to protect, subject to
5 certain limitations, the persons specified in AS 21.79.020(a) against failure in the
6 performance of contractual obligations under life insurance and health insurance
7 policies and annuity contracts specified in AS 21.79.020(b) because of the impairment
8 or insolvency of the member insurer that issued the policies or contracts. To provide
9 this protection, an association of insurers is created under AS 21.79.040 to pay benefits
10 and continue coverages as limited by this chapter, and members of the association are
11 subject to assessment to provide funds to carry out the purpose of this chapter.

12 * **Sec. 2.** AS 21.79.020(a) is amended to read:

13 (a) This chapter applies to a policy and contract specified in (b) of this section
14 and to a person who

15 (1) except for a nonresident certificate holder under a group policy or

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1 contract, is the beneficiary, assignee, or payee of a person described in (2) of this
2 subsection; and

3 (2) except in the case of an unallocated annuity contract or a
4 structured settlement annuity, is the owner of, or a certificate holder under, the
5 policy or contract, [OR, IN THE CASE OF AN UNALLOCATED ANNUITY
6 CONTRACT, IS THE CONTRACT HOLDER,] and who

7 (A) is a resident; [,] or

8 (B) is not a resident, if the following conditions are satisfied:

9 (i) the insurer that issued the policy or contract is
10 domiciled in this state;

11 (ii) [THE INSURER NEVER HELD A LICENSE OR
12 CERTIFICATE OF AUTHORITY IN THE STATE IN WHICH THE
13 PERSON RESIDES;

14 (iii)] the state in which the person resides has an
15 association similar to the association created by this chapter; and

16 (iii) [(iv)] the person is not eligible for coverage by an
17 association in any other state due to the fact that the insurer was
18 not licensed as required by law in that state [OF THE
19 ASSOCIATION OF THE STATE IN WHICH THE PERSON
20 RESIDES].

21 * Sec. 3. AS 21.79.020(c) is amended to read:

22 (c) This chapter does not apply to

23 (1) that part of a policy or contract that is not guaranteed by the
24 insurer;

25 (2) that part of the risk borne by the policy or contract holder;

26 (3) a policy or contract of reinsurance, unless an assumption certificate
27 has been issued;

28 (4) that part of a policy or contract to the extent that [ON WHICH]
29 the rate of interest on which it is based, or the interest rate, crediting rate, or
30 similar factor determined by use of an index or other external reference stated in
31 the policy or contract employed in calculating returns or changes in value,

1 (A) averaged over the period of four years before the date on
2 which the member insurer becomes an impaired or insolvent insurer under
3 this chapter, whichever occurs first [ASSOCIATION BECOMES
4 OBLIGATED WITH RESPECT TO THE POLICY OR CONTRACT], exceeds
5 the [A] rate of interest determined by subtracting two percentage points from
6 the published monthly average for that same four-year period or for a lesser
7 period if the policy or contract was issued less than four years before the
8 member insurer becomes an impaired or insolvent insurer under this
9 chapter, whichever occurs first [ASSOCIATION BECAME OBLIGATED];
10 and

11 (B) on and after the date on which the member insurer
12 becomes an impaired or insolvent insurer under this chapter, whichever
13 occurs first [ASSOCIATION BECOMES OBLIGATED WITH RESPECT TO
14 THE POLICY OR CONTRACT], exceeds the rate of interest determined by
15 subtracting three percentage points from the most recent published monthly
16 average;

17 (5) a plan or program of an employer, association, or similar entity to
18 provide life, health, or an annuity benefit to an employee or member, to the extent that
19 the plan or program is self-funded or uninsured, including a benefit payable by the
20 employer, association, or similar entity under

21 (A) a multiple employer welfare arrangement as defined in 29
22 U.S.C. 1002 [26 U.S.C. 414] (Employee Retirement Income Security Act of
23 1974);

24 (B) a minimum premium group insurance plan;

25 (C) a stop-loss group insurance plan; or

26 (D) an administrative services only contract;

27 (6) that part of a policy or contract that provides a dividend or
28 experience rating credit or voting rights, or provides that a fee or allowance be paid
29 to a person, including the policy or contract holder, in connection with the service to
30 or administration of the policy or contract; [AND]

31 (7) a policy or contract issued in this state by a member insurer at a

1 time when it was not licensed or did not have a certificate of authority to issue the
2 policy or contract in this state;

3 (8) a person who is a payee or beneficiary of a contract holder who
4 is a resident of this state if the payee or beneficiary is provided coverage by the
5 association of another state;

6 (9) a person covered under (e) of this section if any coverage is
7 provided by the association of another state to that person;

8 (10) an unallocated annuity contract issued to or in connection with
9 a plan protected under the United States Pension Benefit Guaranty Corporation,
10 regardless of whether the United States Pension Benefit Guaranty Corporation
11 has become liable to make any payments with respect to the benefit plan;

12 (11) that part of an unallocated annuity contract that is not issued
13 to or in connection with a specific employee, union, or association of natural
14 persons benefit plan or a government lottery;

15 (12) that part of a policy or contract to the extent that assessments
16 required by AS 21.79.070 with respect to the policy or contract are preempted by
17 law;

18 (13) an obligation that does not arise under the express written
19 terms of the policy or contract issued by the insurer to the contract owner or
20 policy owner, including, without limitation,

21 (A) a claim based on marketing materials;

22 (B) a claim based on a side letter or other document that
23 was issued by the insurer without meeting applicable policy form filing or
24 approval requirements;

25 (C) a misrepresentation of or regarding policy benefits;

26 (D) an extra contractual claim; or

27 (E) a claim for penalties or consequential or incidental
28 damages;

29 (14) a contractual agreement that establishes the member insurer's
30 obligations to provide a book value accounting guaranty for defined contribution
31 benefit plan participants by reference to a portfolio of assets that is owned by the

1 benefit plan or its trustee, which, in each case, is not an affiliate of the member
2 insurer; or

3 (15) that part of a policy or contract to the extent the part of the
4 policy or contract provides for interest or other changes in value to be determined
5 by the use of an index or other external reference stated in the policy or contract,
6 but that have not been credited to the policy or contract, or as to which the policy
7 or contract owner's rights are subject to forfeiture, as of the date the member
8 insurer becomes an impaired or insolvent insurer under this chapter, whichever
9 is earlier; if a policy's or contract's interest or changes in value are credited less
10 frequently than annually, then, for purposes of determining the values that have
11 been credited and are not subject to forfeiture under this paragraph, the interest
12 or change in value determined by using the procedures defined in the policy or
13 contract shall be credited as if the contractual date of crediting interest or
14 changing values was the date of impairment or insolvency, whichever is earlier,
15 and will not be subject to forfeiture.

16 * Sec. 4. AS 21.79.020 is amended by adding new subsections to read:

17 (e) This chapter, except for (a) of this section, applies to an unallocated
18 annuity contract specified under (b) of this section, and shall provide coverage to a
19 person who is the owner of

20 (1) the unallocated annuity contract if the contract is issued to or in
21 connection with a specific benefit plan whose plan sponsor has its principal place of
22 business in this state; and

23 (2) an unallocated annuity contract issued to or in connection with a
24 government lottery if the owner is a resident.

25 (f) This chapter, except for (a) of this section, applies to a structured settlement
26 annuity specified under (b) of this section, and shall provide coverage to a person who
27 is a payee under a structured settlement annuity, or the beneficiary of a payee if the
28 payee is deceased, if the payee is

29 (1) a resident, regardless of where the contract owner resides; or

30 (2) not a resident, but only if both of the following conditions exists:

31 (A) the contract owner of the structured settlement annuity is

1 (i) a resident; or

2 (ii) not a resident, but the insurer that issued the
3 structured settlement annuity is domiciled in this state, and the state in
4 which the contract owner resides has an association similar to the
5 association created by this chapter; and

6 (B) the payee, or the payee's beneficiary, and the contract owner
7 are not eligible for coverage by the association of the state in which the payee
8 or contract owner resides.

9 * Sec. 5. AS 21.79.025 is amended to read:

10 **Sec. 21.79.025. Liability limits.** The benefits for which the association may
11 become liable may not exceed the lesser of

12 (1) the contractual obligations for which the insurer is liable or would
13 have been liable if it were not an impaired or insolvent insurer;

14 (2) with respect to any one life, regardless of the number of policies
15 or contracts, [AND SUBJECT TO AN AGGREGATE OF \$300,000,]

16 (A) \$300,000 in life insurance death benefits, but not more than
17 \$100,000 in net cash surrender and net cash withdrawal values for life
18 insurance;

19 (B) [\$100,000] in health insurance benefits,

20 (i) \$100,000 for coverage not defined as disability
21 insurance or basic hospital, medical, and surgical insurance or
22 major medical insurance, including any net cash surrender and net
23 cash withdrawal values;

24 (ii) \$300,000 for disability insurance;

25 (iii) \$500,000 for basic hospital, medical, and surgical
26 insurance or major medical insurance;

27 (C) \$100,000 in the present value of annuity benefits, including
28 net cash surrender and net cash withdrawal values; [OR]

29 (3) with respect to any one contract holder or plan sponsor whose
30 plan owns directly or in trust one or more unallocated annuity contracts not
31 included in (4) of this subsection, \$5,000,000 in unallocated annuity contract benefits,

1 irrespective of the number of contracts held by that contract holder or plan sponsor
2 except that, in the case of one or more unallocated annuity contracts that are
3 covered under this chapter and that are owned by a trust or other entity for the
4 benefit of two or more plan sponsors, coverage shall be provided by the
5 association if the largest interest in the trust or entity owning the contract is held
6 by a plan sponsor whose principal place of business is in this state; however, the
7 association is not liable to cover more than \$5,000,000 in benefits with respect to
8 an unallocated annuity contract not included in (4) of this subsection;

9 (4) with respect to an individual participating in a governmental
10 retirement benefit plan established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26
11 U.S.C. 457 and covered by an unallocated annuity contract, or to a beneficiary of
12 the individual if the individual is deceased, in the aggregate, \$100,000 in present-
13 value annuity benefits, including net cash surrender and net cash withdrawal
14 values; or

15 (5) with respect to each payee of a structured settlement annuity,
16 or beneficiary of the payee if the payee is deceased, \$100,000 in present-value
17 annuity benefits in the aggregate, including net cash surrender and net cash
18 withdrawal values, if any.

19 * Sec. 6. AS 21.79.025 is amended by adding new subsections to read:

20 (b) The limitations imposed under this section are limitations on the benefits
21 for which the association is obligated before taking into account either its subrogation
22 and assignment rights or the extent to which those benefits could be provided out of
23 the assets of an impaired or insolvent insurer attributable to covered policies. The
24 costs of the association's obligations under this chapter may be met by the use of
25 assets attributable to covered policies or reimbursed to the association under its
26 subrogation and assignment rights.

27 (c) In providing coverage required under AS 21.79.060, the association may
28 not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed,
29 assumed, reinsured, or performed, the contractual obligations of an insolvent or
30 impaired insurer under a covered policy or contract when the obligations do not
31 materially affect the economic values or economic benefits of the covered policy or

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1 contract.

2 (d) The association may not be required to cover more than

3 (1) an aggregate of \$300,000 in benefits with respect to any one life
4 under (a)(2), (4), and (5) of this section, except that, with respect to benefits for basic
5 hospital, medical, and surgical insurance or major medical insurance under (a)(2)(B)
6 of this section, the aggregate liability of the association may not exceed \$500,000 for
7 any one individual; or

8 (2) \$5,000,000 in benefits with respect to one owner or multiple
9 nongroup policies of life insurance, whether the policy owner is an individual, firm,
10 corporation, or other person, and whether the persons insured are officers, managers,
11 employees, or other persons, regardless of the number of policies and contracts held
12 by the owner.

13 * **Sec. 7.** AS 21.79.030 is amended to read:

14 **Sec. 21.79.030. Construction.** This chapter shall be [LIBERALLY] construed
15 to achieve the purposes set out in AS 21.79.010.

16 * **Sec. 8.** AS 21.79.030 is amended by adding a new subsection to read:

17 (b) This chapter is intended to provide coverage to a person who is a resident
18 of this state and, in special circumstances, to a nonresident. In order to avoid duplicate
19 coverage, if a person who would otherwise receive coverage under this chapter is
20 provided coverage under the law of any other state, the person may not be provided
21 coverage under this chapter. In determining the application of the provisions of this
22 subsection, in situations where a person could be covered by the association of more
23 than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall
24 be construed in conjunction with other state laws to result in coverage by only one
25 association.

26 * **Sec. 9.** AS 21.79.040(a) is amended to read:

27 (a) There is established as a nonprofit legal entity the Alaska Life and Health
28 Insurance Guaranty Association. An insurer that issues an insurance policy described
29 in AS 21.79.020(b) shall be a member of the association as a condition of the insurer's
30 authority to transact insurance in this state. The association shall perform its functions
31 under a plan of operation established and approved under AS 21.79.080 and shall

1 exercise its powers through the Board of Governors established under AS 21.79.050.
2 For purposes of administration and assessment, the association shall maintain the
3 following accounts:

4 (1) the health insurance account; and

5 (2) the life insurance and annuity account, including the following
6 subaccounts:

7 (A) life insurance account;

8 (B) annuity account that must include annuity contracts
9 owned by a governmental retirement benefit plan, or its trustee, qualified
10 under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue
11 Code), but that otherwise excludes unallocated annuities;

12 (C) unallocated annuity account that must exclude [SHALL
13 INCLUDE] contracts owned by a governmental retirement benefit plan, or
14 its trustee, qualified under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457
15 (Internal Revenue Code).

16 * Sec. 10. AS 21.79.050(a) is amended to read:

17 (a) The Board of Governors of the association consists of not less than five nor
18 more than nine representatives of member insurers. The director may appoint two
19 individuals as members of the board to represent the public. Terms of office for
20 board members shall be established in the plan of operation submitted under
21 AS 21.79.080. Member insurers shall select the insurer board members, subject to the
22 approval of the director. A vacancy in a board membership held by an insurer
23 member [ON THE BOARD] shall be filled for the unexpired term by a majority vote
24 of the remaining board members, subject to the approval of the director. A vacancy
25 in a board membership held by a representative of the public shall be filled by
26 the director. A board member who represents the public may not be an officer,
27 director, or employee of an insurer and may not be engaged in the business of
28 insurance.

29 * Sec. 11. AS 21.79.050(b) is amended to read:

30 (b) Before the director approves the selection of an insurer [A] board member
31 [OR APPOINTS A BOARD MEMBER], the director shall consider whether all

1 member insurers are fairly represented on the board.

2 * **Sec. 12.** AS 21.79.060(a) is amended to read:

3 (a) If a member [DOMESTIC] insurer becomes impaired, the association may,
4 with the approval of the director and subject to any conditions imposed by the
5 association that do not impair the contractual obligations of the impaired insurer,

6 (1) guarantee, assume, reinsure, or provide for the guarantee,
7 assumption, or reinsurance of the policies or contracts of the impaired insurer; or

8 (2) provide money, pledges, notes, guarantees, or other means that are
9 necessary to act under (1) of this subsection and to assure payment of the contractual
10 obligations of the impaired insurer until those obligations are guaranteed, reinsured,
11 or assumed [; OR

12 (3) LOAN MONEY TO THE IMPAIRED INSURER].

13 * **Sec. 13.** AS 21.79.060(c) is amended to read:

14 (c) The actions specified in (a) [(b)] of this section may not be taken unless

15 (1) the law of the impaired insurer's state of domicile provides that until
16 all payments of or on account of a contractual obligation of the impaired insurer by
17 a guaranty association, along with all expenses and interest on all payments and
18 expenses, have been repaid to the guaranty association or a repayment plan by the
19 impaired insurer has been approved by a guaranty association,

20 (A) a delinquency proceeding may not be dismissed;

21 (B) neither the impaired insurer nor its assets may be returned
22 to the control of its shareholders or private management; and

23 (C) solicitation or acceptance of new business or restoration of
24 a suspended or revoked license may not be permitted; and

25 (2) if the impaired insurer is a

26 (A) domestic insurer, the insurer has been placed under an order
27 of rehabilitation by a superior court in this state; or

28 (B) foreign or alien insurer,

29 (i) the insurer has been prohibited from soliciting or
30 accepting new business in this state;

31 (ii) the insurer's certificate of authority has been

1 suspended or revoked in this state; and

2 (iii) a petition for rehabilitation or liquidation has been
3 filed in a court of competent jurisdiction in the insurer's state of domicile by
4 the insurance commissioner of that state.

5 * Sec. 14. AS 21.79.060(d) is amended to read:

6 (d) If a member insurer becomes insolvent, the association shall, in its
7 discretion and with the approval of the director,

8 (1) guarantee, assume, reinsure, or provide for the guarantee,
9 assumption, or reinsurance of the covered policies of the insolvent insurer held by
10 residents;

11 (2) assure payment to residents of the contractual obligations of the
12 insolvent insurer;

13 (3) provide money, pledges, notes, guarantees, or other means necessary
14 to discharge the association's [INSURER'S] duties under this subsection; or

15 (4) with respect only to life and health insurance policies and
16 annuities, provide benefits and coverages required under (e) of this section.

17 * Sec. 15. AS 21.79.060(e) is amended to read:

18 (e) When proceeding under [(b)(2) OR] (d)(4) of this section, the association
19 shall, with respect to a life or health insurance policy and an annuity,

20 (1) assure payment of benefits, other than terms of conversion and
21 renewability, for a premium identical to the premium that would have been payable
22 under a policy of the insolvent insurer for claims incurred with respect to

23 (A) a group policy, not later than the earlier of the next renewal
24 date under the policy or contract or 45 days, but in no event less than 30 days,
25 after the date on which the association becomes obligated with respect to the
26 policy;

27 (B) an individual policy or annuity, not later than the earlier
28 of the next renewal date, if any, under the policy or contract or one year, but
29 in no event less than 30 days, from the date on which the association becomes
30 obligated with respect to the policy or contract;

31 (2) make a diligent effort to provide a known insured, an annuitant,

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1 or a group policyholder or contract holder, with respect to a group policy or
2 contract, 30 days [DAYS] notice of the termination of the benefits provided;

3 (3) with respect to an individual policy or annuity, make available to
4 each known insured or annuitant, or owner if other than the insured or annuitant,
5 and with respect to an individual formerly insured under a group policy or contract
6 who is not eligible for replacement group coverage, substitute coverage on an
7 individual basis under the provisions of (f) of this section, if the insured had a right
8 under law or the terminated policy or contract to convert coverage to individual
9 coverage, to continue an individual policy or contract in force until a specified age,
10 or for a specific time during which the insurer did not have the unilateral right to make
11 changes in any provision of the policy or contract or had a right only to make
12 changes in premium by class.

13 * **Sec. 16.** AS 21.79.060(h) is amended to read:

14 (h) If the association elects to reissue terminated coverage at a premium rate
15 different from that charged under the terminated policy, the premium shall be set by
16 the association according to the amount of insurance provided and [,] the age and class
17 of risk, and is subject to the approval of the director and the receivership [OR BY
18 A] court [OF COMPETENT JURISDICTION].

19 * **Sec. 17.** AS 21.79.060(j) is amended to read:

20 (j) When proceeding under [(b)(2) OR] (d) of this section with respect to a
21 policy or contract carrying guaranteed minimum interest rates, the association shall
22 assure the payment or crediting of a rate of interest consistent with AS 21.79.020(c)(4).

23 * **Sec. 18.** AS 21.79.060(n) is amended to read:

24 (n) In carrying out its duties under (a) [(b)], (c), and (d) of this section, the
25 association may impose a permanent policy or contract lien under a guarantee,
26 assumption, or reinsurance agreement [,] if the policy or contract lien is approved by
27 a court [,] and the association [COURT] finds that

28 (1) the amount that may be assessed under this chapter is less than the
29 amount needed to assure full and prompt performance of the insolvent insurer's
30 contractual obligations; or

31 (2) the economic or financial condition that affects member insurers is

1 sufficiently adverse that the imposition of a policy or contract lien is in the public
2 interest.

3 * Sec. 19. AS 21.79.060(o) is amended to read:

4 (o) Before taking action under (a) - (e) [(b) - (e)] of this section, the
5 association may request the superior court to impose an injunction against the payment
6 of a cash value and policy loan, or the exercise of another right to withdraw funds held
7 in connection with a policy or contract, in addition to a contractual provision for
8 deferral of a cash or policy loan value. In addition, if the receivership court
9 imposes an injunction on payment of cash values or policy loans or on any other
10 right to withdraw funds of an impaired or insolvent insurer held in conjunction
11 with a policy or contract, the association may defer payment of cash values, policy
12 loans, or other rights for the period of the injunction, except for claims covered
13 by the association to be paid as required by a hardship procedure established by
14 the liquidator or rehabilitator and approved by the receivership court.

15 * Sec. 20. AS 21.79.060(p) is amended to read:

16 (p) If the association fails to take action under (a) - (e) [(b) - (e)] of this
17 section within a reasonable period of time after a member insurer becomes insolvent,
18 the director shall assume the powers of the association under (a) - (e) [(b) - (e)] of this
19 section.

20 * Sec. 21. AS 21.79.060(r) is amended to read:

21 (r) The association is entitled to appear or intervene in a court or agency
22 proceeding in this [THE] state involving an impaired or insolvent insurer that the
23 association is or may be obligated to or involving a person or property against
24 which the association may have rights. The standing conferred by this subsection
25 extends to all matters germane to the powers and duties of the association, including
26 proposals to reinsure or guarantee a covered policy of the impaired or insolvent insurer
27 and the determination of a covered policy and a contractual obligation. The
28 association also has the right to appear or intervene before a court or agency in
29 another state in a proceeding involving an impaired or insolvent insurer that the
30 association is or may be obligated to or involving a person or property against
31 which the association may have rights.

1 * Sec. 22. AS 21.79.060(s) is amended to read:

2 (s) A person who receives benefits under this chapter is considered to have
3 assigned the rights under, and any cause of action against a person for losses
4 arising under, resulting from, or otherwise relating to, the covered policy to the
5 association to the extent of the benefits received under this chapter, whether the
6 benefits are payment of or on account of contractual obligations, continuations of
7 coverage, or provisions of substitute or alternative coverage. The association may
8 require an assignment to the association of those rights by the payees, policy or
9 contract owner, beneficiary, insured, or annuitant before a person receives the rights
10 or benefits conferred by this chapter. [THE ASSOCIATION IS SUBROGATED TO
11 THESE RIGHTS AGAINST THE ASSETS OF AN INSOLVENT INSURER.] The
12 priority of the association's subrogation right to the assets of the insolvent insurer is
13 the same as the priority of the person entitled to benefits under this chapter. In
14 addition to the rights described in this subsection, the association has common law
15 rights of subrogation and any other equitable or legal remedy that would have
16 been available to the impaired or insolvent insurer or owner, beneficiary, or payee
17 of a policy with respect to the policy. These rights include, in the case of a
18 structured settlement annuity, the rights of the owner, beneficiary, or payee of the
19 annuity, to the extent of benefits received under this chapter, against a person
20 originally or by succession responsible for the losses arising from the personal
21 injury relating to the annuity or annuity payment, except for a person responsible
22 solely by reason of being an assignee in respect to a qualified assignment under
23 26 U.S.C. 130 (Internal Revenue Code). If the provisions of this subsection are
24 invalid with respect to a person or claim, the amount payable by the association
25 with respect to the related coverage obligation shall be reduced by the amount
26 realized by another person from the person or claim covered by the association.
27 If the association has provided benefits with respect to a covered obligation and
28 a person recovers amounts to which the association has rights as described in this
29 subsection, the person recovering the amounts shall pay to the association the
30 portion of the recovery attributable to the policy covered by the association.

31 * Sec. 23. AS 21.79.060(t) is amended to read:

1 (t) In addition to the rights and powers otherwise established in this
2 chapter, the [THE] association may

3 (1) enter into contracts that are necessary or proper to carry out the
4 provisions of this chapter;

5 (2) sue or be sued, and take legal action necessary or proper for
6 recovery of an unpaid assessment under AS 21.79.070 or settlement of a claim or
7 potential claim;

8 (3) borrow money to carry out the purposes of this chapter; notes or
9 other evidence of indebtedness of the association not in default are legal
10 investments for domestic insurers and may be carried as admitted assets;

11 (4) employ or retain those persons necessary to handle the financial
12 transactions of the association and other functions under this chapter;

13 (5) negotiate and contract with a liquidator, rehabilitator, conservator,
14 or ancillary receiver to carry out the powers and duties of the association;

15 (6) exercise, for the purposes of this chapter and to the extent approved
16 by the director, the powers of a domestic life or health insurer; however, the
17 association may not issue insurance policies or annuity contracts other than those
18 issued to perform the contractual obligations of an impaired or insolvent insurer;

19 (7) take legal action to prevent the payment of improper claims;

20 (8) join an organization of one or more other state associations with
21 similar purposes; [AND]

22 (9) determine, using reasonable business judgment, the means by
23 which the association is to provide the benefits of this chapter in an economical
24 and efficient manner;

25 (10) request information from a person seeking coverage from the
26 association in order to determine the obligations of the association under this
27 chapter; a person receiving a request under this paragraph shall promptly comply
28 with the request;

29 (11) request information from a member insurer in order to aid in
30 the exercise of a power under this section; a member insurer receiving a request
31 under this paragraph shall promptly comply with the request; and

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1 (12) perform all other acts necessary or proper to implement this
2 chapter.

3 * Sec. 24. AS 21.79.060 is amended by adding new subsections to read:

4 (u) At any time within one year after the date on which the association
5 becomes responsible for the obligations of a member insurer, the association may elect
6 to succeed to the rights and obligations of the member insurer that accrue on or after
7 that date and that relate to contracts covered, in whole or in part, by the association,
8 under one or more indemnity reinsurance agreements entered into by the member
9 insurer as a ceding insurer and selected by the association. However, the association
10 may not exercise an election with respect to a reinsurance agreement if the receiver,
11 rehabilitator, or liquidator of the member insurer has previously and expressly
12 disaffirmed the reinsurance agreement. The election shall be made by a notice to the
13 receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association
14 makes an election, the following paragraphs apply with respect to the agreement
15 selected by the association:

16 (1) the association is responsible for all unpaid premiums due under the
17 agreement for periods both before and after the coverage date, and shall be responsible
18 for the performance of all other obligations to be performed after the coverage date in
19 each case that relates to contracts covered, in whole or in part, by the association; the
20 association may, through reasonable allocation methods, charge contracts covered in
21 part by the association for the costs for reinsurance in excess of the obligations of the
22 association;

23 (2) the association is entitled to any amounts payable by the reinsurer
24 under the agreement with respect to losses or events that occur in periods after the
25 coverage date and that related to the contracts covered by the association, in whole or
26 in part, except that, upon receipt of any amounts, the association shall pay to the
27 beneficiary under the policy or contract on account of which the amounts were paid
28 a portion of the amount equal to the amount received by the association less

29 (A) the benefits paid by the association on account of the policy
30 or contract; and

31 (B) the retention of the impaired or insolvent member insurer

1 applicable to the loss or event;

2 (3) within 30 days after the association's election, the association and
3 each indemnity reinsurer shall calculate the net balance due to or from the association
4 under each reinsurance agreement as of the date of the association's election; the
5 calculation shall give full credit to all items paid by either the member insurer, its
6 receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period
7 between the coverage date and the date of the association's election; either the
8 association or the indemnity reinsurer shall pay the net balance due the other within
9 five days of the completion of the calculation described in this paragraph; if the
10 receiver, rehabilitator, or liquidator has received any amounts due to the association
11 under (2) of this subsection, the receiver, rehabilitator, or liquidator shall remit the
12 same to the association as promptly as practicable; and

13 (4) if the association, within 60 days of the election, pays the premiums
14 due for periods both before and after the coverage date that relate to the contracts
15 covered by the association, in whole or in part, the reinsurer may not terminate the
16 reinsurance agreement to the extent the agreement relates to contracts covered by the
17 association, in whole or in part, and may not set off any unpaid premium due for the
18 periods before the coverage date against amounts due to the association.

19 (v) In the event the association transfers its obligations to another insurer, and
20 if the association and the other insurer agree, the other insurer shall succeed to the
21 rights and obligations of the association under (u) of this section, effective as of the
22 date agreed upon by the association and the other insurer. The other insurer shall
23 succeed regardless of whether the association has made the election referred to in (u)
24 of this section if (1) the indemnity reinsurance agreement automatically terminates
25 former reinsurance unless the indemnity reinsurer and the other insurer agree to the
26 contrary, and (2) the obligations described in (u)(2) of this section no longer apply on
27 and after the date the indemnity reinsurance agreement is transferred to the third-party
28 insurer. This subsection does not apply if the association has previously expressly
29 determined in writing that it will not exercise the election referred to in (u) of this
30 section.

31 (w) The provisions of this section apply notwithstanding any other provisions

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1 of law or any provisions of an affected reinsurance agreement that provide for or
2 require a payment of reinsurance proceeds, on account of losses or events that occur
3 in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the
4 insolvent member insurer. The receiver, liquidator, or rehabilitator remains entitled to
5 any amounts payable by the reinsurer under the reinsurance agreement with respect to
6 losses or events that occur in periods before the coverage date, subject to applicable
7 setoff provisions.

8 (x) Except as otherwise expressly provided in this section, nothing in this
9 section alters or modifies the terms and conditions of indemnity reinsurance
10 agreements of an insolvent member insurer. Nothing in this section

11 (1) abrogates or limits the right of a reinsurer to claim that the reinsurer
12 is entitled to rescind a reinsurance agreement; or

13 (2) gives a policy owner or beneficiary an independent cause of action
14 against an indemnity reinsurer that is not otherwise established in the indemnity
15 reinsurance agreement.

16 (y) When the association has arranged or offered to provide the benefits of this
17 chapter to a covered person under a plan or arrangement that fulfills the association's
18 obligations under this chapter, the covered person is not entitled to benefits from the
19 association in addition to or other than those provided under the plan or arrangement.

20 (z) In carrying out its duties in connection with guaranteeing, assuming, or
21 reinsuring a policy or contract, the association may, subject to approval of the
22 receivership court, issue substitute coverage for a policy or contract that provides an
23 interest rate, crediting rate, or similar factor determined by use of an index or other
24 external reference stated in the policy or contract employed in calculating returns or
25 changes in value by issuing an alternative policy or contract under the following
26 provisions:

27 (1) in place of the index or other external reference provided for in the
28 original policy or contract, the alternative policy or contract provides for

29 (A) a fixed interest rate;

30 (B) payment of dividends with minimum guarantees; or

31 (C) a different method for calculating interest or changes in

1 value;

2 (2) there is no requirement for evidence of insurability, waiting period,
3 or other exclusion that would not have applied under the replaced policy or contract;
4 and

5 (3) the alternative policy or contract is substantially similar to the
6 replaced policy or contract in all other material terms.

7 * Sec. 25. AS 21.79.070(b) is amended to read:

8 (b) There shall be two assessments as follows:

9 (1) class A assessments shall be authorized and called [MADE] for
10 the purpose of meeting administrative and legal costs and other expenses and
11 examinations conducted under the authority of AS 21.79.060; class A assessments may
12 be authorized and called [MADE] whether or not related to a particular impaired or
13 insolvent insurer;

14 (2) class B assessments [ARE POST ASSESSMENT CHARGES AND]
15 shall be authorized and called [MADE] only as necessary to carry out the powers and
16 duties of the association with regard to an impaired or an insolvent insurer.

17 * Sec. 26. AS 21.79.070(c) is amended to read:

18 (c) The amount of a class A assessment shall be determined by the board and
19 may be made on a pro rata or non pro [NONPRO] rata basis. If a pro rata assessment
20 is made, the board may provide that it be credited against future class B assessments.
21 A non pro [NONPRO] rata assessment may not exceed \$250 per member insurer in
22 a calendar year. The amount of a class B assessment shall be allocated for assessment
23 purposes among the accounts under an allocation formula that may be based on the
24 premiums or reserves of the impaired or insolvent insurer or by another standard
25 determined by the board in its sole discretion as being fair and reasonable under the
26 circumstances.

27 * Sec. 27. AS 21.79.070(d) is amended to read:

28 (d) Class B assessments shall be based on the premiums received on business
29 in this state by each assessed member insurer on [OR FOR] policies or contracts
30 covered by each account in proportion to the premiums received on business in this
31 state by all assessed member insurers during the three calendar years preceding the

1 year in which the insolvency or impairment occurred.

2 * Sec. 28. AS 21.79.070(e) is amended to read:

3 (e) The association may abate or defer, in whole or in part, the assessment of
4 a member insurer if, in the opinion of the board, a payment of the assessment would
5 endanger the ability of the member insurer to fulfill its contractual obligations. The
6 amount by which an assessment against a member insurer is abated or deferred may
7 be assessed against the other member insurers in a manner consistent with the basis
8 for assessments set forth in (c) of this section. Once the conditions that caused a
9 deferral are removed or rectified, the member insurer shall pay all assessments
10 that were deferred under a repayment plan approved by the association.

11 * Sec. 29. AS 21.79.070(f) is amended to read:

12 (f) Except as provided in this subsection, the [THE] total of all assessments
13 on a member insurer for each subaccount of the life and annuity account and for the
14 health account [EACH SUBACCOUNT] may not in any one calendar year exceed
15 two percent of the insurer's average annual premiums received in this state on
16 policies or contracts covered by the account or subaccount during the three
17 calendar years preceding the year in which the insurer became an impaired or
18 insolvent insurer. If two or more assessments are authorized in one calendar year
19 with respect to insurers that become impaired or insolvent in different calendar
20 years, the average annual premiums for purposes of the aggregate assessment
21 percentage limitation imposed under this subsection shall be limited to the highest
22 of the average annual premiums during the preceding three calendar years for the
23 applicable subaccount or account as calculated under this section. [THE TOTAL
24 OF ALL ASSESSMENTS ON A MEMBER INSURER FOR THE HEALTH
25 ACCOUNT MAY NOT IN ANY ONE CALENDAR YEAR EXCEED TWO
26 PERCENT OF THE INSURER'S AVERAGE PREMIUMS RECEIVED IN THIS
27 STATE ON A POLICY OR CONTRACT COVERED BY THE ACCOUNT DURING
28 THE THREE CALENDAR YEARS PRECEDING THE YEAR IN WHICH THE
29 INSURER BECAME AN IMPAIRED OR INSOLVENT INSURER.] If the maximum
30 assessment, together with the other assets of the association in an account, does not
31 provide in any one year in either account an amount sufficient to carry out the

1 responsibilities of the association, the necessary additional funds shall be assessed as
2 soon as permitted by this chapter.

3 * Sec. 30. AS 21.79.070(h) is amended to read:

4 (h) If the maximum [A ONE PERCENT] assessment for a subaccount of the
5 life and annuity account in any one year does not provide an amount sufficient to carry
6 out the responsibilities of the association, the board shall, as provided under (d) of this
7 section, access [ASSESS] all subaccounts of the life and annuity account for the
8 necessary additional amount, subject to the assessment limit provided in (f) of this
9 section.

10 * Sec. 31. AS 21.79.070 is amended by adding new subsections to read:

11 (i) Assessments for funds to meet the requirements of the association with
12 respect to an impaired or insolvent insurer may not be authorized or called until
13 necessary to implement the purposes of this chapter. Classification of assessments
14 under (b) of this section and computation of assessments under this section shall be
15 made with a reasonable degree of accuracy, recognizing that exact determinations may
16 not always be possible. The association shall notify each member insurer of its
17 anticipated pro rata share of an authorized assessment not yet called within 180 days
18 after the assessment is authorized.

19 (j) The board may, by an equitable method as established in the plan of
20 operation, refund to member insurers, in proportion to the contribution of each insurer
21 to that account, the amount by which the assets of the account exceed the amount the
22 board finds is necessary to carry out during the coming year the obligations of the
23 association with regard to that account, including assets accruing from assignment,
24 subrogation, net realized gains, and income from investments. A reasonable amount
25 may be retained in any account to provide funds for the continuing expenses of the
26 association and for future losses claims.

27 (k) A member insurer may, in determining its premium rates and policy owner
28 dividends as to any kind of insurance within the scope of this chapter, consider the
29 amount reasonably necessary to meet its assessment obligations under this chapter.

30 (l) A member insurer that wishes to protest all or part of an assessment shall
31 pay when due the full amount of the assessment as set out in the notice provided by

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1 the association. The payment shall be available to meet association obligations during
2 the pendency of the protest or any subsequent appeal. If a payment is made under
3 protest, payment must be accompanied by a statement in writing that the payment is
4 made under protest and setting out a brief statement of the grounds for the protest.
5 Within 60 days following the payment of an assessment under protest by a member
6 insurer, the association shall notify the member insurer in writing of its determination
7 with respect to the protest unless the association notifies the member insurer that
8 additional time is required to resolve the issues raised by the protest. Within 30 days
9 after a final decision has been made, the association shall notify the protesting member
10 insurer in writing of that final decision. Within 60 days of receipt of notice of the
11 final decision, the protesting member insurer may appeal that final action to the
12 director. In the alternative to rendering a final decision with respect to a protest based
13 on a question regarding the assessment base, the association may refer protests to the
14 director for a final decision with or without recommendation from the association. If
15 a protest or appeal on an assessment is upheld, the amount paid in error or excess shall
16 be returned to the member company. Interest on a refund due a protesting member
17 shall be paid at the rate actually earned by the association.

18 * Sec. 32. AS 21.79.080(a) is amended to read:

19 (a) The association shall submit to the director a plan of operation and any
20 amendments to assure the fair, reasonable, and equitable administration of the
21 association. The plan of operation and any amendments take effect on the written
22 approval of the plan by the director or 30 days after receipt by the director if not
23 disapproved by the director.

24 * Sec. 33. AS 21.79.080(b) is amended to read:

25 (b) If [NOTWITHSTANDING (a) OF THIS SECTION, IF THE
26 ASSOCIATION FAILS TO SUBMIT A PLAN OF OPERATION ACCEPTABLE TO
27 THE DIRECTOR BY JULY 1, 1991, OR IF AT A LATER TIME] the association
28 fails to submit suitable amendments to the plan, the director shall, after notice and
29 hearing, adopt regulations to implement this chapter. These regulations remain in
30 effect until amended or repealed by the director [OR SUPERSEDED BY A PLAN
31 SUBMITTED BY THE ASSOCIATION THAT IS APPROVED BY THE

1 DIRECTOR].

2 * Sec. 34. AS 21.79.080(c) is amended to read:

3 (c) A member insurer shall comply with the plan of operation. The plan of
4 operation must

5 (1) establish procedures for handling assets of the association;

6 (2) establish the amount and method of reimbursing members of the
7 board under AS 21.79.050(c);

8 (3) establish regular places and times for meetings of the board in the
9 state; **the board may conduct meetings telephonically;**

10 (4) establish procedures for keeping records of all financial transactions
11 of the association, its agents, and the board;

12 (5) establish terms of office for members of the board, and establish
13 procedures for the selection of the members of the board and for the director's approval
14 of the members selected;

15 (6) establish additional procedures for assessments under AS 21.79.070;
16 and

17 (7) contain additional provisions necessary or proper for the association
18 to exercise its powers and duties.

19 * Sec. 35. AS 21.79.100(f) is amended to read:

20 (f) The board may [SHALL]

21 (1) make reports and recommendations to the director relating to the
22 solvency, liquidation, rehabilitation, or conservation of a member insurer or the
23 solvency of insurers who apply to transact insurance business in the state; the director
24 and the board shall keep the reports and recommendations confidential;

25 (2) notify the director of any information that indicates that a member
26 insurer may be impaired or insolvent.

27 * Sec. 36. AS 21.79.110(b) is amended to read:

28 (b) The association shall keep records of [NEGOTIATIONS AND] meetings
29 relating to its activities. Records of [NEGOTIATIONS OR] meetings may only be
30 made public under AS 21.79.040(b)

31 (1) after the termination of a liquidation, rehabilitation, or conservation

- 1 proceeding that involves the impaired or insolvent insurer;
- 2 (2) after the insurer is no longer impaired or insolvent; or
- 3 (3) upon the order of a court of competent jurisdiction.

4 * Sec. 37. AS 21.79.110(c) is amended to read:

5 (c) The association is considered to be a creditor of the impaired or insolvent
6 insurer to the extent of assets attributable to covered policies that are reduced by an
7 amount to which the association is entitled under AS 21.79.060(s). Assets of the
8 impaired or insolvent insurer that are attributable to covered policies shall be used to
9 continue all covered policies and pay all contractual obligations of the impaired or
10 insolvent insurer as required by this chapter. Assets attributable to covered policies
11 include those assets that should have been established as reserves for the covered
12 policies. These assets are determined by multiplying the total assets of the impaired
13 or insolvent insurer by a fraction, the numerator of which is the amount that should
14 have been established as reserves for the covered policies of the impaired or insolvent
15 insurer, and the denominator of which is the amount that should have been established
16 as reserves for all policies of insurance issued in all states by that insurer. As a
17 creditor of the impaired or insolvent insurer, the association and other similar
18 entities in other states are entitled to receive a disbursement of assets out of the
19 marshaled assets as a credit against contractual obligations under this chapter
20 from time to time as the assets become available. If the liquidator has not, within
21 120 days of the date of a final determination of insolvency of an insurer by the
22 court, made an application to the court for the approval of a proposal to disburse
23 assets, the association may make application to the court for the approval of the
24 association's proposal to disburse assets.

25 * Sec. 38. AS 21.79.110 is amended by adding new subsections to read:

- 26 (f) A deposit in this state, held by law or required by the director for the
27 benefit of creditors, including policy owners, not turned over to the domiciliary
28 liquidator upon the entry of a final order of liquidation or order approving a
29 rehabilitation plan of an insurer domiciled in this state or in a reciprocal state shall
30 be promptly paid to the association. The association
- 31 (1) is entitled to retain a portion of any amount paid to it equal to the

1 percentage determined by dividing the aggregate amount of policy owners' claims
 2 related to that insolvency for which the association has provided statutory benefits by
 3 the aggregate amount of all policy owners' claims in this state related to that
 4 insolvency; and

5 (2) shall remit to the domiciliary receiver the amount paid to the
 6 association and retained under (1) of this subsection; any amount paid to the
 7 association not retained by it under (1) of this subsection shall be treated as a
 8 distribution of state assets under AS 21.78.294 or a similar provision of the state of
 9 domicile of the impaired or insolvent insurer,

10 (g) The association may not be required to give an appeal bond in an appeal
 11 of a civil action arising under this chapter.

12 * Sec. 39. AS 21.79.120 is amended to read:

13 **Sec. 21.79.120. Examination of the association, annual report.** The
 14 association may be examined by the director. The board shall submit to the director,
 15 not later than July [MAY] 1 of each year, a certified financial report for the preceding
 16 calendar year in a form approved by the director and a report of its activities during
 17 the preceding calendar year. Nothing in AS 21.79.110(b) limits the duty of the
 18 association to report under this section. Upon request, the association shall provide
 19 a copy of the report to a member insurer.

20 * Sec. 40. AS 21.79.140 is amended to read:

21 **Sec. 21.79.140. Civil immunity.** The association and its agents and
 22 employees, members of the Board of Governors, member insurers, and agents and
 23 employees of member insurers, and the director and the director's representatives are
 24 not civilly liable for an action or omission in performing [TAKEN BY THEM TO
 25 PERFORM] duties under this chapter. In this section, "duties" includes
 26 participation in an organization of one or more state associations of life or health
 27 insurers.

28 * Sec. 41. AS 21.79.150 is repealed and reenacted to read:

29 **Sec. 21.79.150. Stay of proceedings; default judgment.** Proceedings
 30 involving an insolvent insurer shall be stayed at least 60 days after the date of a final
 31 order of liquidation, rehabilitation, or conservation in order to allow the association to

1 exercise a power or duty authorized under this chapter. If a default judgment is
2 entered against an insolvent insurer, the association may apply to have the judgment
3 set aside or may defend against the action on its merits.

4 * Sec. 42. AS 21.79 is amended by adding new sections to read:

5 **Sec. 21.79.160. Prohibited advertisement of insurance sales; required**

6 **notice.** (a) A person, including an insurer, agent, or affiliate of an insurer, may not
7 make, publish, disseminate, circulate, or place before the public, or cause, directly or
8 indirectly, to be made, published, disseminated, circulated, or placed before the public,
9 in any newspaper, magazine, or other publication, or in the form of a notice, circular,
10 pamphlet, letter, or poster, or over any radio station or television station, or in any
11 other way, an advertisement, announcement, or statement, written or oral, that uses the
12 existence of the association for the purpose of sales, solicitation, or inducement to
13 purchase any form of insurance covered by the association. However, this section does
14 not apply to the association or any other entity that does not sell or solicit insurance.

15 (b) The association shall prepare a summary document describing the general
16 purposes and current limitations of this chapter and complying with (c) of this section.
17 This document shall be submitted to the director for approval. Beginning 60 days after
18 the date on which the director approves the document, an insurer may not deliver a
19 policy or contract to a policy or contract owner unless the summary document is
20 delivered to the policy or contract owner at the time of delivery of the policy or
21 contract. The document shall also be available upon request by a policy owner. The
22 distribution, delivery, contents, or interpretation of this document does not guarantee
23 that either the policy or the contract, or the owner of the policy or contract, is covered
24 in the event of the impairment or insolvency of a member insurer. The description
25 document shall be revised by the association as amendments to this chapter may
26 require. Failure to receive this document does not give the policy owner, contract
27 owner, certificate holder, or insured any greater rights than those stated in this chapter.

28 (c) The document prepared under (b) of this section must contain a clear and
29 conspicuous disclaimer on its face. The director shall establish the form and content
30 of the disclaimer. The disclaimer must

31 (1) state the name and address of the association and the division of

1 insurance;

2 (2) prominently warn the policy or contract owner that the association
3 may not cover the policy or, if coverage is available, that the policy will be subject to
4 substantial limitations and exclusions and conditioned on continued residence in this
5 state;

6 (3) state the types of policies for which guaranty funds will provide
7 coverage;

8 (4) state that the insurer and its agents are prohibited by law from using
9 the existence of the association for the purpose of sales, solicitation, or inducement to
10 purchase any form of insurance;

11 (5) state that the policy or contract owner should not rely on coverage
12 under the association when selecting an insurer;

13 (6) explain rights available and procedures for filing a complaint to
14 allege a violation of a provision of this chapter; and

15 (7) provide other information as required by the director, including
16 sources for information about the financial condition of insurers if the information is
17 not proprietary and is subject by law to disclosure.

18 (d) A member insurer shall retain evidence of compliance with (b) of this
19 section for so long as the policy or contract for which the notice is given remains in
20 effect.

21 **Sec. 21.79.170. Determination of principal place of business.** The principal
22 place of business of a plan sponsor consisting of

23 (1) a single employer or an employee organization is that state in which
24 the plan sponsor exercises the direction, control, and coordination of the operations of
25 the entity, as determined by the association in its reasonable judgment by considering
26 the following factors: (A) the state in which the primary executive and administrative
27 headquarters of the entity are located; (B) the state in which the principal office of the
28 chief executive officer of the entity is located; (C) the state in which the board of
29 directors or a similar governing body of the entity conducts the majority of its
30 meetings; (D) the state in which the executive or management committee of the board
31 of directors or a similar governing body of the entity conducts the majority of its

1 meetings; (E) the state from which the management of the overall operations of the
2 entity is directed; and (F) in the case of a benefit plan sponsored by affiliated
3 companies making up a consolidated corporation, the state in which the holding
4 company or controlling affiliate has its principal place of business as determined using
5 the factors described in (A) - (E) of this paragraph; however, if more than 50 percent
6 of the participants in the benefit plan are employed in a single state, that state is
7 considered to be the principal place of business of a plan sponsor that is a single
8 employer or an employee organization;

9 (2) two or more employers or employee organizations is that state in
10 which the employers or employee organizations have the largest investment in the
11 benefit plan.

12 **Sec. 21.79.180. Determination of residency of certain individuals.** A citizen
13 of the United States that is either a (1) resident of a foreign country, or (2) resident of
14 a United States possession, territory, or protectorate that does not have an association
15 similar to the association created by this chapter is, for purposes of this chapter, a
16 resident of the state of domicile of the insurer that issued the policy or contract.

17 * **Sec. 43.** AS 21.79.900(6) is amended to read:

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

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

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

26 (C) a mandatory state pooling plan;

27 (D) a mutual assessment company or an entity that operates on
28 an assessment basis;

29 (E) an insurance exchange licensed under AS 21.75; [OR]

30 (F) a [NONPROFIT] hospital or medical service organization
31 licensed under AS 21.87;

1 (G) an organization that has a license or certificate limited
2 to the issuance of charitable gift annuities; or

3 (H) an entity similar to one described under (A) - (G) of this
4 paragraph;

5 * Sec. 44. AS 21.79.900(9) is amended to read:

6 (9) "resident" means a person to whom a contractual obligation is
7 owed under this chapter and who resides in this state on the date of entry of a
8 court order that determines a member insurer to be an impaired or insolvent
9 insurer, whichever occurs first [AT THE TIME A MEMBER INSURER IS
10 DETERMINED TO BE AN IMPAIRED OR INSOLVENT INSURER AND TO
11 WHICH A CONTRACTUAL OBLIGATION IS OWED]; a person may be a resident
12 of only one state, which, in the case of a person other than a natural person, shall be
13 the principal place of business;

14 * Sec. 45. AS 21.79.900 is amended by adding new paragraphs to read:

15 (12) "authorized assessment" means an assessment approved by a
16 resolution by the board that will be called immediately or in the future from member
17 insurers for a specified amount;

18 (13) "called" means that a notice has been issued by the association to
19 member insurers requiring that an authorized assessment be paid within the time set
20 out in the notice;

21 (14) "impaired insurer" means a member insurer that is not an insolvent
22 insurer and that is placed under an order of rehabilitation or conservation by a court
23 of competent jurisdiction;

24 (15) "insolvent insurer" means a member insurer that is placed under
25 an order of liquidation by a court of competent jurisdiction with a finding of
26 insolvency;

27 (16) "owner," in relation to a policy or contract,

28 (A) means the person who is identified as the legal owner under
29 the terms of the policy or contract, or who is otherwise vested with legal title
30 to the policy or contract through a valid assignment completed under the terms
31 of the policy or contract and who is properly recorded as the owner on the

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1 records of the insurer;

2 (B) does not include a person with a mere beneficial interest in
3 a policy or contract;

4 (17) "plan sponsor" means, in the case of a benefit plan established or
5 maintained by

6 (A) a single employer, the employer;

7 (B) an employee organization, the employee organization; or

8 (C) two or more employers or jointly by one or more employers
9 and one or more employee organizations, the association, committee, joint
10 board of trustees, or other group of representatives of the parties who establish
11 or maintain the benefit plan;

12 (18) "receivership court" means the court in the insolvent or impaired
13 insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation
14 of the insurer;

15 (19) "structured settlement annuity" means an annuity purchased in
16 order to fund periodic payments for a plaintiff or other claimant in payment for or with
17 respect to personal injury suffered by the plaintiff or other claimant;

18 (20) "state" means a state of the United States, the District of
19 Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

20 * Sec. 46. AS 21.36.035, AS 21.79.060(b), 21.79.100(g), and 21.79.100(i) are repealed.

21 * Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section
22 to read:

23 TRANSITIONAL PROVISIONS. The terms of the members of the board of governors
24 of the Alaska Life and Health Insurance Guaranty Association who are serving on the
25 effective date of this Act are not affected by this Act. Their terms expire as provided before
26 the enactment of this Act.