

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

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DIVISION OF INSURANCE

ORDER R 92-09 ADOPTING REGULATIONS OF THE DIVISION OF INSURANCE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

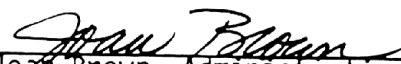
The attached nine (9) pages of regulations, as edited by the Department of Law, dealing with standards that may be used to identify an insurer found to be in a condition that may be hazardous to the public or to holders of its policies or certificates of insurance, to make specific and implement AS 21.09.175, are hereby adopted and certified to be a correct copy of the regulations that the Division of Insurance adopts (3 AAC 21.500 - 3 AAC 21.520) under the authority of AS 21.06.090 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This order supersedes the September 14, 1992 adoption order.

This action is not expected to require an increased appropriation.

This order takes effect on the 30th day after it has been filed by the Lieutenant Governor as provided in AS 44.62.180.

DATED this 23rd day of September, 1992, at Juneau, Alaska.


Joan Brown, Administrative Officer
Division of Insurance
Department of Commerce and
Economic Development

FILING CERTIFICATION

I, John B. Coghill, Lieutenant Governor for the State of Alaska, certify that on Sept 24, 1992, at 8:27 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - AS 44.62.120.


John B. Coghill, Lieutenant Governor

Effective: October 29, 1992.

Register: 124, January 1993

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TITLE 3. COMMERCE AND ECONOMIC DEVELOPMENT

PART 2. DIVISION OF INSURANCE

CHAPTER 21. INSURER -- FINANCIAL

3 AAC 21 is amended by adding a new article to read:

Article 4. Definition of Standards and Director's Authority
for Companies Deemed To Be in an Impaired Financial Condition

Section

500. Purpose

510. Standards

520. Remedial action

3 AAC 21 is amended by adding new sections to read:

3 AAC 21.500. PURPOSE. The purpose of 3 AAC 21.500 --
3 AAC 21.520 is to identify standards the director will, in the director's
discretion, use to identify an insurer that is impaired, as defined in
AS 21.90.900, or in imminent danger of becoming impaired, under AS
21.09.175. (Eff. 10/24/92, Register 124)

Authority: AS 21.06.090

AS 21.09.175

3 AAC 21.510. STANDARDS. (a) to determine whether an insurer
is impaired or in imminent danger of becoming impaired, the director will, in the
director's discretion, consider one or more of the following:

(1) findings reported in financial condition and market conduct
examination reports prepared by the division or another licensing jurisdiction;

(2) National Association of Insurance Commissioners'
Insurance Regulatory Information System reports;

(3) the ratios of commission expense, general insurance expense, policy benefits, and reserve increases to annual premium and net investment income;

(4) whether the insurer's asset portfolio when viewed in light of current economic conditions is of sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

(5) the financial condition and ability of an assuming reinsurer to perform and, after taking into account the insurer's cash flow and the classes of business written, whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus;

(6) whether the insurer's operating results within the last 12 months, including any net capital gain or loss, a change in non-admitted assets, and cash dividends paid to shareholders, would reduce by more than 50 percent the insurer's remaining policyholder surplus held in excess of the minimum policyholder surplus as required under AS 21;

(7) whether an affiliate, subsidiary, or reinsurer having a monetary obligation to the insurer is insolvent, threatened with insolvency, or delinquent in payment of a monetary obligation;

(8) contingent liabilities, pledges, or guaranties that, individually or collectively, involve a total amount that the director determines may affect the solvency of the insurer, if there is a substantial risk that the insurer will be called upon to meet those obligations within the next 12 months;

(9) whether a controlling person of an insurer is delinquent in the transmission or payment of net premiums to the insurer;

(10) the age and collectability of receivables;

(11) whether the management of an insurer fails to respond to an inquiry of the director relative to the condition of the insurer or gives the director false or misleading information concerning an inquiry;

(12) whether the management of an insurer files a false or misleading sworn financial statement, releases a false or misleading financial statement to a lending institution or the public, makes a false or misleading entry, or omits an entry in the books of the insurer in an amount representing 10 percent of capital and surplus or an amount that would place the insurer in an impaired condition as defined in AS 21.90.900;

(13) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(14) whether the company has experienced or will experience in the next 12 months negative cash flow or liquidity problems; or

(15) any other condition that might constitute impairment as defined in AS 21.90.900.

(b) In determining an insurer's financial condition under 3 AAC 21.500 - 3 AAC 21.520, the director will, in the director's discretion, take one or more of the following actions:

(1) disregard a credit or account receivable resulting from a transaction with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with a parent, subsidiary, or affiliate that violates a provision of AS 21 or 3 AAC;

(3) refuse to recognize the stated value of an account receivable if the account receivable is in excess of 90 days past due or the collectability of the account receivable is in question;

(4) increase the insurer's liability in an amount equal to a contingent liability that is unrelated to a claim made on a policy issued by the insurer, a pledge, or a guarantee not otherwise included, if there is a substantial risk that the insurer will be called upon to meet that obligation within the next 12 months; or

(5) take whatever other action is necessary to accurately determine an insurer's actual financial condition. (Eff. 10/24/92, Register 124)

Authority: AS 21.06.090

AS 21.09.175

3 AAC 21.520 REMEDIAL ACTION. (a) If the director determines that an insurer is impaired or in imminent danger of becoming impaired, the director will, in the director's discretion, order the insurer to take one or more of the following actions:

- (1) reduce, suspend, or limit the volume of business being accepted or renewed;
- (2) reduce general insurance and commission expenses by specified methods;
- (3) increase the insurer's capital and surplus;
- (4) suspend or limit the declaration and payment of a dividend by an insurer to its stockholders or its policyholders;
- (5) file a report in a form acceptable to the director concerning the market value of the insurer's assets;
- (6) limit or withdraw from certain investments or discontinue certain investment practices to the extent the director deems necessary;
- (7) document the adequacy of a premium rate in relation to the risk insured;
- (8) file interim financial reports, in addition to the regular annual statements, on a form adopted by the National Association of Insurance Commissioners unless another form is designated by the director; or
- (9) any other remedial action designed to prevent impairment or diminish the imminent danger of impairment.

(b) An insurer who is aggrieved by an order under (a) of this section may request a hearing under AS 21.06.170 -- 21.06.230. Unless the director grants an exception under AS 21.06.150(g), a hearing is open to the public. An insurer may submit a written request to have all or part of a hearing closed to the public. The request must identify fact supporting why conducting a closed hearing is necessary to protect the insurer against unwarranted injury or is in the public interest. A hearing or part of a hearing may be closed to the public if the director, upon review of the facts and law, finds that conducting the hearing in public will cause unwarranted injury to the insurer or is not in the public interest. (Eff. 10/24/92, Register 124)

Authority: AS 21.06.090

 AS 21.06.150

 AS 21.09.175

3 AAC 21 is amended by adding a new article to read:

Article 6. Financial Examination of Admitted Insurers

Section

700. Financial Examination

3 AAC 21.700. FINANCIAL EXAMINATION. The director will make a determination as to the financial condition of each non-domestic admitted insurer by conducting an examination under AS 21.06.120 at least once every five years. (Eff. 10/24/92, Register 124)

Authority: AS 21.06.090

 AS 21.06.120

 AS 21.09.175