



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Insurance

Sean Parnell, Governor
Susan K. Bell, Commissioner
Linda S. Hall, Director

BULLETIN B 11-07

TO: ALL LICENSEES AND INSURERS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: CHANGES TO THE ALASKA INSURANCE LAWS

This bulletin summarizes the major changes made to Alaska insurance laws resulting from the passage of SCS CSHB 164 (L&C) in the first session of the 27th Legislature that was signed into law by the Governor in June 2011. This bulletin is for informational purposes only and is not intended to be an exhaustive analysis of the statutory changes to the insurance code, and a statement in this bulletin does not supersede or modify in any way the statutory provisions of the bill. Please review the bill carefully and the rest of Alaska's insurance laws to assure your compliance when transacting insurance business in Alaska.

The new laws may be found at: <http://www.legis.state.ak.us/basis/start.asp>. Enter the bill number HB164 to find the full text and legislative history of the bill. You may obtain a copy of the bill by contacting the Alaska Legislative Information Office. Please note that this bill has multiple effective dates.

All Insurers *Effective 7/1/2011*

Exception from certificate of authority requirement

Insurers that do not market insurance in Alaska but cover Alaska residents under policies issued in another state are not required to obtain a certificate of authority if (1) the laws of the state in which the policy was issued apply to Alaska residents covered under the policy; and (2) the insurer complies with any other requirements that may be adopted by regulation by the director. **AS 21.09.020(5)**

Filing of electronic mailing address

All insurers licensed in Alaska are required to submit changes to the electronic mailing address within 90 days after a change. Other basic information such as mailing address and telephone numbers are also required. **AS 21.09.245(b)**

Filing of biographical affidavits

All domestic insurers (including benevolent associations, auto service corporations, HMOs, self-funded MEWAs) are required to file with the director a complete affidavit of biographical information not later than 30 days after the appointment of an officer or director of the insurer. Foreign insurers must file an affidavit of biographical information if requested to do so by the director. A filing is not required if a biographical affidavit of the officer or director has been submitted to the director within one year before the date of appointment. A biographical affidavit filed with the director is maintained as a confidential document. **AS 21.09.247**

New date for filing of holding company registration statement

The date for annual filing of the holding company registration statement (Form B) is changed from April 1 to May 1. **AS 21.22.060(k)**

Clarification of records retention requirements

Foreign insurers must keep records as required in AS 21.69.390(d) or by the requirements of the domiciliary state, if longer. **AS 21.09.320**

Form of payment for a loss incurred in Alaska

An insurer may pay a judgment or claim using a form other than a negotiable bank check or electronic funds transfer, if agreed to by the policy holder or beneficiary. For example, an insurer may settle a claim using a **retained asset account** with prior agreement by the policy holder or beneficiary. **AS 21.96.030**

Late penalty

Extends the \$100 per day late penalty to all required statements or reports, not just annual statement filings. **AS 21.09.200(e)**

Domestic Insurers *Effective 7/1/2011*

Trust assets required

The amount of trust reinsurer assets required to be in a trust to allow recording of a credit for reinsurance for an Alaska domestic insurer is limited to the valid claims of the reinsurer's United States domiciled ceding insurers. **AS 21.12.020(a)**

Record retention requirements

Domestic insurers must retain documents, including contract and claim files for insurance and other products, and administrative and management contracts, including files related to risks outside of the state. **AS 21.69.390(d)**

Health Insurers, Including Hospital and Medical Service Corporations

Coverage cancellation, coverage and premium change notices *Effective 7/1/2011*

Insurers are required to provide written notice to a covered individual at least 45 days before the effective date of cancellation. Because health care insurance plans are guaranteed renewable and subject to HIPAA requirements in AS 21.51.400 and AS 21.54.130, this requirement is not applicable to health care insurance plans. Insurers are also required to provide at least 45 days notice before the effective date of a change in coverage or premium. **AS 21.36.225**

Rate filing requirements *Effective 1/1/2012*

Insurers are required to submit rate filings for health care insurance plans, both individual and group, except for large employer rates if exempted by the director by regulation, at least 45 days before the effective date of the premium rate. Health care insurance plans do not include "excepted benefits" policies; therefore, the rate filing requirements do not apply to these policies. The director will be adopting regulations to implement the new rate filing requirements. The division has been informed by the U.S., Department of Health and Human Services Center for Medicare & Medicaid Services (CMS) that effective January 1, 2012 Alaska is deemed to have an effective rate review program. During the period between September 1, 2011 and December 31, 2011, CMS will review any proposed rate increases by health care insurers that are not hospital or medical service corporations. **AS 21.51.405(b) and AS 21.54.015(c)**

Adoption of Risk Based Capital trend test *Effective 7/1/2011*

If a health organization's total adjusted capital as determined in the risk based capital calculation is greater than or equal to the company action level risk based capital but less than 300 percent of authorized control level risk based capital, the insurer has a "negative trend." The existence of a negative trend allows the director to take action under a company action level event. Health organization is defined as an insurer that writes primarily health insurance including a health maintenance organization, limited health service organization, dental or vision plan, hospital, medical and dental indemnity or Service Corporation, or other managed care organization and that files the National Association of Insurance Commissioners' Health Risk-Based Capital Report. **AS 21.14.200**

Health Insurers and Health Insurance Producers *Effective 7/1/2011*

Issuance of individual policies to employees of employers with a health benefit plan

Alaska statutes prohibit the sale of individual policies to employees if an employer pays any portion of the insurance premiums. This new provision recognizes that in the cases where employers cannot or choose not to provide group insurance or where employees, such as part-time and seasonal employees, are not eligible for group insurance even if the employer offers a group health insurance plan, an exception to this prohibition would benefit those Alaskan employers and employees and their dependents. The new provision specifically allows insurers to issue individual policies to employees or their dependents (when an employer pays any portion of the insurance premium,) if

- (1) their employer has been without insurance for six months; or
- (2) the employee is a non-eligible employee (such as a part-time or seasonal employee).

The division has issued a separate bulletin further describing this new provision. (Bulletin B 11-05) **AS 21.54.180**

Life and Health Insurance Guaranty Association *Effective 7/1/2011*

Limits on claims

The limit for a long-term care insurance benefit claim paid by the Alaska Life and Health Insurance Guaranty Association is clarified to be \$300,000 and a claim for present value of annuity benefits is changed from \$100,000 to \$250,000. **AS 21.79.025(a)**

Life and Annuity Insurers *Effective 7/1/2011*

Standard provisions

This provision requires insurers to provide at least 10 days to return a policy and receive a refund of all premium paid for non-variable contracts and for variable contract to return all premium, fees, charges, and interest or investment returns on the premiums. In addition, this provision requires insurers to provide notices on policy and application forms of this right, as well as the right to receive information regarding benefits and policy provisions. **AS 21.45.020(c) and (d)**

- A free-look period greater than 10 days is allowed and encouraged.
- The notice may be either printed directly on the policy and application forms or a separate document attached to the policy and application forms.

- If the application is attached to and part of the policy, then the notice is required on the application form only, and the application with the notice must be filed under AS 21.42.120.
- The notice may be filed as an endorsement to approved applications and/or policy forms and must be filed under AS 21.42.120. New forms should incorporate the notice into the application and/or policy form.
- The new provision requires that a response to a written request for factual information regarding benefits and policy provisions be provided “within a reasonable time.” In order to be considered a reasonable time, the number of days for response must be such that the consumer is expected to receive the response with sufficient time to review the response before the end of the free-look period. The maximum number of days for response to a request by a consumer must be stated in the notice. It is not sufficient to simply state in the notice that a response will be provided “within a reasonable time.”

Long-Term Care Insurers *Effective 7/1/2011*

The long-term care insurance statutes were amended with the intent to be consistent with the National Association of Insurance Commissioners (NAIC) Long-Term Care models. The authority of the director to adopt regulations was expanded to include premium rates and filing requirements, marketing practices, independent review of benefit determinations, penalties, and reporting practices. The statute changes apply to long-term care insurance policies issued on or after July 1, 2011. The director plans to adopt regulations as required by the law to implement these statutes. **AS 21.53**

Multiple Employer Welfare Arrangements (MEWAs) *Effective 7/1/2011*

Disability insurance allowed

The types of insurance coverage that can be offered by a MEWA is expanded to allow disability insurance coverage if the coverage is provided under contracts with other insurers or as a self-insured limited short-term disability insurance coverage if approved to do so by the director. **AS 21.85.030(a)**

Changes to license application requirement for foreign MEWAs

Expands the information required in a certificate of application to include copies of certificates issued by the domicile state and financial information, analyses, and examination reports that are filed by the MEWA in their state of domicile. **AS 21.85.040(10)**

Producers *Effective July 1, 2011*

Elimination of license types; changed or new requirements

Elimination of the individual in a firm license type

For individuals employed or affiliated with or representing a business entity (firm) in their insurance transactions, the division previously issued a separate “individual in a firm” license type and the firm’s name was listed on the license. The division will no longer issue this license type and all individuals holding this license type will be converted and issued an “individual” license. For individuals renewing or applying for this license type, at the time the application request is approved, the license will be issued as an individual at no additional cost. **AS 21.27.900**

Elimination of the compliance officer in a firm license type

For an individual employed or affiliated with or representing a business entity (firm) in their insurance transactions and who is reflected as the firm's designated responsible producer (compliance officer), the division previously issued a separate "compliance officer in a firm" license type with the firm's name indicated on the license. To simplify our license structure, this license type will no longer be issued but the division will continue to require and track the firm's compliance officer. For individuals applying for or renewing this license type, at the time the license is issued, the license will be issued and converted to an individual at no additional cost.

Data conversion

For all licensees that hold the "individual in a firm" and "compliance officer in a firm" license types where a new license has not been reissued as an "individual," the division will convert these licenses over to an "individual" license type at no additional cost.

Issuing a new license certificate

After the licenses have been converted and reissued as an individual type, the licensee will receive a confirmation e-mail notice indicating that our records have been updated, with instructions to access the internet to view and print the license certificate at no additional cost, at <http://www.commerce.state.ak.us/ins/apps/PrintLicense/PrintLicenseLogin.aspx>. For those who do not receive an e-mail confirmation notice, the division will be printing and mailing out the new license.

Changed - notification requirements – compliance officer

Previously, the firm's designated responsible producer (compliance officer) was required to notify our office within 30 days of the termination of an individual that was licensed and representing that firm. Because the division no longer issues or tracks firm affiliations, this notification requirement is no longer applicable. Firms and compliance officers are still required to notify our office when there is a change of a compliance officer. AS 21.27.020 and 21.27.025

Changed - notification requirements – individual

Previously, an individual holding an individual in a firm license type was required to notify our office within 30 days of a change in employment. Because the division no longer issues or tracks firm affiliations, the notification requirement is no longer applicable. Compliance officers are still required to notify our office when they are no longer designated as the compliance officer for a firm. AS 21.27.020 and 21.27.025

New - insurance employment contracts between a business entity (firm) and individuals representing the firm

If an individual is affiliated with or represents a firm, an insurance employment contract is required. The contract must be in writing and must specify the lines (e.g., life, health, property, casualty, credit, etc.) and classes of authority (e.g., producer, surplus lines broker, adjuster, etc.) for the individual and firm. Both parties must retain a copy of the contract and reply in writing within three working days to an inquiry of the director regarding any business transacted by the individual and the firm.

Under this provision, the firm is responsible for the actions of an individual representing the firm. Several statutory requirements previously permitted under the individual working in a firm license type structure have transferred to the new insurance employment concept.

- Individuals, if authorized by the firm for any insurer for which the firm is an agent, may issue on behalf of the firm contracts of insurance.
- Money received by an individual representing a firm is not required to be held in a separate fiduciary account and should be held in the firm's account.
- The firm's records must include and are considered the records of the individuals employed by and representing the firm.

Both the individual and the firm are required to maintain a current list of all insurance employment contracts that identifies, for each contract, the parties to the contract, the parties' mailing addresses, electronic mailing addresses, and telephone and license numbers, and the effective and termination dates of employment. **AS 21.27.215**

New - electronic mail address requirements

Licensees are required to notify our office within 30 days of a change to their electronic mailing (e-mail) address. To facilitate this notification process, effective January 2011, the division created a website portal at <http://www.commerce.state.ak.us/insurance/apps/EmailUpdate/Login.aspx> that allows individuals and firms that have a valid national producer number (NPN) to update their business e-mail address with our office, at no cost. After the change has been received and processed, the licensee will receive a confirmation email notice within 24 hours that our records have been updated. **AS 21.27.025**

New – long-term care training requirements

Producer responsibilities

The long-term care training requirements became effective on July 1, 2011. One provision of the new law requires that a licensed person may not continue to sell, solicit, or negotiate long-term care insurance beginning one year after the effective date of the requirement, which would be July 1, 2012, unless the person has successfully completed a one-time course that must be at least eight credit hours.

Based on the effective date of this provision, producers holding an active health authority license as of July 1, 2011 will have until July 1, 2012 to take the one-time course. For those licensees that obtained their health authority license after July 1, 2011, the required one-time training course must be completed before the producer sells, solicits, or negotiates long-term care insurance in Alaska. Training taken by the producer to comply with another state's requirements would satisfy our requirements as long as the one-time training course meets the requirements in AS 21.53.066(d).

In addition, a producer licensed for health authority who sells, solicits, or negotiates long-term care insurance must complete an ongoing training course of at least four credit hours every 24 months. A producer renewing their license after July 1, 2012 will be subject to the ongoing training course requirement.

The one-time and ongoing training requirements may qualify for continuing education credits if the course and provider meet the requirements under 3 AAC 23.100 – 3 AAC 23.170.

AS 21.53.066

Insurer responsibilities

An insurer must obtain verification that a producer has received the required training before the producer is permitted to sell, solicit, or negotiate the insurer's long-term care products. The insurer is also responsible for records maintenance in accordance with our record retention requirements and must make the records available upon the director's request. **AS 21.53.066**

Other Procedural Changes

National Insurance Producer Registry (NIPR) filings

All applicants and licensees are encouraged to electronically file with the NIPR (www.nipr.com). The division will continue to accept filings for initial licensing, renewals, reinstatements, and amendments, but acknowledges that there will be a 24- to 72-hour delay pending the division's review, approval, and conversion to the new license type.

Fees

Application fees for all license classes and types will remain the same until further advised.

Renewal and lapse notices

Until the division is able to fully implement electronic communications, renewal and lapse notices will still be mailed. However, renewal notification will be changed to a post card notice only and not include information specific to the licensee.

Address for communications

Due to the fact that the division will no longer be tracking agency affiliations and the U.S. Postal Service requires inclusion of the business or agency name on the mailing address label, the division will begin using the licensee's home mailing address for mail outs. Note that the division will not make this address available to the general public since it is considered personal, private information. A licensee may update their residence mailing address online through the NIPR Address Change Request (ACR) module. The change using the resident mailing address for mail outs will not occur until October 2011.

The division encourages all licensees to review information and use electronic tools to monitor, update, and maintain their license through the division's website at

<http://www.commerce.state.ak.us/insurance/>

Property/Casualty Insurers *Effective 7/1/2011*

Adoption of Risk Based Capital trend test

If a property/casualty insurer's total adjusted capital as determined in the risk based capital calculation is greater than or equal to the company action level risk based capital but less than 300 percent of authorized control level risk based capital, the insurer has a "negative trend." The existence of a negative trend allows the director to take action under a company action level event. Property/casualty insurer is further defined as an insurer that files the National Association of Insurance Commissioners' Property and Casualty Risk Based Capital Report.

AS 21.14.200

Reciprocal Insurers *Effective 7/1/2011*

License application requirements

Expands the information required in a certificate of application to include the insurer's mailing address, e-mail address and telephone number. **AS 21.75.060(b)**

Surplus Lines Brokers *Effective 7/21/2011*

Many changes have been made to AS 21.34. These changes are addressed separately in detail in Bulletins B 11-03 and B 11-08, both dated July 22, 2011.

Title Insurers *Effective 7/1/2011*

Administrative statutes

- Give director authority to take control of a title company deposit held by the director when a title insurer is insolvent.
- Require the director to file for ancillary receivership if the finding of insolvency is from another state in order to administer the deposits and assets and pay claims.
- Require the director to return assets when a company no longer has authority to write in Alaska and the director determines that there are no risks in the state covered by the company and assets are no longer required.
- Make deposit administration statutes in AS 21.24 applicable to title insurer deposits.

AS 21.66.020

Application requirements

Require that an application for joint title plant must include basic identifying information and location information including an e-mail address. **AS 21.66.210**

Unauthorized Insurers and Independent Procurers *Effective 7/21/2011*

Unauthorized tax and independently procured tax

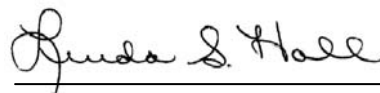
The unauthorized tax and independently procured tax, other than for wet marine and transportation, has been increased to 3.7 percent. **AS 21.33.055(a) and 21.33.061(c)**.

If you have questions regarding the information in this bulletin, please contact the division:

Alaska Division of Insurance
P.O. Box 110805
Juneau AK 99811-0805
(907) 465-2515

Alaska Division of Insurance
550 West Seventh Avenue, Suite 1560
Anchorage, AK 99501-3567
(907) 269-7900

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Linda S. Hall
Director