

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

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Bulletin 97-11

To: All Insurance Producers, Insurance Companies, Hospital or Medical Service Corporations, and Health Maintenance Organizations Writing Insurance in the State of Alaska and Other Interested Parties

Re: Amendments to the Alaska Insurance Code (Alaska Stat. 21)

This bulletin provides information regarding the changes to the Alaska Insurance Code (Alaska Stat. 21) made by the enactment of HCS CSSB 104(FIN) this year. A copy of this new law may be obtained from any of the Legislative Information Offices in its various locations in Alaska. This bulletin is for informational purposes only and is not intended to be an exhaustive or interpretive analysis of statutory changes to the insurance code. An explanation of the minimum federal standards for health care insurance enacted under P.L. 104191 (Health Insurance Portability and Accountability Act of 1996) is in Bulletin 9709, dated August 11, 1997.

Under a new subsection of AS 21.06.030, persons appointed by the director of insurance under AS 21 to participate on division advisory committees on a volunteer basis will not receive payment for travel or per diem expenses. Historically, volunteers on these committees, including many insurance professionals providing technical input, have not received nor expected payment for serving on advisory committees.

Amendments to AS 21.06.160(a) clarify the scope of examination costs to be paid by the person examined, to include a reasonable rate based on salary, benefit costs, and estimated division overhead for division time spent related to the examination. Actual outofpocket business expenses and travel costs incurred by division staff examiners also shall be paid by the person examined.

Amendments to AS 21.09.210 allow the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly from admitted insurers, rather than annually.

AS 21.09.245 has been added to require an admitted insurer to file within 30 days a notice with the division of a name change, domiciliary state change, or other change of information on its certificate of authority. An amendment to the insurer's articles of incorporation or bylaws, a change of business address or phone number, or other information maintained by the director must be filed with the division within 90 days. Penalties for noncompliance with the requirements are provided.

A new section, AS 21.09.320, requires that an admitted insurer retain complete business records regarding its assets, transactions, and affairs for at least five years from the date the record was created.

An amendment to AS 21.12.020(a)(4)(A)(iii) removes the requirement that an alien insurer provide a certification of insurer solvency from the insurer's domiciliary regulatory when that insurer is assuming reinsurance from a domestic insurer. Some foreign countries do not provide such certifications. Certification will still be required from the insurer's public accountant.

Under AS 21.12.050 "stoploss" has been added to the health insurance definition to affirm that life and health insurers are permitted to write stoploss coverage. Stoploss insurance purchased by a selfinsured employer to

cover health insurance benefits in excess of a preset limit is a form of health insurance subject to regulation under the insurance code.

A change to AS 21.14.010(a) clarifies that a domestic insurer must submit a risk-based capital report to the director without a specific request from the director. An amendment to AS 21.14.200(18) (Sec. 14) provides that the risk based capital instructions upon which the insurer's report is based may be adopted by order of the director after an open meeting, rather than by regulation.

Several sections of AS 21.18 are changed relating to reserve standards for health insurers. AS 21.18.080 establishes better defined minimum reserve standards for health insurance by basing reserve adequacy on the sum of policy, claim, and premium reserves, each of which will be separately regulated under three new provisions added to AS 21.18. These new provisions define the scope of each category of reserve and set the parameters for calculating the reserve.

A new section, AS 21.21.410, requires that a written custodial agreement exist between an insurer and an institution holding the assets, securities, or investments of the insurer. Under the agreement, the custodian must agree to indemnify the insurer for losses resulting from theft, mysterious disappearance, damage or destruction, or negligence or dishonesty of the custodian's officers, employees, or agents. The agreement also must require the custodian, in the event of loss, to promptly replace an asset or the value of an asset. Only a bank,

trust company, or securities firm is allowed to act as a custodian for the insurer, subject to the approval of the director of insurance.

Provisions in AS 21.27 are amended to include that all license applications must be signed under oath declaring that information on

the license application is accurate, that an attorney in fact exempted from licensing is also exempted from being licensed as a managing general agent, and that a temporary license may be issued for more than 90 days if provided for by law, such as the welfare reform law at AS 25.27.244. Other amendments clarify that an unlicensed person may not receive a commission and give the director authority to fine unlicensed persons who illegally transact insurance and receive a commission or other form of remuneration. Another provision removes the requirement that a cease and desist order must be served by certified mail, thus allowing service in the most effective and efficient way. Lastly, an amendment allows a third party administrator who has operated for less than two years to qualify for registration in this state by submitting certified financial statements for the period of operation to remove a barrier to start up operations that would otherwise be qualified to act as a third party administrator in this state.

Provisions in **AS 21.34** are amended to clarify application of solvency requirements to each Lloyd's syndicate or insurer belonging to a similar group and to syndicates or insurers belonging to an insurance exchange. Other provisions are amended to allow the director to determine the method of payment of surplus lines premium taxes to reflect technology changes such as electronic payments, to permit collection of premium taxes quarterly from admitted insurers, rather than annually, and to clarify that the filing fee collected under AS 21.34.190 is calculated on the gross premiums reported on the statement of surplus lines tax under AS 21.34.180(b).

Amendments and new sections added to **AS 21.36** require an insurer to maintain records of all complaints it receives and the disposition of the complaints for up to four years; clarify that a personal insurance policy may only be nonrenewed at its annual anniversary; further clarify the annual policy period; assure that personal auto insurance rates are changed no more frequently than once every six months; and require that insurers and insurance licensees report to the director any suspected insurance producer defalcations, embezzlements, or violations of AS 21.36.360.

A change to **AS 21.39.045** clarifies that the risk classification method required by AS 21.39.045(b) applies only to the construction industry.

A new section, **AS 21.42.205**, requires coordination of benefits under health insurance contracts when an individual is covered under more than one health insurance contract.

A new section, AS 21.42.265, clarifies that insurance coverage changes required by a change in law become effective at renewal unless the law provides for an earlier effective date.

A new section, AS 21.54.015, prohibits excessive, inadequate, or unfairly discriminatory rates for group health insurance contracts to provide a consistent standard for all group health insurance.

The new section, AS 21.56.075, requires members of the Small Employer Reinsurance Association to report to the director on an annual basis the total amount of small employer health insurance premiums written in this state.

Provisions in AS 21.66 are amended to add investment income as one of the elements to be considered when evaluating the rates charged by title insurers, to allow the director to determine the method of payment of premium taxes by title insurers to reflect technology changes such as electronic payments, and to permit collection of premium taxes quarterly from admitted title insurers, rather than annually.

Provisions in AS 21.69 are amended to allow a domestic insurer to hold, for good cause, its required annual meeting in a location outside of its principal office or place of business upon approval of the director and to require the director's approval when an insurer borrows funds to defray expenses or to provide it with excess funds under a written agreement that requires the funds to be repaid only from the insurer's excess surplus.

AS 21.75.045 is amended to expand the license exemption for an attorneyinfect to include a person acting as an attorneyinfect for any reciprocal insurer.

Amendments to AS 21.76 require that the report prepared by a joint insurance arrangement regarding its financial condition is to be filed with the director in addition to the legislative budget and audit committee and allow a joint insurance arrangement to base its report of the operation and condition of the insurance fund filed under AS 21.76.080(e) on generally accepted accounting principals rather than requirements established by the director.

Changes to AS 21.78.293 require the court, in an insurer liquidation proceeding, to review and adopt the receiver's report on claims by approving those claims supported by substantial evidence and disapproving allowed claims that are not supported by substantial evidence and provide that claims not disapproved by the court within 120 days following submission are deemed allowed by the receiver.

Amendments to AS 21.87 update participant provider contract requirements to reflect managed care compensation arrangements as well as traditional indemnity reimbursement; conform rate and form filing requirements for medical and hospital service corporations to the rate and filing requirements for other insurers; and apply the reserve standards under AS 21.18.050 to medical and hospital service corporations for consistent treatment of these corporations and other health insurers.

Amendments to **AS 21.89.020** clarify the priority of payments under automobile insurance policies that may cover damages or injuries arising out of the use of a rental vehicle and that the cancellation requirements under AS 21.36.210 21.36.310 do not apply to short term policies.

A new definition is added to AS 21.90.900 (Sec. 112) to clarify what the term "certified financial statements" means with respect to certain licensing requirements or when used in other parts of the insurance code.

AS 28.20.440 (Motor Vehicle Code) is amended by adding a new section that allows an insurer under a motor vehicle liability policy to exclude from coverage a member of a named insured's household or a relative of a named insured, if requested by the named insured. This amendment will allow a named insured to exclude one

of their children from coverage under an automobile insurance policy.

The definition of underinsured motor vehicle at AS 28.40.100(a)(22) is amended. This amendment and the repeal of AS 28.20.445(h) and 28.22.211 are intended to rectify the conflict in AS 28.20 and 28.22 regarding the trigger for underinsured motorist coverage and to reaffirm that such coverage is excess to coverage from other sources up to the insured's total damage.

DATED: October 10, 1997

A handwritten signature in black ink, appearing to read "Marianne K. Burke". The signature is written in a cursive style and is enclosed within a light gray rectangular box.

Marianne K. Burke
Director of Insurance