

Proposed Regulatory Order

Order Authorizing the Use of Electronic Transactions and Communications for Conducting the Business of Insurance

Under Alaska statute (AS) 21.96.080(a), the Director of the Division of Insurance may issue an order providing for the electronic transaction of any information or written communication under AS 21. Various provisions of the insurance code require the use of written information or written communication related to the transaction of insurance and do not expressly provide for electronic transactions or communications. The purpose of this Order is to identify circumstances where regulated parties may use electronic communications or transactions (records) in lieu of a written transaction or communication.

The Director of the Division of Insurance Finds:

1. The use of electronic transactions in the business of insurance can streamline the process of sending and receiving insurance information and reduce costs for insurers, licensees, and insureds.
2. Various provisions of the insurance code require written records related to the transaction of insurance, which in many cases could be efficiently and effectively accomplished through an electronic transaction or communication.

The Director of the Division of Insurance Hereby Orders:

That, for the purposes of the statutory provisions listed as follows, if the insurance code requires a record to be in writing, an electronic writing satisfies the insurance code and if the insurance code requires a signature, an electronic signature satisfies the insurance code:

List of Statutory Provisions

Communications with the Division of Insurance

- AS 21.06.180 - demand for hearing.
- AS 21.09.110 - application for certificate of authority.
- AS 21.09.135 - application for voluntary surrender of certificate.
- AS 21.09.207 - statement of actuarial opinion and supporting documents.
- AS 21.09.245(a) & (b) - insurer's required notice of change to the division.
- AS 21.09.247 - biographical affidavits.
- AS 21.14.010 - risk based capital reports.

- AS 21.14.070 - risk based capital report for foreign insurers.
- AS 21.14.090 - consent of insurer to release of report.
- AS 21.14.200(15)(B) - written explanation of failure to file report by due date.
- AS 21.22.060 - registration of insurers who are members of an insurance holding company system and disclaimer of affiliation.
- AS 21.22.120 - written consent to public release of confidential information.
- AS 21.24.130(b) - notice to director by domestic insurer of assignment of assets.
- AS 21.27.025 - licensee's required notice of change to the division.
- AS 21.27.110(b) - termination of appointment.
- AS 21.27.570(b) & (c) - controlling insurance producers.
- AS 21.27.620(a)(2) & (f) - acting as a managing general agent.
- AS 21.27.650(a)(3) - list of supervisors and current insurers for third-party administrators.
- AS 21.27.650(b) - third-party administrator contract.
- AS 21.27.690(b) - license exceptions reinsurance intermediary broker.
- AS 21.27.760(b)(14) and (15) - reinsurance intermediary manager contract.
- AS 21.33.06 - report to director of surplus lines insurance placement.
- AS 21.34.060 - report to director of placement of insurance with non-admitted insurer.
- AS 21.34.080 - surplus lines transaction report.
- AS 21.36.390 - insurer or licensee notice to the division of fraud.
- AS 21.39.041(c) - application to the director to authorize a filing to become effective before the waiting period has expired.
- AS 21.39.050(d) - application to the director for a hearing on a disapproved filing.
- AS 21.39.070 - application to the director to file a deviation.
- AS 21.39.220 - rate filings, supplementary rate information, supporting information, application to director to make rate effective before expiry of waiting period, and application to director to extend to time to provide information.
- AS 21.42.120, AS 21.42.123, & AS 21.42.125 - filing and approval of forms.
- AS 21.56.250(1) - actuarial certification to the director for small employer health insurance.

- AS 21.66.400(c) - application to the director for a hearing.
- AS 21.69.250(a) - trust agreement for formation of mutual.
- AS 21.69.620(a)-filing domestic mutual insurer reinsurance contract with director.
- AS 21.75.080 - notice of election by attorney in fact.
- AS 21.76.900(4) - joint insurance cooperative agreements.

Communications between an insurer and its agents

- AS 21.09.160(c) - insurer's notice of suspension or revocation to agents and MGAs.
- AS 21.27.110(a) - termination of an appointment.
- AS 21.27.570(a) - controlling insurance producers.
- AS 21.27.620 - managing general agents.
- AS 21.27.650 - insurer's third-party administrator.
- AS 21.27.690 - reinsurance intermediary brokers.
- AS 21.27.760 - reinsurance intermediary manager contract.

Communications between an insurer or producer and consumers

- AS 21.34.100 - evidence of insurance.
- AS 21.34.110 - surplus lines broker's notice to insured.
- AS 21.36.185 - complaints.
- AS 21.36.505 - health discount plans.
- AS 21.36.515(a) - disclosures and notices related to portable electronic devices insurance.
- AS 21.42.250(a) & (b) - delivery of policies.
- AS 21.42.270 - assignment of policies.
- AS 21.42.290 - minor may give acquittance.
- AS 21.42.300 - forms for proof of loss to be furnished.
- AS 21.53.060(c) - notice of long term care benefits denial.
- AS 21.57.070 - notice of election by attorney in fact.
- AS 21.85.090 - consumer information notice for multiple employer welfare association.
- AS 21.69.240(b) - applications for insurance in formation of mutual insurer.
- AS 21.75.080 - reciprocal insurer authority of attorney-in-fact.

Nothing in this order requires a regulated party, insured, consumer, or third party to conduct transactions by electronic means. A recipient has the right to accept certain transactions by electronic means and refuse other transactions by electronic means.

This order does not apply if the recipient lacks the ability to send or receive electronic communications.

This order has no effect on AS 21.36.260, AS 21.36.323, AS 21.36.515(f), or AS 21.42.250(c) – (e), which already provide for electronic communication.

Electronic transactions and communications are subject to the record keeping requirements of the insurance code and regulations.

Electronic communications and transactions are subject to the Uniform Electronics Transactions Act codified under AS 09.80.010 – AS 09.80.195. Since AS 09.80.020(b) requires each party to accept or agree to be bound by the electronic transaction, the insurer or producer files must contain documentation that demonstrates all parties (including a consumer) agree to participate in an electronic transaction.

This order is effective_____

Lori Wing-Heier
Director