



LAWS OF ALASKA

2018

Source
CSHB 403(L&C)

Chapter No.

AN ACT

Relating to the Alaska Life and Health Insurance Guaranty Association; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the Alaska Life and Health Insurance Guaranty Association; and providing for an
2 effective date.

3

4 * **Section 1.** AS 21.79.010 is amended to read:

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

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

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

3 (1) except for a nonresident certificate holder under a group policy or
4 contract, is the beneficiary, assignee, or payee, **including health care providers**
5 **rendering services covered under health insurance policies or certificates**, of a
6 person described in (2) of this subsection; and

7 (2) except in the case of an unallocated annuity contract or a structured
8 settlement annuity, is the owner of, or a certificate holder **or enrollee** under, the policy
9 or contract, and who

10 (A) is a resident; or

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

12 (i) the **member** insurer that issued the policy or contract
13 is domiciled in this state;

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

16 (iii) the person is not eligible for coverage by an association in any other state
17 due to the fact that the insurer, **hospital or medical service corporation, or health**
18 **maintenance organization** was not licensed **at the time specified in the guaranty**
19 **association** [AS REQUIRED BY] law **of** [IN] that state.

20 * Sec. 3. AS 21.79.020(b) is amended to read:

21 (b) This chapter applies to a person specified in (a) of this section **for a policy**
22 **or contract of** [AND TO A] direct, nongroup life **insurance**, health **insurance**,
23 annuity, and supplemental policy or contract, to a certificate under a direct group life,
24 health, annuity, or supplemental policy or contract, **to a subscriber's contract issued**
25 **by a hospital or medical service corporation under AS 21.87, to a subscriber's**
26 **contract issued by a health maintenance organization under AS 21.86**, and to an
27 unallocated annuity contract issued by a member insurer, except as otherwise limited
28 by this chapter. **In this subsection, "annuity policy or contract" or "certificate**
29 **under a direct group life, health, annuity, or supplemental policy or contract"**
30 **includes a guaranteed investment contract, a deposit administration contract, an**
31 **unallocated funding agreement, an allocated funding agreement, a structured**

1 settlement annuity, an annuity issued to or in connection with a government
2 lottery, and an immediate or deferred annuity contract.

3 * **Sec. 4.** AS 21.79.020(c) is amended to read:

4 (c) This chapter does not apply to

5 (1) that part of a policy or contract that is not guaranteed by the
6 member insurer;

7 (2) that part of the risk borne by the policy or contract owner
8 [HOLDER];

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

11 (4) that part of a policy or contract, except for part of a policy or
12 contract, including a rider, that provides long-term care or other health
13 insurance benefits, to the extent that the rate of interest on which it is based, or the
14 interest rate, crediting rate, or similar factor determined by use of an index or other
15 external reference stated in the policy or contract employed in calculating returns or
16 changes in value,

17 (A) averaged over the period of four years before the date on
18 which the member insurer becomes an impaired or insolvent insurer under this
19 chapter, whichever occurs first, exceeds the rate of interest determined by
20 subtracting two percentage points from the published monthly average for that
21 same four-year period or for a lesser period if the policy or contract was issued
22 less than four years before the member insurer becomes an impaired or
23 insolvent insurer under this chapter, whichever occurs first; and

24 (B) on and after the date on which the member insurer becomes
25 an impaired or insolvent insurer under this chapter, whichever occurs first,
26 exceeds the rate of interest determined by subtracting three percentage points
27 from the most recent published monthly average;

28 (5) a portion of a policy or contract issued to a plan or program of
29 an employer, association, or similar entity to provide life, health, or an annuity benefit
30 to an employee, [OR] member, or other person, to the extent that the plan or program
31 is self-funded or uninsured, including a benefit payable by the employer, association,

1 or similar entity under

2 (A) a multiple employer welfare arrangement as defined in 29
3 U.S.C. 1002 (Employee Retirement Income Security Act of 1974);

4 (B) a minimum premium group insurance plan;

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

6 (D) an administrative services only contract;

7 (6) that part of a policy or contract that provides a dividend or
8 experience rating credit or voting rights, or provides that a fee or allowance be paid to
9 a person, including the policy or contract **owner** [HOLDER], in connection with the
10 service to or administration of the policy or contract;

11 (7) a policy or contract issued in this state by a member insurer at a
12 time when it was not licensed or did not have a certificate of authority to issue the
13 policy or contract in this state;

14 (8) a person who is a payee or beneficiary of a contract **owner**
15 [HOLDER] who is a resident of this state if the payee or beneficiary is provided
16 coverage by the association of another state;

17 (9) a person covered under **(d)** [(e)] of this section if any coverage is
18 provided by the association of another state to that person;

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

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

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

28 (13) an obligation that does not arise under the express written terms of
29 the policy or contract issued by the **member** insurer to the **enrollee, certificate**
30 **holder**, contract owner, or policy owner, including, without limitation,

31 (A) a claim based on marketing materials;

1 (B) a claim based on a side letter or other document that was
2 issued by the **member** insurer without meeting applicable policy **or contract**
3 form filing or approval requirements;

4 (C) a misrepresentation of or regarding policy **or contract**
5 benefits;

6 (D) an extra contractual claim; or

7 (E) a claim for penalties or consequential or incidental
8 damages;

9 (14) a contractual agreement that establishes the member insurer's
10 obligations to provide a book value accounting guaranty for defined contribution
11 benefit plan participants by reference to a portfolio of assets that is owned by the
12 benefit plan or its trustee, which, in each case, is not an affiliate of the member
13 insurer; [OR]

14 (15) that part of a policy or contract to the extent the part of the policy
15 or contract provides for interest or other changes in value to be determined by the use
16 of an index or other external reference stated in the policy or contract, but that have
17 not been credited to the policy or contract, or as to which the policy or contract
18 owner's rights are subject to forfeiture, as of the date the member insurer becomes an
19 impaired or insolvent insurer under this chapter, whichever is earlier; if a policy's or
20 contract's interest or changes in value are credited less frequently than annually, then,
21 for purposes of determining the values that have been credited and are not subject to
22 forfeiture under this paragraph, the interest or change in value determined by using the
23 procedures defined in the policy or contract shall be credited as if the contractual date
24 of crediting interest or changing values was the date of impairment or insolvency,
25 whichever is earlier, and will not be subject to forfeiture;

26 **(16) a policy or contract providing a hospital, medical,**
27 **prescription drug, or other health care benefit in accordance with 42 U.S.C.**
28 **1395w-21 - 1395w-154 or federal regulations adopted under those sections;**

29 **(17) a person who acquires rights to receive payments through a**
30 **structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A),**
31 **regardless of whether the transaction occurred before, on, or after 26 U.S.C.**

1 5891(c)(3)(A) became effective; or

2 (18) structured settlement annuity benefits to which a payee or
3 beneficiary has transferred the payee's or beneficiary's rights in a structured
4 settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless
5 of whether the transaction occurred before, on, or after 26 U.S.C. 5891(c)(3)(A)
6 became effective.

7 * **Sec. 5.** AS 21.79.020(d) is amended to read:

8 (d) This chapter, except for (a) of this section, applies to an unallocated
9 annuity contract [SPECIFIED UNDER (b) OF THIS SECTION,] and shall provide
10 coverage to a person who is the owner of

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

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

16 * **Sec. 6.** AS 21.79.020(e) is amended to read:

17 (e) This chapter, except for (a) of this section, applies to a structured
18 settlement annuity [SPECIFIED UNDER (b) OF THIS SECTION,] and shall provide
19 coverage to a person who is a payee under a structured settlement annuity, or the
20 beneficiary of a payee if the payee is deceased, if the payee is

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

22 (2) not a resident, but only if both of the following conditions **exist**
23 [EXISTS]:

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

25 (i) a resident; or

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

30 (B) the payee, or the payee's beneficiary, and the contract
31 owner are not eligible for coverage by the association of the state in which the

1 payee or contract owner resides.

2 * **Sec. 7.** AS 21.79.025(a) is amended to read:

3 (a) The benefits for which the association may become liable may not exceed
4 the lesser of

5 (1) the contractual obligations for which the **member** insurer is liable
6 or would have been liable if it were not an impaired or insolvent insurer;

7 (2) with respect to any one life, regardless of the number of policies or
8 contracts,

9 (A) \$300,000 in life insurance death benefits, but not more than
10 \$100,000 in net cash surrender and net cash withdrawal values for life
11 insurance;

12 (B) **for** [IN] health insurance benefits,

13 (i) \$100,000 for coverage not defined as disability
14 **income** insurance, **health benefit plans, or** long-term care insurance,
15 [OR BASIC HOSPITAL, MEDICAL, AND SURGICAL
16 INSURANCE OR MAJOR MEDICAL INSURANCE,] including any
17 net cash surrender and net cash withdrawal values;

18 (ii) \$300,000 for disability **income** insurance as defined
19 in AS 21.12.052 and **\$300,000 for** long-term care insurance as defined
20 in AS 21.53.200;

21 (iii) \$500,000 for **health benefit plans** [BASIC
22 HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR
23 MAJOR MEDICAL INSURANCE];

24 (C) \$250,000 in the present value of annuity benefits, including
25 net cash surrender and net cash withdrawal values;

26 (3) with respect to **either** [ANY] one contract **owner provided**
27 **coverage under AS 21.79.020(d)(2)** [HOLDER] or **one** plan sponsor whose plan
28 owns directly or in trust one or more unallocated annuity contracts not included in (4)
29 of this subsection, \$5,000,000 in unallocated annuity contract benefits, irrespective of
30 the number of contracts held by that contract **owner** [HOLDER] or plan sponsor
31 except that, in the case of one or more unallocated annuity contracts that are covered

1 under this chapter and that are owned by a trust or other entity for the benefit of two or
2 more plan sponsors, coverage shall be provided by the association if the largest
3 interest in the trust or entity owning the contract is held by a plan sponsor whose
4 principal place of business is in this state; however, the association is not liable to
5 cover more than \$5,000,000 in benefits, **regardless of the number of policies and**
6 **contracts held by the owner** [WITH RESPECT TO AN UNALLOCATED
7 ANNUITY CONTRACT NOT INCLUDED IN (4) OF THIS SUBSECTION];

8 (4) with respect to an individual participating in a governmental
9 retirement benefit plan established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26
10 U.S.C. 457 and covered by an unallocated annuity contract, or to a beneficiary of the
11 individual if the individual is deceased, in the aggregate, **\$250,000** [\$100,000] in
12 present-value annuity benefits, including net cash surrender and net cash withdrawal
13 values; or

14 (5) with respect to each payee of a structured settlement annuity, or
15 beneficiary of the payee if the payee is deceased, **\$250,000** [\$100,000] in present-
16 value annuity benefits in the aggregate, including net cash surrender and net cash
17 withdrawal values, if any.

18 * **Sec. 8.** AS 21.79.025(c) is amended to read:

19 (c) In providing coverage required under AS 21.79.060, the association may
20 not be required to guarantee, assume, **reissue**, reinsure, or perform, or cause to be
21 guaranteed, assumed, **reissued**, reinsured, or performed, the contractual obligations of
22 an insolvent or impaired insurer under a covered policy or contract when the
23 obligations do not materially affect the economic values or economic benefits of the
24 covered policy or contract.

25 * **Sec. 9.** AS 21.79.025(d) is amended to read:

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

27 (1) an aggregate of \$300,000 in benefits with respect to any one life
28 under (a)(2), (4), and (5) of this section, except that, with respect to benefits for **health**
29 **benefit plans** [BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR
30 MAJOR MEDICAL INSURANCE] under (a)(2)(B) of this section, the aggregate
31 liability of the association may not exceed \$500,000 for any one individual; or

1 (2) \$5,000,000 in benefits with respect to one owner **of** [OR] multiple
2 nongroup policies of life insurance, whether the policy **or contract** owner is an
3 individual, firm, corporation, or other person, and whether the persons insured are
4 officers, managers, employees, or other persons, regardless of the number of policies
5 and contracts held by the owner.

6 * **Sec. 10.** AS 21.79.025 is amended by adding a new subsection to read:

7 (e) For purposes of this chapter, benefits provided by a long-term care rider to
8 a life insurance policy or annuity contract will be considered the same type of benefits
9 as the base life insurance policy or annuity contract to which the rider relates.

10 * **Sec. 11.** AS 21.79.040(a) is amended to read:

11 (a) There is established as a nonprofit legal entity the Alaska Life and Health
12 Insurance Guaranty Association. Each member insurer shall be a member of the
13 association as a condition of the insurer's authority to transact insurance, **a hospital or**
14 **medical service corporation business, or a health maintenance organization**
15 **business** in this state. The association shall perform its functions under a plan of
16 operation established and approved under AS 21.79.080 and shall exercise its powers
17 through the Board of Governors established under AS 21.79.050. For purposes of
18 administration and assessment, the association shall maintain the following accounts:

- 19 (1) the health [INSURANCE] account; and
- 20 (2) the life insurance and annuity account, including the following
21 subaccounts:

22 (A) life insurance account;

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

27 (C) unallocated annuity account that must exclude contracts
28 owned by a governmental retirement benefit plan, or its trustee, qualified under
29 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue Code).

30 * **Sec. 12.** AS 21.79.050(a) is amended to read:

31 (a) The Board of Governors of the association consists of not less than **seven**

1 [FIVE] nor more than **11** [NINE] representatives of member insurers. The director
2 may appoint two individuals as members of the board to represent the public. Terms of
3 office for board members shall be established in the plan of operation submitted under
4 AS 21.79.080. Member insurers shall select the insurer board members, subject to the
5 approval of the director. A vacancy in a board membership held by an insurer member
6 shall be filled for the unexpired term by a majority vote of the remaining board
7 members, subject to the approval of the director. A vacancy in a board membership
8 held by a representative of the public shall be filled by the director. A board member
9 who represents the public may not be an officer, director, or employee of an insurer,
10 **hospital or medical service corporation, or health maintenance organization** and
11 may not be engaged in the business of insurance.

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

13 (a) If a member insurer becomes impaired, the association may, with the
14 approval of the director and subject to any conditions imposed by the association that
15 do not impair the contractual obligations of the impaired insurer,

16 (1) guarantee, assume, **reissue**, reinsure, or provide for the guarantee,
17 assumption, **reissuance**, or reinsurance of the policies or contracts of the impaired
18 insurer; **and** [OR]

19 (2) provide money, pledges, **loans**, notes, guarantees, or other means
20 that are necessary to act under (1) of this subsection and to assure payment of the
21 contractual obligations of the impaired insurer until those obligations are guaranteed,
22 reinsured, or assumed.

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

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

26 (1) guarantee, assume, **reissue**, reinsure, or provide for the guarantee,
27 assumption, **reissuance**, or reinsurance of the covered policies **or contracts** of the
28 insolvent insurer, **or otherwise assure payment of the contractual obligations of**
29 **the insolvent insurer; and provide money, pledges, loans, notes, guarantees, or**
30 **other means that are necessary to discharge the association's duties under this**
31 **section; or**

1 **(2) provide benefits and coverage in accordance with the following**
2 **provisions:**

3 **(A) with respect to policies and contracts, assure payment**
4 **of benefits that would have been payable under a policy or contract of the**
5 **insolvent insurer for claims incurred with respect to**

6 **(i) a group policy or contract, not later than the**
7 **earlier of the next renewal date under the policy or contract or 45**
8 **days, but in no event less than 30 days, after the date on which the**
9 **association becomes obligated with respect to the policy or**
10 **contract;**

11 **(ii) an individual policy, contract, or annuity, not**
12 **later than the earlier of the next renewal date, if any, under the**
13 **policy or contract or one year, but in no event less than 30 days,**
14 **after the date on which the association becomes obligated with**
15 **respect to the policy or contract;**

16 **(B) with respect to an individual or group policy or**
17 **contract, make a diligent effort to provide a known insured, an enrollee,**
18 **an annuitant, or a group policy owner or group contract owner 30 days'**
19 **notice of the termination of the benefits provided;**

20 **(C) with respect to an individual policy or contract, make**
21 **available to each known insured, enrollee, or annuitant, or owner if other**
22 **than an insured, enrollee, or annuitant, and with respect to an individual**
23 **who was formerly an insured, enrollee, or annuitant under a group policy**
24 **or contract who is not eligible for replacement group coverage, make**
25 **available substitute coverage on an individual basis under (D) of this**
26 **paragraph, if the insured, enrollee, or annuitant had a right under law or**
27 **under the terminated policy or contract to convert coverage to individual**
28 **coverage or to continue an individual policy or contract in force until a**
29 **specified age, or for a specific time during which the insurer, hospital or**
30 **medical service corporation, or health maintenance organization did not**
31 **have the unilateral right to make changes in any provision of the policy or**

1 contract or had a right only to make changes in premium by class;

2 (D) in providing the substitute coverage under (C) of this
3 paragraph, the association

4 (i) shall offer either to reissue the terminated
5 coverage or to issue an alternate policy or contract at actuarially
6 justified rates;

7 (ii) shall offer an alternative or reissued policy or
8 contract without requiring evidence of insurability and may not
9 provide for a waiting period or exclusion that would not have
10 applied under the terminated policy or contract; and

11 (iii) may reinsure an alternative or reissued policy or
12 contract;

13 (E) an alternative policy or contract must

14 (i) if adopted by the association, be subject to the
15 approval of the director; the association may adopt alternative
16 policies or contracts of various types for future issuance without
17 regard to a particular impairment or insolvency;

18 (ii) contain at least the minimum statutory
19 provisions required in the state and provide benefits that may not
20 be unreasonable in relation to the premium charged; the
21 association shall set the premium under a table of rates that it shall
22 adopt; the premium must reflect the amount of insurance to be
23 provided and the age and class of risk of each insured, but may not
24 reflect changes in the health of the insured after the original policy
25 or contract was last underwritten;

26 (iii) if issued by the association, provide coverage of
27 a type similar to that of the policy or contract issued by the
28 impaired or insolvent insurer, as determined by the association;

29 (F) if the association elects to reissue terminated coverage
30 at a premium rate different from that charged under the terminated
31 policy or contract, the premium shall be actuarially justified and set by

1 the association according to the amount of insurance or coverage provided
2 and the age and class of risk;

3 (G) the association's obligations with respect to coverage
4 under a policy or contract of an impaired or insolvent insurer or under a
5 reissued or alternative policy or contract stop on the date the coverage,
6 policy, or contract is replaced by another similar policy or contract by the
7 policy or contract owner, the insured, the enrollee, or the association;

8 (H) when proceeding under this subsection with respect to a
9 policy or contract carrying guaranteed minimum interest rates, the
10 association shall assure the payment or crediting of a rate of interest
11 consistent with AS 21.79.020(c)(4) [HELD BY RESIDENTS;

12 (2) ASSURE PAYMENT TO RESIDENTS OF THE
13 CONTRACTUAL OBLIGATIONS OF THE INSOLVENT INSURER;

14 (3) PROVIDE MONEY, PLEDGES, NOTES, GUARANTEES, OR
15 OTHER MEANS NECESSARY TO DISCHARGE THE ASSOCIATION'S DUTIES
16 UNDER THIS SUBSECTION; OR

17 (4) WITH RESPECT ONLY TO LIFE AND HEALTH INSURANCE
18 POLICIES AND ANNUITIES, PROVIDE BENEFITS AND COVERAGES
19 REQUIRED UNDER (e) OF THIS SECTION].

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

21 (k) Nonpayment of a premium within 31 days after the date required under the
22 terms of a guaranteed, assumed, alternative or reissued policy or contract or substitute
23 coverage terminates the obligations of the association under the policy, **contract,** or
24 coverage except with respect to the claims incurred or the net cash surrender value that
25 may be due under the provisions of this chapter.

26 * **Sec. 16.** AS 21.79.060(l) is amended to read:

27 (l) A premium due for coverage after entry of an order of liquidation of an
28 insolvent insurer belongs to and is payable at the direction of the association. **Upon**
29 **request of a liquidator of an insolvent insurer, the association shall provide a**
30 **report to the liquidator regarding the premium collected by the association. The**
31 [, AND THE] association is liable for unearned premiums due to a policy or contract

1 owner arising after the entry of the order.

2 * **Sec. 17.** AS 21.79.060(n) is amended to read:

3 (n) In carrying out its duties under [(a), (c), AND] (d) of this section, the
4 association may impose a permanent policy or contract lien under a guarantee,
5 assumption, or reinsurance agreement if the policy or contract lien is approved by a
6 court and the association finds that

7 (1) the amount that may be assessed under this chapter is less than the
8 amount needed to assure full and prompt performance of the **association's duties**
9 **under this chapter** [INSOLVENT INSURER'S CONTRACTUAL OBLIGATIONS];
10 or

11 (2) the economic or financial condition that affects member insurers is
12 sufficiently adverse that the imposition of a policy or contract lien is in the public
13 interest.

14 * **Sec. 18.** AS 21.79.060(o) is amended to read:

15 (o) **In carrying out its duties** [BEFORE TAKING ACTION] under **(d)** [(a) -
16 (e)] of this section, the association may request the superior court to impose an
17 injunction against the payment of a cash value and policy loan, or the exercise of
18 another right to withdraw funds held in connection with a policy or contract, in
19 addition to a contractual provision for deferral of a cash or policy loan value. In
20 addition, if the receivership court imposes an injunction on payment of cash values or
21 policy loans or on any other right to withdraw funds of an impaired or insolvent
22 insurer held in conjunction with a policy or contract, the association may defer
23 payment of cash values, policy loans, or other rights for the period of the injunction,
24 except for claims covered by the association to be paid as required by a hardship
25 procedure established by the liquidator or rehabilitator and approved by the
26 receivership court.

27 * **Sec. 19.** AS 21.79.060(p) is amended to read:

28 (p) If the association fails to take action under **(d)** [(a) - (e)] of this section
29 within a reasonable period of time after a member insurer becomes insolvent, the
30 director shall assume the powers of the association under **(d)** [(a) - (e)] of this section.

31 * **Sec. 20.** AS 21.79.060(s) is amended to read:

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

29 * **Sec. 21.** AS 21.79.060(t) is amended to read:

30 (t) In addition to the rights and powers otherwise established in this chapter,
31 the association may

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

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

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

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

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

13 (6) exercise, for the purposes of this chapter and to the extent approved
14 by the director, the powers of a domestic life **insurer**, [OR] health insurer, **hospital or**
15 **medical service corporation, or health maintenance organization**; however, the
16 association may not issue [INSURANCE] policies or [ANNUITY] contracts other
17 than those issued to perform **its obligations under this chapter** [THE
18 CONTRACTUAL OBLIGATIONS OF AN IMPAIRED OR INSOLVENT
19 INSURER];

20 (7) take legal action to prevent **or recover** the payment of improper
21 claims;

22 (8) join an organization of one or more other state associations with
23 similar purposes;

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

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

31 (11) request information from a member insurer in order to aid in the

1 exercise of a power under this section; a member insurer receiving a request under this
2 paragraph shall promptly comply with the request; [AND]

3 (12) **unless prohibited by law, in accordance with the terms of the**
4 **policy or contract, file for actuarially justified rates or premium increases for a**
5 **policy or contract for which it provides coverage under this chapter; and**

6 (13) perform all other acts necessary or proper to implement this
7 chapter.

8 * **Sec. 22.** AS 21.79.060 is amended by adding a new subsection to read:

9 (aa) The rights and obligations of the association, reinsurers of an insolvent
10 insurer, and the receiver of an insolvent insurer are governed by the following
11 provisions:

12 (1) not later than 180 days after the date of the order of liquidation, the
13 association may elect to succeed to the rights and obligations of the ceding member
14 insurer that relate to policies, contracts, or annuities covered, in whole or in part, by
15 the association, in each case under any one or more reinsurance contracts entered into
16 by the insolvent insurer and its reinsurers and selected by the association; an
17 assumption is effective as of the date of the order of liquidation; the election shall be
18 effected by the association or the National Organization of Life and Health Insurance
19 Guaranty Associations on the association's behalf by written notice, return receipt
20 requested, to the affected reinsurers; to facilitate the earliest practicable decision about
21 whether to assume any of the contracts of reinsurance and to protect the financial
22 position of the estate, as soon as possible after commencement of formal delinquency
23 proceedings, the receiver and each reinsurer of the ceding member insurer shall make
24 available, upon request, to the association or the National Organization of Life and
25 Health Insurance Guaranty Associations on the association's behalf

26 (A) copies of in-force contracts of reinsurance and all related
27 files and records relevant to the determination of whether those contracts
28 should be assumed; and

29 (B) notices of any defaults under the reinsurance contracts or
30 any known event or condition that, with the passage of time, could become a
31 default under the reinsurance contracts;

1 (2) as to reinsurance contracts assumed by the association under this
2 subsection,

3 (A) the association is responsible for all unpaid premiums due
4 under the reinsurance contracts for periods before, on, and after the date of the
5 order of liquidation and is responsible for the performance of all other
6 obligations to be performed on and after the date of the order of liquidation in
7 each case that relates to policies, contracts, or annuities covered, in whole or in
8 part, by the association; the association may charge policies, contracts, or
9 annuities covered in part by the association, through reasonable allocation
10 methods, the costs for reinsurance in excess of the obligations of the
11 association and shall provide notice and an accounting of those charges to the
12 liquidator;

13 (B) the association is entitled to any amounts payable by the
14 reinsurer under the reinsurance contracts with respect to losses or events that
15 occur in periods on and after the date of the order of liquidation and that relate
16 to policies, contracts, or annuities covered, in whole or in part, by the
17 association, if, upon receiving those amounts, the association is obliged to pay
18 to the beneficiary, under the policy, contract, or annuity for which the amounts
19 were paid, a portion of the amount equal to the lesser of the amount

20 (i) received by the association; and

21 (ii) by which the amount received by the association
22 exceeds the amount equal to the benefits paid by the association under
23 the policy, contract, or annuity, less the amount retained by the insurer
24 applicable to the loss or event;

25 (C) not later than 30 days after the association's election, the
26 association and each reinsurer under contracts assumed by the association shall
27 calculate the net balance due to or from the association under each reinsurance
28 contract as of the election date with respect to policies, contracts, or annuities
29 covered, in whole or in part, by the association; in making the calculation, the
30 association and reinsurer shall give full credit to all items paid by either the
31 member insurer or its receiver or the reinsurer before the election date; the

1 reinsurer shall pay the receiver any amounts due for losses or events before the
2 date of the order of liquidation, subject to any set-off for premiums unpaid for
3 periods before the date, and the association or reinsurer shall pay any
4 remaining balance due the other, in each case, not later than five days after the
5 completion of the calculation; a dispute over the amount due to the association
6 or reinsurer shall be resolved by arbitration under the terms of the affected
7 reinsurance contract or, if the contract does not contain an arbitration clause, as
8 otherwise provided by law; if the receiver has received an amount due to the
9 association under (B) of this paragraph, the receiver shall remit the amount to
10 the association as promptly as practicable;

11 (D) if the association or receiver on the association's behalf, not
12 later than 60 days after the election date, pays the unpaid premiums due for
13 periods both before and after the election date that relate to policies, contracts,
14 or annuities covered, in whole or in part, by the association, the reinsurer may
15 not terminate the reinsurance contracts for failure to pay premium insofar as
16 the reinsurance contracts relate to policies, contracts, or annuities covered, in
17 whole or in part, by the association, and may not set off an unpaid amount due
18 under another contract or an unpaid amount due from a party other than the
19 association against amounts due to the association;

20 (3) during the period from the date of the order of liquidation until the
21 election date, or, if the election date does not occur, until 180 days after the date of the
22 order of liquidation,

23 (A) neither the association nor the reinsurer shall have any
24 rights or obligations under reinsurance contracts that the association has the
25 right to assume, whether for periods before, on, or after the date of the order of
26 liquidation; and

27 (B) the reinsurer, the receiver, and the association shall, to the
28 extent practicable, provide to each other data and records reasonably requested,
29 if, once the association has elected to assume a reinsurance contract, the
30 parties' rights and obligations are governed by this subsection;

31 (4) if the association does not elect to assume a reinsurance contract by

1 the election date, the association does not have rights or obligations, in each case for
2 periods before, on, and after the date of the order of liquidation, with respect to the
3 reinsurance contract;

4 (5) when policies, contracts, annuities, or covered obligations with
5 respect to policies or annuities are transferred to an assuming insurer, the association
6 may also transfer reinsurance on the policies, contracts, or annuities, in the case of
7 contracts assumed by the association, subject to the following:

8 (A) unless the reinsurer and the assuming insurer agree
9 otherwise, the reinsurance contract transferred may not cover any new policies
10 or insurance, contracts, or annuities in addition to those transferred;

11 (B) the obligations described in (1) of this subsection do not
12 apply with respect to matters arising on and after the effective date of the
13 transfer; and

14 (C) notice shall be given in writing, return receipt requested, by
15 the transferring party to the affected reinsurer not less than 30 days before the
16 effective date of the transfer;

17 (6) the provisions of this subsection supersede the provisions of any
18 state law or of any affected reinsurance contract that provides for or requires any
19 payment of reinsurance proceeds, on account of losses or events that occur in periods
20 on and after the date of the order of liquidation, to the receiver of the insolvent insurer
21 or another person; the receiver shall remain entitled to any amounts payable by the
22 reinsurer under the reinsurance contracts with respect to losses or events that occur in
23 periods before the date of the liquidation, subject to applicable set-off provisions;

24 (7) except as otherwise provided in this section, nothing in this
25 subsection

26 (A) alters or modifies the terms and conditions of a reinsurance
27 contract;

28 (B) abrogates or limits the right of a reinsurer to claim that the
29 reinsurer is entitled to rescind a reinsurance contract;

30 (C) gives a policy or contract owner, enrollee, certificate
31 holder, or beneficiary an independent cause of action against a reinsurer that is

1 not otherwise set out in the reinsurance contract;

2 (D) limits or affects the association's rights as a creditor of the
3 estate against the assets of the estate; and

4 (E) applies to a reinsurance agreement covering property or
5 casualty risks.

6 * **Sec. 23.** AS 21.79.070(a) is amended to read:

7 (a) For the purpose of providing funds necessary to carry out the powers and
8 duties of the association, the Board of Governors shall **by resolution** assess the
9 member insurers, separately for each account, at a time and for an amount that the
10 board finds necessary. Assessments are **authorized when a resolution is passed and**
11 **are** due not less than 30 days after prior written notice to the member insurers and
12 accrue interest at 10 percent a year from the date payment is due. **Authorized**
13 **assessments become called when notice is mailed by the association to member**
14 **insurers.**

15 * **Sec. 24.** AS 21.79.070(c) is amended to read:

16 (c) The amount of a class A assessment shall be determined by the board and
17 may be made on a pro rata or non pro rata basis. If a pro rata assessment is made, the
18 board may provide that it be credited against future class B assessments. [A NON
19 PRO RATA ASSESSMENT MAY NOT EXCEED \$250 PER MEMBER INSURER
20 IN A CALENDAR YEAR.] The amount of a class B assessment, **except for**
21 **assessments related to long-term care insurance,** shall be allocated for assessment
22 purposes **between** [AMONG] the accounts **and among the subaccounts of the life**
23 **insurance and annuity account** 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. **The amount of the class B assessment for long-term care insurance**
27 **written by the impaired or insolvent insurer shall be allocated according to a**
28 **methodology included in the association's plan of operation approved by the**
29 **director. The methodology must provide for 50 percent of the assessment to be**
30 **allocated to accident and health member insurers and 50 percent to be allocated**
31 **to life and annuity member insurers.**

1 * **Sec. 25.** AS 21.79.070(f) is amended to read:

2 (f) Except as provided in this subsection, the total of all assessments on a
3 member insurer for each subaccount of the life and annuity account and for the health
4 account may not in any one calendar year exceed two percent of the **member** insurer's
5 average annual premiums received in this state on policies or contracts covered by the
6 account or subaccount during the three calendar years preceding the year in which the
7 **member** insurer became an impaired or insolvent insurer. If two or more assessments
8 are authorized in one calendar year with respect to **member** insurers that become
9 impaired or insolvent in different calendar years, the average annual premiums for
10 purposes of the aggregate assessment percentage limitation imposed under this
11 subsection shall be limited to the highest of the average annual premiums during the
12 preceding three calendar years for the applicable subaccount or account as calculated
13 under this section. If the maximum assessment, together with the other assets of the
14 association in an account, does not provide in any one year in either account an
15 amount sufficient to carry out the responsibilities of the association, the necessary
16 additional funds shall be assessed as soon as permitted by this chapter.

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

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

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

27 (k) A member insurer may, in determining its premium rates and policy owner
28 dividends as to any kind of insurance, **hospital or medical service corporation**
29 **business, or health maintenance organization business** within the scope of this
30 chapter, consider the amount reasonably necessary to meet its assessment obligations
31 under this chapter.

1 * **Sec. 28.** AS 21.79.070(*l*) is amended to read:

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

21 * **Sec. 29.** AS 21.79.080(c) is amended to read:

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

- 24 (1) establish procedures for handling assets of the association;
- 25 (2) establish the amount and method of reimbursing members of the
26 board under AS 21.79.050(c);
- 27 (3) establish regular places and times for meetings of the board in the
28 state; the board may conduct meetings telephonically;
- 29 (4) establish procedures for keeping records of all financial
30 transactions of the association, its agents, and the board;
- 31 (5) establish terms of office for members of the board, and establish

1 procedures for the selection of the members of the board and for the director's
2 approval of the members selected;

3 (6) establish additional procedures for assessments under
4 AS 21.79.070; [AND]

5 (7) **establish procedures for removing a member of the board for**
6 **cause, including procedures for removing a member of the board who becomes**
7 **an impaired or insolvent insurer;**

8 (8) **establish policy and procedures for addressing conflicts of**
9 **interest; and**

10 (9) contain additional provisions necessary or proper for the
11 association to exercise its powers and duties.

12 * **Sec. 30.** AS 21.79.090(b) is amended to read:

13 (b) The director may

14 (1) after notice and hearing as provided in AS 21.06.180 - 21.06.230,
15 suspend or revoke the certificate of authority to transact **business** [INSURANCE] in
16 this state of a member insurer that fails to pay an assessment when due or fails to
17 comply with the plan of operation;

18 (2) levy a penalty on a member insurer that fails to comply with the
19 plan of operation; or

20 (3) levy a penalty on a member insurer that fails to pay an assessment
21 when due; if the unpaid assessment is more than \$2,000, the penalty may not exceed
22 five percent of the unpaid assessment **a** [PER] month or be less than \$100 **a** [PER]
23 month; if the unpaid assessment is \$2,000 or less, the penalty is \$100 **a** [PER] month.

24 * **Sec. 31.** AS 21.79.090(c) is amended to read:

25 (c) **A final** [AN] action of the board or the association may be appealed to the
26 director by a member insurer if the appeal is taken **not later than 60** [WITHIN 30]
27 days after the date the notice of the action is mailed. Final action or order of the
28 director may be reviewed by the superior court.

29 * **Sec. 32.** AS 21.79.090(d) is amended to read:

30 (d) The liquidator, rehabilitator, or conservator of an impaired **or insolvent**
31 insurer may notify all interested persons of the effect of this chapter.

1 * **Sec. 33.** AS 21.79.100(a) is amended to read:

2 (a) The director shall notify, by mail, the commissioner, director, or
3 superintendent of insurance of the other states, territories of the United States, and the
4 District of Columbia within 30 days after the date on which the following actions are
5 taken against a member insurer:

6 (1) revocation of a license;

7 (2) suspension of a license; or

8 (3) a formal order that a member insurer restrict its premium writing,
9 obtain additional contributions to surplus, withdraw from the state, reinsure all or any
10 part of its business, or increase capital, surplus, or any other account for the security of
11 policyholders, **contract owners, certificate holders,** or creditors.

12 * **Sec. 34.** AS 21.79.100(e) is amended to read:

13 (e) The director may seek the board's advice and recommendations concerning
14 the financial condition of member insurers, [AND] insurers, **hospital and medical**
15 **service corporations, and health maintenance organizations** who apply for
16 admission to transact insurance business in the state.

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

18 (f) The board may

19 (1) make reports and recommendations to the director relating to the
20 solvency, liquidation, rehabilitation, or conservation of a member insurer or the
21 solvency of **an insurer, hospital or medical service corporation, or health**
22 **maintenance organization that applies** [INSURERS WHO APPLY] to transact
23 insurance business in the state; the director and the board shall keep the reports and
24 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 21.79.100(h) is amended to read:

28 (h) The board may make recommendations to the director for detecting and
29 preventing **member** insurer insolvencies.

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

31 (c) The association is considered to be a creditor of the impaired or insolvent

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

20 * **Sec. 38.** AS 21.79.110(d) is amended to read:

21 (d) Before the termination of a liquidation, rehabilitation, or conservation
22 proceeding, the court may consider the contributions of the respective parties,
23 including the association, [THE] shareholders, **contract owners, certificate holders,**
24 **enrollees,** and policyholders of the impaired or insolvent insurer, and any other party
25 with a bona fide interest, in distributing the ownership rights of the impaired or
26 insolvent insurer. The court shall consider the welfare of policyholders, **contract**
27 **owners, certificate holders, and enrollees** of the continuing or successor **member**
28 **insurer** [INSURERS]. A distribution to stockholders of an impaired or insolvent
29 insurer may not be made until the total amount of valid claims of the association for
30 money spent in carrying out its powers and duties under AS 21.79.060, with respect to
31 the **impaired or insolvent** insurer, has been fully recovered by the association.

1 * **Sec. 39.** AS 21.79.110(f) is amended to read:

2 (f) A deposit in this state, held by law or required by the director for the
3 benefit of creditors, including policy **or contract** owners, not turned over to the
4 domiciliary liquidator upon the entry of a final order of liquidation or order approving
5 a rehabilitation plan of **a member** [AN] insurer domiciled in this state or in a
6 reciprocal state shall be promptly paid to the association. The association

7 (1) is entitled to retain a portion of any amount paid to it equal to the
8 percentage determined by dividing the aggregate amount of policy **or contract**
9 owners' claims related to that insolvency for which the association has provided
10 statutory benefits by the aggregate amount of all policy **or contract** owners' claims in
11 this state related to that insolvency; and

12 (2) shall remit to the domiciliary receiver the amount paid to the
13 association and retained under (1) of this subsection; any amount paid to the
14 association not retained by it under (1) of this subsection shall be treated as a
15 distribution of state assets under AS 21.78.294 or a similar provision of the state of
16 domicile of the impaired or insolvent insurer.

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

18 **Sec. 21.79.140. Civil immunity.** The association and its agents and
19 employees, members of the Board of Governors, member insurers, and agents and
20 employees of member insurers, and the director and the director's representatives are
21 not civilly liable, **and a cause of action of any nature may not arise**, for an action or
22 omission in performing duties under this chapter. **The immunity extends to the**
23 **participation in an organization of one or more other state associations of similar**
24 **purposes and to that organization and its agents or employees** [IN THIS
25 SECTION, "DUTIES" INCLUDES PARTICIPATION IN AN ORGANIZATION OF
26 ONE OR MORE STATE ASSOCIATIONS OF LIFE OR HEALTH INSURERS].

27 * **Sec. 41.** AS 21.79.150 is amended to read:

28 **Sec. 21.79.150. Stay of proceedings; default judgment.** Proceedings
29 involving an insolvent insurer shall be stayed at least **180** [60] days after the date of a
30 final order of liquidation, rehabilitation, or conservation in order to allow the
31 association to exercise a power or duty authorized under this chapter. If a default

1 judgment is entered against an insolvent insurer, the association may apply to have the
2 judgment set aside or may defend against the action on its merits.

3 * **Sec. 42.** AS 21.79.160(a) is amended to read:

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

16 * **Sec. 43.** AS 21.79.160(b) is amended to read:

17 (b) The association shall prepare a summary document describing the general
18 purposes and current limitations of this chapter and complying with (c) of this section.
19 This document shall be submitted to the director for approval. Beginning 60 days after
20 the date on which the director approves the document, **a member** [AN] insurer may
21 not deliver a policy or contract to a **policy or contract owner, certificate holder, or**
22 **enrollee** [POLICY OR CONTRACT OWNER] unless the summary document is
23 delivered to the **policy or contract owner, certificate holder, or enrollee** [POLICY
24 OR CONTRACT OWNER] at the time of delivery of the policy or contract. The
25 document shall also be available upon request by a policy **or contract owner,**
26 **certificate holder, or enrollee** [OWNER]. The distribution, delivery, contents, or
27 interpretation of this document does not guarantee that either the policy or the
28 contract, or the **policy or contract owner, certificate holder, or enrollee** [OWNER
29 OF THE POLICY OR CONTRACT,] is covered in the event of the impairment or
30 insolvency of a member insurer. The description document shall be revised by the
31 association as amendments to this chapter may require. Failure to receive this

1 document does not give the policy or [OWNER,] contract owner, certificate holder,
2 enrollee, or insured any greater rights than those stated in this chapter.

3 * **Sec. 44.** AS 21.79.160(c) is amended to read:

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

7 (1) state the name and address of the association and the division of
8 insurance;

9 (2) prominently warn the policy or contract owner, certificate holder,
10 or enrollee that the association may not cover the policy or, if coverage is available,
11 that the policy will be subject to substantial limitations and exclusions and conditioned
12 on continued residence in this state;

13 (3) state the types of policies or contracts for which guaranty funds
14 will provide coverage;

15 (4) state that the member insurer and its agents are prohibited by law
16 from using the existence of the association for the purpose of sales, solicitation, or
17 inducement to purchase any form of insurance, hospital or medical service
18 corporation coverage, or health maintenance organization coverage;

19 (5) state that the policy or contract owner, certificate holder, or
20 enrollee should not rely on coverage under the association when selecting an [AND]
21 insurer;

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

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

27 * **Sec. 45.** AS 21.79.900(5) is amended to read:

28 (5) "called" means that a notice has been mailed [ISSUED] by the
29 association to member insurers requiring that an authorized assessment be paid within
30 the time set out in the notice;

31 * **Sec. 46.** AS 21.79.900(6) is amended to read:

1 (6) "contractual obligation" means an obligation under a policy,
2 contract, or certificate under a group policy or contract, or a portion of one **for which**
3 **coverage is provided under AS 21.79.020(a), (b), (d), or (e)**;

4 * **Sec. 47.** AS 21.79.900(7) is amended to read:

5 (7) **"covered contract" or** "covered policy" means a policy or
6 contract **or a portion of a policy or contract for which coverage is provided under**
7 [DESCRIBED IN] AS 21.79.020(a), [AND] (b), **(d), or (e)**;

8 * **Sec. 48.** AS 21.79.900(10) is amended to read:

9 (10) "member insurer" means an insurer licensed to transact insurance
10 in the state, **a hospital or medical service corporation licensed under AS 21.87, or**
11 **a health maintenance organization licensed under AS 21.86,** for which coverage is
12 provided in AS 21.79.020 [, OR A SUBSCRIBER CONTRACT PROVIDING
13 BENEFITS DESCRIBED IN AS 21.87.120(a)(2) - (4) OR 21.87.130(a)(2) AND (3),]
14 and includes an insurer, **a hospital or medical service corporation licensed under**
15 **AS 21.87, or a health maintenance organization licensed under AS 21.86,** whose
16 license or certificate of authority in this state may have been suspended, revoked, not
17 renewed, or voluntarily withdrawn; "member insurer" does not include

18 (A) [A HEALTH MAINTENANCE ORGANIZATION
19 LICENSED UNDER AS 21.86;

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

21 **(B)** [(C)] a mandatory state pooling plan;

22 **(C)** [(D)] a mutual assessment company or an entity that
23 operates on an assessment basis;

24 **(D)** [(E)] an insurance exchange licensed under AS 21.75;

25 **(E)** [(F) A HOSPITAL OR MEDICAL SERVICE
26 ORGANIZATION LICENSED UNDER AS 21.87;

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

29 **(F)** [(H)] an entity similar to one described under **(A) - (E)** [(A)
30 - (G)] of this paragraph;

31 * **Sec. 49.** AS 21.79.900(12) is amended to read:

1 (12) "owner," **when used with respect to** [IN RELATION TO] a
2 policy or contract, **"policyholder," "policy owner," and "contract owner"**

3 (A) **mean** [MEANS] the person who is identified as the legal
4 owner under the terms of the policy or contract, or who is otherwise vested
5 with legal title to the policy or contract through a valid assignment completed
6 under the terms of the policy or contract and who is properly recorded as the
7 owner on the records of the **member** insurer;

8 (B) **do** [DOES] not include a person with a mere beneficial
9 interest in a policy or contract;

10 * **Sec. 50.** AS 21.79.900(13) is amended to read:

11 (13) "plan sponsor" means, in the case of a benefit plan established or
12 maintained by

13 (A) a single employer, the employer;

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

15 (C) two or more employers or jointly by one or more
16 employers and one or more employee organizations, the association,
17 committee, joint board of trustees, or other **similar** group of representatives of
18 the parties who establish or maintain the benefit plan;

19 * **Sec. 51.** AS 21.79.900(14) is amended to read:

20 (14) "premium" means the **amounts or considerations, by whichever**
21 **name called,** [AMOUNT] received on a covered policy or contract less a premium,
22 consideration, and deposit returned, and less a dividend and experience credit;
23 "premium" does not include

24 (A) **amounts or considerations** [AN AMOUNT] charged for
25 an assessment or an amount received for a policy or contract or for the portions
26 of a policy or contract for which coverage is not provided under
27 AS 21.79.020(b) and (c), **except that assessable premium may not be**
28 **reduced on account of AS 21.79.020(c)(4) relating to interest limitations**
29 **and AS 21.79.025(a)(2) - (5), (b), and (d) relating to limitations with**
30 **respect to one individual, one participant, and one policy or contract**
31 **owner;**

1 **(B) premiums in excess of \$5,000,000 on an unallocated**
2 **annuity contract not issued under a governmental retirement benefit plan**
3 **or its trustee established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26**
4 **U.S.C. 457; or**

5 **(C) with respect to multiple nongroup policies of life**
6 **insurance owned by one owner, whether the policy or contract owner is an**
7 **individual, firm, corporation, or other person, and whether the persons**
8 **insured are officers, managers, employees, or other persons, premiums in**
9 **excess of \$5,000,000 with respect to those policies or contracts, regardless**
10 **of the number of policies or contracts held by the owner;**

11 * **Sec. 52.** AS 21.79.900(15) is amended to read:

12 (15) "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 **member** insurer;

15 * **Sec. 53.** AS 21.79.900(16) is amended to read:

16 (16) "resident" means a person to whom a contractual obligation is
17 owed under this chapter and who resides in this state on the date of entry of a court
18 order that determines a member insurer to be an impaired or insolvent insurer [,
19 WHICHEVER OCCURS FIRST]; a person may be a resident of only one state,
20 which, in the case of a person other than a natural person, shall be the principal place
21 of business;

22 * **Sec. 54.** AS 21.79.900(19) is amended to read:

23 (19) "supplemental contract" means **a written** [AN] agreement entered
24 into for the distribution of **proceeds under life, health, or annuity** policy or contract
25 benefits;

26 * **Sec. 55.** AS 21.79.900 is amended by adding new paragraphs to read:

27 (21) "benefit plan" means a specific employee, union, or association of
28 natural persons benefit plan;

29 (22) "election date" means the date of the association's election under
30 AS 21.79.060(aa);

31 (23) "extra contractual claim" includes a claim related to bad faith in

1 payment of a claim, punitive or exemplary damages, and attorney fees and costs;

2 (24) "health benefit plan" means a hospital or medical expense policy
3 or certificate, a hospital or medical service corporation subscriber contract, or a health
4 maintenance organization subscriber contract or any other similar health contract;
5 "health benefit plan" does not include

6 (A) accident only insurance;

7 (B) credit insurance;

8 (C) dental only insurance;

9 (D) vision only insurance;

10 (E) Medicare supplement insurance;

11 (F) benefits for long-term care, home health care, community-
12 based care, or any combination thereof;

13 (G) disability income insurance;

14 (H) coverage for on-site medical clinics; or

15 (I) specified disease, hospital confinement indemnity, or
16 limited benefit health insurance if the types of coverage do not provide
17 coordination of benefits and are provided under separate policies or
18 certificates;

19 (25) "published monthly average" means the monthly average of
20 corporate bond yields, as published by Moody's Investors Service, Inc., or its
21 successor or, if Moody's average of corporate bond yields is not published, a
22 substantially similar average established by regulation adopted by the director.

23 * **Sec. 56.** AS 21.86.260(a) is amended to read:

24 (a) Except as provided in AS 21.36, AS 21.42, AS 21.54, AS 21.56, **AS 21.79,**
25 and in this chapter, this title does not apply to a health maintenance organization that
26 obtains a certificate of authority under this chapter. This subsection does not apply to
27 an insurer licensed under AS 21.09 or a hospital or medical service corporation
28 licensed under AS 21.87 except with respect to its health maintenance organization
29 activities authorized by and regulated under this chapter.

30 * **Sec. 57.** AS 21.87.340 is amended to read:

31 **Sec. 21.87.340. Other provisions applicable.** In addition to the provisions

1 contained or referred to previously in this chapter, the following chapters and
2 provisions of this title also apply with respect to service corporations to the extent
3 applicable and not in conflict with the express provisions of this chapter and the
4 reasonable implications of the express provisions, and, for the purposes of the
5 application, the corporations shall be considered to be mutual "insurers":

- 6 (1) AS 21.03;
- 7 (2) AS 21.06;
- 8 (3) AS 21.07;
- 9 (4) AS 21.09, except AS 21.09.090;
- 10 (5) AS 21.18.010;
- 11 (6) AS 21.18.030;
- 12 (7) AS 21.18.040;
- 13 (8) AS 21.18.080 - 21.18.086;
- 14 (9) AS 21.36;
- 15 (10) AS 21.42.110, 21.42.345 - 21.42.395;
- 16 (11) AS 21.51.120 and 21.51.400;
- 17 (12) AS 21.51.405;
- 18 (13) AS 21.53;
- 19 (14) AS 21.54;
- 20 (15) AS 21.56;
- 21 (16) AS 21.69.400;
- 22 (17) AS 21.69.520;
- 23 (18) AS 21.69.600, 21.69.620, and 21.69.630;
- 24 (19) AS 21.78;
- 25 (20) **AS 21.79**;
- 26 **(21)** AS 21.96.060;
- 27 **(22)** [(21)] AS 21.97.

28 * **Sec. 58.** AS 21.79.020(f), 21.79.060(c), 21.79.060(e), 21.79.060(f), 21.79.060(g),
29 21.79.060(h), 21.79.060(i), 21.79.060(j), 21.79.060(u), 21.79.060(v), 21.79.060(w),
30 21.79.060(x), 21.79.110(b)(2), and 21.79.110(e) are repealed.

31 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: REGULATIONS. The director of the division of insurance may adopt
3 regulations necessary to implement the changes made by this Act. The regulations take effect
4 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
5 implemented by the regulation.

6 * **Sec. 60.** Section 59 of this Act takes effect immediately under AS 01.10.070(c).

7 * **Sec. 61.** Except as provided in sec. 60 of this Act, this Act takes effect July 1, 2018.