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DIVISION OF INSURANCE

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*Frank H. Murkowski, Governor*

**BULLETIN B 04-13**

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

**RE: CHANGES TO THE ALASKA INSURANCE LAWS**

New legislation under HCS CSSB 357(FIN) am H (Chapter 96, SLA 2004) was passed by the legislature and signed into law by the governor this year that affects persons or entities regulated by the Alaska Division of Insurance. If you have access to the Internet, this law may be found at the following addresses:

[http://www.legis.state.ak.us/basis/get\\_bill\\_text.asp?hsid=SB0357Z&session=23](http://www.legis.state.ak.us/basis/get_bill_text.asp?hsid=SB0357Z&session=23) or <http://www.legis.state.ak.us/PDF/23/Bills/SB0357Z.PDF>. If you cannot access the Internet, please contact the Alaska Legislative Information Office nearest you for a copy of this new law.

The new law, which became effective on July 1, 2004, incorporates requirements necessary to ensure Alaska's compliance with federal law and the National Association of Insurance Commissioners' model acts, standards, and guidelines. It also updates procedures for electronic communications and transactions, simplifies producer licensing, and adds to the protection of consumers.

This bulletin summarizes some of the important changes that have occurred. It is for informational purposes only and is not intended to be an exhaustive or interpretive analysis of statutory changes to the insurance code. Please review Alaska's insurance laws in their entirety to assure your compliance when transacting insurance business in this state.

The changes are discussed according to category: surplus lines, insurers, producer licensing, report of fraudulent activities, and electronic transactions.

**Surplus Lines**

Language has been added to provide that, in case of a health insurance market crisis, the director will have the discretion to permit using nonadmitted carriers for health insurance under AS 34. This provision does **not** open the way to write health insurance by exception under AS 34, and specifically **may not be used** to secure a lower premium rate or for obtaining a competitive advantage. AS 21.34.035

Definitions of "amount," "class," and "kind" of insurance have been added to AS 21.34.020. The definitions are intended to help surplus lines brokers in determining when coverage may be placed in a nonadmitted market, and if an exception under AS 21.34.020(a)(4) is necessary. AS 21.34.020

The requirement to file affidavits of due diligence with the division has been eliminated, but AS 21.34.020 still requires a producing broker to conduct and document a diligent search among admitted insurers. An affidavit is an acceptable method of documenting the search and needs to be maintained in the client's file. The producing broker will still need to provide documentation to the surplus lines broker. Only the requirement that it be filed with the division has been removed. AS 21.34.080

For purposes of AS 21.34.080, a transaction is "any placement of coverage as well as changes in coverage that result in an increase or decrease of premiums, taxes, or fees." This amendment should not be construed to include installment payments. AS 21.34.080(d)

Changes to AS 21.34.100(a) remove the requirement of policy detail previously required to be included in a certificate, cover letter, binder, or other evidence of insurance delivered to the named insured in lieu of the prompt delivery of the policy. The new version requires "a summary of all material facts that would regularly be included in the policy, the description and location of the subject of insurance, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, the name and address of the insured, the name of each surplus lines insurer and the percentage of the entire risk assumed by each, the name of the surplus lines broker, and the license number of the surplus lines broker." AS 21.34.100

The 30-day wording for the delivery of the policy, or other evidence of coverage if the policy is not available, was replaced by the word "promptly." 3 AAC 25.060 defines "promptly" as no later than 30 days after the earlier of the effective date of coverage or the date coverage is bound. AS 21.34.100(a)

There is now provision for a mandatory penalty for late filing of the surplus lines monthly reports that may be paid at the same time as the late report. The late fee amount will be established by regulation. AS 21.34.170(c)

The requirement for filing two copies of the monthly report has been removed. AS 21.34.170(a)

The calculations of penalties for late payment of taxes and for payment made other than by Automated Clearing House (ACH) have been revised. The late payment fee is now \$50 per month plus five percent of the tax due each calendar month or part of a month, plus interest of one percent of the tax due for each calendar month or part of a month until the tax is paid. The fee, not including interest, may not exceed \$250 plus 25 percent of the tax due. The penalty for payment made other than by ACH is separate from and in addition to the late payment fee, and is 25 percent of the tax due, subject to a minimum of \$100 and a maximum of \$2,000. There may be additional penalties for wilful violation or for failure to pay taxes, penalties, or late fees. AS 21.34.180(f)

## **Insurers**

### **Premium Taxes**

The calculations of penalties for late payment of taxes and for payment made other than by Automated Clearing House (ACH) have been revised. The late payment fee is now \$50 per month plus five percent of the tax due each calendar month or part of a month, plus interest of one percent of the tax due for each calendar month or part of a month until the tax is paid. The fee, not including interest, may not exceed \$250 plus 25 percent of the tax due. The penalty for payment made other than by ACH is separate from and in addition to the late payment fee, and is 25 percent of the tax due, subject to a minimum of \$100 and a maximum of \$2,000. There may be additional penalties for wilful violation or for failure to pay taxes, penalties, or late fees. AS 21.09.210(g) and AS 21.66.110(c)

### Assumption Reinsurance Agreements

A new section has been added to address the situation when an admitted insurer sells existing Alaska policies in an assumption reinsurance agreement to an insurer that is not admitted in Alaska. An admitted insurer may not complete an assumption reinsurance agreement with a nonadmitted insurer that affects Alaska policies unless 1) the nonadmitted insurer applies for and receives an Alaska certificate of authority, or 2) the admitted insurer files the assumption agreement with and obtains approval from the director. AS 21.12.025

The standards that the director will use for granting approval of an assumption agreement are if 1) the ceding insurer is in a supervision, conservation, or liquidation status and the assuming insurer is in good standing in its state of domicile, or 2) the approval would be in the public interest of the Alaska policyholders. AS 21.12.025 gives the division oversight when an Alaska policy is being sold by the insurance company to another insurance company that does not have a license to operate in Alaska.

### **Producer Licensing**

#### Lines of Authority

Before these new laws went into effect, eight lines of authority existed under which a qualified applicant could receive a license for one or more of the lines of insurance coverage. Additional lines of authority for crop and surety insurance have been added to make Alaska consistent with national standards. AS 21.27.115

#### Elimination of License Classes

Beginning July 1, 2004, license classes for a trainee insurance producer, trainee surplus lines broker, trainee managing general agent, trainee reinsurance intermediary manager and broker, and fraternal benefit society limited producer have been eliminated for conformity with national producer licensing standards (NAIC Producer Licensing Model Act). AS 21.27.540, 21.27.600, 21.27.680, 21.27.740, and 21.27.800 have been repealed.

The division is contacting individuals who have applications pending for these trainee licenses to advise them of this legislative change and that a trainee license will **not** be issued. These applicants will be advised of the requirements for full authority licensure.

The licenses of individuals who are currently licensed as trainee surplus lines brokers, trainee managing general agents, or trainee reinsurance intermediary managers and brokers will be converted to full authority licenses, although new license certificates will not be provided until the license is renewed.

Fraternal benefit society limited producer licenses will be converted to full authority producer licenses for the same lines of authority that were held under the fraternal license. Again, new license certificates will not be provided until the license is renewed. AS 21.27.150

#### License Qualifications

Individuals and entities seeking Alaska licensure for surplus lines broker authority must also hold an Alaska license as a producer or managing general agent with property and casualty lines of authority. AS 21.27.790

Individuals seeking licensure for surplus lines, managing general agent, reinsurance intermediary manager, reinsurance intermediary broker authority are no longer required to meet a minimal experience requirement to obtain the license. These changes were made to comply and to be consistent with the Gramm-Leach-Bliley Act and other national standards.

#### Appointment Requirements for Bail Bond Limited Producer Licenses

Before the passage of SB 357, to hold a bail bond limited producer license it was required that the sole purpose was to be appointed by and act on behalf of a surety insurer pertaining to bail bonds. This "sole purpose" requirement for a bail bond limited producer has been eliminated to support Alaska's reciprocity under the Gramm-Leach-Bliley Act. AS 21.27.150

### Application Forms

All licensees have had the option of filing Alaska-specific application forms or NAIC application forms. Alaska-specific application forms or NAIC application forms are available on the division's web site at [www.commerce.state.ak.us/insurance/license.htm](http://www.commerce.state.ak.us/insurance/license.htm).

### **Report of Fraudulent Activities**

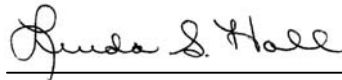
Language has been added to AS 21.36.365(a) to provide that a person is not liable for civil damages for filing a report or furnishing other information concerning a fraudulent act to a person involved in the prevention and detection of fraudulent insurance acts. This change is necessary to allow insurance companies to share information regarding fraud with each other.

### **Electronic Transactions**

Changes have been made concerning electronic communications and transactions in order to streamline administrative procedures. AS 21.89.080

If you have questions regarding the information in this bulletin, please contact the division at (907) 465-2515 (Juneau) or (907) 269-7900 (Anchorage).

Dated this 2nd day of November, 2004.



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Linda S. Hall  
Director