

[Alaska Stat. §§ 21.09.200 through 21.09.207, 21.09.300.]

§§ 21.09.200 through 21.09.207, 21.09.300: Authorization of Insurers and General Requirements

§ 21.09.200. Annual statement; audited financial report

(a) Each authorized insurer shall annually, before March 2, file with the director or the director's designee a full and true statement of its financial condition, transactions, and affairs as of the preceding December 31. The reporting format for a given year is the most recently approved National Association of Insurance Commissioners' annual financial statement blank form and instructions, supplemented for additional information as required by the director. The director may require the statement to be filed on electronic media. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary, or, if a reciprocal insurer, by oath of the attorney-in-fact or its like officers if a corporation unless verification is waived by the director of insurance. The filing locations must be published by the director at least annually.

(b) The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the director requires otherwise. If the director requires a statement concerning an alien insurer's affairs throughout the world, the insurer shall file the statement with the director as soon as is reasonably possible. The statement shall be verified by the insurer's United States manager or other authorized officer.

(c) The director may refuse to accept a fee for continuance of the insurer's certificate of authority, as provided in AS 21.09.130, or may suspend or revoke the certificate of authority of an insurer failing to file its annual statement when due.

(d) At the time of filing, the insurer shall pay to the director a fee for filing its statement, set under AS 21.06.250. The method of payment must be by electronic or other payment method specified by the director by regulation under AS 21.06.250.

(e) An insurer shall pay to the division \$100 for each day the insurer fails to file a statement or report in the form and location required and within the time established in this section. The authority of the insurer to enter into new obligations or issue new or renewal policies of insurance in this state may be suspended by the director if a statement or report required by this section has not been filed by the due date.

(f) In addition to the requirements of (a) of this section, an authorized insurer shall file its annual statement with the National Association of Insurance Commissioners on electronic media acceptable to the association by the due date established by the association and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (e) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.

(g) An insurer shall file with the director or the director's designee an annual audited financial report for the previous year by June 1 of each year unless, under a regulation adopted by the director, the director grants an exemption based on a finding that filing an annual audited financial report would constitute a financial or organizational hardship on the insurer. The filing date for the annual audited financial report may be extended

by the director upon showing that the standards established by regulation have been met. If the director gives the insurer 90 days' advance notice, and for good cause, the director may require an insurer to file an audited financial report earlier than June 1 of each year. The annual audited financial report must be prepared by a qualified independent certified public accountant. An insurer shall notify the director of the certified public accountant engaged to conduct the audit and issue the annual audited financial report.

(h) Within 60 days after filing the annual audited financial report under (g) of this section, the insurer shall file a written report on any unremediated material weakness in internal control over financial reporting noted during the audit.

(i) The director may adopt regulations that require the insurer to file a report from management describing internal control over financial reporting. An insurer shall file the report on internal control by the date specified by the director.

(j) If the director requires the submission of additional information, the insurer shall supplement the reports required by (h) and (i) of this section by the date specified by the director. The reports on internal control filed with the director under (h) and (i) of this section are confidential and subject to the provisions of AS 21.06.060.

(k) In accordance with regulations adopted by the director, an insurer shall designate an audit committee to engage a qualified independent certified public accountant to conduct the annual audit. The audit committee shall oversee services performed by the certified public accountant. If an insurer does not designate an audit committee, the entire governing board of the insurer is considered to be the audit committee for purposes of this subsection.

(l) The certified public accountant conducting the annual audit required by (g) of this section shall notify the governing board of the insurer or the audit committee in writing of a determination by the certified public accountant that the insurer has materially misstated its financial condition as reported to the director or that the insurer does not meet the minimum capital requirements and surplus requirements of this title as of the date of the balance sheet currently under audit. An insurer that has received a report under this subsection shall forward a copy to the director. The certified public accountant shall also forward the report to the director unless the insurer provides evidence satisfactory to the certified public accountant that the report has been forwarded to the director.

§ 21.09.205. Quarterly statement

(a) The director may require an insurer to file quarterly financial statements. If required, the statements must follow for a given quarter the reporting format specified in the quarterly financial statement blank form and instructions most recently approved by the National Association of Insurance Commissioners.

(b) A quarterly financial statement, if required, is due 45 days after the end of the quarter to which it applies.

(c) An insurer shall pay to the division \$100 for each day the insurer fails to file the quarterly statement in the form required or within the time established in (b) of this section.

(d) In addition to the requirements of (a) of this section, an authorized insurer shall file its quarterly statement with the National Association of Insurance Commissioners on electronic media acceptable to the association by the due date established by the association, and shall pay the applicable filing fee. The director may waive the filing requirement if the insurer only transacts business in this state and only accepts risks relative to a

subject resident, located, or to be performed in this state. An insurer that fails to comply with this subsection is subject to the penalties specified in (c) of this section, calculated from the filing and fee due date established by the National Association of Insurance Commissioners.

§ 21.09.207. Statement of actuarial opinion and supporting documentation

(a) An insurer authorized to write property, casualty, surety, marine, wet marine, transportation, or mortgage guaranty insurance shall file annually with the director a statement of actuarial opinion, unless the insurer is exempt or otherwise not required to file an opinion in the insurer's state of domicile. The statement of actuarial opinion must

(1) be issued by an actuary appointed by the insurer;

(2) follow, for a given year, the reporting format and requirements specified in the annual financial statement instructions most recently approved by the National Association of Insurance Commissioners; and

(3) be supplemented with additional information as may be required by the director.

(b) A domestic insurer that is required to file a statement under (a) of this section shall file annually with the director an actuarial opinion summary written by the insurer's appointed actuary. A foreign insurer that is required to file a statement under (a) of this section shall, on written request of the director, file an actuarial opinion summary with the director. The actuarial opinion summary must follow, for a given year, the reporting format and requirements specified in the annual financial statement instructions most recently approved by the National Association of Insurance Commissioners and must be supplemented with additional information as required by the director.

(c) An insurer that is required to file a statement under (a) of this section shall prepare an actuarial report and work papers to support each statement of actuarial opinion as required by the annual financial statement instructions most recently approved by the National Association of Insurance Commissioners. If an insurer fails to provide a supporting actuarial report or work papers at the request of the director, or the director determines that the supporting actuarial report or work papers provided by the insurer are incomplete or otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the insurer to review the statement of actuarial opinion and the basis for the statement and to prepare the supporting actuarial report or work papers.

(d) An actuarial report, actuarial opinion summary, or work paper provided in support of a statement of actuarial opinion and any other information provided by an insurer to the director in connection with the statement of actuarial opinion, the actuarial opinion summary, or the actuarial report issued under this section is confidential; however, nothing in this section limits the director's authority to release the documents to a national professional organization that disciplines actuaries that is recognized by the director, as long as the material is required for the purpose of professional disciplinary proceedings and the national professional organization establishes procedures satisfactory to the director for preserving the confidentiality of the documents.

(e) In this section,

(1) "appointed actuary" means a qualified actuary who is appointed or retained by a company to provide a statement of actuarial opinion and the related actuarial opinion summary, actuarial report, and work papers;

(2) “qualified actuary” means a member in good standing of the

(A) Casualty Actuarial Society; or

(B) American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

§ 21.09.300. Disclosure of material transactions

(a) A domestic insurer shall file a report with the director disclosing a material acquisition and disposition of assets or a material nonrenewal, cancellation, or revision of ceded reinsurance agreements unless the acquisition and disposition of assets or material nonrenewal, cancellation, or revision of ceded reinsurance agreements have been submitted to the director for review, approval, or information purposes as required by this title.

(b) The report required under (a) of this section is due 15 days after the end of the calendar month in which a reportable transaction occurs.

(c) Except as provided in this section, a report obtained by or disclosed to the director under this section is confidential, is not subject to subpoena, and may not be made public by the director, or another person, without the prior written consent of the insurer submitting the report. A report under this section may be disclosed to an insurance regulatory agency of another state or to the National Association of Insurance Commissioners, with notice of the disclosure sent to the insurer. If the director, after giving an insurer notice and an opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by publication of the report, the director may publish all or any part of the report in a manner the director determines appropriate.

(d) A domestic insurer’s report of an acquisition or disposition of an asset

(1) shall be made under (a) of this section if the acquisition or disposition is material; for purposes of this subsection, an acquisition or disposition, or the aggregate of a series of related acquisitions or related dispositions during any 30-day period is material if it is nonrecurring, not in the ordinary course of business, and involves more than five percent of the reporting insurer’s total admitted assets as reported in its most recent financial statement required by law that is filed with the division;

(2) shall be made on asset acquisition, including a purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the

(A) construction or development of real property by or for the reporting insurer; or

(B) acquisition of material for construction or development of real property;

(3) shall be made on asset disposition including a sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors, or abandonment;

(4) must include information on the

(A) date of transaction;

(B) manner of acquisition or disposition;

(C) description of the assets involved;

- (D) nature and amount of the consideration given or received;
- (E) purpose of, or reason for, the transaction;
- (F) manner by which the amount of consideration was determined;
- (G) gain or loss recognized or realized as a result of the transaction; and
- (H) names of persons from whom the assets were acquired or to whom the assets were disposed.

(e) A domestic insurer's report of nonrenewal, cancellation, or revision of a ceded reinsurance agreement

(1) shall be made under (a) of this section if the nonrenewal, cancellation, or revision is material; for purposes of this subsection, a material nonrenewal, cancellation, or revision is one that affects (A) for property and casualty business, including accident and health business when written as property and casualty business, more than 50 percent of an insurer's ceded written premium; or (B) for life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis as indicated in the insurer's most recently filed statutory statement; however, a filing is not required if the insurer's ceded written premium or the total reserve credit taken for business ceded represents, on an annual basis, less than 10 percent of direct written premiums and assumed written premiums or 10 percent of the statutory reserve requirement before a cession;

(2) shall be filed without regard to which party has initiated the nonrenewal, cancellation, or revision of ceded reinsurance whenever any of the following conditions exist:

(A) the entire cession has been cancelled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves after a nonrenewal, cancellation, or revision represent less than 50 percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred;

(B) an admitted or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer; however, a report shall be filed only if the result of the revision affects more than 10 percent of the cession; or

(C) collateral requirements previously established for unauthorized reinsurers have been reduced; however, a report shall be filed only if the result of the revision affects more than 10 percent of the cession; and

(3) must include

- (A) the effective date of the nonrenewal, cancellation, or revision;
- (B) a description of the transaction with an identification of the initiator of the transaction;
- (C) the purpose of, or reason for, the transaction; and
- (D) if applicable, the identity of the replacement reinsurers.

(f) An insurer is required to report under (a) of this section on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is presumed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct written premiums

and assumed written premiums during a calendar year that is not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.