

ALASKA INSURANCE GUARANTY ASSOCIATION
PLAN OF OPERATION
(2003 revision)

Section

- 010. Plan of operation
- 020. Membership
- 030. Board of governors
- 040. Annual board meeting
- 050. Other board meetings
- 060. Meeting mechanics
- 070. Quorum, voting
- 080. Compensation for board
- 090. Address of the association
- 100. Bank accounts
- 110. Assessments and surcharge percentages [refunds]
- 115. Retention and return of funds
- 120. Response to insolvencies
- 130. Claims procedures
- 140. Contracts for servicing facilities
- 150. Solvency surveillance
- 160. Record of meetings
- 170. Annual financial report
- 180. Claims audit committee
- 190. Appeal
- 200. Indemnification
- 210. Conformity to statute

010. PLAN OF OPERATION. (a) This Plan of Operation ("the Plan") for the Alaska Insurance Guaranty Association ("the Association") is established pursuant to the Alaska Insurance Guaranty-Association Act ("the Act"), AS 21.80.010 et seq. Written approval of the Plan as initially adopted was obtained from the Director of the State of Alaska Division of Insurance ("the Director") on August 29, 1975.

(b) Amendments to this Plan of Operation, as necessary or suitable to assure the fair, reasonable and equitable administration of the Association, shall be adopted by the board of governors and submitted to the Director for approval. Any amendments so submitted shall be effective upon written approval of the same by the Director. Amendments to the Plan shall be posted to the Association's web page within 30 days of the date of the Director's approval.

Authority: AS 21.80.070

020. MEMBERSHIP. (a) Each insurer licensed to transact the kinds of insurance covered by AS 21.80 and who writes such insurance shall automatically become a member of the Association, effective on the date of the insurer's authorization.

(b) A member insurer ceases to be a member on the day following the termination or expiration of the member insurer's license to transact the kinds of insurance covered by AS

21.80; however, the insurer remains liable as a member insurer for any and all obligations, including obligations for assessments levied before the termination or expiration of the member insurer's license and assessments levied after the termination or expiration with respect to an insurer that became an insolvent insurer before the termination or expiration of the insurer's license.

Authority: AS 21.80.040(b)
AS 21.80.070
AS 21.80.180(8)

030. BOARD OF GOVERNORS. (a) The board of governors shall consist of seven member insurers elected by the member insurers. The composition of the board shall fairly represent all member insurers. The director of insurance may appoint up to two individuals as members of the board to represent the public. The director of insurance may approve an eighth elected member insurer to the board in lieu of an appointment of one member from the public.

(b) The terms of the elected governors shall be for staggered terms of three years each. To provide for staggered terms, governors' terms filling seats A, D and G shall expire in 2002, governors' terms filling seats B, E, and H shall expire in 2003, and governors' terms filling seats C, F and I shall expire in 2001. Seats E and I may be filled by public members appointed by the Director of Insurance, subject to the qualifications stated in AS 21.80.050(a). Elected members may be re-elected for successive terms. The minutes of the annual board meeting shall identify each board member, which seat it fills, and when each term expires.

(c) The board of governors shall appoint from among its members a nominating committee which shall select a nominee to succeed each board member whose term expires at the end of the next annual meeting of the board. Additional nominations from the membership may be added, upon petition to the board of ten member insurers no later than November 1 of each year. A ballot identifying all nominees shall be mailed to the member insurers by February 1 prior to the next scheduled annual board meeting. Ballots shall include provision for write-in votes. Only ballots returned by March 1 prior to the next scheduled annual board meeting shall be tallied in determining election results.

(d) The election results shall be forwarded to the Director of Insurance by April 1 of the year of the election. Members elected to the board may begin to exercise their authority as governors at the end of the next annual board meeting, provided the Director has approved their election to the board. Incumbent board members shall serve until their successors have been duly elected and approved to serve.

(e) In the event the Director disapproves the membership of the board of governors—as elected, another election shall be ordered to occur within 30 days of notice of the Director's disapproval. In the interim between such disapproval and the subsequent election, the Director may appoint a temporary board of governors which fairly represents the member insurers.

(f) Each member insurer elected to the board shall designate one of its directors, officers, or full-time employees as its primary representative on the board. Any board member may select a similarly qualified alternative representative to serve from time to time in place or stead of the primary representative.

(g) The members of the board of governors shall annually elect a chairperson, vice-chairperson and secretary/treasurer from among its members.

(h) A majority of the entire board may seek written approval of the Director to have a board seat declared vacant where good cause exists. A board member who is subject to an order of the Director under AS 21.09.175 or court order under the provisions of AS 21.78 shall be removed from the board effective on the date of such order. Vacancies occurring among the elected board of governors shall be filled in the same manner as initial appointments. A vacancy in a board membership held by a representative of the public may be filled by the Director. Vacancies occurring in elective offices shall be filled by majority vote of the board. Interim appointees for both board and elective offices shall serve for the unexpired terms of their immediate predecessor.

Authority: AS 21.80.050
AS 21.80.070

040. ANNUAL BOARD MEETING. (a) The board shall hold an annual meeting at the office of the Director on the last Friday of each June at 9:00 a.m., Alaska Daylight Savings Time, and shall consider items outlined in (b)-(f) of this section. The board may, upon proper notice, designate some other place, date or time for meeting.

(b) The board shall review the Plan and submit proposed revisions or amendment, if any, to the Director.

(c) The board shall review each outstanding contract with a servicing facility and, to the extent possible, make any necessary corrections, improvements or additions.

(d) The board shall review operating expenses and covered claims costs.

(e) The board shall elect officers as set forth in section 030(g) of this Plan.

(f) The board shall review, consider and act on any other matters deemed by it to be necessary and proper for the administration of the Association.

Authority: AS 21.80.060
AS 21.80.070

050. OTHER BOARD MEETINGS. (a) The board may determine a schedule of such other regular meetings as it may deem appropriate and it may call special meetings as required.

(b) The board may consider and decide any matter at a special meeting deemed by it to be necessary for the proper administration of the Association.

Authority: AS 21.80.070

060. MEETING MECHANICS. (a) Special meetings may be called by the chairperson and shall be called at the request of any two board members.

(b) Where time permits, not less than five days written notice, including facsimile or electronic notice, shall be given to each board member of the time, place and purpose or

purposes of any special board meeting; however, in no event shall less than 48 hours oral or written notice be given, provided each member of the board has reasonable opportunity to attend.

(c) Any board member not present may consent in writing to any specific action taken by the board. Any action approved by the required number of board members at such special meeting, including those consenting in writing, shall be as valid a board action as though authorized at a regular meeting of the board.

(d) Board members may participate in meetings telephonically.

(e) All board meetings shall adhere to the requirements of the Antitrust Compliance Policy as adopted by board resolution on June 30, 1995, a copy of which is appended hereto.

Authority: AS 21.80.070

070. QUORUM, VOTING. (a) At any meeting of the board of governors, each member shall have one vote. A majority of at least 51% of the board shall constitute a quorum for the transaction of business and the acts of a majority of the board members present at a meeting at which a quorum is present shall be the acts of the board; except that an affirmative vote of a majority of all board members is required to: (1) approve a contract with a servicing facility, actuary and accountant (2) revise or amend the Plan of Operation, (3) determine and levy initial assessments, (4) determine uniform surcharge percentages that may be applied by member insurers, (5) determine and provide for return amounts to policyholders, (6) borrow money, or (7) elect officers.

(b) Any action required or permitted to be taken at any meeting of the board, or a committee thereof, may be taken without meeting if all the members of the board or committee, as the case may be, entitled to vote with respect to the subject matter thereof, consent thereto in writing and the writing or writings are filed with the minutes of the proceedings of the board or committee. Any board member may call for a special meeting of the board to consider the action with respect to which such consent was solicited, provided the request for a meeting is made within five days after the mailing, facsimile or electronic transmission of the solicitation for the written consent to action without meeting by the chairperson or his/her designee.

Authority: AS 21.80.060
AS 21.80.070

080. COMPENSATION FOR BOARD. Members of the board shall serve without compensation, but they may be reimbursed for necessary and reasonable travel expenses incurred in attendance at board meetings. Transportation cost shall be limited to coach accommodations. Such expenses shall be submitted to the chairperson or his/her designee for approval and subsequent payment.

Authority: AS 21.80.050
AS 21.80.070

090. ADDRESS OF THE ASSOCIATION. The official address of the Association shall be the address of the chairperson of the board, unless otherwise designated by

the board. The board may use the mailing address of a person, firm or corporation employed to perform administrative functions as the official office address of the Association.

Authority: AS 21.80.070

100. BANK ACCOUNTS. (a) The board may open one or more bank accounts for use in Association business. The funds of the Association shall only be invested with federally insured institutions through bank accounts, certificates of deposits, or treasury obligations.

(b) Reasonable delegation of deposit withdrawal authority to Association bank accounts may be made consistent with prudent fiscal policy.

(c) The board may borrow money from any person, organization, or from an appointed servicing facility as the board, in its judgment, deems advantageous for the Association and the public.

Authority: AS 21.80.040
AS 21.80.060
AS 21.80.070

110. ASSESSMENTS AND SURCHARGE PERCENTAGES [REFUNDS]. (a) The board shall determine and may levy assessments to cover the projected reasonable cost of claims and expenses to administer the Association, and shall determine surcharge percentages that may be applied by member insurers to insurance policies. In determining the need for an initial assessment, the board, on at least an annual basis and assisted by an independent actuary, will project the level of funding needed for each of the three accounts referenced in AS 21.80.040(a) during the following calendar year; the board and independent actuary will also project the aggregate net direct written premium of all member insurers and assigned risk pools for the following year on the kinds of insurance in each account. Such projections will take into account any estimated or actual differences between the aggregate assessment and the maximum allowable surcharge amounts from prior years. If funding is needed for any of the accounts, the board, based upon its projections, will determine uniform initial assessment percentages applicable to each account; the board will also determine the uniform surcharge percentages that may be applied by member insurers during the next calendar year to all policies related to an account, and will notify the Director and member insurers of each uniform surcharge percentage. After receipt of a notice of uniform surcharge percentage, member insurers or their rating organizations may apply to the Director for surcharge rates to be applicable to policies issued during the next calendar year.

(b) Initial and adjusted assessments shall be calculated from data provided by member insurers to the Alaska Division of Insurance on each member insurer's Annual Statement, "Exhibit of Premiums and Losses". The "Exhibit of Premiums and Losses" data should include only financial information respecting the transaction of insurance in Alaska. Member insurers who are also acting as servicing carriers for assigned risk pools shall be responsible for reporting to the Association the portion of their total net direct written premium that results from the assigned risk pool accounts serviced by them. If the data is not available for the year preceding the year of initial or adjusted assessment, the most recent data available from the Division will be used.

(c) During November of each year, the board will levy initial assessments, if any, against member insurers by means of written notices of assessment containing reasonable details of the projections made by the board in accordance with Section 110(a). An initial assessment may be made at any other time if the association determines earlier funding is necessary. For all initial assessments, the association shall determine and notify the Director and member insurers of the uniform surcharge percentage that may be applied by member insurers as a surcharge to all new and renewal policies related to the account. The association shall also provide notice of the commencement date of the 12-month period during which the surcharge is to apply. Payment of all levies of initial assessment shall be due within 45 days of the date of the written notice of assessment. Any unpaid levy amounts shall accrue interest after the applicable due date at the rate of 12% per annum, and the Association shall also be entitled to recover the costs of all collection efforts, including actual reasonable attorneys fees.

(d) Upon calculation of the adjusted assessment amounts allocated to each member insurer, the board will issue written notices of additional levy or credit, as appropriate, to member insurers. Additional levies against member insurers resulting from adjusted assessments shall be due and payable within 45 days of the date of the written notice of additional levy. Any unpaid additional levy amounts after the applicable 45-day due date shall accrue interest and be subject to recovery of collection costs and attorney fees, as provided in section 110(c). Credits due to member insurers from adjusted assessments will be paid by the Association within 45 days of the written notice of credit; provided, if a member insurer has any unpaid assessments at the time of payment of a credit, then the Association will offset the unpaid amounts, including any accrued interest and collection costs, against the credit; and provided further, that a member insurer may notify the Association to retain a credit to the member insurer's account to be offset against future assessments.

(e) For purposes of Association requirements, assigned risk pool business shall be accounted for separately from voluntary business by member insurers who are also acting as servicing carriers. Assigned risk pools and their policyholders are subject to initial and adjusted assessments, credits, surcharge rates, return of funds and other Association requirements to the same extent as member insurers and their policyholders. Each servicing carrier for an assigned risk pool, acting as a servicing conduit, shall be responsible for making timely payment of any initial or adjusted assessment levied against the assigned risk pool serviced by that carrier, pro rata to the amount of net direct written premium of the assigned risk pool serviced by that carrier in the applicable initial or adjusted assessment year. Any applicable credits will likewise be credited to servicing carriers on the same pro rata basis. To ensure assigned risk pool reimbursement to servicing carriers for amounts paid on behalf of an assigned risk pool, the plan administrator, rating organization and/or servicing carriers acting on behalf of an assigned risk pool may make any applicable surcharge rate filing to the Director on behalf of the subject assigned risk pool; and each such filing shall be applied uniformly by all carriers servicing that assigned risk pool.

(f) The board may waive the collection of levy or payment of credit from or to a member insurer when the amount produces a collection or payment of less than \$50.00.

(g) In the event any member insurer collects total surcharges from policyholders during a calendar year in excess of its applicable adjusted assessment, the member insurer shall pay such excess amount to the Association within 45 days of the date of the applicable written notice of levy or credit issued by the board.

(h) Association surcharges are not to be considered premium for any purpose, and are not subject to premium tax, commission, assigned risk pool surcharge limitations or other limitations or additions applicable to premium.

Authority: AS 21.80.060
AS 21.80.070
AS 21.80.140

115. RETENTION AND RETURN OF FUNDS (a) If, based upon projections made under Section 110(b), the board determines the Association will possess amounts in excess of claims, expenses, credits and other liabilities in any account for the following years, then the board will retain and invest such amounts to reduce assessments in future years for that account.

(b) If, based upon projections made under Section 110(b), the board determines that significant funds in excess of projected claims, expenses, credits and other liabilities exist in an account, then the Association may return such amounts to policyholders as the board, assisted by an independent actuary, determines to be reasonable, taking into account both annual and longer range funding needs of that account, reserve trending, anticipated investment returns, recoveries from liquidation of insolvent carriers, contingencies and other relevant factors. In determining the total amount to be returned from an account to policyholders, the board and independent actuary will project the aggregate direct written premium of all member insurers for the following year on the kinds of insurance in that account. Based thereon, the board will determine a uniform percentage to be applied as a credit against rates and premiums charged during the next calendar year for all policies applicable to the account. The board will notify the Director and member insurers of each uniform percentage credit, and upon receipt of such notices, member insurers or their rating organizations shall apply to the Director for the credit to be applied against rates and premiums charged during the next calendar year for all policies applicable to the account. The plan administrator, rating organization and/or servicing carriers acting on behalf of an assigned risk pool shall make any applicable uniform percentage credit filing to the Director on behalf of the subject assigned risk pool; and each such filing shall be applied uniformly by all carriers servicing that assigned risk pool.

(c) Member insurers and servicing carriers may apply to the Association for reimbursement of all amounts credited to policyholders. Reimbursement requests shall be submitted in the form of semi-annual or annual invoices from member insurers and servicing carriers, detailing the amounts of credits provided by the member insurers and servicing carriers and the time-period covered by the invoice. All member insurer and servicing carrier invoices for reimbursement must be submitted to the Association prior to October 1 of the year following the calendar year for which reimbursement of credits is sought; failure to meet this deadline shall result in forfeiture by the member insurer or servicing carrier of all amounts not timely invoiced. To ensure no excess or shortfall in reimbursement recoveries occur, the board will conduct a final reconciliation of member insurers and servicing carriers reimbursement amounts against the credits applicable to the net direct written premium of each member insurer and assigned risk pool for the calendar year in which credits are provided.

Authority: AS 21.80.060

120. RESPONSE TO INSOLVENCIES (a) The board shall take all steps permitted by law and deemed necessary to protect the Association's rights against the estate of an insolvent insurer.

(b) Promptly after receiving notice from the Director of the insolvency of any member insurer, or otherwise learning of an order of liquidation with a finding of insolvency issued by a court of competent jurisdiction, the board shall consider and determine the following:

(1) The legal obligations of the Association with regard to any reported insolvency, including the need to convene the board to consider any special circumstances;

(2) What method or methods, as permitted under AS 21.80.060(a)(6), shall be adopted to pay and discharge covered claims of the insolvent insurer for each of the three categories of kinds of insurance outlined in AS 21.80.040;

(3) What efforts should be made to secure the receiver, liquidator or statutory successor's participation to assist the Association in the performance of its legally imposed duties;

(4) What immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurer necessary to the prompt, economical handling by the Association of covered claims; in this effort, the board or its designated servicing facility, shall work closely with the receiver, liquidator or statutory successor and seek the receiver's, liquidator's, or statutory successor's approval of having the board or its designated servicing facility take direct physical control of that portion of the insolvent insurer's records deemed by the board to be necessary for the discharge of its statutorily imposed duties;

(5) To what extent and in what manner the board shall review and contest settlements and releases or judgments, orders, decisions, verdicts and findings to which the insolvent insurer or its insureds were parties, in accordance with AS 21.80.060 (a) (4) and AS 21.80.160;

(6) What assessment, if any, should be levied under section 110 herein and present a recommendation to the board; if an assessment is determined to be necessary, the board shall levy such in accordance with this Plan and AS 21.80.060(a)(3); and

(7) Any other matter deemed to be necessary for the proper administration of the Association.

Authority: AS 21.80.060
AS 21.80.070

130. CLAIMS PROCEDURES. (a) Claims shall be submitted by an insured or policyholder to the Association in the format as required by the underlying policy of insurance issued by the insolvent insurer. Notice of a claim by any means against a policy issued by an insolvent insurer shall cause the Association or its servicing facility to initiate a claim file for further investigation and adjusting. Claims shall be handled in accordance with AS 21.36.125. The Association shall retain all defenses to a claim which were available to the insolvent insurer.

(b) Proofs of claim may be submitted on forms used by the insolvent insurer or in any other written form that gives the Association adequate notice regarding the nature of the claim.

(c) Notice of claims to the receiver or liquidator of the insolvent insurer shall be considered notice to the Association or its agents. The board or its designee shall obtain lists of such claims periodically from the receiver or liquidator.

(d) The Association is not obligated to pay a claim filed with the Association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

Authority: AS 21.80.060(a)(1)(B)
AS 21.80.060(a)(4)
AS 21.80.070(a)(4)

140. CONTRACTS FOR SERVICING FACILITIES. (a) The board may contract with one or more appropriately qualified persons, firms, or corporations to act as a servicing facility to implement and carry out broad directives of the board made pursuant to its statutorily imposed duties.

(b) Terms of the contract shall comply with AS 21.80 and be subject to the approval of the Director. Such contract terms may include:

- (1) terms of payment to the servicing facility;
 - (2) extent of authority delegated to the servicing facility;
 - (3) procedures for giving the receiver, liquidator or statutory successor timely notice, sufficient to protect the Association's right of subrogation against the receiver, liquidator, or statutory successor, of each and every covered claim not otherwise reported to the receiver, liquidator or statutory successor;
 - (4) procedures contemplated for the handling of covered claims as defined in AS 21.80.180(4) which shall include the right to request from or offer to any person, arbitration of his or her covered claim;
 - (5) procedures for the printing or preparation of forms necessary for the proper handling of covered claims;
 - (6) requirement of bond for faithful performance; or,
 - (7) any other provisions deemed necessary and desirable by the board.
- (c) In no event shall an insolvent insurer be appointed or function as a servicing facility.

(d) General administrative expenses of the Association will be allocated by the board on an annual basis pro rata to the three accounts in accordance with outstanding reserves for each account as projected under section 110(a).

Authority: AS 21.80.060
AS 21.80.070

150. SOLVENCY SURVEILLANCE. (a) The board may make recommendations to the Director for the detection and prevention of insurer insolvencies.

(b) The board may make reports and recommendations to the Director upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer.

(c) The board may, at the conclusion of an insolvency of a member insurer in which the Association was obligated to pay claims, prepare a report on the history and cause of each insolvency processed, and submit this report to the Director.

(d) A report or recommendation made in compliance with this section shall not be considered a public document. A document merely providing notice under AS 21.80.110(a) is not a report or recommendation covered by AS 21.80.110(d) and is, therefore, not confidential.

Authority: AS 21.80.070
AS 21.80.110

160. RECORD OF MEETINGS. A written record of the proceedings of each board meeting shall be made. The original of this record shall be retained by the current chairperson or his or her designee, with copies being furnished to each board member and the Director. Copies of such written record shall be provided to each member insurer upon request.

Authority: AS 21.80.070

170. ANNUAL FINANCIAL REPORT. The board shall provide an annual audited financial report to the Director. The report shall be prepared in accordance with generally accepted accounting principles by a certified public accountant as selected by the board. Such report shall include a review of the Association's activities and an accounting of its income and disbursements for the past year. Copies of such report shall be provided to each member insurer upon request.

Authority: AS 21.80.070
AS 21.80.120

180. CLAIMS AUDIT COMMITTEE. The board may appoint certain of the member insurers to serve as a claims audit committee. Such committee shall see to the proper handling of insolvency records and claim files. The committee shall prepare a report of its findings, which report shall be submitted to the Board of Governors at the annual meeting.

Authority: AS 21.80.070
AS 21.80.120

190. APPEAL. Any member insurer aggrieved by an action or decision of the Association shall appeal to the board before appealing to the Director. If such member insurer is aggrieved by the final action or decision of the board, the member insurer may appeal to the Director within 30 days after the action or decision. If the board does not act on such complaint, the member insurer may appeal to the Director after the expiration of 30 days from the date of submission of the complaint to the board.

Authority: AS 21.80.070

200. INDEMNIFICATION. (a) All persons described in AS 21.80.150, except - the Director or his/her representatives, shall be indemnified by the Association against all expenses incurred in the defense of any action, suit or proceeding brought against such person on account of any action taken by him/her in the performance of his/her powers and duties under AS 21.80.

(b) Any person finally adjudged to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance or reckless disregard of the responsibilities of his/her office shall not be entitled to indemnification under (a) of this section. In the event of settlement before final adjudication, such indemnity shall be provided only if the Association is advised by independent counsel that such person did not, in counsel's opinion, commit such a breach of duty.

(c) The expense of such indemnification shall be prorated and paid for by the member insurers in the proportion that net direct written premiums of each member insurer for the calendar year preceding commencement of such action, suit or proceedings bears to the net direct written premiums of all member insurers for the preceding calendar year.

(d) This section is intended to operate as a supplement and additional safeguard to, and not in place of, the immunity granted by AS 21.80.150 of the Act. Nothing in this article shall be interpreted so as to reduce or restrict the immunity granted by AS 21.80.150.

(e) This article does not obligate the State of Alaska to indemnify any person.

Authority: AS 21.80.070
AS 21.80.150

210. CONFORMITY TO STATUTE. The Alaska Insurance Guaranty Association Act as written, and as may be hereafter amended, is incorporated as a part of this Plan.

Authority: AS 21.80.070

DATE OF ADOPTION BY BOARD OF GOVERNORS: 30 June 2003

DATE OF APPROVAL BY DIRECTOR OF INSURANCE (ATTACHED): 7 July 2003