

1 HB113
2 135731-3
3 By Representative Hill
4 RFD: Insurance
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to insurance; to amend Sections 27-7-1,
9 27-7-5, 27-7-14.1, 27-7-17, 27-7-37, 27-8A-1, and 27-8A-6,
10 Code of Alabama 1975, and to add Section 27-7-4.4 to the Code
11 of Alabama 1975; to add Chapter 22A to Title 27, beginning
12 with Section 27-22A-1, and to repeal Sections 27-7-20 and
13 27-7-21, Code of Alabama 1975; to eliminate the insurance
14 producer lines of authority for automobile and industrial fire
15 and provide a transition for existing producer licenses; to
16 add travel and crop insurance as limited lines insurance; to
17 provide exceptions to the prelicensing course of study to
18 qualify for an insurance producer license for applicants with
19 a college insurance degree and for applicants for the variable
20 life and variable annuity line of authority; to authorize the
21 Commissioner of Insurance to prescribe by regulation
22 alternative methods to serve administrative complaints; to
23 eliminate certain exemptions from the continuing education
24 requirements of insurance producers while providing a
25 grandfather provision for those currently exempt; to eliminate
26 the requirement that insurance producers certify on the
27 license renewal form whether they have complied with the

1 continuing education requirement; to require insurance
2 licensees to notify the commissioner of any change in mailing
3 address or electronic mail address within 30 days; to
4 authorize the commissioner to require applicants to submit
5 fingerprints and to perform a criminal history record check of
6 all new applicants; to define terms relating to insurance
7 coverage of portable electronics; to require vendors to hold a
8 certain license to offer a policy of portable electronics
9 insurance; to provide certain requirements applicable to
10 vendors of portable electronics insurance; to provide fees for
11 a limited lines insurance producer license for portable
12 electronics insurance; and to provide an effective date.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 27-7-1, 27-7-5, 27-7-14.1,
15 27-7-17, 27-7-37, 27-8A-1, and 27-8A-6, Code of Alabama 1975,
16 are amended to read as follows:

17 "§27-7-1.

18 "For the purposes of this chapter, the following
19 terms shall have the meanings respectively ascribed to them by
20 this section:

21 "(1) BUSINESS ENTITY. A corporation, association,
22 partnership, limited liability company, limited liability
23 partnership, or other legal entity.

24 "(2) COMMISSIONER. The Alabama Commissioner of
25 Insurance.

26 "(3) HOME STATE. The District of Columbia and any
27 state or territory of the United States in which an insurance

1 producer maintains his or her principal place of residence or
2 principal place of business and is licensed to act as an
3 insurance producer.

4 "(4) INSURANCE. As defined in Section 27-1-2.

5 "(5) INSURANCE PRODUCER or PRODUCER. A person
6 required to be licensed under the laws of this state to sell,
7 solicit, or negotiate insurance.

8 "(6) INSURER. As defined in Section 27-1-2. For the
9 purposes of this chapter, insurer shall also mean an insurance
10 company licensed pursuant to Chapter 3, commencing with
11 Section 27-3-1 of this title; a health care service plan
12 licensed pursuant to Article 6, commencing with Section
13 ~~10-4-100 of Chapter 4 of Title 10~~ 10A-20-6.01 of Chapter 20 of
14 Title 10A; a dental service corporation licensed pursuant to
15 Article 12, commencing with Section 22-21-360 of Chapter 21 of
16 Title 22; a health maintenance organization licensed pursuant
17 to Chapter 21A, commencing with Section 27-21A-1 of this
18 title; a mutual aid association licensed pursuant to Chapter
19 30, commencing with Section 27-30-1 of this title; a fraternal
20 benefit society licensed pursuant to Chapter 34, commencing
21 with Section 27-34-1 of this title; an automobile club or
22 association licensed pursuant to Chapter 39, commencing with
23 Section 27-39-1 of this title; and a legal service insurance
24 corporation licensed pursuant to Chapter 43, commencing with
25 Section 27-43-1 of this title.

26 "(7) LICENSE. A document issued by the commissioner
27 authorizing a person to act as an insurance producer for the

1 lines of authority specified in the document. The license
2 itself does not create any authority, actual, apparent, or
3 inherent, in the holder to represent or commit an insurance
4 carrier.

5 "(8) LICENSEE. A producer or service representative
6 licensed in accordance with this chapter; a reinsurance
7 intermediary licensed in accordance with Chapter 5A; a
8 managing general agent licensed in accordance with Chapter 6A;
9 and a surplus line broker licensed in accordance with Chapter
10 10.

11 "(9) LICENSEE PENALTIES. For a producer or service
12 representative licensed in accordance with this chapter, the
13 penalties set forth in Section 27-7-19; for a reinsurance
14 intermediary licensed in accordance with Chapter 5A, the
15 penalties set forth in Section 27-5A-11; for a managing
16 general agent licensed in accordance with Chapter 6A, the
17 penalties set forth in Section 27-6A-7; and for a surplus line
18 broker licensed in accordance with Chapter 10, the penalties
19 set forth in Section 27-10-32.

20 "~~(8)~~(10) LIFE LINES OF AUTHORITY. Any one or more of
21 the following lines as defined in Section 27-7-14.1: Life;
22 accident and health or sickness, also known as disability; and
23 variable life and variable annuity products.

24 "~~(9)~~(11) LIMITED LINE CREDIT INSURANCE. Credit life,
25 credit disability, credit property, credit unemployment,
26 creditor-placed, also known as forced-placed, nonfiling,
27 involuntary unemployment, mortgage life, mortgage guaranty,

1 mortgage disability, guaranteed automobile protection (GAP),
2 family and medical leave insurance, and any other form of
3 insurance offered in connection with an extension of credit
4 that is limited to partially or wholly extinguishing that
5 credit obligation that the commissioner determines should be
6 designated a form of limited line credit insurance.

7 ~~"(10)~~ (12) LIMITED LINE CREDIT INSURANCE PRODUCER. A
8 person who sells, solicits, or negotiates one or more forms of
9 limited line credit insurance coverage to individuals through
10 a master, corporate, group, or individual policy.

11 ~~"(11)~~ (13) LIMITED LINES INSURANCE. Limited line
12 credit insurance, insurance on rental vehicles defined in
13 Section 27-7-5.1, travel and crop insurance as defined in
14 Section 27-7-14.1, portable electronics insurance as defined
15 in Chapter 22A, and any other line of insurance that the
16 commissioner deems necessary to recognize for the purposes of
17 complying with subsection (e) of Section 27-7-28.

18 ~~"(12)~~ (14) LIMITED LINES PRODUCER. A person
19 authorized by the commissioner to sell, solicit, or negotiate
20 limited lines insurance.

21 ~~"(13)~~ (15) NAIC. The National Association of
22 Insurance Commissioners.

23 ~~"(14)~~ (16) NEGOTIATE. The act of conferring directly
24 with or offering advice directly to a purchaser or prospective
25 purchaser of a particular contract of insurance concerning any
26 of the substantive benefits, terms, or conditions of the
27 contract, provided that the person engaged in that act either

1 sells insurance or obtains insurance from insurers for
2 purchasers.

3 "~~(15)~~ (17) PERSON. An individual or a business
4 entity.

5 "~~(16)~~ (18) PROPERTY LINES OF AUTHORITY. Any one or
6 more of the following lines as defined in Section 27-7-14.1:
7 Property; casualty; and personal lines; ~~and automobile.~~

8 "~~(17)~~ (19) SELL. To exchange a contract of insurance
9 by any means, for money or its equivalent, on behalf of an
10 insurance company.

11 "~~(18)~~ (20) SERVICE REPRESENTATIVE. A natural person,
12 other than an officer, manager, or managing general agent of
13 the insurer, employed on salary or at an hourly rate by an
14 insurer, managing general agent, or a captive producer to work
15 for, with or through producers in selling, soliciting, or
16 negotiating insurance in the insurer or in the insurers
17 represented by the managing general agent or a captive
18 producer, but only in the property lines of authority.
19 Officers and salaried nonresident traveling representatives of
20 a mutual insurer operating on the premium deposit plan or of a
21 reciprocal insurer not using resident producers for the
22 solicitation of business who inspect risks or solicit
23 insurance in this state and who receive no commissions from
24 the insurer shall be deemed also to be service
25 representatives. A service representative shall otherwise
26 qualify and be licensed as a service representative under this
27 chapter, but shall not be required to take and pass an

1 examination nor be a resident of Alabama if qualified as a
2 service representative in the state of his or her domicile.
3 The service representative must be appointed for each insurer
4 or association of insurers represented and for each class of
5 insurance handled by the insurer or insurers in this state.

6 "~~(19)~~ (21) SOLICIT. Attempting to sell insurance or
7 asking or urging a person to apply for a particular kind of
8 insurance from a particular company.

9 "~~(20)~~ (22) TERMINATE. The cancellation of the
10 relationship between an insurance producer and the insurer or
11 the termination of a producer's authority to transact
12 insurance.

13 "~~(21)~~ (23) UNIFORM BUSINESS ENTITY APPLICATION. The
14 current version of the NAIC Uniform Business Entity
15 Application for resident and nonresident business entities.

16 "~~(22)~~ (24) UNIFORM APPLICATION. The current version
17 of the NAIC Uniform Application for resident and nonresident
18 producer licensing.

19 "§27-7-5.

20 "(a) An individual applying for a resident insurance
21 producer license shall make application to the commissioner on
22 the Uniform Application, and an individual applying for a
23 service representative license shall make application to the
24 commissioner on the application prescribed by the
25 commissioner, each declaring under penalty of refusal,
26 suspension, or revocation of the license that the statements
27 made in the application are true, correct, and complete to the

1 best of the individual's knowledge and belief. Before
2 approving the application, the commissioner shall find that
3 the individual has satisfied all of the following:

4 "(1) The individual is at least 18 years of age.

5 "(2) The individual has not committed any act that
6 is a ground for denial, suspension, or revocation set forth in
7 Section 27-7-19.

8 "(3) The individual has completed a prelicensing
9 course of study for the lines of authority for which the
10 person has applied, consisting of 20 classroom hours per line
11 of authority, or equivalent individual instruction, on the
12 general principles of insurance for that line of authority,
13 the course to be taught only by those educational
14 institutions, junior or senior colleges, technical colleges,
15 trade schools, insurance companies, or insurance trade
16 organizations which hold written authority from the
17 commissioner to issue certificates of completion.

18 "a. Each authority holder must apply annually for
19 the continued authority to issue certificates under rules and
20 regulations to be prescribed by the commissioner.

21 "b. Prior to writing the designated examination for
22 license, the applicant must furnish a certificate of
23 completion of the aforesaid prelicensing course from the
24 authorized educational institution, insurance company, or
25 insurance trade organization.

26 "c. All applicants for a license to transact the
27 life lines of authority who are holders of the professional

1 designation chartered life underwriter (CLU); all applicants
2 for a license to transact the property lines of authority who
3 are holders of the professional designations chartered
4 property casualty underwriter (CPCU) or certified insurance
5 counselor (CIC); or other similar professional insurance
6 designations as the commissioner may prescribe by regulation
7 shall be deemed to have completed the prelicensing course as
8 prescribed in this subdivision.

9 "d. All applicants with a ~~college insurance degree~~
10 minimum of a bachelor's degree with a major in insurance from
11 an accredited college or university are exempt from the
12 requirements of this subdivision for all lines of authority.

13 "d.e. All applicants for a license to transact only
14 the following lines of authority shall be exempt from the
15 requirements of this subdivision:

16 "1. ~~Industrial fire, commonly known as debit fire,~~
17 ~~insurance~~ Variable life and variable annuity products.

18 "2. Limited lines insurance.

19 "e.f. All producers and service representatives who
20 are lawfully licensed as such for a particular line of
21 authority as an agent, broker, solicitor, or service
22 representative immediately prior to January 1, 2002, the
23 effective date of this amendatory act are exempt from the
24 requirements of this subdivision for that line of authority
25 unless, after January 1, 2002 the effective date of this
26 amendatory act, the license is permitted to expire or is
27 otherwise terminated and remains out of effect for a period of

1 12 consecutive months, in which case the exemption from the
2 prelicensing course shall no longer be applicable.

3 "(4) The individual has successfully passed the
4 examination for the lines of authority for which the
5 individual has applied, except that no examination shall be
6 required of an applicant as follows:

7 "a. All applicants for a license to transact only
8 one or more of the limited lines insurance.

9 "b. All applicants for a license to transact the
10 ~~life lines of authority who are holders of the professional~~
11 ~~designation chartered life underwriter (CLU)~~ variable life and
12 variable annuity products line of authority.

13 ~~"c. All applicants for a license to transact the~~
14 ~~property lines of authority who are holders of the~~
15 ~~professional designation chartered property casualty~~
16 ~~underwriter (CPCU) or certified insurance counselor (CIC).~~

17 ~~"d. The commissioner may prescribe by regulation~~
18 ~~other similar professional insurance designations as~~
19 ~~exemptions from the examination requirement for particular~~
20 ~~lines of authority.~~

21 ~~"e.c.~~ All producers lawfully licensed as such for a
22 particular line of authority ~~as an agent, broker, solicitor,~~
23 ~~or service representative~~ immediately prior to ~~January 1,~~
24 ~~2002,~~ the effective date of this amendatory act are exempt
25 from the requirements of this subdivision for that line of
26 authority unless, after ~~January 1, 2002~~ the effective date of
27 this amendatory act, the license is permitted to expire or is

1 otherwise terminated and remains out of effect for a period of
2 12 consecutive months, in which case the exemption from
3 examination shall no longer be applicable.

4 "f.d. All service representatives.

5 "(5) The individual has paid the fees set forth in
6 Section 27-4-2.

7 "(6) All producers seeking to be licensed for or
8 holding the variable life and variable annuity product line of
9 authority must also hold the life line of authority as an
10 insurance producer and must also successfully complete the
11 appropriate securities examinations and be registered under
12 applicable federal and state ~~the securities law~~ securities
13 laws.

14 "(b) A business entity acting as an insurance
15 producer is required to obtain an insurance producer license.
16 Application shall be made using the Uniform Business Entity
17 Application. Before approving the application, the
18 commissioner shall find that the business entity has satisfied
19 all of the following:

20 "(1) A licensed individual producer has been
21 designated responsible for the business entity's compliance
22 with the insurance laws, rules, and regulations of this state.

23 "(2) The business entity has paid the fees set forth
24 in Section 27-4-2.

25 "(c) The commissioner may require any documents
26 reasonably necessary to verify the information contained in an
27 application.

1 "(d) Each insurer that sells, solicits, or
2 negotiates any form of limited line credit insurance shall
3 provide to each individual whose duties will include selling,
4 soliciting, or negotiating limited line credit insurance a
5 program of instruction.

6 "§27-7-14.1.

7 "(a) Unless denied licensure pursuant to Section
8 27-7-19, persons who have met the requirements of Sections
9 27-7-4.3 and 27-7-5 shall be issued an insurance producer
10 license. An insurance producer may receive qualification for a
11 license in one or more of the following lines of authority:

12 "(1) LIFE. Insurance coverage on human lives
13 including benefits of endowment and annuities, and may include
14 benefits in the event of death or dismemberment by accident
15 and benefits for disability income.

16 "(2) ACCIDENT AND HEALTH OR SICKNESS, commonly known
17 as disability. Insurance coverage for sickness, bodily injury,
18 or accidental death and may include benefits for disability
19 income.

20 "(3) PROPERTY. Insurance coverage for the direct or
21 consequential loss or damage to property of every kind.

22 "(4) CASUALTY. Insurance coverage against legal
23 liability, including that for death, injury, or disability or
24 damage to real or personal property, and surety.

25 "(5) VARIABLE LIFE and VARIABLE ANNUITY PRODUCTS.
26 Insurance coverage provided under variable life insurance
27 contracts and variable annuities.

1 "(6) PERSONAL LINES. Property and casualty insurance
2 coverage sold to individuals and families for primarily
3 noncommercial purposes.

4 "(7) CREDIT. Limited line credit insurance.

5 "(8) BAIL BOND. Surety coverage for bail, as defined
6 in Chapter 13 of Title 15.

7 "~~(9) AUTOMOBILE. Property and casualty coverage for~~
8 ~~automobiles.~~

9 "~~(10) INDUSTRIAL FIRE, commonly known as debit fire.~~
10 ~~Fire insurance sold through a debit agency system, in~~
11 ~~accordance with regulations promulgated by the commissioner.~~

12 "~~(11)~~(9) RENTAL VEHICLE. As described in Section
13 27-7-5.1.

14 "(10) CROP. Insurance providing protection against
15 damage to crops from unfavorable weather conditions, fire, or
16 lightning, flood, hail, insect infestation, disease or other
17 yield-reducing conditions or peril provided by the private
18 insurance market, or that is subsidized by the Federal Crop
19 Insurance Corporation, including Multi-Peril Crop Insurance.

20 "(11) PORTABLE ELECTRONICS. As defined in Section
21 27-22A-1.

22 "(12) TRAVEL. Insurance coverage for trip
23 cancellation, trip interruptions, baggage, life, sickness and
24 accident, disability, and personal effects when limited to a
25 specific trip and sold in connection with transportation
26 provided by a common carrier.

1 "~~(12)~~(13) Any other line of insurance permitted
2 under state laws or regulations.

3 "(b) Unless denied licensure pursuant to Section
4 27-7-19, persons who have met the requirements of Section
5 27-7-5 shall be issued a service representative license. A
6 service representative shall receive qualification for a
7 license in the following lines of authority:

8 "(1) PROPERTY. Insurance coverage for the direct or
9 consequential loss or damage to property of every kind.

10 "(2) CASUALTY. Insurance coverage against legal
11 liability, including that for death, injury, or disability or
12 damage to real or personal property, and surety.

13 "(c) An insurance producer or service representative
14 license shall remain in effect unless revoked or suspended as
15 long as the license renewal fee set forth in Section 27-8A-9
16 is paid and education requirements for resident individual
17 producers and service representatives set forth in Chapter 8A
18 of this title are met by the due date.

19 "(d) An individual insurance producer who allows his
20 or her license to lapse may, within 12 months from the due
21 date of the renewal fee, reinstate the same license without
22 the necessity of completing the prelicensing course or passing
23 a written examination; a service representative who allows his
24 or her license to lapse may, within 12 months from the due
25 date of the renewal fee, reinstate the same license without
26 the necessity of completing the prelicensing course; however,

1 a penalty in the amount of double the unpaid renewal fee shall
2 be required for any renewal fee received after the due date.

3 "(e) A licensed insurance producer or service
4 representative who is unable to comply with license renewal
5 procedures due to military service or some other extenuating
6 circumstance, e.g., a long-term medical disability, may
7 request a waiver of those procedures. The producer or service
8 representative may also request a waiver of any examination
9 requirement or any other fine or sanction imposed for failure
10 to comply with renewal procedures.

11 "§27-7-17.

12 "(a) The license of a producer or service
13 representative shall state the name and address of the
14 licensee, the personal identification number, date of
15 issuance, the lines of authority, the expiration date, and any
16 other information the commissioner deems necessary.

17 "(b) Licensees shall inform the commissioner by any
18 means acceptable to the commissioner of a change in legal
19 name, mailing address, or electronic mail address within 30
20 days of the change. Failure to timely inform the commissioner
21 of a change in legal name, mailing address, or electronic mail
22 address shall result in a penalty of fifty dollars (\$50).

23 "(c) In order to assist in the performance of the
24 commissioner's duties, the commissioner may contract with
25 nongovernmental entities, including the NAIC or any affiliates
26 or subsidiaries that the NAIC oversees, to perform any
27 ministerial functions, including the collection of fees,

1 related to producer licensing that the commissioner may deem
2 appropriate.

3 "(d) The commissioner may participate, in whole or
4 in part, with the NAIC or any affiliates or subsidiaries the
5 NAIC oversees in a centralized producer license registry where
6 the producer licenses and appointments may be centrally or
7 simultaneously effected for all states that require a producer
8 license and participate in the centralized producer license
9 registry.

10 "(e) If the commissioner finds that participation in
11 a centralized producer license registry is in the public
12 interest, the commissioner may adopt any uniform standards and
13 procedures as are necessary to participate in the registry, to
14 include the central collection of all fees for licenses or
15 appointments that are processed through the registry.

16 "§27-7-37.

17 "(a) The department shall institute a proceeding
18 against a licensee for the imposition of licensee penalties by
19 filing and serving a complaint as to the licensee, giving
20 notice thereof to the licensee and all insurers the licensee
21 is licensed or appointed to represent.

22 "~~(a) (b) (1)~~ Any person having an interest and feeling
23 aggrieved may file a complaint with the commissioner against
24 any licensed agent, solicitor, broker, managing general agent
25 or service representative for the purpose of revocation or
26 suspension of his license licensee seeking the imposition of
27 licensee penalties against the licensee. The third-party

1 complaint shall be in writing and shall specify in reasonable
2 detail the charge or charges made, the truth of which shall be
3 sworn to by the complainant or some other person who has
4 knowledge of the facts averred.

5 ~~"(b)(2)~~ If, upon reviewing ~~the~~ a third-party
6 complaint, the commissioner finds that the charges made
7 therein constitute grounds for the ~~revocation or suspension of~~
8 ~~the license under Section 27-7-19~~ imposition of licensee
9 penalties against the licensee, he the commissioner shall
10 forthwith notify the licensee against whom the complaint has
11 been made and serve ~~him~~ the licensee with a copy of the
12 complaint and giving notice thereof to all insurers the
13 licensee is licensed or appointed to represent. Service of the
14 notice and copy of the complaint made shall be sent by
15 registered or certified mail, addressed to the licensee at the
16 address shown by the records of the commissioner, return
17 receipt requested and marked "deliver addressee only."

18 "(c) The commissioner shall by regulation prescribe
19 the methods through which service of a complaint and other
20 documents are made, which methods may include personal
21 service, service by first class mail or certified mail,
22 service by publication, service by electronic means, or such
23 other alternative or dual methods of service as the
24 commissioner may determine to be reasonably calculated to
25 furnish notice under the circumstances.

26 ~~"(c)(d)~~ Within 30 days after service upon the
27 licensee of the copy of the complaint ~~made against him~~, the

1 licensee shall file with the commissioner ~~his~~ an answer in
2 writing to the charges, either specifically admitting or
3 denying or specifically confessing and avoiding each of the
4 charges made. If the licensee against whom the complaint has
5 been made stands in default for answer, the charges set forth
6 in the complaint shall be taken as admitted and the
7 commissioner may enter an order imposing such licensee
8 penalties as may be warranted without the need for a hearing.

9 ~~"(d)~~ (e) After receipt of the licensee's answer, the
10 commissioner shall fix a time and place for the hearing of the
11 complaint at ~~his~~ the commissioner's office or elsewhere as
12 provided in Section 27-2-30 and shall serve notice thereof
13 upon the licensee and ~~the~~ any third-party complainant ~~by~~
14 ~~registered or certified mail~~ as provided by regulation adopted
15 as directed in subsection ~~(b)~~ (c) of this section ~~with respect~~
16 ~~to service of the complaint upon the licensee;~~ such notice
17 shall be served at least 20 days before the date fixed for the
18 hearing.

19 ~~"(e)~~ (f) At the time fixed by the commissioner for
20 the hearing, the complaint shall be heard before the
21 commissioner or a deputy appointed by ~~him~~ the commissioner,
22 and ~~the~~ any third-party complainant and licensee may each be
23 represented by an attorney-at-law and may give the testimony
24 and offer proof, documentary or ore tenus, as to the truth of
25 the charges and any denial thereof.

26 ~~"(f)~~ (g) The commissioner shall have any power of
27 subpoena, subpoena duces tecum or discovery obtaining in the

1 circuit courts of this state, and any party shall have the
2 right, upon request in writing filed with the commissioner, to
3 cause a writ of subpoena to issue out of the office of the
4 commissioner which shall be signed by ~~him~~ the commissioner or
5 his or her deputy and directed to the sheriff of any county of
6 this state returnable to the office of the commissioner. The
7 cost of issuing and serving subpoenas and witness fees shall
8 be the same as such costs and fees in the circuit court and
9 shall be recoverable by the prevailing party from the other
10 party. The commissioner shall tax such costs, and, upon the
11 same not being paid within a period of 10 days therefrom,
12 payment thereof may be enforced in any court having
13 jurisdiction over the person of the defaulting party.

14 ~~"(g)~~ (h) The testimony may be taken orally or by
15 deposition, and any party shall have the right of introducing
16 proof by deposition as may obtain in the circuit courts of
17 this state.

18 ~~"(h)~~ (i) The commissioner or ~~his~~ a deputy appointed
19 by the commissioner shall preside over the hearing and shall
20 make a written finding of facts upon which his or her
21 decisions shall be based.

22 ~~"(i)~~ (j) The commissioner or the deputy shall, ~~within~~
23 ~~30 days~~ as soon as practicable after the conclusion of the
24 hearing, make a ruling in writing fully disposing of the
25 complaint and a copy of the ruling shall be served upon ~~the~~
26 any third-party complainant, the licensee and all ~~interested~~
27 ~~parties~~ insurers represented by the licensee, ~~by registered or~~

1 ~~certified mail as provided by regulation adopted as directed~~
2 in subsection (c) of this section, addressed to the licensee
3 at the address shown by the records of the commissioner.

4 "~~(j)~~(k) Pursuant to such hearing, if the
5 commissioner or deputy finds that the grounds therefor exist
6 under ~~Section 27-7-19~~, ~~he may suspend or revoke~~ the applicable
7 statute, the commissioner or deputy may impose licensee
8 penalties against the licenses of the licensee complained
9 against.

10 "(l) An order imposing licensee penalties may be
11 appealed within the time stated in, and according to the
12 provisions of, Section 27-2-32.

13 "§27-8A-1.

14 "(a) Any ~~natural person~~ individual licensed in this
15 state as an insurance producer or service representative for
16 the lines of insurance listed in subsection (b), and not
17 exempt under subsection (c), shall satisfactorily complete a
18 minimum of 24 classroom hours biennially of courses, programs
19 of instruction, or seminars as may be approved by the
20 commissioner pursuant to this chapter, three hours of which
21 shall be on the topic of insurance producer ethics ~~or business~~
22 ~~practices~~. No person holding licenses for more than one line
23 or type of insurance shall be required to complete a greater
24 number of classroom hours than is required of a person holding
25 a license for a single line or type of insurance.

1 "(b) This chapter shall apply to all ~~natural persons~~
2 individuals licensed in this state as insurance producers and
3 service representatives for the following kinds of insurance:

4 "(1) The life lines of authority.

5 "(2) The property lines of authority.

6 "(3) All other lines of insurance for which an
7 examination is required for licensing.

8 "(4) Any combination thereof.

9 "(c) The continuing education requirements of this
10 chapter shall not apply to:

11 "(1) Any person exempt from licensing pursuant to
12 subsection (b) of Section 27-3-27.

13 "(2) Any person licensed only for any kind or kinds
14 of insurance for which an examination is not required by law
15 of this state.

16 "(3) Any person licensed only for limited lines
17 insurance, ~~industrial fire, commonly known as debit fire,~~
18 ~~insurance, or any combination thereof.~~

19 "~~(4) All producers and service representatives~~
20 ~~licensed in this state for 15 years and at least 60 years of~~
21 ~~age or older.~~

22 "~~(5) Any person who holds a designation as a~~
23 ~~Chartered Property and Casualty Underwriter, Certified~~
24 ~~Insurance Counselor, Chartered Life Underwriter, Chartered~~
25 ~~Financial Consultant, Certified Financial Planner certificant,~~
26 ~~Registered Health Underwriter, Registered Employee Benefits~~

1 ~~Consultant, Certified Health Consultant, or Associate Risk~~
2 ~~Manager.~~

3 ~~"(6)(4) Newly licensed producers and service~~
4 ~~representatives for 12 months following the effective date of~~
5 ~~their license.~~

6 ~~"(7) Officers of insurers who are not engaged in the~~
7 ~~active sale of products.~~

8 ~~"(8) Persons who are active members of the Alabama~~
9 ~~Legislature during any portion of the biennial reporting~~
10 ~~period.~~

11 ~~"(d) Up to 24 hours of excess classroom hours~~
12 ~~completed during any two-year period may be carried forward to~~
13 ~~the next biennial reporting period.~~

14 ~~"(e)(d) In lieu of the 24 hours required in~~
15 ~~subsection (a), any producer or service representative~~
16 ~~employed by another producer or by an insurer to work only in~~
17 ~~the office of the employer and who is not licensed as a~~
18 ~~nonresident in any other state shall satisfactorily complete a~~
19 ~~minimum of 12 classroom hours biennially, ~~one and one-half~~ two~~
20 ~~hours of which shall be on the topic of insurance producer~~
21 ~~ethics ~~or business practices.~~~~

22 ~~"(e) Any individual exempt from the requirements of~~
23 ~~this section immediately prior to the effective date of this~~
24 ~~amendatory act shall continue to be exempt from the~~
25 ~~requirements of this section after the effective date of this~~
26 ~~amendatory act, for so long as the individual remains exempt~~
27 ~~as set forth in this section as it existed immediately prior~~

1 to the effective date of this amendatory act, unless the
2 license is permitted to expire or is otherwise terminated and
3 remains out of effect for a period of 12 consecutive months,
4 in which case the exemption shall no longer be applicable.

5 "§27-8A-6.

6 ~~"The department's application for a license renewal~~
7 ~~form shall include a question asking if the producer has met~~
8 ~~the state's continuing education requirements as set forth in~~
9 ~~this chapter, and by signing the application, he or she~~
10 ~~certifies the answer of yes or no as being a correct~~
11 ~~statement. Such certification statement may be answered either~~
12 ~~by the producer, the employer of the producer, or any insurer~~
13 ~~with which the producer is appointed. In answering the~~
14 ~~certification statement, the employer or insurer shall be~~
15 ~~entitled to rely on and act upon the oral or written statement~~
16 ~~of the producer regarding whether the producer has met the~~
17 ~~state's continuing education requirements, what courses,~~
18 ~~programs, or seminars of instruction were taken and the number~~
19 ~~of hours involved. Neither the an employer of a producer or~~
20 ~~service representative nor the any insurer appointing a~~
21 ~~producer or service representative shall be responsible or~~
22 ~~liable in any way for the failure of any producer or service~~
23 ~~representative to meet the requirements of this chapter or to~~
24 ~~maintain the necessary records. No employer or insurer shall~~
25 ~~be required to investigate or inquire whether the producer or~~
26 ~~service representative has met the requirements specified~~
27 ~~herein prior to the agent individual becoming licensed~~

1 appointed as a producer or service representative for the
2 employer or insurer. The responsibility for complying with the
3 requirements of ~~this chapter~~ Sections 27-8A-1 and 27-8A-2
4 shall rest solely on the producer or service representative."

5 Section 2. Section 27-7-4.4 is added to the Code of
6 Alabama 1975, to read as follows:

7 §27-7-4.4. Fingerprints.

8 (a) In order to make a determination of insurance
9 producer license eligibility, the commissioner is authorized
10 to require fingerprints of initial resident applicants for an
11 insurance producer license and to submit the fingerprints and
12 the fee required to perform the criminal history record checks
13 to the Alabama Department of Public Safety and the Federal
14 Bureau of Investigation (FBI) for state and national criminal
15 history record checks.

16 (b) The commissioner shall require a criminal
17 history record check on each initial resident applicant for
18 insurance producer license in accordance with this section.
19 The commissioner shall require each applicant to submit a full
20 set of fingerprints, including a scanned file from a hard copy
21 fingerprint, in order for the commissioner to obtain and
22 receive national criminal history records from the FBI
23 Criminal Justice Information Services Division.

24 (c) The commissioner may contract for the
25 collection, transmission, and resubmission of fingerprints
26 required under this section. If the commissioner does so, the
27 fee for collecting, transmitting, and retaining fingerprints

1 shall be payable directly to the contractor by the applicant.
2 The commissioner may agree to a reasonable fingerprinting fee
3 to be charged by the contractor and both the contractor's fee
4 and the fee required to perform the criminal history check
5 shall be collected from the applicant by the contractor.

6 (d) The commissioner may waive submission of
7 fingerprints by any person who has previously furnished
8 fingerprints and those fingerprints are on file with the
9 centralized repository of the NAIC.

10 (e) The commissioner is authorized to receive
11 criminal history record information in lieu of the Alabama
12 Department of Public Safety that submitted the fingerprints to
13 the FBI.

14 (f) The commissioner is authorized to submit
15 electronic fingerprint records and necessary identifying
16 information to the NAIC for permanent retention in a
17 centralized repository. The purpose of such a centralized
18 repository is to provide insurance commissioners with access
19 to fingerprint records in order to perform criminal history
20 record checks.

21 (g) The commissioner shall treat and maintain an
22 applicant's fingerprints and any criminal history record
23 information obtained under this section as confidential and
24 shall apply security measures consistent with the Criminal
25 Justice Information Services Division of the Federal Bureau of
26 Investigation standards for the electronic storage of
27 fingerprints and necessary identifying information and limit

1 the use of records solely to the purposes authorized in this
2 section. The fingerprints and any criminal history record
3 information shall not be subject to subpoena, other than one
4 issued in a criminal action or investigation, and shall be
5 confidential.

6 (h) As used in this section, "initial resident
7 applicant" means an initial home state license and an
8 additional line of authority under an existing home state
9 license where a criminal history record check has not been
10 obtained.

11 (i) The commissioner may promulgate reasonable
12 regulations as are necessary or proper to carry out the
13 purposes of this section in accordance with Chapter 2 of this
14 title. The commissioner may by regulation provide for the
15 delayed enforcement of this section for up to 24 months
16 following the effective date of this act to allow for
17 implementation.

18 Section 3. Chapter 22A is added to Title 27, Code of
19 Alabama 1975, to read as follows:

20 Chapter 22A. Portable Electronics Insurance.

21 §27-22A-1. Definitions.

22 For purposes of this chapter, the following terms
23 have the following meanings:

24 (1) COMMISSIONER. The Alabama Commissioner of
25 Insurance.

26 (2) CUSTOMER. A person who purchases portable
27 electronics or services.

1 (3) DEPARTMENT. The Alabama Department of Insurance.

2 (4) ENROLLED CUSTOMER. A customer who elects
3 coverage under a portable electronics insurance policy issued
4 to a vendor of portable electronics.

5 (5) LOCATION. Any physical location in the State of
6 Alabama or any website, call center site, or similar location
7 directed to residents of the State of Alabama.

8 (6) PORTABLE ELECTRONICS. Electronic devices that
9 are portable in nature, their accessories and services related
10 to the use of the device.

11 (7)a. PORTABLE ELECTRONICS INSURANCE. Insurance
12 providing coverage for the repair or replacement of portable
13 electronics which may provide coverage for portable
14 electronics against any one or more of the following causes of
15 loss: Loss, theft, inoperability due to mechanical failure,
16 malfunction, damage, or other similar cause of loss.

17 b. "Portable electronics insurance" does not
18 include:

19 1. A service contract governed by Chapter 32 of
20 Title 8 of the Code of Alabama 1975.

21 2. A policy of insurance covering a seller's or a
22 manufacturer's obligations under a warranty.

23 3. A homeowner's, renters, private passenger
24 automobile, commercial multi-peril, or similar policy.

25 (8) PORTABLE ELECTRONICS TRANSACTION. Either of the
26 following:

1 a. The sale or lease of portable electronics by a
2 vendor to a customer.

3 b. The sale of a service related to the use of
4 portable electronics by a vendor to a customer.

5 (9) SUPERVISING ENTITY. A business entity that is a
6 licensed insurer or insurance producer that is appointed by an
7 insurer to supervise the administration of a portable
8 electronics insurance program.

9 (10) VENDOR. A person in the business of engaging in
10 portable electronics transactions directly or indirectly.

11 §27-22A-2. Licensure of vendors.

12 (a) A vendor is required to hold a limited lines
13 insurance producer license to sell or offer coverage under a
14 policy of portable electronics insurance.

15 (b) A limited lines insurance producer license
16 issued in accordance with this chapter shall authorize any
17 employee or authorized representative of the vendor to sell or
18 offer coverage under a policy of portable electronics
19 insurance to a customer at each location at which the vendor
20 engages in portable electronics transactions.

21 (c) The supervising entity shall maintain a registry
22 of vendor locations which are authorized to sell or solicit
23 portable electronics insurance coverage in this state. Upon
24 request by the director and with 10 days' notice to the
25 supervising entity, the registry shall be open to inspection
26 and examination by the director during regular business hours
27 of the supervising entity.

1 (d) Notwithstanding any other provision of law, a
2 license issued in accordance with this section shall authorize
3 the licensee and its employees or authorized representatives
4 to engage in those activities that are permitted in this
5 section.

6 §27-22A-3. Requirements for sale of portable
7 electronics insurance.

8 (a) At every location where portable electronics
9 insurance is offered to customers, brochures or other written
10 materials must be made available to a prospective customer
11 which:

12 (1) Disclose that portable electronics insurance may
13 provide a duplication of coverage already provided by a
14 customer's homeowner's insurance policy, renter's insurance
15 policy, or other source of coverage.

16 (2) State that the enrollment by the customer in a
17 portable electronics insurance program is not required in
18 order to purchase or lease portable electronics or services.

19 (3) Summarize the material terms of the insurance
20 coverage, including all of the following:

- 21 a. The identity of the insurer.
- 22 b. The identity of the supervising entity.
- 23 c. The amount of any applicable deductible and how
24 it is to be paid.
- 25 d. Benefits of the coverage.
- 26 e. Key terms and conditions of coverage such as
27 whether portable electronics may be repaired or replaced with

1 similar make and model reconditioned or non-original
2 manufacturer parts or equipment.

3 (4) Summarize the process for filing a claim,
4 including a description of how to return portable electronics
5 and the maximum fee applicable in the event the customer fails
6 to comply with any equipment return requirements.

7 (5) State that an enrolled customer may cancel
8 enrollment for coverage under a portable electronics insurance
9 policy at any time and the person paying the premium shall
10 receive a refund or credit of any applicable unearned premium.

11 (b) Portable electronics insurance may be offered on
12 a month to month or other periodic basis as a group or master
13 commercial inland marine policy issued to a vendor of portable
14 electronics for its enrolled customers.

15 (c) Eligibility and underwriting standards for
16 customers electing to enroll in coverage shall be established
17 for each portable electronics insurance program.

18 §27-22A-4. Authority of vendors of portable
19 electronics.

20 (a) The employees and authorized representatives of
21 vendors may sell or offer portable electronics insurance to
22 customers and shall not be subject to licensure as an
23 insurance producer under this chapter provided that:

24 (1) The vendor obtains a limited lines license to
25 authorize its employees or authorized representatives to sell
26 or offer portable electronics insurance pursuant to this
27 section.

1 (2) The insurer issuing the portable electronics
2 insurance either directly supervises or appoints a supervising
3 entity to supervise the administration of the program
4 including development of a training program for employees and
5 authorized representatives of the vendors. The training
6 required by this subdivision shall comply with all of the
7 following:

8 a. The training shall be delivered to employees and
9 authorized representatives of the vendors who are directly
10 engaged in the activity of selling or offering portable
11 electronics insurance.

12 b. The training may be provided in electronic form.
13 However, if conducted in an electronic form the supervising
14 entity shall implement a supplemental education program
15 regarding the portable electronics insurance product that is
16 conducted and overseen by licensed employees of the
17 supervising entity.

18 c. Each employee and authorized representative shall
19 receive basic instruction about the portable electronics
20 insurance offered to customers and the disclosures required
21 under Section 27-22A-3.

22 (3) No employee or authorized representative of a
23 vendor of portable electronics shall advertise, represent, or
24 otherwise hold himself or herself out as a nonlimited lines
25 licensed insurance producer.

26 (b) Notwithstanding any other provision of law,
27 employees or authorized representatives of a vendor of

1 portable electronics shall not be compensated based primarily
2 on the number of customers enrolled for portable electronics
3 insurance coverage but may receive compensation for activities
4 under the limited lines license which is incidental to their
5 overall compensation.

6 (c) The charges for portable electronics insurance
7 coverage may be billed and collected by the vendor of portable
8 electronics. Any charge to the enrolled customer for coverage
9 that is not included in the cost associated with the purchase
10 or lease of portable electronics or related services shall be
11 separately itemized on the enrolled customer's bill. If the
12 portable electronics insurance coverage is included with the
13 purchase or lease of portable electronics or related services,
14 the vendor shall clearly and conspicuously disclose to the
15 enrolled customer that the portable electronics insurance
16 coverage is included with the portable electronics or related
17 services. Vendors billing and collecting such charges shall
18 not be required to maintain such funds in a segregated account
19 provided that the vendor is authorized by the insurer to hold
20 such funds in an alternative manner and remits such amounts to
21 the supervising entity within 60 days of receipt. All funds
22 received by a vendor from an enrolled customer for the sale of
23 portable electronics insurance shall be considered funds held
24 in trust by the vendor in a fiduciary capacity for the benefit
25 of the insurer. Vendors may receive compensation for billing
26 and collection services.

27 §27-22A-5. Suspension or revocation of license.

1 (a) If a vendor of portable electronics or its
2 employees or authorized representative violates any provision
3 of this section, the commissioner, after opportunity for
4 hearing, which hearing may be waived, may do any of the
5 following:

6 (1) Impose fines not to exceed five hundred dollars
7 (\$500) per violation or five thousand dollars (\$5,000) in the
8 aggregate for such conduct.

9 (2) Impose other penalties that the commissioner
10 deems necessary and reasonable to carry out the purposes of
11 this chapter, including:

12 a. Suspending the privilege of transacting portable
13 electronics insurance pursuant to this section at specific
14 business locations where violations have occurred.

15 b. Suspending or revoking the ability of individual
16 employees or authorized representatives to act under the
17 license.

18 c. Suspending or revoking the vendor's limited lines
19 insurance producer license.

20 §27-22A-6. Termination of portable electronics
21 insurance.

22 Notwithstanding any other provision of law:

23 (1) An insurer may terminate or otherwise change the
24 terms and conditions of a policy of portable electronics
25 insurance only upon providing the policyholder and enrolled
26 customers with at least 30 days' notice.

1 (2) If the insurer changes the terms and conditions,
2 then the insurer shall provide the vendor policyholder with a
3 revised policy or endorsement and each enrolled customer with
4 a revised certificate, endorsement, updated brochure, or other
5 evidence indicating a change in the terms and conditions has
6 occurred and a summary of material changes.

7 (3) Notwithstanding subdivision (1) of this section,
8 an insurer may terminate an enrolled customer's enrollment
9 under a portable electronics insurance policy upon 15 days'
10 notice for discovery of fraud or material misrepresentation in
11 obtaining coverage or in the presentation of a claim
12 thereunder.

13 (4) Notwithstanding subdivision (1) of this section,
14 an insurer may immediately terminate an enrolled customer's
15 enrollment under a portable electronics insurance policy:

16 a. For nonpayment of premium.

17 b. If the enrolled customer ceases to have an active
18 service with the vendor of portable electronics.

19 c. If an enrolled customer exhausts the aggregate
20 limit of liability, if any, under the terms of the portable
21 electronics insurance policy and the insurer sends notice of
22 termination to the enrolled customer within 30 calendar days
23 after exhaustion of the limit. However, if notice is not
24 timely sent, enrollment shall continue notwithstanding the
25 aggregate limit of liability until the insurer sends notice of
26 termination to the enrolled customer.

1 (5) Where a portable electronics insurance policy is
2 terminated by a policyholder, the policyholder shall mail or
3 deliver written notice to each enrolled customer advising the
4 enrolled customer of the termination of the policy and the
5 effective date of termination. The written notice shall be
6 mailed or delivered to the enrolled customer at least 30 days
7 prior to the termination.

8 (6) Whenever notice or correspondence with respect
9 to coverage under a policy of portable electronics insurance
10 is required pursuant to this section or is otherwise required
11 by law, it shall be in writing and may be mailed or delivered
12 to the vendor of portable electronics at the vendor's mailing
13 address and to its affected enrolled customers' last known
14 mailing addresses on file with the insurer. If mailed, the
15 insurer or vendor of portable electronics, as the case may be,
16 shall maintain proof of mailing in a form authorized or
17 accepted by the United States Postal Service or other
18 commercial mail delivery service. Alternatively, an insurer or
19 vendor policyholder may comply with this subdivision by
20 providing such notice or correspondence to a vendor or its
21 affected enrolled customers, as the case may be, by electronic
22 means. For purposes of this subsection, an enrolled customer's
23 provision of an electronic mail address to the insurer or
24 vendor of portable electronics, as the case may be, shall be
25 deemed consent to receive notices and correspondence by
26 electronic means. If accomplished through electronic means,
27 the insurer or vendor of portable electronics, as the case may

1 be, shall maintain proof that the notice or correspondence was
2 sent.

3 (7) Notice or correspondence required by this
4 section or otherwise required by law may be sent on behalf of
5 an insurer or vendor, as the case may be, by the supervising
6 entity appointed by the insurer.

7 §27-22A-7. Application for license and fees.

8 (a) A sworn application for a license under this
9 chapter shall be made to and filed with the department on
10 forms prescribed and furnished by the commissioner.

11 (b) The application shall provide all of the
12 following:

13 (1) The name, residence address, and other
14 information required by the commissioner for an employee or
15 officer of the vendor that is designated by the applicant as
16 the person responsible for the vendor's compliance with the
17 requirements of this chapter. However, if the vendor derives
18 more than 50 percent of its revenue from the sale of portable
19 electronics insurance the information noted above shall be
20 provided for all officers, directors, and shareholders of
21 record having beneficial ownership of 10 percent or more of
22 any class of securities registered under the federal
23 securities law.

24 (2) The location of the applicant's home office.

25 (c) Any vendor engaging in portable electronics
26 insurance transactions on or before the effective date of this
27 act must apply for licensure within 90 days of the application

1 being made available by the department. Any applicant
2 commencing operations after the effective date of this act
3 must obtain a license prior to offering portable electronics
4 insurance.

5 (d) The commissioner shall by regulation provide for
6 the expiration date of licenses and for the biennial renewal
7 of licenses issued pursuant to this chapter.

8 (e) Each vendor of portable electronics licensed
9 under this chapter shall pay to the commissioner a fee as
10 prescribed by the commissioner but in no event shall the fee
11 exceed one thousand dollars (\$1,000) for an initial portable
12 electronics limited lines license and five hundred dollars
13 (\$500) for each renewal thereof. However, for a vendor that is
14 engaged in portable electronics transactions at 10 or fewer
15 locations in the state the fee shall not exceed one hundred
16 dollars (\$100) for an initial license and for each renewal
17 thereof.

18 (f) Each vendor licensed in accordance with this
19 chapter shall be considered to have performed acts equivalent
20 to and constituting an appointment of the commissioner as the
21 vendor's attorney to receive service of legal process issued
22 against the vendor in this state upon causes of action arising
23 within this state out of transactions under the license. The
24 provisions of Section 27-7-29 applicable to nonresident
25 insurance producers shall be applicable to vendors licensed in
26 accordance with this chapter.

1 Section 4. (a) Every license for the automobile and
2 industrial fire lines of authority in force immediately prior
3 to the effective date of this act and existing under any law
4 amended by this act is valid until its expiration date on or
5 after the effective date of this act, unless earlier
6 terminated in accordance with applicable law. Upon the next
7 renewal of a license for the automobile line of authority, the
8 license shall be replaced with a license for the personal
9 lines line of authority. Upon the next renewal of a license
10 for the industrial fire line of authority, the license shall
11 be replaced with a license for the property line of authority.

12 (b) Any appointment for the automobile or industrial
13 fire lines of authority in place immediately prior to the
14 effective date of this act and existing under any law amended
15 by this act is valid until its expiration date on or after the
16 effective date of this act, unless earlier terminated in
17 accordance with applicable law. Upon the next renewal of an
18 appointment for the automobile line of authority, the
19 appointment shall be replaced with an appointment for the
20 personal lines line of authority, and upon the next renewal of
21 an appointment for the industrial fire line of authority, the
22 appointment shall be replaced with an appointment for the
23 property line of authority, and the appointments shall
24 thereafter be subject to continuation or termination as though
25 originally issued in accordance with this act.

26 Section 5. Sections 27-7-20 and 27-7-21, Code of
27 Alabama 1975, are repealed.

1 Section 6. This act shall become effective on the
2 first day of January next following its passage and approval
3 by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Insurance 07-FEB-12

Read for the second time and placed
on the calendar..... 16-FEB-12

Read for the third time and passed
as amended..... 28-FEB-12

Yeas 101, Nays 2, Abstains 0

Greg Pappas
Clerk