

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

1
2 ENROLLED, An Act,

3 Relating to insurance; to amend Sections 27-7-1,
4 27-7-5, 27-7-14.1, 27-7-17, 27-7-37, 27-8A-1, and 27-8A-6,
5 Code of Alabama 1975, and to add Section 27-7-4.4 to the Code
6 of Alabama 1975; to add Chapter 22A to Title 27, beginning
7 with Section 27-22A-1, and to repeal Sections 27-7-20 and
8 27-7-21, Code of Alabama 1975; to eliminate the insurance
9 producer lines of authority for automobile and industrial fire
10 and provide a transition for existing producer licenses; to
11 add travel and crop insurance as limited lines insurance; to
12 provide exceptions to the prelicensing course of study to
13 qualify for an insurance producer license for applicants with
14 a college insurance degree and for applicants for the variable
15 life and variable annuity line of authority; to authorize the
16 Commissioner of Insurance to prescribe by regulation
17 alternative methods to serve administrative complaints; to
18 eliminate certain exemptions from the continuing education
19 requirements of insurance producers while providing a
20 grandfather provision for those currently exempt; to eliminate
21 the requirement that insurance producers certify on the
22 license renewal form whether they have complied with the
23 continuing education requirement; to require insurance
24 licensees to notify the commissioner of any change in mailing
25 address or electronic mail address within 30 days; to

1 authorize the commissioner to require applicants to submit
2 fingerprints and to perform a criminal history record check of
3 all new applicants; to define terms relating to insurance
4 coverage of portable electronics; to require vendors to hold a
5 certain license to offer a policy of portable electronics
6 insurance; to provide certain requirements applicable to
7 vendors of portable electronics insurance; to provide fees for
8 a limited lines insurance producer license for portable
9 electronics insurance; and to provide an effective date.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 27-7-1, 27-7-5, 27-7-14.1,
12 27-7-17, 27-7-37, 27-8A-1, and 27-8A-6, Code of Alabama 1975,
13 are amended to read as follows:

14 "§27-7-1.

15 "For the purposes of this chapter, the following
16 terms shall have the meanings respectively ascribed to them by
17 this section:

18 "(1) BUSINESS ENTITY. A corporation, association,
19 partnership, limited liability company, limited liability
20 partnership, or other legal entity.

21 "(2) COMMISSIONER. The Alabama Commissioner of
22 Insurance.

23 "(3) HOME STATE. The District of Columbia and any
24 state or territory of the United States in which an insurance
25 producer maintains his or her principal place of residence or

1 principal place of business and is licensed to act as an
2 insurance producer.

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

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

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

1 "(7) LICENSE. A document issued by the commissioner
 2 authorizing a person to act as an insurance producer for the
 3 lines of authority specified in the document. The license
 4 itself does not create any authority, actual, apparent, or
 5 inherent, in the holder to represent or commit an insurance
 6 carrier.

7 "(8) LICENSEE. A producer or service representative
 8 licensed in accordance with this chapter; a reinsurance
 9 intermediary licensed in accordance with Chapter 5A; a
 10 managing general agent licensed in accordance with Chapter 6A;
 11 and a surplus line broker licensed in accordance with Chapter
 12 10.

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

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

1 "~~(9)~~(11) LIMITED LINE CREDIT INSURANCE. Credit life,
2 credit disability, credit property, credit unemployment,
3 creditor-placed, also known as forced-placed, nonfiling,
4 involuntary unemployment, mortgage life, mortgage guaranty,
5 mortgage disability, guaranteed automobile protection (GAP),
6 family and medical leave insurance, and any other form of
7 insurance offered in connection with an extension of credit
8 that is limited to partially or wholly extinguishing that
9 credit obligation that the commissioner determines should be
10 designated a form of limited line credit insurance.

11 "~~(10)~~(12) LIMITED LINE CREDIT INSURANCE PRODUCER. A
12 person who sells, solicits, or negotiates one or more forms of
13 limited line credit insurance coverage to individuals through
14 a master, corporate, group, or individual policy.

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

22 "~~(12)~~(14) LIMITED LINES PRODUCER. A person
23 authorized by the commissioner to sell, solicit, or negotiate
24 limited lines insurance.

1 "~~(13)~~(15) NAIC. The National Association of
2 Insurance Commissioners.

3 "~~(14)~~(16) NEGOTIATE. The act of conferring directly
4 with or offering advice directly to a purchaser or prospective
5 purchaser of a particular contract of insurance concerning any
6 of the substantive benefits, terms, or conditions of the
7 contract, provided that the person engaged in that act either
8 sells insurance or obtains insurance from insurers for
9 purchasers.

10 "~~(15)~~(17) PERSON. An individual or a business
11 entity.

12 "~~(16)~~(18) PROPERTY LINES OF AUTHORITY. Any one or
13 more of the following lines as defined in Section 27-7-14.1:
14 Property; casualty; and personal lines; ~~and automobile.~~

15 "~~(17)~~(19) SELL. To exchange a contract of insurance
16 by any means, for money or its equivalent, on behalf of an
17 insurance company.

18 "~~(18)~~(20) SERVICE REPRESENTATIVE. A natural person,
19 other than an officer, manager, or managing general agent of
20 the insurer, employed on salary or at an hourly rate by an
21 insurer, managing general agent, or a captive producer to work
22 for, with or through producers in selling, soliciting, or
23 negotiating insurance in the insurer or in the insurers
24 represented by the managing general agent or a captive
25 producer, but only in the property lines of authority.

1 Officers and salaried nonresident traveling representatives of
2 a mutual insurer operating on the premium deposit plan or of a
3 reciprocal insurer not using resident producers for the
4 solicitation of business who inspect risks or solicit
5 insurance in this state and who receive no commissions from
6 the insurer shall be deemed also to be service
7 representatives. A service representative shall otherwise
8 qualify and be licensed as a service representative under this
9 chapter, but shall not be required to take and pass an
10 examination nor be a resident of Alabama if qualified as a
11 service representative in the state of his or her domicile.
12 The service representative must be appointed for each insurer
13 or association of insurers represented and for each class of
14 insurance handled by the insurer or insurers in this state.

15 ~~"(19)~~ (21) SOLICIT. Attempting to sell insurance or
16 asking or urging a person to apply for a particular kind of
17 insurance from a particular company.

18 ~~"(20)~~ (22) TERMINATE. The cancellation of the
19 relationship between an insurance producer and the insurer or
20 the termination of a producer's authority to transact
21 insurance.

22 ~~"(21)~~ (23) UNIFORM BUSINESS ENTITY APPLICATION. The
23 current version of the NAIC Uniform Business Entity
24 Application for resident and nonresident business entities.

1 "~~(22)~~(24) UNIFORM APPLICATION. The current version
 2 of the NAIC Uniform Application for resident and nonresident
 3 producer licensing.

4 "§27-7-5.

5 "(a) An individual applying for a resident insurance
 6 producer license shall make application to the commissioner on
 7 the Uniform Application, and an individual applying for a
 8 service representative license shall make application to the
 9 commissioner on the application prescribed by the
 10 commissioner, each declaring under penalty of refusal,
 11 suspension, or revocation of the license that the statements
 12 made in the application are true, correct, and complete to the
 13 best of the individual's knowledge and belief. Before
 14 approving the application, the commissioner shall find that
 15 the individual has satisfied all of the following:

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

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

20 "(3) The individual has completed a prelicensing
 21 course of study for the lines of authority for which the
 22 person has applied, consisting of 20 classroom hours per line
 23 of authority, or equivalent individual instruction, on the
 24 general principles of insurance for that line of authority,
 25 the course to be taught only by those educational

1 institutions, junior or senior colleges, technical colleges,
 2 trade schools, insurance companies, or insurance trade
 3 organizations which hold written authority from the
 4 commissioner to issue certificates of completion.

5 "a. Each authority holder must apply annually for
 6 the continued authority to issue certificates under rules and
 7 regulations to be prescribed by the commissioner.

8 "b. Prior to writing the designated examination for
 9 license, the applicant must furnish a certificate of
 10 completion of the aforesaid prelicensing course from the
 11 authorized educational institution, insurance company, or
 12 insurance trade organization.

13 "c. All applicants for a license to transact the
 14 life lines of authority who are holders of the professional
 15 designation chartered life underwriter (CLU); all applicants
 16 for a license to transact the property lines of authority who
 17 are holders of the professional designations chartered
 18 property casualty underwriter (CPCU) or certified insurance
 19 counselor (CIC); or other similar professional insurance
 20 designations as the commissioner may prescribe by regulation
 21 shall be deemed to have completed the prelicensing course as
 22 prescribed in this subdivision.

23 "d. All applicants with a college insurance degree
 24 minimum of a bachelor's degree with a major in insurance from

1 an accredited college or university are exempt from the
2 requirements of this subdivision for all lines of authority.

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

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

8 "2. Limited lines insurance.

9 "e.f. All producers and service representatives who
10 are lawfully licensed as such for a particular line of
11 authority ~~as an agent, broker, solicitor, or service~~
12 ~~representative~~ immediately prior to ~~January 1, 2002,~~ the
13 effective date of this amendatory act are exempt from the
14 requirements of this subdivision for that line of authority
15 unless, after ~~January 1, 2002~~ the effective date of this
16 amendatory act, the license is permitted to expire or is
17 otherwise terminated and remains out of effect for a period of
18 12 consecutive months, in which case the exemption from the
19 prelicensing course shall no longer be applicable.

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

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

1 "b. All applicants for a license to transact the
 2 ~~life lines of authority who are holders of the professional~~
 3 ~~designation chartered life underwriter (CLU)~~ variable life and
 4 variable annuity products line of authority.

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

9 "d. The commissioner may prescribe by regulation
 10 ~~other similar professional insurance designations as~~
 11 ~~exemptions from the examination requirement for particular~~
 12 ~~lines of authority.~~

13 "~~e.~~c. All producers lawfully licensed as such for a
 14 particular line of authority ~~as an agent, broker, solicitor,~~
 15 ~~or service representative~~ immediately prior to ~~January 1,~~
 16 ~~2002,~~ the effective date of this amendatory act are exempt
 17 from the requirements of this subdivision for that line of
 18 authority unless, after ~~January 1, 2002~~ the effective date of
 19 this amendatory act, the license is permitted to expire or is
 20 otherwise terminated and remains out of effect for a period of
 21 12 consecutive months, in which case the exemption from
 22 examination shall no longer be applicable.

23 "~~f.~~d. All service representatives.

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

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

8 "(b) A business entity acting as an insurance
9 producer is required to obtain an insurance producer license.
10 Application shall be made using the Uniform Business Entity
11 Application. Before approving the application, the
12 commissioner shall find that the business entity has satisfied
13 all of the following:

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

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

19 "(c) The commissioner may require any documents
20 reasonably necessary to verify the information contained in an
21 application.

22 "(d) Each insurer that sells, solicits, or
23 negotiates any form of limited line credit insurance shall
24 provide to each individual whose duties will include selling,

1 soliciting, or negotiating limited line credit insurance a
2 program of instruction.

3 "§27-7-14.1.

4 "(a) Unless denied licensure pursuant to Section
5 27-7-19, persons who have met the requirements of Sections
6 27-7-4.3 and 27-7-5 shall be issued an insurance producer
7 license. An insurance producer may receive qualification for a
8 license in one or more of the following lines of authority:

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

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

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

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

22 "(5) VARIABLE LIFE and VARIABLE ANNUITY PRODUCTS.
23 Insurance coverage provided under variable life insurance
24 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

1 specific trip and sold in connection with transportation
2 provided by a common carrier.

3 "~~(12)~~(13) Any other line of insurance permitted
4 under state laws or regulations.

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

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

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

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

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

1 or her license to lapse may, within 12 months from the due
2 date of the renewal fee, reinstate the same license without
3 the necessity of completing the prelicensing course; however,
4 a penalty in the amount of double the unpaid renewal fee shall
5 be required for any renewal fee received after the due date.

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

14 "§27-7-17.

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

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

1 "(c) In order to assist in the performance of the
2 commissioner's duties, the commissioner may contract with
3 nongovernmental entities, including the NAIC or any affiliates
4 or subsidiaries that the NAIC oversees, to perform any
5 ministerial functions, including the collection of fees,
6 related to producer licensing that the commissioner may deem
7 appropriate.

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

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

21 "§27-7-37.

22 "(a) The department shall institute a proceeding
23 against a licensee for the imposition of licensee penalties by
24 filing and serving a complaint as to the licensee, giving

1 notice thereof to the licensee and all insurers the licensee
2 is licensed or appointed to represent.

3 ~~"(a)(b)(1)~~ Any person having an interest and feeling
4 aggrieved may file a complaint with the commissioner against
5 any licensed agent, solicitor, broker, managing general agent
6 or service representative for the purpose of revocation or
7 suspension of his license licensee seeking the imposition of
8 licensee penalties against the licensee. The third-party
9 complaint shall be in writing and shall specify in reasonable
10 detail the charge or charges made, the truth of which shall be
11 sworn to by the complainant or some other person who has
12 knowledge of the facts averred.

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

1 "(c) The commissioner shall by regulation prescribe
2 the methods through which service of a complaint and other
3 documents are made, which methods may include personal
4 service, service by first class mail or certified mail,
5 service by publication, service by electronic means, or such
6 other alternative or dual methods of service as the
7 commissioner may determine to be reasonably calculated to
8 furnish notice under the circumstances.

9 "~~(c)~~(d) Within 30 days after service upon the
10 licensee of the copy of the complaint ~~made against him~~, the
11 licensee shall file with the commissioner ~~his~~ an answer in
12 writing to the charges, either specifically admitting or
13 denying or specifically confessing and avoiding each of the
14 charges made. If the licensee against whom the complaint has
15 been made stands in default for answer, the charges set forth
16 in the complaint shall be taken as admitted and the
17 commissioner may enter an order imposing such licensee
18 penalties as may be warranted without the need for a hearing.

19 "~~(d)~~(e) After receipt of the licensee's answer, the
20 commissioner shall fix a time and place for the hearing of the
21 complaint at ~~his~~ the commissioner's office or elsewhere as
22 provided in Section 27-2-30 and shall serve notice thereof
23 upon the licensee and ~~the~~ any third-party complainant ~~by~~
24 ~~registered or certified mail~~ as provided by regulation adopted
25 as directed in subsection ~~(b)~~ (c) of this section ~~with respect~~

1 ~~to service of the complaint upon the licensee~~; such notice
2 shall be served at least 20 days before the date fixed for the
3 hearing.

4 "~~(e)~~ (f) At the time fixed by the commissioner for
5 the hearing, the complaint shall be heard before the
6 commissioner or a deputy appointed by ~~him~~ the commissioner,
7 and ~~the~~ any third-party complainant and licensee may each be
8 represented by an attorney-at-law and may give the testimony
9 and offer proof, documentary or ore tenus, as to the truth of
10 the charges and any denial thereof.

11 "~~(f)~~ (g) The commissioner shall have any power of
12 subpoena, subpoena duces tecum or discovery obtaining in the
13 circuit courts of this state, and any party shall have the
14 right, upon request in writing filed with the commissioner, to
15 cause a writ of subpoena to issue out of the office of the
16 commissioner which shall be signed by ~~him~~ the commissioner or
17 his or her deputy and directed to the sheriff of any county of
18 this state returnable to the office of the commissioner. The
19 cost of issuing and serving subpoenas and witness fees shall
20 be the same as such costs and fees in the circuit court and
21 shall be recoverable by the prevailing party from the other
22 party. The commissioner shall tax such costs, and, upon the
23 same not being paid within a period of 10 days therefrom,
24 payment thereof may be enforced in any court having
25 jurisdiction over the person of the defaulting party.

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

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

9 "~~(i)~~(j) The commissioner or the deputy shall, ~~within~~
10 ~~30 days~~ as soon as practicable after the conclusion of the
11 hearing, make a ruling in writing fully disposing of the
12 complaint and a copy of the ruling shall be served upon ~~the~~
13 any third-party complainant, the licensee and all ~~interested~~
14 ~~parties~~ insurers represented by the licensee, ~~by registered or~~
15 ~~certified mail~~ as provided by regulation adopted as directed
16 in subsection (c) of this section, addressed to the licensee
17 at the address shown by the records of the commissioner.

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

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

4 "§27-8A-1.

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

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

20 "(1) The life lines of authority.

21 "(2) The property lines of authority.

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

24 "(4) Any combination thereof.

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

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

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

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

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

14 "~~(5) Any person who holds a designation as a~~
15 ~~Chartered Property and Casualty Underwriter, Certified~~
16 ~~Insurance Counselor, Chartered Life Underwriter, Chartered~~
17 ~~Financial Consultant, Certified Financial Planner certificant,~~
18 ~~Registered Health Underwriter, Registered Employee Benefits~~
19 ~~Consultant, Certified Health Consultant, or Associate Risk~~
20 ~~Manager.~~

21 "~~(6)~~ (4) Newly licensed producers and service
22 representatives for 12 months following the effective date of
23 their license.

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

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

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

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

15 "(e) Any individual exempt from the requirements of
 16 this section immediately prior to the effective date of this
 17 amendatory act shall continue to be exempt from the
 18 requirements of this section after the effective date of this
 19 amendatory act, for so long as the individual remains exempt
 20 as set forth in this section as it existed immediately prior
 21 to the effective date of this amendatory act, unless the
 22 license is permitted to expire or is otherwise terminated and
 23 remains out of effect for a period of 12 consecutive months,
 24 in which case the exemption shall no longer be applicable.

25 "§27-8A-6.

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

1 requirements of ~~this chapter~~ Sections 27-8A-1 and 27-8A-2
 2 shall rest solely on the producer or service representative."

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

5 §27-7-4.4. Fingerprints.

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

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

22 (c) The commissioner may contract for the
 23 collection, transmission, and resubmission of fingerprints
 24 required under this section. If the commissioner does so, the
 25 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

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

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

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

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

22 Chapter 22A. Portable Electronics Insurance.

23 §27-22A-1. Definitions.

24 For purposes of this chapter, the following terms
25 have the following meanings:

1 (1) COMMISSIONER. The Alabama Commissioner of
2 Insurance.

3 (2) CUSTOMER. A person who purchases portable
4 electronics or services.

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

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

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

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

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

21 b. "Portable electronics insurance" does not
22 include:

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

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

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

5 (8) PORTABLE ELECTRONICS TRANSACTION. Either of the
6 following:

7 a. The sale or lease of portable electronics by a
8 vendor to a customer.

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

11 (9) SUPERVISING ENTITY. A business entity that is a
12 licensed insurer or insurance producer that is appointed by an
13 insurer to supervise the administration of a portable
14 electronics insurance program.

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

17 §27-22A-2. Licensure of vendors.

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

21 (b) A limited lines insurance producer license
22 issued in accordance with this chapter shall authorize any
23 employee or authorized representative of the vendor to sell or
24 offer coverage under a policy of portable electronics

1 insurance to a customer at each location at which the vendor
2 engages in portable electronics transactions.

3 (c) The supervising entity shall maintain a registry
4 of vendor locations which are authorized to sell or solicit
5 portable electronics insurance coverage in this state. Upon
6 request by the director and with 10 days' notice to the
7 supervising entity, the registry shall be open to inspection
8 and examination by the director during regular business hours
9 of the supervising entity.

10 (d) Notwithstanding any other provision of law, a
11 license issued in accordance with this section shall authorize
12 the licensee and its employees or authorized representatives
13 to engage in those activities that are permitted in this
14 section.

15 §27-22A-3. Requirements for sale of portable
16 electronics insurance.

17 (a) At every location where portable electronics
18 insurance is offered to customers, brochures or other written
19 materials must be made available to a prospective customer
20 which:

21 (1) Disclose that portable electronics insurance may
22 provide a duplication of coverage already provided by a
23 customer's homeowner's insurance policy, renter's insurance
24 policy, or other source of coverage.

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

4 (3) Summarize the material terms of the insurance
5 coverage, including all of the following:

6 a. The identity of the insurer.

7 b. The identity of the supervising entity.

8 c. The amount of any applicable deductible and how
9 it is to be paid.

10 d. Benefits of the coverage.

11 e. Key terms and conditions of coverage such as
12 whether portable electronics may be repaired or replaced with
13 similar make and model reconditioned or non-original
14 manufacturer parts or equipment.

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

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

23 (b) Portable electronics insurance may be offered on
24 a month to month or other periodic basis as a group or master

1 commercial inland marine policy issued to a vendor of portable
2 electronics for its enrolled customers.

3 (c) Eligibility and underwriting standards for
4 customers electing to enroll in coverage shall be established
5 for each portable electronics insurance program.

6 §27-22A-4. Authority of vendors of portable
7 electronics.

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

12 (1) The vendor obtains a limited lines license to
13 authorize its employees or authorized representatives to sell
14 or offer portable electronics insurance pursuant to this
15 section.

16 (2) The insurer issuing the portable electronics
17 insurance either directly supervises or appoints a supervising
18 entity to supervise the administration of the program
19 including development of a training program for employees and
20 authorized representatives of the vendors. The training
21 required by this subdivision shall comply with all of the
22 following:

23 a. The training shall be delivered to employees and
24 authorized representatives of the vendors who are directly

1 engaged in the activity of selling or offering portable
2 electronics insurance.

3 b. The training may be provided in electronic form.
4 However, if conducted in an electronic form the supervising
5 entity shall implement a supplemental education program
6 regarding the portable electronics insurance product that is
7 conducted and overseen by licensed employees of the
8 supervising entity.

9 c. Each employee and authorized representative shall
10 receive basic instruction about the portable electronics
11 insurance offered to customers and the disclosures required
12 under Section 27-22A-3.

13 (3) No employee or authorized representative of a
14 vendor of portable electronics shall advertise, represent, or
15 otherwise hold himself or herself out as a nonlimited lines
16 licensed insurance producer.

17 (b) Notwithstanding any other provision of law,
18 employees or authorized representatives of a vendor of
19 portable electronics shall not be compensated based primarily
20 on the number of customers enrolled for portable electronics
21 insurance coverage but may receive compensation for activities
22 under the limited lines license which is incidental to their
23 overall compensation.

24 (c) The charges for portable electronics insurance
25 coverage may be billed and collected by the vendor of portable

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

20 §27-22A-5. Suspension or revocation of license.

21 (a) If a vendor of portable electronics or its
22 employees or authorized representative violates any provision
23 of this section, the commissioner, after opportunity for
24 hearing, which hearing may be waived, may do any of the
25 following:

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

4 (2) Impose other penalties that the commissioner
5 deems necessary and reasonable to carry out the purposes of
6 this chapter, including:

7 a. Suspending the privilege of transacting portable
8 electronics insurance pursuant to this section at specific
9 business locations where violations have occurred.

10 b. Suspending or revoking the ability of individual
11 employees or authorized representatives to act under the
12 license.

13 c. Suspending or revoking the vendor's limited lines
14 insurance producer license.

15 §27-22A-6. Termination of portable electronics
16 insurance.

17 Notwithstanding any other provision of law:

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

22 (2) If the insurer changes the terms and conditions,
23 then the insurer shall provide the vendor policyholder with a
24 revised policy or endorsement and each enrolled customer with
25 a revised certificate, endorsement, updated brochure, or other

1 evidence indicating a change in the terms and conditions has
2 occurred and a summary of material changes.

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

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

12 a. For nonpayment of premium.

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

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

23 (5) Where a portable electronics insurance policy is
24 terminated by a policyholder, the policyholder shall mail or
25 deliver written notice to each enrolled customer advising the

1 enrolled customer of the termination of the policy and the
2 effective date of termination. The written notice shall be
3 mailed or delivered to the enrolled customer at least 30 days
4 prior to the termination.

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

1 (c) Any vendor engaging in portable electronics
2 insurance transactions on or before the effective date of this
3 act must apply for licensure within 90 days of the application
4 being made available by the department. Any applicant
5 commencing operations after the effective date of this act
6 must obtain a license prior to offering portable electronics
7 insurance.

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

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

21 (f) Each vendor licensed in accordance with this
22 chapter shall be considered to have performed acts equivalent
23 to and constituting an appointment of the commissioner as the
24 vendor's attorney to receive service of legal process issued
25 against the vendor in this state upon causes of action arising

1 within this state out of transactions under the license. The
2 provisions of Section 27-7-29 applicable to nonresident
3 insurance producers shall be applicable to vendors licensed in
4 accordance with this chapter.

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

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

1 appointment shall be replaced with an appointment for the
2 property line of authority, and the appointments shall
3 thereafter be subject to continuation or termination as though
4 originally issued in accordance with this act.

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

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

