

1 SB164
2 135931-6
3 By Senators Blackwell, Whatley and Scofield
4 RFD: Banking and Insurance
5 First Read: 07-FEB-12

1 SB164

2
3
4 ENROLLED, An Act,

5 To amend Sections 27-27-26, 27-27-29, 27-41-5, and
6 27-41-27, Code of Alabama 1975, to provide certain exemptions
7 to certain officers or directors, members of a committee, or
8 employees of a domestic insurer who are charged with the duty
9 of handling the funds of the insurer; to require domestic
10 insurers to maintain its assets in financial institutions
11 conducting business in this state; to allow domestic insurers
12 to deposit assets outside this state for purposes of
13 safekeeping or for the convenient operation of the insurer; to
14 allow securities of an insurer to be segregated or commingled
15 with securities owned by other insurers if the arrangement is
16 approved by the Commissioner of the Department of Insurance;
17 to allow a domestic insurer to invest in securities or other
18 investments located in countries other than the United States
19 or Canada; and to limit investments or loans relating to an
20 insurer's admitted assets.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 27-27-26, 27-27-29, 27-41-5, and
23 27-41-27, Code of Alabama 1975, are amended to read as
24 follows:

25 "§27-27-26.

1 "(a) No officer or director of a domestic insurer,
2 and no member of any committee or employee of a domestic
3 insurer who is charged with the duty of investing or handling
4 the funds of the insurer, shall do any of the following:

5 "(1) Deposit or invest the funds except in the
6 corporate name of the insurer; except, that the insurer may
7 for its convenience hold any equity investment in a street
8 name or in the name of a nominee.

9 "(2) Borrow the funds of the insurer.

10 "(3) Be pecuniarily interested in any loan, pledge
11 or deposit, security, investment, sale, purchase, exchange,
12 reinsurance, or other similar transaction or property of the
13 insurer except as follows:

14 "a. As a stockholder or member of the insurer.

15 "b. As a holder or owner of common stock or
16 equity-like preferred stock in any corporation or business
17 entity trading on a national or international stock exchange.

18 "c. As a holder or owner of shares of mutual funds,
19 bond funds, or private equity funds registered with the United
20 States Securities and Exchange Commission.

21 "d. As a holder or owner of bonds and other
22 evidences of indebtedness of governmental units in the United
23 States or Canada or private business entities domiciled in the
24 United States or Canada.

1 "e. As a holder or owner of bonds and other
2 evidences of indebtedness of international development
3 organizations of which the United States is a member.

4 "(4) Take from a stockholder or member and receive
5 to his or her own use any fee, brokerage, commission, gift, or
6 other consideration for, or on account of, any such
7 transaction made by, or on behalf of, the insurer.

8 "(b) No insurer shall guarantee any financial
9 obligation of any of its officers or directors.

10 "(c) This section shall not prohibit such a
11 director, or officer, or member of a committee or employee
12 from becoming a policyholder of the insurer and enjoying the
13 usual rights so provided for its policyholders, nor shall it
14 prohibit any officer, director, or member of a committee or
15 employee from participating as beneficiary in any pension
16 trust, deferred compensation plan, profit-sharing plan, or
17 stock option plan authorized by the insurer and to which he or
18 she may be eligible, nor shall it prohibit any director or
19 member of a committee from receiving a reasonable fee for
20 legal services actually rendered to the insurer.

21 "(d) The commissioner may, by regulations from time
22 to time, define and permit additional exceptions to the
23 prohibition contained in subsection (a) of this section solely
24 to enable payment of reasonable compensation to a director who
25 is not otherwise an officer or employee of the insurer, or to

1 a corporation or firm in which a director is interested, for
2 necessary services performed or sales or purchases made to, or
3 for, the insurer in the ordinary course of the business of the
4 insurer and in the usual private professional or business
5 capacity of the director or the corporation or firm.

6 "§27-27-29.

7 "(a) Every domestic insurer shall have, and
8 maintain, its principal place of business and home office in
9 this state and shall keep in this state complete records of
10 its assets, transactions, and affairs in accordance with such
11 methods and systems as are customary or suitable as to the
12 kind, or kinds, of insurance transacted.

13 "(b) Every domestic insurer shall have, and
14 maintain, its assets in this state, or in a financial
15 institution conducting business in this state except as to:

16 "(1) Real property and personal property appurtenant
17 to the real property lawfully owned by the insurer and located
18 outside this state.

19 "(2) The property of the insurer as may be
20 customary, necessary, and convenient to enable and facilitate
21 the operation of its branch offices and regional home offices
22 located outside this state as referred to in subsection (d).

23 "(3) Having, depositing, or transmitting funds and
24 assets of the insurer in, or to, a jurisdiction outside of
25 this state as required by the law of the jurisdiction or as

1 reasonably required in the course of its business, including
2 the retention of funds, assets, personal property, or
3 securities in a depository outside the State of Alabama for
4 purposes of safekeeping or for the convenient operation of the
5 insurer.

6 "(c) Removal of all, or a material part of, the
7 records or assets of a domestic insurer from this state except
8 pursuant to a plan of merger or consolidation approved by the
9 commissioner under this title, or for such reasonable purposes
10 and periods of time as may be approved by the commissioner in
11 writing in advance of the removal, or concealment of the
12 records or assets, or material part of the records or assets,
13 from the commissioner is prohibited. Any person who removes,
14 or attempts to remove, such records or assets, or such
15 material part of the records or assets, from the home office
16 or other place of business or of safekeeping of the insurer in
17 this state with the intent to remove the records or assets
18 from this state or who conceals or attempts to conceal the
19 records or assets from the commissioner, in violation of this
20 section, shall, upon conviction, be guilty of a felony,
21 punishable by a fine of not more than ten thousand dollars
22 (\$10,000), or by imprisonment in the penitentiary for not more
23 than five years, or by both the fine and imprisonment in the
24 discretion of the court. Upon any removal or attempted removal
25 of the records or assets or upon retention of the records or

1 assets, or material part thereof, outside this state beyond
2 the period therefor specified in the consent of the
3 commissioner under which the records were so removed thereat
4 or upon concealment of, or attempt to conceal, records or
5 assets in violation of this section, the commissioner may
6 institute delinquency proceedings against the insurer pursuant
7 to the provisions of Chapter 32 of this title.

8 "(d) This section may not be deemed to prohibit or
9 prevent an insurer from:

10 "(1) Establishing and maintaining branch offices or
11 regional home offices in other states where necessary or
12 convenient for the transaction of its business and keeping
13 therein the detailed records and assets customary and
14 necessary for the servicing of its insurance in force and
15 affairs in the territory served by such an office, as long as
16 such records and assets are made readily available at the
17 office for examination by the commissioner or at his or her
18 request.

19 "(2) Using custodial arrangements for the holding of
20 securities owned by the insurer, either in or outside of this
21 state, and either segregated from or commingled with
22 securities owned by others, if the arrangements conform to
23 rules adopted by the commissioner for safeguarding the assets
24 and facilitating the examination by the commissioner of
25 insurers using the custodial arrangements.

1 "(e) With the written permission of the
2 commissioner, a domestic insurer may maintain its executive
3 offices outside the State of Alabama and keep there complete
4 records of its assets, transactions, and affairs in accordance
5 with the methods and systems as are customary or suitable for
6 the kind or kinds of insurance transacted. All records kept at
7 the executive offices outside Alabama shall be made available
8 to the commissioner of Alabama upon reasonable notice by the
9 commissioner.

10 "(f) This section shall not apply to those actions
11 taken by insurance companies prior to January 1, 1972, but
12 only applies to future actions of domestic insurance
13 companies.

14 "(g) Notwithstanding any other provision of this
15 section, any company may evidence ownership of its assets by
16 use of a clearing corporation or book-entry deposit system.

17 "§27-41-5.

18 "An insurer shall not make any investment or loan
19 exceeding 10 percent of the admitted assets of the insurer,
20 other than loans on policies or annuity contracts, unless
21 authorized, approved or ratified by the board of directors of
22 the insurer or by the committee or person as the board of
23 directors shall expressly authorize. The action of the board
24 of directors, the committee, or other persons so authorized
25 shall be recorded and regular reports thereof shall be

1 submitted to the board of directors. This requisite shall not
2 apply to funeral supplies authorized for mutual aid
3 associations under Section 27-41-38 which are purchased in the
4 regular course of business under the general supervision of
5 the association's board of directors.

6 "§27-41-27.

7 "(a) An insurer may invest in securities or other
8 investments (1) issued in, (2) located in, (3) denominated in
9 the currency of, (4) whose ultimate payment amounts of
10 principal or interest are subject to fluctuations in the
11 currency of, or (5) whose obligors are domiciled in countries
12 other than the United States or Canada, which are
13 substantially of the same kinds and classes as those
14 authorized for investment under this chapter.

15 "(b) Subject to the limitations in subsection (c) of
16 this section.

17 "(1) An investment of an insurer authorized under
18 subsection (a) of this section in any one foreign jurisdiction
19 whose sovereign debt has a 1 designation from the Securities
20 Valuation Office shall not exceed 10 percent of the admitted
21 assets of the insurer.

22 "(2) An investment of an insurer authorized under
23 subsection (a) of this section in any one foreign jurisdiction
24 whose sovereign debt has a 2 or 3 designation from the

1 Securities Valuation Office may not exceed five percent of the
2 admitted assets of the insurer.

3 "(3) An investment of an insurer authorized under
4 subsection (a) of this section in any one foreign jurisdiction
5 whose sovereign debt has a 4, 5, or 6 designation from the
6 Securities Valuation Office may not exceed three percent of
7 the admitted assets of the insurer.

8 "(4) An investment of an insurer authorized under
9 subsection (a) of this section denominated in any one foreign
10 currency may not exceed two percent of the admitted assets of
11 the insurer.

12 "(5) An investment of an insurer authorized under
13 subsection (a) of this section denominated in foreign
14 currencies may not exceed, in the aggregate, five percent of
15 the admitted assets of the insurer.

16 "(6) An investment of an insurer authorized under
17 subsection (a) of this section may not be considered
18 denominated in a foreign currency if the acquiring insurer
19 enters into one or more contracts in permitted transactions to
20 exchange all payments made on the foreign currency denominated
21 investment for United States currency at a rate which
22 effectively insulates the investment cash flow against future
23 changes in currency exchange rates during the period the
24 contract or contracts are in effect.

1 "(c) An investment of an insurer authorized under
2 subsection (a) of this section may not exceed, in the
3 aggregate, 20 percent of its admitted assets.

4 "(7) The Securities Valuation Office (SVO) or its
5 successor or interest means the National Association of
6 Insurance Commissioners office that is responsible for the
7 day-to-day credit quality assessment and valuation of
8 securities owned by state regulated insurance companies.

9 "(d) An insurer which is authorized to do business
10 in a foreign country or which has outstanding insurance,
11 annuity, or reinsurance contracts on lives or risks resident
12 in or located in a foreign country may, in addition to the
13 investments authorized by subsection (a) of this section,
14 invest securities and investments (1) issued in, (2) located
15 in, (3) denominated in the currency of, (4) whose ultimate
16 payment amounts of principal and interest are subject to
17 fluctuations in the currency of, or (5) whose obligors are
18 domiciled in the foreign countries which are substantially of
19 the same kinds and classes as those authorized for investment
20 under this chapter.

21 "(e) An investment of an insurer authorized under
22 subsection (d) of this section and cash in the currency of the
23 country which is at any time held by the insurer, may not
24 exceed, in the aggregate, the greater of (1) one and one-half
25 times the amount of its reserves and other obligations under

1 the contracts or (2) the amount which the insurer is required
2 by law to invest in the country."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB164
Senate 24-APR-12
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 08-MAY-12

By: Senator Blackwell