

1 SB300
2 136099-1
3 By Senator Smitherman
4 RFD: Banking and Insurance
5 First Read: 07-MAR-13

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8 SYNOPSIS: To repeal portions of Title 27 of the Code
9 of Alabama 1975.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT

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15 Relating to the Alabama Insurance Code, to repeal
16 the following:

17 27-6-4 (a) Deposits made in this state under
18 Sections 27-3-11, 27-3-12 and 27-3-14, together with deposit
19 of reserves of domestic life insurers under registered
20 policies heretofore issued, shall be made through the
21 commissioner with the Treasurer of the State of Alabama. (b)
22 The State Treasurer, in his official capacity, shall take
23 receipt for and hold deposits made under this title as
24 provided in subsection (a) of this section, subject to the
25 provisions of this chapter. (c) The State Treasurer shall
26 hold all such deposits in safekeeping in the vaults located in
27 his offices or, if space in such vaults is not reasonably

1 adequate and safe for all securities and property otherwise to
2 be contained therein, the Treasurer may keep such securities
3 in safe deposit boxes rented by him for the purpose and under
4 his control in established safe deposit institutions located
5 in the City of Montgomery, Alabama. (d) The Treasurer shall
6 be the custodian only of such deposits and shall have no
7 powers or responsibility as to the character or amount
8 thereof. He shall accept, permit substitutions, and release
9 securities or assets so deposited only upon written
10 authorization of the commissioner and the insurer or upon
11 order of the court and shall have no obligation to determine
12 in any instance whether such authorization or order, if
13 genuine, is otherwise lawful or proper. (e) For all
14 securities and assets deposited as provided in this section,
15 the faith and credit of the State of Alabama is pledged that
16 the same will be returned to the parties entitled to receive
17 them or disposed of as provided in this chapter.

18 27-6-5 The commissioner shall keep a record of the
19 securities and assets comprising each deposit, showing by item
20 the amount and market value and of all his transactions
21 relative thereto.

22 27-6-6 (a) All securities not negotiable by delivery
23 and deposited by an insurer shall be duly assigned to the
24 commissioner and his successors in office. All other assets so
25 deposited shall be duly transferred or conveyed to the
26 commissioner. Upon release of any such security or asset to
27 the insurer, the commissioner shall reassign, or transfer or

1 reconvey the same to the insurer. (b) The commissioner may,
2 in his discretion, prior to acceptance for deposit of any
3 security or asset or at any time thereafter while so
4 deposited, have the same appraised or valued by competent
5 appraisers. The reasonable costs of any such appraisal or
6 valuation shall be borne by the insurer.

7 27-6-7 In lieu of the assignment, transfer or
8 conveyance of securities and assets to the commissioner as
9 provided for in subsection (a) of Section 27-6-6 and at all
10 events in connection with any deposit heretofore or hereafter
11 made through the commissioner, the commissioner may require or
12 permit the depositing insurer to deliver to him a power of
13 attorney, executed by the lawful owner of such securities or
14 assets, authorizing the commissioner to transfer, sell, or
15 exchange the same for the purposes of the law under which the
16 same are deposited or held on deposit. The power of attorney
17 shall specifically describe each of the securities and assets
18 covered thereby and shall not be a general power of attorney
19 covering all securities and assets on deposit or thereafter
20 deposited.

21 27-6-8 The commissioner shall exercise the power
22 granted by the power of attorney provided for in Section
23 27-6-7 or otherwise sell any security or asset under any
24 assignment, transfer or conveyance pursuant to Section 27-6-6,
25 only pursuant to, and in accordance with, an order of a court
26 of competent jurisdiction in a proper proceeding or action to
27 which the insurer owning such securities or assets is a party.

1 This section shall not apply as to the special deposits of
2 surety insurers which are subject to Section 27-6-13.

3 27-6-9 The power of attorney provided for in Section
4 27-6-7 shall be kept by the commissioner in a place of
5 safekeeping and may be physically attached to the securities
6 or assets described therein. Whenever such securities or
7 assets, or any portion thereof, are returned to the insurer
8 which deposited them, the power of attorney shall be returned
9 to the insurer or to the trustee or other representative
10 authorized for that purpose.

11 27-6-10 If less than all of the securities or assets
12 covered by any such power of attorney is returned to the
13 insurer or its trustee or agent, the commissioner may require
14 the insurer to deliver to him, as a condition precedent to the
15 return of such power of attorney, a new power of attorney
16 covering the securities and assets not then being withdrawn.
17 The new power of attorney shall be held and exercised under
18 the same restrictions and upon the same conditions as
19 prescribed in this chapter for the original power of attorney.

20 27-6-11 An insurer may so deposit assets or
21 securities in an amount exceeding its deposit required or
22 otherwise permitted under this title by not more than 20
23 percent of such required or permitted deposit or \$100,000.00,
24 whichever is the larger amount, for the purpose of absorbing
25 fluctuations in the value of securities and assets deposited
26 and to facilitate the exchange and substitution of such
27 securities and assets. During the solvency of the insurer, any

1 such excess shall be released to the insurer upon its request.
2 During the insolvency of the insurer, such excess deposit
3 shall be released only as provided in subdivision (b) (3) of
4 Section 27-6-15.

5 27-6-12 So long as the insurer remains solvent and
6 is in compliance with this title, it may: (1) Demand,
7 receive, maintain actions for, and recover the income from the
8 securities or assets deposited; (2) Exchange and substitute
9 for the deposited securities or assets, or any part thereof,
10 other eligible securities and assets of equivalent or greater
11 value; and (3) At any reasonable time, inspect any such
12 deposit.

13 27-6-13 (a) If any surety insurer which has made the
14 deposit provided for in Section 27-3-12 fails or refuses to
15 pay any final judgment entered against it upon any bond or
16 undertaking from which no appeal and supersedeas has been
17 taken for 30 days after the entry of such judgment, the clerk
18 or register of the court in which such judgment was entered
19 shall certify a copy thereof to the commissioner, together
20 with the fact that it remains unpaid, and the commissioner
21 shall sell as many of the securities or other assets deposited
22 by such insurer as may be necessary to pay such judgment, and
23 the interest and costs thereon, and to pay to the clerk or
24 register of the court, from the proceeds of the sale, the
25 amount of the judgment, with interest and costs. The
26 commissioner shall sell such securities or other assets at
27 private or public sale, with or without notice, or so many as

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 27-6-4 to 27-6-13, Code of
3 Alabama 1975, are repealed.

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