

1 SB301  
2 136098-1  
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  
14

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

17 27-5A-8 The reinsurance intermediary-manager shall  
18 not: (1) Cede retrocessions on behalf of the reinsurer,  
19 except that the reinsurance intermediary-manager may cede  
20 facultative retrocessions pursuant to obligatory facultative  
21 agreements if the contract with the reinsurer contains  
22 reinsurance underwriting guidelines for such retrocessions.  
23 The guidelines shall include a list of reinsurers with which  
24 any automatic agreements are in effect, and for each such  
25 reinsurer, the coverages and amounts or percentages that may  
26 be reinsured, and commission schedules. (2) Commit the  
27 reinsurer to participate in reinsurance syndicates. (3)

1 Appoint any producer without assuring that the producer is  
2 lawfully licensed to transact the type of reinsurance for  
3 which the producer is appointed. (4) Without prior approval  
4 of the reinsurer, pay or commit the reinsurer to pay a claim,  
5 net of retrocessions, that exceeds the lesser of an amount  
6 specified by the reinsurer or one percent of the reinsurer's  
7 policyholder's surplus as of December 31 of the last complete  
8 calendar year. (5) Collect any payment from a  
9 retrocessionaire or commit the reinsurer to any claim  
10 settlement with a retrocessionaire, without prior approval of  
11 the reinsurer. If prior approval is given, a report shall be  
12 promptly forwarded to the reinsurer. (6) Jointly employ an  
13 individual who is employed by the reinsurer unless such  
14 reinsurance intermediary-manager is under common control with  
15 the reinsurer subject to the Chapter 29, Title 27. (7)  
16 Appoint a sub-reinsurance intermediary-manager.

17 27-5A-9 (a) A reinsurer shall not engage the  
18 services of any person, firm, association, or corporation to  
19 act as a reinsurance intermediary-manager on its behalf unless  
20 such person is licensed as required by subsection (b) of  
21 Section 27-5A-3. (b) The reinsurer shall annually obtain a  
22 copy of statements of the financial condition of each  
23 reinsurance intermediary-manager which such reinsurer has  
24 engaged prepared by an independent certified accountant in a  
25 form acceptable to the commissioner. (c) If a reinsurance  
26 intermediary-manager establishes loss reserves, the reinsurer  
27 shall annually obtain the opinion of an actuary attesting to

1 the adequacy of loss reserves established for losses incurred  
2 and outstanding on business produced by the reinsurance  
3 intermediary-manager. This opinion shall be in addition to any  
4 other required loss reserve certification. (d) Binding  
5 authority for all retrocessional contracts or participation in  
6 reinsurance syndicates shall rest with an officer of the  
7 reinsurer who shall not be affiliated with the reinsurance  
8 intermediary-manager. (e) Within 30 days of termination of a  
9 contract with a reinsurance intermediary-manager, the  
10 reinsurer shall provide written notification of such  
11 termination to the commissioner. (f) A reinsurer shall not  
12 appoint to its board of directors, any officer, director,  
13 employee, controlling shareholder, or subproducer of its  
14 reinsurance intermediary-manager. This subsection shall not  
15 apply to relationships governed by Chapter 29, Title 27.

16 27-5A-10 (a) A reinsurance intermediary shall be  
17 subject to examination by the commissioner. The commissioner  
18 shall have access to all books, bank accounts, and records of  
19 the reinsurance intermediary in a form usable to the  
20 commissioner. (b) A reinsurance intermediary-manager may be  
21 examined as if it were the reinsurer.

22 27-5A-11 (a) A reinsurance intermediary, insurer, or  
23 reinsurer found by the commissioner, after a hearing conducted  
24 in accordance with Section 27-2-28, to be in violation of this  
25 chapter, shall: (1) For each separate violation, pay a  
26 penalty in an amount not exceeding \$5,000. (2) Be subject to  
27 revocation or suspension of its license. (3) If a violation

1 was committed by the reinsurance intermediary, the reinsurance  
2 intermediary shall make restitution to the insurer, reinsurer,  
3 rehabilitator, or liquidator of the insurer or reinsurer for  
4 the net losses incurred by the insurer or reinsurer  
5 attributable to such violation. (b) The decision,  
6 determination, or order of the commissioner pursuant to  
7 subsection (a) of this section shall be subject to judicial  
8 review pursuant to Section 27-2-32. (c) Nothing contained in  
9 this section shall affect the right of the commissioner to  
10 impose any other penalties provided in the insurance law. (d)  
11 Nothing contained in this chapter is intended to or shall in  
12 any manner limit or restrict the rights of policyholders,  
13 claimants, creditors, or other third parties or confer any  
14 rights to those persons.

15 27-5A-12 The commissioner may adopt reasonable rules  
16 and regulations for the implementation and administration of  
17 the provisions of this chapter.

18 27-5A-13 No insurer or reinsurer may continue to  
19 utilize the services of a reinsurance intermediary on and  
20 after May 17, 1993 unless utilization is in compliance with  
21 this chapter.

22 27-6-1 The following deposits of insurers, when made  
23 through the commissioner, shall be accepted and held and shall  
24 be subject to the provisions of this chapter: (1) Deposits  
25 required under this title for authority to transact insurance  
26 in this state; (2) Deposits of domestic insurers when made  
27 pursuant to the laws of other states, provinces, and countries

1 as requirement for authority to transact insurance in such  
2 state, province, or country; (3) Deposits of reserves made by  
3 domestic life insurers under laws heretofore in force; and  
4 (4) Deposits in such additional amounts as are permitted to be  
5 made under Section 27-6-11.

6 27-6-2 Such deposits shall be held for purposes as  
7 follows: (1) Deposits made in this state under Sections  
8 27-3-11, 27-3-12 and 27-3-14 of this title shall be held for  
9 the purposes stated in the respective sections; (2) A deposit  
10 made in this state by a domestic insurer transacting insurance  
11 in another state, province or country and as required by the  
12 laws of such state, province, or country shall be held for the  
13 protection of the insurer's policyholders or policyholders and  
14 creditors; (3) Deposits of reserves made by domestic life  
15 insurers under laws heretofore in force shall be held for the  
16 purpose or purposes specified in such laws or in the policies  
17 or contracts by which such deposit was required or declared;  
18 and (4) Deposits required pursuant to the retaliatory  
19 provision, Section 27-3-29, shall be held for such purposes as  
20 are required by such laws and as specified by the  
21 commissioner's order by which the deposit is required.

22 27-6-3 (a) All such deposits required under Sections  
23 27-3-11, 27-3-12 and 27-3-14 for authority to transact  
24 insurance in this state shall consist of certified checks, or  
25 certificates of deposit or any combination of securities, the  
26 market value of which is readily ascertainable, and, if  
27 negotiable by delivery or assignment, of the kinds described

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 27-5A-8 to 27-6-3, 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.