

1 SB302
2 136096-1
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 27-5A-4 Transactions between a reinsurance
18 intermediary-broker and the insurer it represents in that
19 capacity shall only be entered into pursuant to a written
20 authorization, specifying the responsibilities of each party.
21 The authorization shall, at a minimum, provide that: (1) The
22 insurer may terminate the reinsurance intermediary-broker's
23 authority at any time. (2) The reinsurance
24 intermediary-broker shall render accounts to the insurer
25 accurately detailing all material transactions, including
26 information necessary to support all commissions, charges, and
27 other fees received by, or owing, to the reinsurance

1 intermediary-broker, and remit all funds due to the insurer
2 within 30 days of receipt. (3) All funds collected for the
3 insurer's account shall be held by the reinsurance
4 intermediary-broker in a fiduciary capacity in a bank which is
5 a qualified U.S. financial institution as defined herein. (4)
6 The reinsurance intermediary-broker shall comply with Section
7 27-5A-5. (5) The reinsurance intermediary-broker shall comply
8 with the written standards established by the insurer for the
9 cession or retrocession of all risks. (6) The reinsurance
10 intermediary-broker shall disclose to the insurer any
11 relationship with any reinsurer to which business will be
12 ceded or retroceded.

13 27-5A-5 (a) For at least 10 years after expiration
14 of each contract of reinsurance transacted by the reinsurance
15 intermediary-broker, the reinsurance intermediary-broker shall
16 keep a complete record for each transaction showing all of the
17 following: (1) The type of contract, limits, underwriting
18 restrictions, classes, or risks and territory. (2) Period of
19 coverage, including effective and expiration dates,
20 cancellation provisions, and notice required of cancellation.
21 (3) Reporting and settlement requirements of balances. (4)
22 Rate used to compute the reinsurance premium. (5) Names and
23 addresses of assuming reinsurers. (6) Rates of all
24 reinsurance commissions, including the commissions on any
25 retrocessions handled by the reinsurance intermediary-broker.
26 (7) Related correspondence and memoranda. (8) Proof of
27 placement. (9) Details regarding retrocessions handled by the

1 reinsurance intermediary-broker including the identity of
2 retrocessionaires and percentage of each contract assumed or
3 ceded. (10) Financial records, including, but not limited to,
4 premium and loss accounts. (11) When the reinsurance
5 intermediary-broker procures a reinsurance contract on behalf
6 of a licensed ceding insurer: a. Directly from any assuming
7 reinsurer, written evidence that the assuming reinsurer has
8 agreed to assume the risk. b. If placed through a
9 representative of the assuming reinsurer, other than an
10 employee, written evidence that the reinsurer has delegated
11 binding authority to the representative. (b) The insurer
12 shall have access and the right to copy and audit all accounts
13 and records maintained by the reinsurance intermediary-broker
14 related to its business in a form usable by the insurer.

15 27-5A-6 (a) An insurer shall not engage the services
16 of any person, firm, association, or corporation to act as a
17 reinsurance intermediary-broker on its behalf unless the
18 person is licensed as required by subsection (a) of Section
19 27-5A-3. (b) An insurer may not employ an individual who is
20 employed by a reinsurance intermediary-broker with which it
21 transacts business, unless such reinsurance
22 intermediary-broker is under common control with the insurer
23 and subject to Chapter 29, Title 27. (c) The insurer shall
24 annually obtain a copy of statements of the financial
25 condition of each reinsurance intermediary-broker with which
26 it transacts business.

1 27-5A-7 Transactions between a reinsurance
2 intermediary-manager and the reinsurer it represents in that
3 capacity shall only be entered into pursuant to a written
4 contract, specifying the responsibilities of each party, which
5 shall be approved by the reinsurer's board of directors. At
6 least 30 days before a reinsurer assumes or cedes business
7 through a producer, a true copy of the approved contract shall
8 be filed with the commissioner for approval. The contract
9 shall, at a minimum, provide that: (1) The reinsurer may
10 terminate the contract for cause upon written notice to the
11 reinsurance intermediary-manager. The reinsurer may
12 immediately suspend the authority of the reinsurance
13 intermediary-manager to assume or cede business during the
14 pendency of any dispute regarding the cause for termination.
15 (2) The reinsurance intermediary-manager shall render accounts
16 to the reinsurer accurately detailing all material
17 transactions, including information necessary to support all
18 commissions, charges, and other fees received by, or owing to
19 the reinsurance intermediary-manager, and remit all funds due
20 under the contract to the reinsurer on not less than a monthly
21 basis. (3) All funds collected for the reinsurer's account
22 shall be held by the reinsurance intermediary-manager in a
23 fiduciary capacity in a bank which is a qualified U.S.
24 financial institution as defined herein. The reinsurance
25 intermediary-manager may retain no more than three months
26 estimated claims payments and allocated loss adjustment
27 expenses. The reinsurance intermediary-manager shall maintain

1 a separate bank account for each reinsurer that it represents.
2 (4) For at least 10 years after expiration of each contract of
3 reinsurance transacted by the reinsurance
4 intermediary-manager, the reinsurance intermediary-manager
5 shall keep a complete record for each transaction showing all
6 of the following: a. The type of contract, limits,
7 underwriting restrictions, classes, or risks and territory.
8 b. Period of coverage, including effective and expiration
9 dates, cancellation provisions, and notice required of
10 cancellation, and disposition of outstanding reserves on
11 covered risks. c. Reporting and settlement requirements of
12 balances. d. Rate used to compute the reinsurance premium.
13 e. Names and addresses of reinsurers. f. Rates of all
14 reinsurance commissions, including the commissions on any
15 retrocessions handled by the reinsurance intermediary-manager.
16 g. Related correspondence and memoranda. h. Proof of
17 placement. i. Details regarding retrocessions handled by the
18 reinsurance intermediary-manager, as permitted by subsection
19 (d) of Section 27-5A-9, including the identity of
20 retrocessionaires and percentage of each contract assumed or
21 ceded. j. Financial records, including, but not limited to,
22 premium and loss accounts. k. When the reinsurance
23 intermediary-manager places a reinsurance contract on behalf
24 of a ceding insurer: 1. Directly from any assuming reinsurer,
25 written evidence that the assuming reinsurer has agreed to
26 assume the risk. 2. If placed through a representative of the
27 assuming reinsurer, other than an employee, written evidence

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 27-5A-4 to 27-5A-7, 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.