

1 SB428  
2 177316-1  
3 By Senator Holley  
4 RFD: Banking and Insurance  
5 First Read: 20-APR-16

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8 SYNOPSIS: This bill would add provisions specific to  
9 federal home loan banks and insurer members of  
10 those banks to limit the authority of a receiver  
11 for an insurer in a delinquency proceeding and  
12 establish the rights and obligations of the federal  
13 home loan bank regarding collateral pledged by its  
14 insurer members involved in delinquency  
15 proceedings.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
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21 To add Section 27-32-27.1 to the Code of Alabama  
22 1975; to add provisions specific to federal home loan banks  
23 and insurer members of those banks in delinquency proceedings;  
24 to establish the rights and obligations to limit the authority  
25 of receivers and of federal home loan banks regarding  
26 collateral pledged by its insurer members involved in  
27 delinquency proceedings.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 27-32-27.1 is added to the Code  
3 of Alabama 1975, to read as follows:

4 §27-32-27.1

5 (a) For purposes of this chapter, the following  
6 terms shall have the following meanings:

7 (1) FEDERAL HOME LOAN BANK or FHLB. A federal home  
8 loan bank established pursuant to the Federal Home Loan Bank  
9 Act, 12 U.S.C. Section 1421, et seq.

10 (2) INSURER MEMBER. An insurer who is a member of a  
11 federal home loan bank.

12 (b) Notwithstanding any other provision of this  
13 chapter, the receiver for an insurer member may not void any  
14 transfer of, or any obligation to transfer, money or any other  
15 property arising under or in connection with any federal home  
16 loan bank security agreement, or any pledge, security,  
17 collateral, or guarantee agreement, or any other similar  
18 arrangement or credit enhancement relating to a federal home  
19 loan bank security agreement made in the ordinary course of  
20 business and in compliance with the applicable federal home  
21 loan bank agreement. The receiver also may not void a  
22 redemption or repurchase of any stock or equity securities  
23 made by the federal home loan bank within four months of the  
24 commencement of the delinquency proceedings or which received  
25 prior approval of the receiver. However, a transfer is  
26 voidable if the transfer is made with the actual intent to

1 hinder, delay, or defraud the insurer member, the receiver for  
2 the insurer member, existing creditors, or future creditors.

3 (c) If a federal home loan bank exercises its rights  
4 regarding collateral pledged by an insurer member who is  
5 subject to a delinquency proceeding, the federal home loan  
6 bank shall repurchase any outstanding capital stock that is in  
7 excess of the amount of federal home loan bank stock that the  
8 insurer member is required to hold as a minimum investment, to  
9 the extent the federal home loan bank in good faith determines  
10 the repurchase to be permissible under applicable laws,  
11 regulations, regulatory obligations, and the federal home loan  
12 bank's capital plan, and consistent with the federal home loan  
13 bank's current capital stock practices applicable to its  
14 entire membership.

15 (d) Following the appointment of a receiver for an  
16 insurer member, the federal home loan bank, within 10 business  
17 days after a request from the receiver is made, shall provide  
18 a process and establish timelines for the:

19 (1) Release of collateral that exceeds the lendable  
20 collateral value, as determined pursuant to the advance  
21 agreement with the federal home loan bank, required to support  
22 secured obligations remaining after any repayment of advances.

23 (2) Release of any of the insurer member's  
24 collateral remaining in the federal home loan bank's  
25 possession following full repayment of all outstanding secured  
26 obligations of the insurer member in full.

1           (3) Payment of fees owed by the insurer member and  
2 the operation of deposits and other accounts of the insurer  
3 member with the federal home loan bank.

4           (4) Possible redemption or repurchase of federal  
5 home loan bank stock or excess stock of any class that an  
6 insurer member is required to own.

7           (e) Upon request from the receiver for an insurer  
8 member, the federal home loan bank shall provide any available  
9 options that an insurer member may exercise to renew or  
10 restructure an advance to defer associated prepayment fees,  
11 subject to all of the following:

12                   (1) Market conditions.

13                   (2) The terms of the advances outstanding to the  
14 insurer member.

15                   (3) The applicable policies of the federal home loan  
16 bank.

17                   (4) The compliance of the Federal Home Loan Bank  
18 with the Federal Home Loan Bank Act, 12 U.S.C. Section 1421,  
19 et seq., and corresponding regulations.

20           (f) Nothing in this section affects the rights of a  
21 receiver regarding advances to an insurer member in  
22 delinquency proceedings pursuant to 12 C.F.R. Section 1266.4.

23           (g) After the fourteenth day following the  
24 commencement of a delinquency proceeding involving an insurer  
25 member domiciled in this state, the insurer member's FHLB may  
26 not be stayed or prohibited from exercising its rights  
27 regarding collateral pledged by that insurer member.

1                   (h) The provisions of this section apply  
2 notwithstanding another provision of this chapter.

3                   Section 2. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.