

ACT No. 2011 - 637

1 SB269  
2 127474-6  
3 By Senator Blackwell  
4 RFD: Banking and Insurance  
5 First Read: 24-MAR-11



1 SB269

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3  
4 ENROLLED, An Act,

5 Relating to insurance; to provide for the  
6 qualifications and procedures for the licensing of independent  
7 insurance adjusters and apprentice independent adjusters, and  
8 for the registration of emergency independent adjusters, by  
9 providing definitions and exceptions to the licensing and  
10 registration requirements, by requiring independent adjusters  
11 to take and pass a written examination, with exceptions, to  
12 provide for nonresident licensing; to require independent  
13 adjusters to complete a minimum continuing education on a  
14 biennial basis; to provide standards of conduct for  
15 independent adjusters; to require independent adjusters to  
16 report administrative action taken against them in other  
17 jurisdictions; to give the Commissioner of Insurance authority  
18 to promulgate regulations necessary to administer and enforce  
19 this act; to provide a delayed effective date for certain  
20 provisions to allow for proper implementation of this act; and  
21 for these purposes to amend Section 27-4-2, relating to fees  
22 and charges; to repeal Chapter 9 of Title 27, commencing with  
23 Section 27-9-1; and to add Chapter 9A to Title 27, commencing  
24 with Section 27-9A-1, Code of Alabama 1975.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Chapter 9A is added to Title 27, Code of  
2 Alabama 1975, to read as follows:

3           Chapter 9A. Independent Adjusters.

4           Section 27-9A-1. Purpose and scope.

5           This chapter governs the qualifications and  
6 procedures for licensing independent adjusters. It specifies  
7 the duties of and restrictions on independent adjusters.

8           Section 27-9A-2. Definitions.

9           For purposes of this chapter, the following terms  
10 shall have the meanings respectively ascribed to them by this  
11 section:

12           (1) APPRENTICE INDEPENDENT ADJUSTER. As defined in  
13 Section 27-9A-11.

14           (2) BUSINESS ENTITY. A corporation, association,  
15 partnership, limited liability company, limited liability  
16 partnership, or other legal entity.

17           (3) COMMISSIONER. The Alabama Commissioner of  
18 Insurance.

19           (4) HOME STATE. The District of Columbia and any  
20 state or territory of the United States in which an  
21 independent adjuster maintains the principal place of  
22 residence or business of the adjuster and in which the  
23 adjuster is licensed to act as a resident independent  
24 adjuster. In the case of a resident of a Canadian province, or  
25 if the resident state or territory does not license

1 independent adjusters for the line of authority sought, the  
2 home state of the independent adjuster shall be any state in  
3 which the independent adjuster is licensed and in good  
4 standing, as designated by the adjuster.

5 (5) INDEPENDENT ADJUSTER. As defined in Section  
6 27-9A-3.

7 (6) INDIVIDUAL. A natural person.

8 (7) INSURER. As defined in Section 27-1-2.

9 (8) NAIC. The National Association of Insurance  
10 Commissioners, its subsidiaries and affiliates, and any  
11 successor thereof.

12 (9) PERSON. An individual or business entity.

13 (10) STATE OF EMERGENCY. An event for which the  
14 existence of a state of emergency has been declared by the  
15 Governor or the Legislature under Section 31-9-8.

16 (11) UNIFORM INDIVIDUAL APPLICATION. The versions of  
17 the NAIC Uniform Individual Application for a license and for  
18 renewal or continuation of a license current as of the time of  
19 use.

20 (12) UNIFORM BUSINESS ENTITY APPLICATION. The  
21 versions of the NAIC Uniform Business Entity Application for a  
22 license and for renewal or continuation of a license current  
23 as of the time of use.

24 Section 27-9A-3. Independent adjuster defined;  
25 exclusions.

1           (a) For purposes of this chapter, an "independent  
2 adjuster" is a person who, for compensation as an independent  
3 contractor or as an employee of an independent contractor,  
4 undertakes on behalf of an insurer to ascertain and determine  
5 the amount of any claim, loss, or damage payable under a  
6 contract of property, casualty, or workers' compensation  
7 insurance or to effect settlement of such claim, loss, or  
8 damage. This chapter shall not be construed to permit persons  
9 not licensed as attorneys to engage in activities constituting  
10 the practice of law.

11           (b) An independent adjuster does not include any of  
12 the following:

13           (1) Attorneys-at-law admitted to practice in this  
14 state when acting in their professional capacity as an  
15 attorney.

16           (2) A salaried employee of an insurer.

17           (3) A person employed solely to obtain facts  
18 surrounding a claim or to furnish technical assistance to a  
19 licensed independent adjuster.

20           (4) An individual who is employed to investigate  
21 suspected fraudulent insurance claims but who does not adjust  
22 losses or determine claims payments.

23           (5) A person who solely performs executive,  
24 administrative, managerial, or clerical duties or any  
25 combination thereof and who does not investigate, negotiate,

1 or settle claims with policyholders, claimants, or their legal  
2 representative.

3 (6) A licensed health care provider or its employee  
4 who provides managed care services so long as the services do  
5 not include the determination of compensability.

6 (7) A managed care organization or any of its  
7 employees or an employee of any organization providing managed  
8 care services so long as the services do not include the  
9 determination of compensability.

10 (8) A person who settles only reinsurance or  
11 subrogation claims.

12 (9) An officer, director, manager, or employee of an  
13 authorized insurer, surplus lines insurer, a risk retention  
14 group, or an attorney-in-fact of a reciprocal insurer.

15 (10) A U.S. manager of the United States branch of  
16 an alien insurer.

17 (11) A person who investigates, negotiates, or  
18 settles life, accident and health, annuity, or disability  
19 insurance claims.

20 (12) Under a self-insured arrangement, an individual  
21 employee who adjusts claims on behalf of his or her employer.

22 (13) A licensed insurance producer appointed to  
23 represent the insurer, attorney-in-fact of a reciprocal  
24 insurer, or managing general agent of the insurer, to any of  
25 whom claim authority has been granted by the insurer.

1           (14)a. An individual who collects portable consumer  
2 electronic device insurance claim information from insureds or  
3 claimants, enters such data into an automated claims  
4 adjudication system, and furnishes claim information to the  
5 insureds or claimants from the results of such system.

6           b. For purposes of this subdivision, the individual  
7 must be an employee of a licensed independent adjuster or of a  
8 licensed insurance producer exempt from adjuster licensure  
9 pursuant to subdivision (13) or of an affiliate of either a  
10 licensed independent adjuster or a licensed insurance producer  
11 exempt from adjuster licensure pursuant to subdivision (13),  
12 but in any case where no more than 25 such individuals are  
13 under the supervision of a single individual licensed  
14 independent adjuster or insurance producer.

15           c. For purposes of this subdivision, "automated  
16 claims adjudication system" means a preprogrammed computer  
17 system designed for the collection, data entry, calculation  
18 and system-generated final resolution of claims which meets  
19 all of the following:

20           1. It shall only be utilized by a licensed  
21 independent adjuster, licensed insurance producer, or by  
22 individuals supervised by a licensed independent adjuster or  
23 insurance producer pursuant to this subdivision.

24           2. It shall comply with all claims payment  
25 requirements of the insurance code.

1           d. For purposes of this subdivision, "portable  
2 consumer electronic device" means a personal, self-contained,  
3 easily carried by an individual, battery-operated electronic  
4 communication, viewing, listening, recording, gaming,  
5 computing, or global position device, and other similar  
6 devices and their accessories.

7           e. The licensed independent adjuster or insurance  
8 producer who supervises the individuals shall file a report  
9 with the commissioner indicating an intention to operate  
10 pursuant to this subdivision.

11           Section 27-9A-4. License required.

12           A person shall not act or hold the person out as an  
13 independent adjuster in this state unless the person is  
14 licensed as an independent adjuster in accordance with this  
15 chapter.

16           Section 27-9A-5. Registration of emergency  
17 independent adjusters.

18           (a) In the event of a state of emergency, a person  
19 who is otherwise qualified to adjust claims, but is not  
20 already licensed as an independent adjuster in this state, may  
21 act as an emergency independent adjuster and adjust claims for  
22 an insurer in this state in accordance with this section.

23           (b) The insurer shall file with the commissioner a  
24 registration of each individual that will act as an emergency  
25 independent adjuster on behalf of the insurer within five days

1 of deployment to adjust claims arising from the state of  
2 emergency.

3 (c) The registration shall be in a format prescribed  
4 by the commissioner and shall provide the following  
5 information:

6 (1) Name of the individual.

7 (2) Social Security number of the individual.

8 (3) Name of insurer the independent adjuster will  
9 represent.

10 (4) Effective date of the contract between the  
11 insurer and independent adjuster.

12 (5) Catastrophe or loss control number.

13 (6) Catastrophe event name.

14 (7) Any other information the commissioner deems  
15 necessary.

16 (d) An emergency independent adjuster's registration  
17 shall remain in force for a period not to exceed 90 days  
18 unless extended by the commissioner.

19 (e) At the time of registration, the commissioner  
20 shall collect from the insurer a fee set by the commissioner  
21 not to exceed fifty dollars (\$50) for each emergency  
22 independent adjuster registered. The fee shall be deposited in  
23 the State Treasury to the credit of the Insurance Department  
24 Fund.

1           (f) The commissioner may establish by rule any  
2 additional standards or procedures necessary to allow for the  
3 registration of emergency independent adjusters in this state  
4 in accordance with this section.

5           (g) A registered emergency independent adjuster  
6 shall be subject to Sections 27-9A-12, 27-9A-14, 27-9A-15, and  
7 Chapter 12 of this title to the same extent as if licensed as  
8 an independent adjuster in this state.

9           Section 27-9A-6. Application for license.

10          (a) An individual applying for a resident  
11 independent adjuster license shall apply to the commissioner  
12 on the appropriate NAIC Uniform Individual Application and  
13 declare under penalty of suspension, revocation, or refusal of  
14 the license that the statements made in the application are  
15 true, correct, and complete to the best of the individual's  
16 knowledge and belief. Before approving the application, the  
17 commissioner shall find that the individual:

18           (1) Is at least 18 years of age.

19           (2) Is eligible to designate this state as his or  
20 her home state.

21           (3) Has not committed any act that is a ground for  
22 probation, suspension, revocation, or refusal of an  
23 independent adjuster's license as set forth in Section  
24 27-9A-12.

1           (4) Has completed a prelicensing course of study for  
2 the line of authority for which the person has applied.

3           (5) Has successfully passed the examination for the  
4 line of authority for which the person has applied.

5           (6) Has paid the fees set forth in Section 27-4-2.

6           (b) The commissioner may contract with  
7 non-governmental entities, including the NAIC, to perform any  
8 ministerial functions, including the collection of fees and  
9 data, related to licensing that the commissioner may deem  
10 appropriate. The commissioner may require that license  
11 applications, license renewal applications, and supporting  
12 documentation be filed and all required fees and charges be  
13 paid electronically through systems operated or maintained by  
14 the non-governmental entities.

15           (c) No resident of another state or of the District  
16 of Columbia or of Canada may be licensed pursuant to this  
17 section or may designate Alabama as his or her home state  
18 unless the person has successfully passed the independent  
19 adjuster examination and has otherwise complied with the other  
20 applicable portions of this section.

21           (d) A business entity applying for a resident  
22 independent adjuster license shall apply to the commissioner  
23 on the appropriate NAIC Uniform Business Entity Application  
24 and declare under penalty of suspension, revocation, or  
25 refusal of the license that the statements made in the

1 application are true, correct, and complete to the best of the  
2 business entity's knowledge and belief. Before approving the  
3 application, the commissioner shall find that the business  
4 entity:

5 (1) Is eligible to designate this state as its home  
6 state.

7 (2) As applicable, has qualified or registered with  
8 the office of the Secretary of State to engage in business in  
9 this state.

10 (3) Has designated an individual independent  
11 adjuster licensed in this state as responsible for the  
12 business entity's compliance with this chapter and with the  
13 insurance laws and rules of this state.

14 (4) Has not committed an act that is a ground for  
15 probation, suspension, revocation, or refusal of an  
16 independent adjuster's license as set forth in Section  
17 27-9A-12.

18 (5) Has paid the fees set forth in Section 27-4-2.

19 (e) The commissioner may require any documents  
20 reasonably necessary to verify the information contained in  
21 the application.

22 Section 27-9A-7. License; license renewal; name or  
23 address change.

24 (a) Unless denied licensure pursuant to Section  
25 27-9A-12, a person who meets the requirements of Sections

1 27-9A-6 and 27-9A-8 shall be issued an independent adjuster  
2 license. An independent adjuster may qualify for a license in  
3 one or more of the following lines of authority:

4 (1) Property and casualty.

5 (2) Workers' compensation.

6 (3) Crop.

7 (b) An independent adjuster license shall be  
8 initially renewed in accordance with a schedule prescribed by  
9 the commissioner and shall thereafter be subject to renewal on  
10 a biennial basis. A renewal shall be effected by submitting a  
11 renewal application, by paying the fee for renewal prescribed  
12 in Section 27-4-2, and by meeting the requirements for  
13 renewal, including any applicable continuing education  
14 requirements, before the due date for renewal. A license  
15 expires if not renewed by the due date for renewal.

16 (c) Within the first 30 days following the date an  
17 independent adjuster license expires, a reinstatement  
18 retroactive to the expiration date shall be effected by  
19 submitting a renewal application, by paying a fee of one and  
20 one-half times the renewal fee required in Section 27-4-2, and  
21 by meeting the other requirements for renewal including any  
22 applicable continuing education requirements.

23 (d) After the first 30 days following the date an  
24 independent adjuster license expires, but within 12 months  
25 after the expiration date, the license may be reinstated

1 effective as of the reinstatement by submitting a renewal  
2 application, by paying a fee of double the renewal fee  
3 required in Section 27-4-2, and by meeting the other  
4 requirements for renewal including any applicable continuing  
5 education requirements.

6 (e) After an independent adjuster license has been  
7 expired 12 months, the person shall reapply pursuant to  
8 Section 27-9A-6 to again become licensed.

9 (f) An independent adjuster who is unable to comply  
10 with license renewal procedures and requirements due to  
11 military service, long-term medical disability, or some other  
12 extenuating circumstance may request a waiver of same and a  
13 waiver of any examination requirement, fine, or other sanction  
14 imposed for failure to comply with renewal procedures.

15 (g) The license shall contain the licensee's name,  
16 address, personal identification number, the dates of issuance  
17 and expiration, and any other information the commissioner  
18 deems necessary.

19 (h) The independent adjuster shall inform the  
20 commissioner of a change in legal name or address within 30  
21 days of the change in a manner prescribed by the commissioner.  
22 Failure to timely inform the commissioner of a change in legal  
23 name or address shall result in a penalty of fifty dollars  
24 (\$50). If the penalty is not paid within 30 days after notice

1 of the penalty assessment, the license shall be suspended  
2 until the penalty is paid.

3 Section 27-9A-8. Prelicensing course and  
4 examination.

5 (a) (1) Every individual subject to the examination  
6 required in subsection (b) shall first complete a prelicensing  
7 course consisting of 20 classroom hours per line of authority,  
8 or equivalent individual instruction.

9 (2) The prelicensing course shall have been  
10 completed within 12 months before the date of the related  
11 examination as shown on the certificate furnished by the  
12 prelicensing course provider.

13 (3) Every prelicensing course provider shall apply  
14 annually for the continued authority to issue certificates of  
15 completion under rules to be prescribed by the commissioner.

16 (4) At the time of initial approval and annually  
17 thereafter, the commissioner shall collect from each  
18 prelicensing course provider a fee set by the commissioner not  
19 to exceed one hundred dollars (\$100). The fee shall be  
20 deposited in the State Treasury to the credit of the Insurance  
21 Department Fund. Public institutions shall be exempt from  
22 paying the fee, but shall otherwise be subject to the rules  
23 applicable to other providers.

1           (b) (1) An individual intending to apply for an  
2 independent adjuster license shall pass a written examination  
3 unless exempt pursuant to Section 27-9A-9.

4           (2) The examination shall test the knowledge of the  
5 individual concerning the lines of authority for which  
6 application is made, the duties and responsibilities of an  
7 independent adjuster, and the insurance laws and regulations  
8 of this state. Examinations required by this section shall be  
9 developed and conducted under rules prescribed by the  
10 commissioner.

11           (3) Each individual applying for an examination  
12 shall furnish a certificate of completion of the prelicensing  
13 course from an authorized prelicensing course provider and pay  
14 a non-refundable fee prescribed by the commissioner as set  
15 forth in Section 27-4-2.

16           (4) The commissioner may make arrangements,  
17 including contracting with an outside testing service, for  
18 administering examinations and collecting the nonrefundable  
19 fee set forth in Section 27-4-2.

20           (5) An individual who fails to appear for the  
21 examination as scheduled or fails to pass the examination  
22 shall reapply for an examination and remit all required fees  
23 and forms before being rescheduled for another examination.

24           (6) No individual who has taken and failed to pass  
25 two examinations given pursuant to this section for a

1 particular line of insurance shall be entitled to take any  
2 further examination for that line of insurance until after the  
3 expiration of three months from the date of the last  
4 examination which the individual failed to pass. If the  
5 individual fails to pass the examination after two more  
6 attempts, the individual shall not be eligible to take any  
7 further examination for that line of insurance until after the  
8 expiration of six months from the date of the last  
9 unsuccessful examination. An examination fee shall be paid for  
10 each and every examination.

11 Section 27-9A-9. Exemptions from examination.

12 (a) An individual applicant for an independent  
13 adjuster license in this state shall not be required to  
14 complete any prelicensing course or examination if the person  
15 is currently licensed in another state for the same line or  
16 lines of authority based on an independent adjuster  
17 examination or if such state license has expired and the  
18 application is received by this state within 90 days of  
19 expiration. The applicant shall either provide certification  
20 from the other state that the applicant's license is currently  
21 in good standing or was in good standing at the time of  
22 expiration or the state's producer database records maintained  
23 by the NAIC must indicate that the applicant is or was  
24 licensed in good standing. The certification must be of a

1 license with the same line of authority for which the  
2 individual has applied.

3 (b) A person licensed as an independent adjuster in  
4 another state based on an independent adjuster examination  
5 who, within 90 days of establishing legal residency in this  
6 state, applies to become a resident independent adjuster  
7 licensee pursuant to Section 27-9A-6 shall not be required to  
8 complete a prelicensing course or an examination.

9 (c) An individual who applies for an independent  
10 adjuster license in this state who was previously licensed as  
11 an independent adjuster in this state shall not be required to  
12 complete a prelicensing course or examination, but this  
13 exemption is only available if the application is received  
14 within 12 months of the cancellation of the applicant's  
15 previous license in this state and if, at the time of  
16 cancellation, the applicant was in good standing in this  
17 state.

18 Section 27-9A-10. Nonresident license.

19 (a) Unless refused licensure pursuant to Section  
20 27-9A-12, a nonresident person shall receive a nonresident  
21 independent adjuster license if:

22 (1) The person is currently licensed in good  
23 standing as an independent adjuster in the resident or home  
24 state of the person.

1           (2) The person has applied for a license and has  
2 paid the fees required by Section 27-4-2.

3           (3) If a business entity, and as applicable, the  
4 entity has qualified or registered with the office of the  
5 Secretary of State to engage in business in this state.

6           (4) The person's designated home state awards  
7 nonresident independent adjuster licenses to persons of this  
8 state on the same basis.

9           (b) The commissioner may verify the independent  
10 adjuster's licensing status through any appropriate database,  
11 including the Producer Database maintained by the NAIC or may  
12 request certification of good standing as described in  
13 subsection (a) of Section 27-9A-9.

14           (c) As a condition to the continuation of a  
15 nonresident independent adjuster license in this state, the  
16 licensee shall maintain a resident independent adjuster  
17 license in the adjuster's home state. A licensee shall notify  
18 the commissioner within 30 days if the independent adjuster  
19 license terminates for any reason and shall include the new  
20 address if the licensee has obtained a resident license in a  
21 new resident or home state. Termination of a resident or home  
22 state license shall terminate the nonresident independent  
23 adjuster license in this state unless the termination is due  
24 to the independent adjuster being issued a new resident  
25 independent adjuster license in a new resident or home state,

1 provided the new resident or home state awards nonresident  
2 independent adjuster licenses to persons of this state on the  
3 same basis.

4 (d) No resident of Canada may be licensed as a  
5 non-resident independent adjuster unless the person has  
6 obtained a resident or home state independent adjuster  
7 license.

8 Section 27-9A-11. Apprentice independent adjuster  
9 license.

10 (a) The apprentice independent adjuster license is a  
11 temporary license for an individual residing in this state who  
12 is qualified for an independent adjuster license except as to  
13 having taken and passed the prelicensing course and  
14 examination.

15 (b) An individual applying for an apprentice  
16 independent adjuster license shall apply to the commissioner  
17 on the appropriate NAIC Uniform Individual Application and  
18 declare under penalty of suspension, revocation, or refusal of  
19 the license that the statements made in the application are  
20 true, correct, and complete to the best of the individual's  
21 knowledge and belief. Before approving the application, the  
22 commissioner shall find that the individual:

23 (1) Is at least 18 years of age.

24 (2) Is a resident of this state.

25 (3) Has a business or mailing address in this state.

1           (4) Has not committed any act that is a ground for  
2 probation, suspension, revocation, or denial of licensure as  
3 set forth in Section 27-9A-12.

4           (5) Has paid the fees for an individual independent  
5 adjuster license as set forth in Section 27-4-2.

6           (c) The apprentice independent adjuster license  
7 shall be subject to the following terms and conditions:

8           (1) Accompanying the apprentice adjuster application  
9 shall be an attestation from an independent adjuster licensed  
10 in this state with the same lines of authority for which the  
11 apprentice has applied certifying that the apprentice will be  
12 subject to training, direction, and control by the licensed  
13 independent adjuster and further certifying that the licensed  
14 independent adjuster assumes responsibility for the actions of  
15 the apprentice in the apprentice's capacity as an independent  
16 adjuster. A licensed independent adjuster shall not supervise  
17 more than five active apprentice adjuster licensees at any  
18 given time.

19           (2) The apprentice independent adjuster is only  
20 authorized to adjust claims in this state.

21           (3) The apprentice licensee is restricted to  
22 participation in the adjusting of claims subject to the review  
23 and final determination of the claim by the supervising  
24 licensed independent adjuster.

1           (4) Compensation of an apprentice independent  
2 adjuster shall be on a salaried or hourly basis only.

3           (5) At any time during the period of the license the  
4 apprentice independent adjuster may complete the prelicensing  
5 course and take the examination required by Section 27-9A-8.  
6 If the apprentice independent adjuster successfully completes  
7 the independent adjuster examination, the apprentice  
8 independent adjuster license shall automatically terminate and  
9 an independent adjuster license shall be issued in place  
10 thereof.

11           (6) The apprentice independent adjuster license is  
12 valid for a period not to exceed 12 months and is  
13 nonrenewable. An individual may only hold an apprentice  
14 independent adjuster license once in his or her lifetime.

15           (7) An apprentice independent adjuster shall be  
16 subject to Sections 27-9A-12, 27-9A-14, 27-9A-15, and Chapter  
17 12 of this title to the same extent as if licensed as an  
18 independent adjuster in this state.

19           Section 27-9A-12. License denial, non-renewal, or  
20 revocation.

21           (a) The commissioner may place on probation,  
22 suspend, revoke, or refuse to issue or renew an independent  
23 adjuster's license, an apprentice independent adjuster's  
24 license, or the registration of an emergency independent  
25 adjuster, or may levy a civil penalty in accordance with

1 subsection (d), or any combination of these actions, for any  
2 one or more of the following causes:

3 (1) Providing incorrect, misleading, incomplete, or  
4 materially untrue information in the license application.

5 (2) Violating any insurance laws, rules, subpoena,  
6 or order of the commissioner or of another state's insurance  
7 regulator.

8 (3) Obtaining or attempting to obtain a license or  
9 registration through misrepresentation or fraud.

10 (4) Improperly withholding, misappropriating, or  
11 converting any monies or properties received in the course of  
12 acting as an adjuster of any type or in otherwise doing  
13 insurance business in this state or elsewhere.

14 (5) Intentionally misrepresenting the terms of an  
15 actual insurance contract.

16 (6) Having been convicted of a felony.

17 (7) Having admitted or been found to have committed  
18 any insurance unfair trade practice or fraud.

19 (8) Using fraudulent, coercive, or dishonest  
20 practices, or demonstrating incompetence, untrustworthiness,  
21 or financial irresponsibility, in the course of acting as an  
22 adjuster of any type or otherwise in the conduct of business  
23 in this state or elsewhere.

24 (9) Having an independent adjuster license, company  
25 or employee adjuster license, public adjuster license,

1 emergency adjuster license or registration or its equivalent,  
2 or insurance producer license or its equivalent suspended,  
3 revoked, or refused in any other state, province, district, or  
4 territory.

5 (10) Forging another's name to any document related  
6 to an insurance transaction or in connection with a claim  
7 being adjusted by the adjuster.

8 (11) Cheating, including improperly using notes or  
9 any other reference material, to complete an examination for a  
10 license.

11 (12) Failing to comply with an administrative or  
12 court order imposing a child support obligation.

13 (13) Failing to pay state income tax or comply with  
14 any administrative or court order directing payment of state  
15 income tax which remains unpaid.

16 (b) In the event the action by the commissioner is  
17 to refuse application for licensure or renewal of an existing  
18 license, the commissioner shall notify the applicant or  
19 licensee in writing, advising of the reason for the refusal.  
20 The applicant or licensee may make written demand upon the  
21 commissioner within 30 days for a hearing before the  
22 commissioner to determine the reasonableness of the refusal.  
23 The hearing shall be held pursuant to Chapter 2 of this title.

24 (c) If the commissioner finds, after a hearing, that  
25 an individual licensee's violation occurred while acting on

1       behalf of or representing the business entity and that the  
2       violation was known by one or more of the business entity's  
3       partners in the partnership, corporate officers in a  
4       corporation, or managers of the limited liability company and  
5       that the violation was neither reported to the commissioner  
6       nor was corrective action taken in relation thereto, the  
7       licenses of such individual employees or personnel of a  
8       business entity may be placed on probation, suspended, or  
9       revoked.

10               (d) In the absence of a greater fine specifically  
11       provided elsewhere in this title, and in addition to or in  
12       lieu of any applicable probation, suspension, revocation, or  
13       refusal, a person may, in the sole discretion of the  
14       commissioner after a hearing, additionally be subject to a  
15       civil fine in an amount not to exceed ten thousand dollars  
16       (\$10,000) per violation.

17               (e) The commissioner shall retain the authority to  
18       enforce the provisions of and impose any penalty or remedy  
19       authorized by this chapter or elsewhere in Title 27 against  
20       any person who is under investigation for or charged with a  
21       violation of this chapter or Title 27 even if the person's  
22       license or registration has been surrendered or has expired by  
23       operation of law.

24               Section 27-9A-13. Continuing education.

1           (a) An individual who holds an independent adjuster  
2 license and who is not exempt under subsection (b) shall  
3 satisfactorily complete a minimum of 24 hours of continuing  
4 education courses as may be approved by the commissioner, of  
5 which three hours must be in ethics, reported to the  
6 commissioner on a biennial basis in conjunction with the  
7 license renewal cycle.

8           (b) This section shall not apply to:

9           (1) Licensees not licensed for one full year prior  
10 to the end of the applicable continuing education biennium.

11           (2) Licensees holding nonresident independent  
12 adjuster licenses who have met the continuing education  
13 requirements of their designated home state and whose home  
14 state gives credit to residents of this state on the same  
15 basis.

16           (c) Only continuing education courses and providers  
17 approved by the commissioner shall be used to satisfy the  
18 continuing education requirements of this section. Continuing  
19 education providers and courses shall be subject to the same  
20 requirements and fees set forth in Chapter 8A of this title.

21           (d) The commissioner shall prescribe the number of  
22 hours of continuing education credit for each continuing  
23 education course approved. Continuing education courses  
24 submitted in accordance with a reciprocal agreement the

1 commissioner enters with other states shall be approved  
2 according to the provisions of the reciprocal agreement.

3 (e) If a continuing education course requires  
4 successful completion of a written examination, no continuing  
5 education credit shall be given to licensees who do not  
6 successfully complete the written examination.

7 (f) An individual teaching any approved continuing  
8 education course shall qualify for the same number of hours of  
9 continuing education credit as would be granted to a licensee  
10 taking and satisfactorily completing the course.

11 Section 27-9A-14. Record retention.

12 An independent adjuster shall maintain a copy of  
13 each contract between the independent adjuster and the insurer  
14 and comply with the record retention policy as agreed to in  
15 that contract. Records retained by an independent adjuster  
16 shall be made available for review or inspection if requested  
17 by the commissioner or authorized representatives of the  
18 commissioner.

19 Section 27-9A-15. Standards of conduct of  
20 independent adjusters.

21 In the conduct of business in this state, each  
22 independent adjuster, apprentice adjuster, and emergency  
23 independent adjuster shall:

24 (1) Be honest and fair in all communications with  
25 the insured, the insurer, and the public.

1           (2) Give policyholders and claimants prompt,  
2 knowledgeable service, and courteous, fair, and objective  
3 treatment at all times.

4           (3) Not give legal advice or engage in activities  
5 which are the unauthorized practice of law, and not deal  
6 directly with any policyholder or claimant who is represented  
7 by legal counsel without the consent of the legal counsel  
8 involved.

9           (4) Comply with all local, state, and federal  
10 privacy and information security laws, if applicable.

11           (5) Identify himself or herself as an independent  
12 adjuster and, if applicable, identify his or her employer when  
13 dealing with any policyholder or claimant.

14           (6) Not have any financial interest in any  
15 adjustment or acquire any interest or title in salvage without  
16 first receiving written authority from the principal.

17           (7) Comply with Chapter 12 of this title and any  
18 regulations implementing that chapter.

19           Section 27-9A-16. Reporting of actions.

20           (a) An independent adjuster shall report to the  
21 commissioner any administrative action taken against the  
22 independent adjuster by a governmental agency in another  
23 jurisdiction or by another governmental agency in this state  
24 within 30 days of the final disposition of the matter. This

1 report shall include a copy of the order, consent order, and  
2 any other relevant legal documents.

3 (b) Within 30 days of the initial pretrial hearing  
4 date, an independent adjuster shall report to the commissioner  
5 any criminal action taken against the independent adjuster in  
6 this or any jurisdiction. The report shall include a copy of  
7 the initial complaint filed, the order resulting from the  
8 hearing, and any other relevant legal documents.

9 Section 27-9A-17. Fingerprints.

10 (a) In order to make a determination of license  
11 eligibility, the commissioner may require fingerprints of  
12 applicants and to submit the fingerprints and the fee required  
13 to perform the criminal history record checks to the Alabama  
14 Department of Public Safety and the Federal Bureau of  
15 Investigation for state and national criminal history record  
16 checks.

17 (b) The commissioner may require a criminal history  
18 record check on each applicant in accordance with this  
19 section. The commissioner shall require each applicant to  
20 submit a full set of fingerprints, including a scanned file  
21 from a hard copy fingerprint, in order for the commissioner to  
22 obtain and receive national criminal history records from the  
23 Criminal Justice Information Services Division of the Federal  
24 Bureau of Investigation. In the case of business entity

1 applicants, the commissioner shall require the submission of  
2 fingerprints of all of the following:

3 (1) All executive officers and directors of the  
4 applicant.

5 (2) Any individual owning, directly or indirectly,  
6 51 percent or more of the outstanding voting securities of the  
7 applicant.

8 (3) All executive officers and directors of entities  
9 owning 51 percent or more of the outstanding voting securities  
10 of the applicant.

11 (c) The commissioner may contract for the  
12 collection, transmission, and resubmission of fingerprints  
13 required under this section. If the commissioner does so, the  
14 fee for collecting, transmitting, and retaining fingerprints  
15 shall be payable directly to the contractor by the person. The  
16 commissioner may agree to a reasonable fingerprinting fee to  
17 be charged by the contractor.

18 (d) The commissioner may waive submission of  
19 fingerprints by any person that has previously furnished  
20 fingerprints and those fingerprints are on file with the  
21 centralized repository of the NAIC.

22 (e) The commissioner may receive criminal history  
23 record information in lieu of the Alabama Department of Public  
24 Safety that submitted the fingerprints to the Federal Bureau  
25 of Investigation.

1           (f) The commissioner may submit electronic  
2 fingerprint records and necessary identifying information to  
3 the NAIC for permanent retention in a centralized repository.  
4 The purpose of such a centralized repository is to provide  
5 insurance commissioners with access to fingerprint records in  
6 order to perform criminal history record checks.

7           (g) The commissioner shall treat and maintain an  
8 applicant's fingerprints and any criminal history record  
9 information obtained under this section as confidential and  
10 shall apply security measures consistent with the Criminal  
11 Justice Information Services Division of the Federal Bureau of  
12 Investigation standards for the electronic storage of  
13 fingerprints and necessary identifying information and limit  
14 the use of records solely to the purposes authorized in this  
15 section. The fingerprints and any criminal history record  
16 information shall not be subject to subpoena, other than one  
17 issued in a criminal action or investigation, and shall be  
18 confidential.

19           Section 27-9A-18. Rules.

20           (a) The commissioner may promulgate reasonable rules  
21 as are necessary or proper to carry out the purposes of this  
22 chapter in accordance with Chapter 2 of this title.

23           (b) The commissioner, by regulation, may provide for  
24 delayed enforcement dates of up to 24 months following the  
25 effective date of this act to allow for implementation of the

1 provisions of this chapter relating to apprentice independent  
2 adjuster licensing, fingerprinting, the prelicensing course  
3 and examination, and continuing education.

4 Section 2. Section 27-4-2, Code of Alabama 1975, is  
5 amended to read as follows:

6 "§27-4-2.

7 "(a) The Commissioner of Insurance shall collect in  
8 advance fees, licenses, and miscellaneous charges as follows:

9 "(1) Certificate of authority:

10 "a. Initial application for original certificate of  
11 authority, including the filing with the commissioner of all  
12 documents incidental thereto ..... \$500

13 "b. Issuance of original certificate of authority  
14 ..... 500

15 "c. Annual continuation or renewal fee ..... 500

16 "d. Reinstatement fee ..... 500

17 "(2) Charter documents, filing with the commissioner  
18 amendment to articles of incorporation or of association, or  
19 of other charter documents or to bylaws ..... 25

20 "(3) Solicitation permit, filing application and  
21 issuance ..... 250

22 "(4) Annual statement of insurer, except when filed  
23 as part of application for original certificate of authority,  
24 filing ..... 25

25 "(5) Producer licenses (resident or nonresident):

1            "a. Individuals:

2            "1. Application fee (For filing of initial

3 application for license)        ..... 20

4            "2. License fee (For issuance of original license)

5 ..... 40

6            "b. Business entities:

7            "1. Application fee (For filing of initial

8 application for license)        ..... 20

9            "2. License fee (For original license and each

10 biennial renewal)        ..... 100

11           "c. Examination fees (For producer examination or

12 reexamination, each classification of examination)        ..... 50

13           "(6) Producer appointment fee:

14           "a. Filing notice of appointment        ..... 30

15           "b. Annual continuation of appointment        ..... 10

16           "(7) Reinsurance intermediary license:

17           "a. Filing application for license        ..... 30

18           "b. Issuance of initial license        ..... 140

19           "c. Annual continuation of license        ..... 100

20           "(8) Managing general agent license:

21           "a. Application fee (For filing of initial

22 application for license, each insurer)        ..... 30

23           "b. Issuance of initial license, each insurer        .....

24        125

1                    "c. Annual continuation of license, each insurer  
2                    ..... 75

3                    "(9) Service representative's license:

4                    "a. Application fee (For filing of initial  
5 application for license, each insurer) ..... 20

6                    "b. Appointment fee, property and casualty, each  
7 insurer (For original appointment and each annual renewal)  
8 ..... 30

9                    "(10) Surplus line broker:

10                   "a. Application fee (For filing of initial  
11 application for license) ..... 20

12                   "b. License fee (For original license and each  
13 annual renewal):

14                   "1. Individual licensees ..... 200

15                   "2. Business entity licensees ..... 500

16                   "(11) Adjusters (resident or nonresident):

17                   "a. Application fee (For filing of initial  
18 application for license; individuals and business entities)  
19 ..... 20

20                   "b. License fee (For original license and each  
21 biennial continuation)

22                   "1. Individual licensees ..... 80

23                   "2. Business entity licensees ..... 200

24                   "c. Examination fee, an amount set by the  
25 commissioner not to exceed ..... 100

1           "(12) Miscellaneous services:

2           "a. For copies of documents, records on file in  
3 Insurance Department, per page       ..... 1

4           "b. For each certificate under seal of the  
5 commissioner, other than licenses       ..... 5

6           "(13) The commissioner shall collect a fee of fifty  
7 dollars (\$50) when, in acting as agent for service of process  
8 for any insurance company, fraternal benefit society, mutual  
9 aid association, nonresident producer, nonresident independent  
10 adjuster, or nonresident surplus line broker, he or she  
11 accepts the service of legal process as provided by the laws  
12 of this state. The commissioner shall refuse to receive and  
13 file or serve any process unless the process is accompanied by  
14 the aforementioned fee, which shall be taxed as costs in the  
15 action.

16           "(b) The fees and licenses specified in subsection  
17 (a) shall be deposited in the State Treasury with 50 percent  
18 credited to the General Fund and 50 percent credited to the  
19 Insurance Department Fund."

20           Section 3. Chapter 9, commencing with Section 27-9-1  
21 of Title 27 of the Code of Alabama 1975, is repealed.

22           Section 4. This act shall become effective on the  
23 first day of January next following its passage and approval  
24 by the Governor, or its otherwise becoming law.

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*Kay Ivey*

President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB269

Senate 27-APR-11

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

House of Representatives  
Amended and passed 02-JUN-11

Senate concurred in House amendment 02-JUN-11

By: Senator Blackwell

APPROVED *June 9, 2011*  
TIME *2:30 p.m.*  
*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State  
Act Num....: 2011-637  
Bill Num...: S-269  
Recv'd 06/09/11 05:42pmTLW