ACT 2013 - 897

HB142

147262-2

By Representative Hill

RFD: Insurance

First Read: 05-FEB-13

MAY 20 2013
RECEIVED
GOVERNOR'S OFFICE

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2 ENROLLED, An Act,

3 Relating to insurance; to amend Sections 27-12A-2,
4 Code of Alabama 1975, providing the definition of insurance
5 fraud, to delete certain language that is not applicable to
6 the code section; and to amend Section 27-27-26, Code of
7 Alabama 1975, relating to domestic insurers, to delete and
8 clarify certain language to correct an error in an amendment.
9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
10 Section 1. Sections 27-12A-2, as enacted by Act
11 2012-429, and 27-27-26, Code of Alabama 1975, as amended by
12 Act 2012-370, are amended to read as follows:
13 "§27-12A-2.
14 "A person commits the crime of insurance fraud if,
15 knowingly and with intent to defraud, he or she commits, or
16 conceals any material information concerning, one or more of
17 the following acts:
18 "(1) The solicitation or acceptance of new or
19 renewal insurance risks on behalf of an insurer, reinsurer, or
20 other person engaged in the transaction of the business of
21 insurance, by a person who knows the insurer, reinsurer, or
22 other person responsible for the risk is financially unable to
23 pay its claims at the time of the transaction.
24 "(2) The removal, concealment, alteration, or
25 destruction of the assets or records relating to the

1 transaction of the business of insurance of an insurer,
2 reinsurer, or other person engaged in the transaction of the
3 business of insurance. This section does not prohibit an
4 insurer, reinsurer, or other person engaged in the transaction
5 of the business of insurance from destroying records or
6 documents relating to the transaction of the business of
7 insurance in accordance with record retention and destruction
8 standards set forth in state or federal law or the record
9 retention policy of the insurer, reinsurer, or other person.
10 "(3) The embezzlement, abstraction, theft, or
11 conversion of monies, funds, premiums, credits, or other
12 property relating to the transaction of the business of
13 insurance of an insurer, reinsurer, or other person engaged in
14 the transaction of the business of insurance.
15 "(4) Presenting, causing to be presented, or
16 preparing with knowledge or belief that it will be presented
17 to or by an insurer, reinsurer, producer, or any of their
18 respective agents, false information as part of, in support
19 of, or concerning a fact material to, one or more of the
20 following:
21 "a. An application for the issuance or renewal of an
22 insurance policy or reinsurance agreement.
23 "b. The rating of an insurance policy or reinsurance
24 agreement.

"c. A claim for payment or benefit pursuant to an insurance policy or reinsurance agreement.

"d. A claim for payment or benefit based on an advertisement or promises to provide a good or service under an insurance policy.

"~~1. To pay or fail to collect all or part of any applicable insurance deductible or a rebate in an amount equal to all or part of any applicable insurance deductible; and~~

"~~2. The good or service is paid for by the consumer from proceeds of a property or casualty insurance policy; and~~

"~~3. The person knowingly charges an amount for the good or service that exceeds the usual and customary charge by the person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by the person to an insurer on behalf of an insured or remitted to an insured by the person as a rebate.~~

"e. Premiums paid on an insurance policy or reinsurance agreement.

"f. Payments made in accordance with the terms of an insurance policy or reinsurance agreement.

"g. A document filed with the commissioner.

"i. Audit information submitted to the commissioner or an insurer.

"j. The formation, acquisition, merger, reconsolidation, or dissolution of one or more insurance

1 entities, or the withdrawal from one or more lines of
2 insurance in all or part of this state by an insurer or
3 reinsurer.
4 "k. The issuance of written evidence of insurance.
5 "l. The reinstatement of an insurance policy.
6 "m. Issuance, acceptance, change, endorsement, or
7 continuance of an insurance policy or reinsurance agreement.
8 "n. A construction or structure mitigation
9 inspection report provided for the issuance or renewal of an
10 insurance policy or discounts or credits related to an
11 insurance policy.
12 "(5) The failure to decline or refusal to return an
13 insurance payment for a loss or a recovery to which the person
14 is not entitled by reason of an insurer's mistake or other
15 facts or circumstances connected with the person's claim or
16 the coverage provided by an applicable insurance policy.
17 "(6) Overcharging an insurer or insured an amount
18 for a good or service that exceeds the usual and customary
19 charge by the person providing the good or performing the
20 service as a part of an insurance claim for damage.
21 "§27-27-26.
22 "(a) No officer or director of a domestic insurer,
23 and no member of any committee or employee of a domestic
24 insurer who is charged with the duty of investing or handling
25 the funds of the insurer, shall do any of the following:

"(1) Deposit or invest the funds except in the corporate name of the insurer; except, that the insurer may for its convenience hold any equity investment in a street name or in the name of a nominee.

"(2) Borrow the funds of the insurer.

"(3) Be pecuniarily interested in any loan, pledge or deposit, security, investment, sale, purchase, exchange, reinsurance, or other similar transaction or property of the insurer except as follows:

"a. As a stockholder or member of the insurer.

"b. As a holder or owner of common stock or equity-like preferred stock in any corporation or business entity trading on a national or international stock exchange.

"c. As a holder or owner of shares of mutual funds, bond funds, or private equity funds registered with the United States Securities and Exchange Commission.

"d. As a holder or owner of bonds and other evidences of indebtedness of governmental units in the United States or Canada or private business entities domiciled in the United States or Canada.

"e. As a holder or owner of bonds and other evidences of indebtedness of international development organizations of which the United States is a member.

"(4) Take ~~from a stockholder or member and~~ <u>or</u> receive to his or her own use any fee, brokerage, commission,

1 gift, or other consideration for, or on account of, any such
2 transaction made by, or on behalf of, the insurer.
3 "(b) No insurer shall guarantee any financial
4 obligation of any of its officers or directors.
5 "(c) This section shall not prohibit such a
6 director, or officer, or member of a committee or employee
7 from becoming a policyholder of the insurer and enjoying the
8 usual rights so provided for its policyholders, nor shall it
9 prohibit any officer, director, or member of a committee or
10 employee from participating as beneficiary in any pension
11 trust, deferred compensation plan, profit-sharing plan, or
12 stock option plan authorized by the insurer and to which he or
13 she may be eligible, nor shall it prohibit any director or
14 member of a committee from receiving a reasonable fee for
15 legal services actually rendered to the insurer.
16 "(d) The commissioner may, by regulations from time
17 to time, define and permit additional exceptions to the
18 prohibition contained in subsection (a) of this section solely
19 to enable payment of reasonable compensation to a director who
20 is not otherwise an officer or employee of the insurer, or to
21 a corporation or firm in which a director is interested, for
22 necessary services performed or sales or purchases made to, or
23 for, the insurer in the ordinary course of the business of the
24 insurer and in the usual private professional or business
25 capacity of the director or the corporation or firm."

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

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3 _____

4 Speaker of the House of Representatives

5 Kay Ivey

6 President and Presiding Officer of the Senate

7 House of Representatives

8 I hereby certify that the within Act originated in
9 and was passed by the House 24-APR-13.
10
11 Jeff Woodard
12 Clerk
13

14

15 Senate	20-MAY-13	Amended and Passed
16 House	20-MAY-13	Concurred in Senate Amendment

17

APPROVED May 23, 2013

TIME 5:39 p.m.

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-397
Bill Num...: H-142

Recv'd 05/24/13 12:48pmSLF

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-SPONSORS

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HOUSE ACTION

B & I

DATE: 2 5	20 13
RD 1 RFD Insurance	

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Insurance was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) ____ w/sub ✓
this 14th day of Feb., 20 13.
Mike Hill, Chairperson

DATE: 2 12	20 13
RF W/SUB	RD 2 CAL

DATE:	20__
RE-REFERRED ☐	RE-COMMITTED ☐
Committee	

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 142.
YEAS 97 NAYS 0

JEFF WOODARD, Clerk

SENATE ACTION

DATE: 5-2	20 13
RD 1 RFD B & I	

This Bill was referred to the Standing Committee of the Senate on B & I
and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) 1 w/sub ____ w/eng sub ____
by a vote of
yeas 4 nays 0 abstain ____
this 7 day of May 20 13
Gloria Blackwell, Chairperson

DATE: 5-9	20__
RF FN AMD(1)	RD 2 ✓ CAL ☐

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB ____.
YEAS ____ NAYS ____

PATRICK HARRIS, Secretary

DATE: 5-20-13	RD 3 at length
PASSED ☐	PASSED AS AMENDED ✓

YEAS 27 NAYS 1 AB 2
And was ordered returned forthwith to the House.

PATRICK HARRIS, Secretary

DATE:	20__
INDEFINITELY POSTPONED YEAS	NAYS

DATE:	20__
RECONSIDERED YEAS	NAYS