ACT 2013 - 209

HB199

148959-4

By Representative Hill

RFD: Insurance

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GOVERNOR'S OFFICE

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2 ENROLLED, An Act,

3 Relating to the Insurance Department; to further
4 provide for the regulation of reinsurance; to add Chapter 5B
5 to Title 27, Code of Alabama 1975; and to repeal Section
6 27-5-12, Code of Alabama 1975.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Chapter 5B is added to Title 27, Code of
9 Alabama 1975, to read as follows:

10 Chapter 5B. Reinsurance.

11 Section 27-5B-1. Purpose.

12 The purpose of this chapter is to protect the
13 interest of insureds, claimants, ceding insurers, assuming
14 insurers, and the public generally. The Legislature declares
15 its intent is to ensure adequate regulation of insurers and
16 reinsurers and adequate protection for those to whom they owe
17 obligations. In furtherance of that state interest, the
18 Legislature provides a mandate that upon the insolvency of a
19 non-U.S. insurer or reinsurer that provides security to fund
20 its U.S. obligations in accordance with this chapter, the
21 assets representing the security shall be maintained in the
22 United States and claims shall be filed with and valued by the
23 state insurance commissioner with regulatory oversight, and
24 the assets shall be distributed, in accordance with the
25 insurance laws of the state in which the trust is domiciled

1 that are applicable to the liquidation of domestic U.S.
2 insurance companies. The Legislature declares that the matters
3 contained in this chapter are fundamental to the business of
4 insurance in accordance with 15 U.S.C. §§ 1011-1012.
5 §27-5B-2. Reinsurance permitted.
6 (a) An insurer authorized under this title may
7 accept reinsurance only of such risks and retain risk thereon
8 within such limits as it is otherwise authorized to insure.
9 (b) An insurer authorized under this title may
10 reinsure all, or any part, of any particular risk with any
11 solvent insurer.
12 §27-5B-3. Credit allowed a domestic ceding insurer.
13 Credit for reinsurance shall be allowed a domestic
14 ceding insurer as either an asset or a reduction from
15 liability on account of reinsurance ceded only when the
16 reinsurer meets the requirements of Section 27-5B-4, 27-5B-5,
17 27-5B-6, 27-5B-7, 27-5B-8, or 27-5B-9. Credit shall be allowed
18 under Sections 27-5B-4, 27-5B-5, or 27-B5-6 only as respects
19 cessions of those kinds or classes of business which the
20 assuming insurer is licensed or otherwise permitted to write
21 or assume in its state of domicile or, in the case of a U.S.
22 branch of an alien assuming insurer, in the state through
23 which it is entered and licensed to transact insurance or
24 reinsurance. Credit shall be allowed under Section 27-5B-6 or

1 27-5B-7 only if the applicable requirements of Section
2 27-5B-10 have been satisfied.
3 §27-5B-4. Licensed reinsurer.
4 Credit shall be allowed when the reinsurance is
5 ceded to an assuming insurer that is licensed to transact
6 insurance or reinsurance in this state.
7 §27-5B-5. Accredited reinsurer.
8 Credit shall be allowed when the reinsurance is
9 ceded to an assuming insurer that is accredited by the
10 commissioner as a reinsurer in this state. In order to be
11 eligible for accreditation, a reinsurer must do all of the
12 following:
13 (1) File with the commissioner evidence of its
14 submission to this state's jurisdiction.
15 (2) Submit to this state's authority to examine its
16 books and records.
17 (3) Be licensed to transact insurance or reinsurance
18 in at least one state, or in the case of a U.S. branch of an
19 alien assuming insurer, be entered through and licensed to
20 transact insurance or reinsurance in at least one state.
21 (4) File annually with the commissioner a copy of
22 its annual statement filed with the insurance department of
23 its state of domicile and a copy of its most recent audited
24 financial statement.

1 (5) Demonstrate to the satisfaction of the
2 commissioner that it has adequate financial capacity to meet
3 its reinsurance obligations and is otherwise qualified to
4 assume reinsurance from domestic insurers. An assuming insurer
5 is deemed to meet this requirement as of the time of its
6 application if it maintains a surplus as regards policyholders
7 in an amount not less than twenty million dollars
8 ($20,000,000) and its accreditation has not been denied by the
9 commissioner within 90 days after submission of its
10 application.
11 §27-5B-6. Reinsurer domiciled in state with
12 substantially similar law.
13 (a) Credit shall be allowed when the reinsurance is
14 ceded to an assuming insurer that is domiciled in, or in the
15 case of a U.S. branch of an alien assuming insurer is entered
16 through, a state that employs standards regarding credit for
17 reinsurance substantially similar to those applicable under
18 this chapter and the assuming insurer or U.S. branch of an
19 alien assuming insurer does both of the following:
20 (1) Maintains a surplus as regards policyholders in
21 an amount not less than twenty million dollars ($20,000,000).
22 (2) Submits to the authority of this state to
23 examine its books and records.
24 (b) The requirement of subdivision (1) of subsection
25 (a) does not apply to reinsurance ceded and assumed pursuant

1 to pooling arrangements among insurers in the same holding
2 company system.
3 §27-5B-7. Reinsurer maintaining a trust fund.
4 (a) Credit shall be allowed when the reinsurance is
5 ceded to an assuming insurer that maintains a trust fund in a
6 qualified U.S. financial institution, as defined in subsection
7 (b) of Section 27-5B-15, for the payment of the valid claims
8 of its U.S. ceding insurers, their assigns and successors in
9 interest. To enable the commissioner to determine the
10 sufficiency of the trust fund, the assuming insurer shall
11 report annually to the commissioner information substantially
12 the same as that required to be reported on the NAIC Annual
13 Statement form by licensed insurers. The assuming insurer
14 shall submit to examination of its books and records by the
15 commissioner and bear the expense of examination.
16 (b)(1) Credit for reinsurance shall not be granted
17 under this section unless the form of the trust and any
18 amendments to the trust have been approved by either:
19 a. The commissioner of the state where the trust is
20 domiciled.
21 b. The commissioner of another state who, pursuant
22 to the terms of the trust instrument, has accepted principal
23 regulatory oversight of the trust.
24 (2) The form of the trust and any trust amendments
25 also shall be filed with the commissioner of every state in

1 which the ceding insurer beneficiaries of the trust are
2 domiciled. The trust instrument shall provide that contested
3 claims shall be valid and enforceable upon the final order of
4 any court of competent jurisdiction in the United States. The
5 trust shall vest legal title to its assets in its trustees for
6 the benefit of the assuming insurer's U.S. ceding insurers,
7 their assigns and successors in interest. The trust and the
8 assuming insurer shall be subject to examination as determined
9 by the commissioner.
10 (3) The trust shall remain in effect for as long as
11 the assuming insurer has outstanding obligations due under the
12 reinsurance agreements subject to the trust. No later than
13 February 28 of each year the trustee of the trust shall report
14 to the commissioner in writing the balance of the trust and
15 listing the trust's investments at the preceding year-end and
16 shall certify the date of termination of the trust, if so
17 planned, or certify that the trust will not expire prior to
18 the following December 31.
19 (c) The following requirements apply to the
20 following categories of assuming insurer:
21 (1) The trust fund for a single assuming insurer
22 shall consist of funds in trust in an amount not less than the
23 assuming insurer's liabilities attributable to reinsurance
24 ceded by U.S. ceding insurers, and, in addition, the assuming
25 insurer shall maintain a trusteed surplus of not less than

1 twenty million dollars ($20,000,000), except as provided in
2 subdivision (2).
3 (2) At any time after the assuming insurer has
4 permanently discontinued underwriting new business secured by
5 the trust for at least three full years, the commissioner with
6 principal regulatory oversight of the trust may authorize a
7 reduction in the required trusteed surplus, but only after a
8 finding, based on an assessment of the risk, that the new
9 required surplus level is adequate for the protection of U.S.
10 ceding insurers, policyholders and claimants in light of
11 reasonably foreseeable adverse loss development. The risk
12 assessment may involve an actuarial review, including an
13 independent analysis of reserves and cash flows, and shall
14 consider all material risk factors, including when applicable
15 the lines of business involved, the stability of the incurred
16 loss estimates and the effect of the surplus requirements on
17 the assuming insurer's liquidity or solvency. The minimum
18 required trusteed surplus may not be reduced to an amount less
19 than 30 percent of the assuming insurer's liabilities
20 attributable to reinsurance ceded by U.S. ceding insurers
21 covered by the trust.
22 (3)a. In the case of a group including incorporated
23 and individual unincorporated underwriters:
24 1. For reinsurance ceded under reinsurance
25 agreements with an inception, amendment or renewal date on or

1 after August 1, 1995, the trust shall consist of a trusteed
2 account in an amount not less than the respective
3 underwriter's several liabilities attributable to business
4 ceded by U.S. domiciled ceding insurers to any underwriter of
5 the group.
6 2. For reinsurance ceded under reinsurance
7 agreements with an inception date on or before July 31, 1995,
8 and not amended or renewed after that date, notwithstanding
9 the other provisions of this chapter, the trust shall consist
10 of a trusteed account in an amount not less than the
11 respective underwriter's several insurance and reinsurance
12 liabilities attributable to business written in the United
13 States.
14 3. In addition to these trusts, the group shall
15 maintain in trust a trusteed surplus of which one hundred
16 million dollars ($100,000,000) shall be held jointly for the
17 benefit of the U.S. domiciled ceding insurers of any member of
18 the group for all years of account.
19 b. The incorporated members of the group shall not
20 be engaged in any business other than underwriting as a member
21 of the group and shall be subject to the same level of
22 regulation and solvency control by the group's domiciliary
23 regulator as are the unincorporated members.
24 c. Within 90 days after its financial statements are
25 due to be filed with the group's domiciliary regulator, the

1 group shall provide to the commissioner an annual
2 certification by the group's domiciliary regulator of the
3 solvency of each underwriter member; or if a certification is
4 unavailable, financial statements, prepared by independent
5 public accountants, of each underwriter member of the group.
6 (4) In the case of a group of incorporated
7 underwriters under common administration, the group shall do
8 all of the following:
9 a. Have continuously transacted an insurance
10 business outside the United States for at least three (3)
11 years immediately prior to making application for
12 accreditation.
13 b. Maintain aggregate policyholders' surplus of at
14 least ten billion dollars ($10,000,000,000).
15 c. Maintain a trust fund in an amount not less than
16 the group's several liabilities attributable to business ceded
17 by U.S. domiciled ceding insurers to any member of the group
18 pursuant to reinsurance contracts issued in the name of the
19 group.
20 d. In addition, maintain a joint trusteed surplus of
21 which one hundred million dollars ($100,000,000) shall be held
22 jointly for the benefit of U.S. domiciled ceding insurers of
23 any member of the group as additional security for these
24 liabilities.

1 e. Within 90 days after its financial statements are
2 due to be filed with the group's domiciliary regulator, make
3 available to the commissioner an annual certification of each
4 underwriter member's solvency by the member's domiciliary
5 regulator and financial statements of each underwriter member
6 of the group prepared by its independent public accountant.
7 §27-5B-8. Certified reinsurer.
8 (a) Credit shall be allowed when the reinsurance is
9 ceded to an assuming insurer that is certified by the
10 commissioner as a reinsurer in this state and secures its
11 obligations in accordance with the requirements of this
12 section. In order to be eligible for certification, the
13 assuming insurer shall meet all of the following requirements:
14 (1) The assuming insurer must be domiciled and
15 licensed to transact insurance or reinsurance in a qualified
16 jurisdiction, as determined by the commissioner pursuant to
17 subsection (c).
18 (2) The assuming insurer must maintain minimum
19 capital and surplus, or its equivalent, in an amount to be
20 determined by the commissioner pursuant to regulation.
21 (3) The assuming insurer must maintain financial
22 strength ratings from two or more rating agencies deemed
23 acceptable by the commissioner pursuant to regulation.
24 (4) The assuming insurer must agree to submit to the
25 jurisdiction of this state, appoint the commissioner as its

1 agent for service of process in this state, and agree to
2 provide security for 100 percent of the assuming insurer's
3 liabilities attributable to reinsurance ceded by U.S. ceding
4 insurers if it resists enforcement of a final U.S. judgment.
5 (5) The assuming insurer must agree to meet
6 applicable information filing requirements as determined by
7 the commissioner, both with respect to an initial application
8 for certification and on an ongoing basis.
9 (6) The assuming insurer must satisfy any other
10 requirements for certification deemed relevant by the
11 commissioner.
12 (b) An association including incorporated and
13 individual unincorporated underwriters may be a certified
14 reinsurer. In order to be eligible for certification, in
15 addition to satisfying requirements of subsection (a):
16 (1) The association shall satisfy its minimum
17 capital and surplus requirements through the capital and
18 surplus equivalents (net of liabilities) of the association
19 and its members, which shall include a joint central fund that
20 may be applied to any unsatisfied obligation of the
21 association or any of its members, in an amount determined by
22 the commissioner to provide adequate protection.
23 (2) The incorporated members of the association
24 shall not be engaged in any business other than underwriting
25 as a member of the association and shall be subject to the

1 same level of regulation and solvency control by the
2 association's domiciliary regulator as are the unincorporated
3 members.
4 (3) Within 90 days after its financial statements
5 are due to be filed with the association's domiciliary
6 regulator, the association shall provide to the commissioner
7 an annual certification by the association's domiciliary
8 regulator of the solvency of each underwriter member; or if a
9 certification is unavailable, financial statements, prepared
10 by independent public accountants, of each underwriter member
11 of the association.
12 (c)(1) The commissioner shall create and publish a
13 list of qualified jurisdictions, under which an assuming
14 insurer licensed and domiciled in such jurisdiction is
15 eligible to be considered for certification by the
16 commissioner as a certified reinsurer.
17 (2) In order to determine whether the domiciliary
18 jurisdiction of a non-U.S. assuming insurer is eligible to be
19 recognized as a qualified jurisdiction, the commissioner shall
20 evaluate the appropriateness and effectiveness of the
21 reinsurance supervisory system of the jurisdiction, both
22 initially and on an ongoing basis, and consider the rights,
23 benefits and the extent of reciprocal recognition afforded by
24 the non-U.S. jurisdiction to reinsurers licensed and domiciled
25 in the U.S. A qualified jurisdiction must agree to share

information and cooperate with the commissioner with respect to all certified reinsurers domiciled within the jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(3) A list of qualified jurisdictions shall be published through the National Associations of Insurance Commissioners committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.

(4) U.S. jurisdictions that meet the requirement for accreditation under the National Associations of Insurance Commissioners financial standards and accreditation program shall be recognized as qualified jurisdictions.

(5) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(d) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial

1 strength ratings that have been assigned by rating agencies
2 deemed acceptable by the commissioner pursuant to regulation.
3 The commissioner shall publish a list of all certified
4 reinsurers and their ratings.
5 (e)(1) A certified reinsurer shall secure
6 obligations assumed from U.S. ceding insurers under this
7 subsection at a level consistent with its rating, as specified
8 in regulations promulgated by the commissioner.
9 (2) In order for a domestic ceding insurer to
10 qualify for full financial statement credit for reinsurance
11 ceded to a certified reinsurer, the certified reinsurer shall
12 maintain security in a form acceptable to the commissioner and
13 consistent with the provisions of Section 27-5B-14, or in a
14 multibeneficiary trust in accordance with Section 27-5B-7,
15 except as otherwise provided in this section.
16 (3) If a certified reinsurer maintains a trust to
17 fully secure its obligations subject to Section 27-5B-7, and
18 chooses to secure its obligations incurred as a certified
19 reinsurer in the form of a multibeneficiary trust, the
20 certified reinsurer shall maintain separate trust accounts for
21 its obligations incurred under reinsurance agreements issued
22 or renewed as a certified reinsurer with reduced security as
23 permitted by this section or comparable laws of other U.S.
24 jurisdictions and for its obligations subject to Section
25 27-5B-7. It shall be a condition to the grant of certification

1 under Section 27-5B-8 that the certified reinsurer shall have
2 bound itself, by the language of the trust and agreement with
3 the commissioner with principal regulatory oversight of each
4 such trust account, to fund, upon termination of any such
5 trust account, out of the remaining surplus of such trust any
6 deficiency of any other such trust account.
7 (4) The minimum trusteed surplus requirements
8 provided in Section 27-5B-7 are not applicable with respect to
9 a multibeneficiary trust maintained by a certified reinsurer
10 for the purpose of securing obligations incurred under this
11 section, except that such trust shall maintain a minimum
12 trusteed surplus of ten million dollars ($10,000,000).
13 (5) With respect to obligations incurred by a
14 certified reinsurer under this section, if the security is
15 insufficient, the commissioner shall reduce the allowable
16 credit by an amount proportionate to the deficiency, and has
17 the discretion to impose further reductions in allowable
18 credit upon finding that there is a material risk that the
19 certified reinsurer's obligations will not be paid in full
20 when due.
21 (6)a. For purposes of this section, a certified
22 reinsurer whose certification has been terminated for any
23 reason shall be treated as a certified reinsurer required to
24 secure 100 percent of its obligations.

1 b. As used in this section, the term "terminated"
2 refers to revocation, suspension, voluntary surrender and
3 inactive status.
4 c. If the commissioner continues to assign a higher
5 rating as permitted by other provisions of this chapter, this
6 requirement does not apply to a certified reinsurer in
7 inactive status or to a reinsurer whose certification has been
8 suspended.
9 (f) If an applicant for certification has been
10 certified as a reinsurer in an NAIC accredited jurisdiction,
11 the commissioner has the discretion to defer to that
12 jurisdiction's certification, and has the discretion to defer
13 to the rating assigned by that jurisdiction, and such assuming
14 insurer shall be considered to be a certified reinsurer in
15 this state.
16 (g) A certified reinsurer that ceases to assume new
17 business in this state may request to maintain its
18 certification in inactive status in order to continue to
19 qualify for a reduction in security for its in-force business.
20 An inactive certified reinsurer shall continue to comply with
21 all applicable requirements of this section, and the
22 commissioner shall assign a rating that takes into account, if
23 relevant, the reasons why the reinsurer is not assuming new
24 business.
25 §27-5B-9. Credit for reinsurance required by law.

1 Credit shall be allowed when the reinsurance is
2 ceded to an assuming insurer not meeting the requirements of
3 Section 27-5B-4, 27-5B-5, 27-5B-6, 27-5B-7, or 27-5B-8, but
4 only as to the insurance of risks located in jurisdictions
5 where the reinsurance is required by applicable law or
6 regulation of that jurisdiction.
7 §27-5B-10. Reinsurer not licensed, accredited or
8 certified - additional requirements.
9 (a) If the assuming insurer is not licensed,
10 accredited or certified to transact insurance or reinsurance
11 in this state, the credit permitted by Sections 27-5B-6 and
12 27-5B-7 shall not be allowed unless the assuming insurer
13 agrees in the reinsurance agreements:
14 (1) That in the event of the failure of the assuming
15 insurer to perform its obligations under the terms of the
16 reinsurance agreement, the assuming insurer, at the request of
17 the ceding insurer, shall submit to the jurisdiction of any
18 court of competent jurisdiction in any state of the United
19 States, will comply with all requirements necessary to give
20 the court jurisdiction, and will abide by the final decision
21 of the court or of any appellate court in the event of an
22 appeal.
23 (2) To designate the commissioner or a designated
24 attorney as its true and lawful attorney upon whom may be

1 served any lawful process in any action, suit or proceeding
2 instituted by or on behalf of the ceding insurer.
3 (b) This section is not intended to conflict with or
4 override the obligation of the parties to a reinsurance
5 agreement to arbitrate their disputes, if this obligation is
6 created in the agreement.
7 §27-5B-11. Reinsurer not licensed or accredited or
8 subject to substantially similar laws - additional
9 requirements.
10 If the assuming insurer does not meet the
11 requirements of Section 27-5B-4, 27-5B-5 or 27-5B-6, the
12 credit permitted by Section 27-5B-7 or 27-5B-8 shall not be
13 allowed unless the assuming insurer agrees in the trust
14 agreements to the following conditions:
15 (1) Notwithstanding any other provisions in the
16 trust instrument, if the trust fund is inadequate because it
17 contains an amount less than the amount required by subsection
18 (c) of Section 27-5B-7, or if the grantor of the trust has
19 been declared insolvent or placed into receivership,
20 rehabilitation, liquidation or similar proceedings under the
21 laws of its state or country of domicile, the trustee shall
22 comply with an order of the commissioner with regulatory
23 oversight over the trust or with an order of a court of
24 competent jurisdiction directing the trustee to transfer to

1 the commissioner with regulatory oversight all of the assets
2 of the trust fund.
3 (2) The assets shall be distributed by and claims
4 shall be filed with and valued by the commissioner with
5 regulatory oversight in accordance with the laws of the state
6 in which the trust is domiciled that are applicable to the
7 liquidation of domestic insurance companies.
8 (3) If the commissioner with regulatory oversight
9 determines that the assets of the trust fund or any part
10 thereof are not necessary to satisfy the claims of the U.S.
11 ceding insurers of the grantor of the trust, the assets or
12 part thereof shall be returned by the commissioner with
13 regulatory oversight to the trustee for distribution in
14 accordance with the trust agreement.
15 (4) The grantor shall waive any right otherwise
16 available to it under U.S. law that is inconsistent with this
17 provision.
18 Section 27-5B-12. Accredited or certified reinsurer
19 ceasing to meet requirements.
20 (a) If an accredited or certified reinsurer ceases
21 to meet the requirements for accreditation or certification,
22 the commissioner may suspend or revoke the reinsurer's
23 accreditation or certification.
24 (b) The commissioner must give the reinsurer notice
25 and opportunity for hearing. The suspension or revocation may

not take effect until after the commissioner's order on hearing, unless any of the following occurs:

(1) The reinsurer waives its right to hearing.

(2) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection (f) of Section 27-5B-8.

(3) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 27-5B-14. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (e) of Section 27-5B-8 or Section 27-5B-14.

§27-5B-13. Concentration Risk.

1 (a) A ceding insurer shall take steps to manage its
2 reinsurance recoverables proportionate to its own book of
3 business. A domestic ceding insurer shall notify the
4 commissioner within 30 days after reinsurance recoverables
5 from any single assuming insurer, or group of affiliated
6 assuming insurers, exceeds 50 percent of the domestic ceding
7 insurer's last reported surplus to policyholders, or after it
8 is determined that reinsurance recoverables from any single
9 assuming insurer, or group of affiliated assuming insurers, is
10 likely to exceed this limit. The notification shall
11 demonstrate that the exposure is safely managed by the
12 domestic ceding insurer.
13 (b) A ceding insurer shall take steps to diversify
14 its reinsurance program. A domestic ceding insurer shall
15 notify the commissioner within 30 days after ceding to any
16 single assuming insurer, or group of affiliated assuming
17 insurers, more than 20 percent of the ceding insurer's gross
18 written premium in the prior calendar year, or after it has
19 determined that the reinsurance ceded to any single assuming
20 insurer, or group of affiliated assuming insurers, is likely
21 to exceed this limit. The notification shall demonstrate that
22 the exposure is safely managed by the domestic ceding insurer.
23 §27-5B-14. Asset or Reduction from Liability for
24 Reinsurance Ceded by a Domestic Insurer to an Assuming Insurer

not Meeting the Requirements of Sections 27-5B-3 through 27-5B-13.

An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 27-5B-3, 27-5B-4, 27-5B-5, 27-5B-6, 27-5B-7, 27-5B-8, 27-5B-9, 27-5B-10, 27-5B-11, 27-5B-12 or 27-5B-13 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution, as defined in subsection (b) of Section 27-5B-15. This security may be in the form of any of the following:

(1) Cash.

(2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets.

(3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial

institution, as defined in subsection (a) of Section 27-5B-15, effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement.

(4) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

(5) Any other form of security acceptable to the commissioner.

Section 27-5B-15. Qualified U.S. Financial Institutions.

(a) For purposes of subdivision (3) of Section 27-5B-14, a "qualified U.S. financial institution" means an institution that meets all of the following:

(1) Is organized or (in the case of a U.S. office of a foreign banking organization) licensed, under the laws of the United States or any state thereof.

(2) Is regulated, supervised and examined by U.S. federal or state authorities having regulatory authority over banks and trust companies.

1 (3) Has been determined by either the commissioner
2 or the Securities Valuation Office of the National Association
3 of Insurance Commissioners to meet such standards of financial
4 condition and standing as are considered necessary and
5 appropriate to regulate the quality of financial institutions
6 whose letters of credit will be acceptable to the
7 commissioner.
8 (b) A "qualified U.S. financial institution" means,
9 for purposes of those provisions of this law specifying those
10 institutions that are eligible to act as a fiduciary of a
11 trust, an institution that meets both of the following:
12 (1) Is organized, or, in the case of a U.S. branch
13 or agency office of a foreign banking organization, licensed,
14 under the laws of the United States or any state thereof and
15 has been granted authority to operate with fiduciary powers.
16 (2) Is regulated, supervised and examined by federal
17 or state authorities having regulatory authority over banks
18 and trust companies.
19 §27-5B-16. Insolvency clause.
20 Except as provided in Section 27-5B-17, no credit
21 shall be allowed, as an admitted asset or deduction from
22 liability, to any ceding insurer for reinsurance placed with a
23 reinsurer qualified under this chapter, unless the reinsurance
24 contract provides, in substance, that in the event of the
25 insolvency of the ceding insurer, the reinsurance shall be

payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed by the liquidation court, without diminution because of the insolvency of the ceding insurer. The payments shall be made directly to the ceding insurer or to its domiciliary liquidator except in either of the following instances:

(1) Where the contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer.

(2) Where the assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policies and in substitution for the obligations of the ceding insurer to the payees.

§27-5B-17. Guaranty association election.

Notwithstanding Section 27-5B-16, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance subject to the payment to the reinsurer of the reinsurance premiums for the coverage. Payment for the reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at

1 the direction of the guaranty association or its designated
2 successor by the reinsurer shall discharge the reinsurer of
3 all further liability to any other party for the claim
4 payment.
5 §27-5B-18. Notice by domiciliary liquidator.
6 The reinsurance agreement may provide that the
7 domiciliary liquidator of an insolvent ceding insurer shall
8 give written notice to the assuming insurer of the pendency of
9 a claim against the ceding insurer on the contract within a
10 reasonable time after the claim is filed in the liquidation
11 proceeding. During the pendency of the claim, any assuming
12 insurer may investigate the claim and interpose, at its own
13 expense, in the proceeding where the claim is to be
14 adjudicated any defenses which it deems available to the
15 ceding insurer, or its liquidator. The expense may be filed as
16 a claim against the insolvent ceding insurer to the extent of
17 a proportionate share of the benefit which may accrue to the
18 ceding insurer solely as a result of the defense undertaken by
19 the assuming insurer. Where two or more assuming insurers are
20 involved in the same claim and a majority in interest elect to
21 interpose a defense to the claim, the expense shall be
22 apportioned in accordance with the terms of the reinsurance
23 agreement as though the expense had been incurred by the
24 ceding insurer.
25 §27-5B-19. Rules.

1 The commissioner may adopt rules implementing the
2 provisions of this chapter.
3 Section 2. Section 27-5-12, Code of Alabama 1975, is
4 repealed.
5 Section 3. This act shall become effective on the
6 first day of January following its passage and approval by the
7 Governor, or its otherwise becoming law.

Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 18-APR-13, as amended.

Jeff Woodard
Clerk

Senate 02-MAY-13 Passed

APPROVED May 13, 2013

TIME 9:00 a.m.

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-209
Bill Num...: H-199

Recv'd 05/15/13 10:13amSLF

Hill

SPONSORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 199

YEAS 98 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

_____

SENATE ACTION

DATE: 4-8 20__

RD 1 RFD R-2

This Bill was referred to the Standing Committee of the Senate on Banking & Insurance and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) ____ w/sub ____ by a vote of yeas 7 nays 0 abstain ____ this 23 day of April 20 15

Chairperson

DATE: 4-24 20__

RF DJ 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 99

YEAS ____ NAYS ____

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)