

1 HB220
2 110455-1
3 By Representatives McMillan, Buskey, Baker (A), Vance,
4 Thigpen, Ison, Fincher, Gaston, Faust, Shiver, Kennedy, Davis,
5 Collier and Allen
6 RFD: Banking and Insurance
7 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, certain insurance risks
9 may be placed with foreign and alien insurers
10 pursuant to the surplus line insurance law, but
11 only with insurers that have done business as
12 authorized insurers in their state of domicile for
13 a minimum of five years.

14 This bill would provide an exception to the
15 five-year requirement of foreign and alien surplus
16 line insurers who place a special deposit in this
17 state.

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19 A BILL
20 TO BE ENTITLED
21 AN ACT

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23 To amend Section 27-10-26, Code of Alabama 1975,
24 relating to surplus line insurance; to provide an exception to
25 the five-year requirement for foreign and alien surplus line
26 insurers submitting a special deposit in this state.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 27-10-26, Code of Alabama 1975,
2 is amended to read as follows:

3 "§27-10-26.

4 "(a) A surplus line broker shall not knowingly place
5 surplus line insurance with an insurer that is unsound
6 financially, or that is ineligible under this section. The
7 broker shall ascertain the financial condition of the
8 unauthorized insurer before placing insurance therewith.

9 "(b) The broker shall not so insure with any of the
10 following:

11 "(1) With any insurer which is not an authorized
12 insurer in at least one state of the United States for the
13 kind of insurance involved, and with capital or surplus, or
14 both, amounting to at least five million dollars (\$5,000,000);
15 or guaranteed trust fund amounting to at least five million
16 dollars (\$5,000,000).

17 "(2) With an alien insurer not authorized to
18 transact insurance in at least one state of the United States,
19 unless the insurer shall have established an effective trust
20 fund of at least two million five hundred thousand dollars
21 (\$2,500,000) within the United States administered by a
22 recognized financial institution and held for the benefit of
23 all its policyholders or policyholders and creditors in the
24 United States, and with capital or surplus, or both, amounting
25 to at least fifteen million dollars (\$15,000,000).

26 "(3) With a foreign or alien insurer which has
27 transacted insurance as an authorized insurer in its state or

1 country of domicile for less than five years, unless it is a
2 wholly owned subsidiary of an insurer authorized to transact
3 insurance in this state or unless it makes a deposit in this
4 state as may be permitted under subsection (c).

5 "(4) With an insurer the voting control of which is
6 held in whole or substantial part by any government or
7 governmental agency.

8 "(5) In any insurer made ineligible as a surplus
9 line insurer by order of the commissioner received by or known
10 to the broker. The commissioner may issue an order of
11 ineligibility if he or she finds that the insurer:

12 "a. Does not meet the financial requirements of this
13 section;

14 "b. Has without just cause refused to pay valid
15 claims arising under its contracts in this state or has
16 otherwise conducted its affairs in a manner as to result in
17 injury or loss to the insuring public of this state; or

18 "c. Has conducted its affairs in a manner as to
19 result in the avoidance of payment of tax as required by
20 Sections 27-10-31 and 27-10-35.

21 "(c) When it appears after a search of surplus lines
22 insurers that any particular insurance risk which is eligible
23 to be placed in accordance with the surplus line law but on
24 which insurance coverage, in whole or in part, is not
25 procurable from foreign or alien insurers meeting all of the
26 requirements of subsection (b) but is procurable from a
27 foreign or alien insurer meeting all of the requirements of

1 subsection (b) except for paragraph (3), then the surplus line
2 broker may file a supplemental signed statement setting forth
3 the facts and advising the department that the part of the
4 risk as shall be unprocurable, as aforesaid, is being placed
5 with named unauthorized insurers which meet all of the
6 requirements of subsection (b) except for paragraph (3), in
7 the amounts and percentages set forth in the statement. These
8 named unauthorized insurers, before accepting any risk in this
9 state, shall deposit with the department cash or securities
10 acceptable to the commissioner and with a market value of not
11 less than one million dollars (\$1,000,000), which deposit
12 shall be held by the department for the benefit of Alabama
13 policyholders only. The deposit shall be held in the same
14 manner as other deposits as described in Section 27-3-11. The
15 commissioner may adopt reasonable rules for the implementation
16 and administration of the provisions of this section."

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