

1 HB445  
2 116106-1  
3 By Representatives Buskey, Vance, Graham and Grimes  
4 RFD: Banking and Insurance  
5 First Read: 26-JAN-10

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8 SYNOPSIS: This bill would provide for the Alabama  
9 Homeowners Bill of Rights Act.

10 This bill would require insurance carriers  
11 to provide to homeowner policyholders an outline of  
12 policy coverage and a standard checklist of policy  
13 contents at the time of sale and annually  
14 thereafter; provide specific rights of  
15 policyholders regarding pricing, advertising,  
16 financial assurances, readable policies, balanced  
17 regulation by the Department of Insurance,  
18 inquiring about the licensing status of insurance  
19 personnel, cancellation rights, timely claim  
20 payment, the receiving of copies of certain reports  
21 relating to claim estimates, filing complaints,  
22 fair treatment, and rejection of settlement offers.

23 This bill would specify that the act does  
24 not create a civil cause of action, and to provide  
25 that violations of this act shall be punishable as  
26 a violation of the Unfair Trade Practices Act.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   To provide for the Alabama Homeowners Bill of Rights  
27                   Act; to require insurance carriers to provide to homeowner

1 policyholders an outline of policy coverage and a standard  
2 checklist of policy contents at the time of sale and annually  
3 thereafter; to provide specific rights of policyholders  
4 regarding pricing, advertising, financial assurances, readable  
5 policies, balanced regulation by the Department of Insurance,  
6 inquiring about the licensing status of insurance personnel,  
7 cancellation rights, timely claim payment, the receiving of  
8 copies of certain reports relating to claim estimates, filing  
9 complaints, fair treatment, and rejection of settlement  
10 offers; to specify that the act does not provide that  
11 violations of this act shall be punishable as a violation of  
12 the Unfair Trade Practices Act; and in connection therewith  
13 would have as its purpose or effect the requirement of a new  
14 or increased expenditure of local funds within the meaning of  
15 Amendment 621 of the Constitution of Alabama of 1901, now  
16 appearing as Section 111.05 of the Official Recompilation of  
17 the Constitution of Alabama of 1901, as amended.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Purpose, Intent, Name of Act.

20 (a) The purpose of this act is to set forth the  
21 rights Alabama homeowners have with respect to their insurance  
22 policies and with insurance companies.

23 (b) It is the intent of this act to improve  
24 homeowners understanding of their policies and to better  
25 enable a policyholder to understand their coverages.

26 (c) This act shall be known and may be cited as the  
27 "Alabama Homeowners Bill of Rights Act."

1                   Section 2. Scope.

2                   This act shall apply to all insurance companies,  
3 including surplus lines companies and the Alabama Insurance  
4 Underwriting Association, writing homeowners personal lines  
5 residential coverage insurance policies in the State of  
6 Alabama. For purposes of this act, the term "personal lines  
7 residential property coverage" shall include condominium  
8 coverage, dwelling fire policies, renters and tenants  
9 insurance, and mobile home and manufactured home property  
10 coverage, even if the coverage is classified as an automobile  
11 property policy. Creditor placed property coverage and  
12 condominium association or homeowner association property  
13 coverage is excluded from the term for purposes of this act.

14                   Section 3. Policyholders Bill of Rights.

15                   The following rights shall serve as the minimum  
16 standards to be followed by the Alabama Department of  
17 Insurance in exercising the powers and duties of the  
18 department, in exercising administrative discretion, in  
19 dispensing administrative interpretations of the law, and in  
20 regulating insurance companies pursuant to the Unfair and  
21 Deceptive Trade Practices Act:

22                   (1) Policyholders shall have the right to  
23 competitive pricing practices and marketing methods that  
24 enable them to determine the best value among comparable  
25 coverage as set forth in Sections 27-12-2 and 27-13-1 et seq.,  
26 Code of Alabama 1975.

1           (2) Policyholders shall have the right to insurance  
2 advertising and other selling approaches that provide accurate  
3 and balanced information on the benefits and limitations of a  
4 policy.

5           (3) Policyholders shall have the right to assurance  
6 that the insurance market in general and their insurance  
7 company in particular are financially stable.

8           (4) Policyholders shall have the right to receive  
9 good service from competent, honest individuals and producers  
10 and to have their questions addressed promptly.

11           (5) Policyholders shall have the right to a policy  
12 in a readable format, to receive a complete policy, and to  
13 request a duplicate or replacement policy, as needed.

14           (6) Policyholders shall have the right to be treated  
15 fairly and be free from unfair or deceptive acts or practices  
16 in accordance with Section 27-12-1 et seq., Code of Alabama  
17 1975.

18           (7) Policyholders shall have the right to assurance  
19 that their insurance company is regulated to comply with  
20 Alabama laws requiring economic delivery of coverage and loss  
21 prevention measures.

22           (8) Policyholders shall have the right to balanced  
23 and positive regulation by the Department of Insurance.

24           (9) Policyholders shall have the right to check, or  
25 request, the license status of an insurance company, producer,  
26 or adjuster.

1           (10) Policyholders shall have the right to receive  
2 written notice of cancellation or nonrenewal as set forth in  
3 rules promulgated by the Commissioner of the Department of  
4 Insurance.

5           (11) Policyholders shall have the right to receive  
6 in writing the reason for any cancellation or nonrenewal of  
7 coverage. The written statement must provide an explanation  
8 for the cancellation or nonrenewal of coverage.

9           (12) Policyholders shall have the right to cancel  
10 their policy and receive a refund of any unearned premium. If  
11 a policy was funded by a premium finance company, the unearned  
12 premium will be returned to the premium finance company to pay  
13 toward the policyholder's financing loan.

14           (13) Policyholders shall have the right to a written  
15 notification detailing any change in policy provisions at  
16 renewal.

17           (14) Policyholders shall have the right to receive  
18 payment of the amount of any property damage claim, or a  
19 portion of the claim, due or a written offer to settle any  
20 property damage claim within a reasonable period of time after  
21 receipt of satisfactory proof of loss in accordance with rules  
22 or regulations created by the Commissioner of the Department  
23 of Insurance. If a claim is denied, policyholders shall have  
24 the right to receive a written explanation as to the reason  
25 for denial, in whole or in part, of any claim made under their  
26 policy of insurance.

1           (15) Relative to first party property damage claims,  
2 policyholders shall have the right to request and receive from  
3 the insurance company any estimates, bids, plans,  
4 measurements, drawings, engineer reports, contractor reports,  
5 statements or documents that are not legally privileged that  
6 the insurance company prepared, had prepared, or used during  
7 its adjustment of the policyholder's claim. A company may keep  
8 confidential adjuster notes, logs, and any documents prepared  
9 in conjunction with a fraud investigation.

10           (16) Policyholders shall have the right to file a  
11 complaint against any insurance company, producer, or adjuster  
12 with the Department of Insurance and have that complaint  
13 investigated by the department.

14           (17) Policyholders shall have the right to prevent  
15 an insurance company, agent adjuster, or financial institution  
16 from disclosing their personal financial information that is  
17 not affiliated with the insurance company or financial  
18 institution.

19           (18) Policyholders shall have the right to be  
20 treated fairly and honestly when making a claim.

21           (19) Policyholders shall have the right to reject  
22 any settlement offered by an insurance company.

23           Section 4. Outline of Coverage and Comprehensive  
24 Policy Checklist.

25           (a) No homeowners personal lines residential  
26 property coverage insurance policy shall be delivered or  
27 issued for delivery in this state unless an appropriate



1 outline of coverage and comprehensive policy checklist have  
2 been delivered to the policyholder prior to issuance, within  
3 30 days after issuance of the policy under separate cover, or  
4 included in the policy when issued. The comprehensive policy  
5 checklist shall contain a list of provisions and elements,  
6 whether or not they are included in the policy being issued,  
7 in a format that allows the insurer to indicate what is and  
8 what is not included in the policy being purchased. The  
9 outline of coverage and comprehensive policy checklist shall  
10 be furnished no less frequently than at each renewal of the  
11 policy.

12 (b) To be in compliance with this section, an  
13 insurer may use an approved outline of coverage and  
14 comprehensive policy checklist, to be promulgated by the  
15 Alabama Department of Insurance. If a company wishes to create  
16 and use its own outline of coverage and comprehensive policy  
17 checklist, it must be approved by the Alabama Department of  
18 Insurance and include, at a minimum, the following:

19 (1) A brief description of the type of coverage  
20 provided in the policy, amount of coverage, and whether the  
21 coverage is replacement cost or actual cash value.

22 (2) A summary statement of the principal exclusions  
23 and limitations or reductions contained in the policy and any  
24 other limitations or reductions.

25 (3) A summary of any additional coverages provided  
26 through any rider or endorsement that accompanies the policy,

1 amount of that coverage, and whether the coverage is  
2 replacement cost or actual cash value.

3 (c) In addition, an insurer must include the  
4 following language on the outline of coverage and  
5 comprehensive policy checklist:

6 "The following is an outline of coverage and  
7 comprehensive policy checklist of your insurance policy and is  
8 for informational purposes only. Alabama law prohibits this  
9 checklist from changing any provisions of the insurance  
10 contract which is the subject of this checklist. Any  
11 endorsement regarding changes in types of coverage,  
12 exclusions, limitations, reductions, deductibles, coinsurance,  
13 renewal provisions, cancellation provisions, surcharges, or  
14 credits is not included in this checklist, unless otherwise  
15 indicated. This checklist does not operate to expand coverage  
16 beyond the coverage provided in the policy; the terms of the  
17 policy govern.

18 "Policyholders should read their policy thoroughly.  
19 Policyholders should review their insurance policy annually  
20 with their insurance producer to ensure they are adequately  
21 covered."

22 (d) Also, as part of the outline of coverage and  
23 comprehensive policy checklist, an insurance company shall  
24 include a section of the document which contains a checklist  
25 of provisions, coverages, and exclusions offered within a  
26 policy, whether or not they have been included, or accepted,  
27 as part of the policy being issued, or considered. The

1 comprehensive policy checklist shall include, at a minimum,  
2 the following:

3 (1) Property coverage for the principal premises  
4 shown in the declarations.

5 (2) Property coverage for other structures on the  
6 residence premises.

7 (3) Whether the principal premises and other  
8 structures are insured against the following perils:

- 9 a. Fire.
- 10 b. Lightning.
- 11 c. Explosion.
- 12 d. Wind and hail.
- 13 e. Flood.
- 14 f. Earthquake.
- 15 g. Collapse.
- 16 h. Mold.
- 17 i. Theft.

18 (4) Personal property and contents coverage and the  
19 amount of or percentage of coverage.

20 (5) Whether personal property and contents are  
21 insured against the following perils:

- 22 a. Fire.
- 23 b. Lightning.
- 24 c. Explosion.
- 25 d. Wind and hail.
- 26 e. Flood.
- 27 f. Earthquake.

1 g. Collapse.

2 h. Mold.

3 i. Theft.

4 (6) Whether the policy provides the following  
5 additional coverage:

6 a. Debris removal.

7 b. Loss assessment.

8 c. Additional living expenses.

9 d. Personal liability coverage.

10 e. Medical payments coverage.

11 f. Named windstorm deductible.

12 g. Building and ordinance or law coverage.

13 Section 5. Cause of Action.

14 No provision contained in this act shall be  
15 construed as creating a civil cause of action by an individual  
16 policyholder against any individual insurer or insurance  
17 producer. This act does not operate to expand coverage beyond  
18 the coverage provided by the policy.

19 Section 6. Violations and Penalties.

20 The failure of an insurance company writing  
21 homeowners personal lines residential property coverage  
22 insurance policies in this state to comply with the material  
23 provisions of this act shall be a violation of the Unfair  
24 Trade Practices Act as set forth in Section 27-12-1 et seq. of  
25 the Alabama Insurance Code, Code of Alabama 1975. Violation of  
26 the Unfair Trade Practices Act may subject the insurance  
27 company to the suspension or revocation of the Insurer's

1 Certificate of Authority or the imposition of an  
2 administrative fine, or both.

3 Section 7. If any section or portion of a section of  
4 this act or the application thereof is held by a court to be  
5 invalid, such invalidity shall not affect any other provision  
6 of that section or application of the act which can be given  
7 effect without the invalid provision or application, and to  
8 this end the provisions of the act are declared to be  
9 severable.

10 Section 8. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18 Section 9. This act shall become effective  
19 immediately following its passage and approval by the  
20 Governor, or its otherwise becoming law.