

1 SB10
2 110361-2
3 By Senator Pittman
4 RFD: Banking and Insurance
5 First Read: 12-JAN-10
6 PFD: 05/21/2009

1 SB10

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4 ENROLLED, An Act,

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§27-10-26.

13 "(a) A surplus line broker shall not knowingly place
14 surplus line insurance with an insurer that is unsound
15 financially, or that is ineligible under this section. The
16 broker shall ascertain the financial condition of the
17 unauthorized insurer before placing insurance therewith.

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

20 "(1) With any insurer which is not an authorized
21 insurer in at least one state of the United States for the
22 kind of insurance involved, and with capital or surplus, or
23 both, amounting to at least five million dollars (\$5,000,000);
24 or guaranteed trust fund amounting to at least five million
25 dollars (\$5,000,000).

1 "(2) With an alien insurer not authorized to
2 transact insurance in at least one state of the United States,
3 unless the insurer shall have established an effective trust
4 fund of at least two million five hundred thousand dollars
5 (\$2,500,000) within the United States administered by a
6 recognized financial institution and held for the benefit of
7 all its policyholders or policyholders and creditors in the
8 United States, and with capital or surplus, or both, amounting
9 to at least fifteen million dollars (\$15,000,000).

10 "(3) With a foreign or alien insurer which has
11 transacted insurance as an authorized insurer in its state or
12 country of domicile for less than five years, unless it is a
13 wholly owned subsidiary of an insurer authorized to transact
14 insurance in this state or unless it makes a deposit in this
15 state as may be permitted under subsection (c).

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

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

23 "a. Does not meet the financial requirements of this
24 section;

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

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

8 "(c) When it appears after a search of surplus lines
9 insurers that any particular insurance risk which is eligible
10 to be placed in accordance with the surplus line law but on
11 which insurance coverage, in whole or in part, is not
12 procurable from foreign or alien insurers meeting all of the
13 requirements of subsection (b) but is procurable from a
14 foreign or alien insurer meeting all of the requirements of
15 subsection (b) except for paragraph (3), then the surplus line
16 broker may file a supplemental signed statement setting forth
17 the facts and advising the department that the part of the
18 risk as shall be unprocurable, as aforesaid, is being placed
19 with named unauthorized insurers which meet all of the
20 requirements of subsection (b) except for paragraph (3), in
21 the amounts and percentages set forth in the statement. These
22 named unauthorized insurers, before accepting any risk in this
23 state, shall deposit with the department cash or securities
24 acceptable to the commissioner and with a market value of not
25 less than one million dollars (\$1,000,000), which deposit

1 shall be held by the department for the benefit of Alabama
2 policyholders only. The deposit shall be held in the same
3 manner as other deposits as described in Section 27-3-11. The
4 commissioner may adopt reasonable rules for the implementation
5 and administration of the provisions of this section."

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB10
Senate 11-FEB-10
I hereby certify that the within Act originated in and passed
the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 09-MAR-10

By: Senator Pittman