

1 SB351  
2 136095-1  
3 By Senator Smitherman  
4 RFD: Banking and Insurance  
5 First Read: 14-MAR-13

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8 SYNOPSIS: To repeal portions of Title 27 of the Code  
9 of Alabama 1975.

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11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
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15 Relating to the Alabama Insurance Code, to repeal  
16 the following:

17 27-5A-4 Transactions between a reinsurance  
18 intermediary-broker and the insurer it represents in that  
19 capacity shall only be entered into pursuant to a written  
20 authorization, specifying the responsibilities of each party.  
21 The authorization shall, at a minimum, provide that: (1) The  
22 insurer may terminate the reinsurance intermediary-broker's  
23 authority at any time. (2) The reinsurance  
24 intermediary-broker shall render accounts to the insurer  
25 accurately detailing all material transactions, including  
26 information necessary to support all commissions, charges, and  
27 other fees received by, or owing, to the reinsurance

1 intermediary-broker, and remit all funds due to the insurer  
2 within 30 days of receipt. (3) All funds collected for the  
3 insurer's account shall be held by the reinsurance  
4 intermediary-broker in a fiduciary capacity in a bank which is  
5 a qualified U.S. financial institution as defined herein. (4)  
6 The reinsurance intermediary-broker shall comply with Section  
7 27-5A-5. (5) The reinsurance intermediary-broker shall comply  
8 with the written standards established by the insurer for the  
9 cession or retrocession of all risks. (6) The reinsurance  
10 intermediary-broker shall disclose to the insurer any  
11 relationship with any reinsurer to which business will be  
12 ceded or retroceded.

13 27-5A-5 (a) For at least 10 years after expiration  
14 of each contract of reinsurance transacted by the reinsurance  
15 intermediary-broker, the reinsurance intermediary-broker shall  
16 keep a complete record for each transaction showing all of the  
17 following: (1) The type of contract, limits, underwriting  
18 restrictions, classes, or risks and territory. (2) Period of  
19 coverage, including effective and expiration dates,  
20 cancellation provisions, and notice required of cancellation.  
21 (3) Reporting and settlement requirements of balances. (4)  
22 Rate used to compute the reinsurance premium. (5) Names and  
23 addresses of assuming reinsurers. (6) Rates of all  
24 reinsurance commissions, including the commissions on any  
25 retrocessions handled by the reinsurance intermediary-broker.  
26 (7) Related correspondence and memoranda. (8) Proof of  
27 placement. (9) Details regarding retrocessions handled by the

1 reinsurance intermediary-broker including the identity of  
2 retrocessionaires and percentage of each contract assumed or  
3 ceded. (10) Financial records, including, but not limited to,  
4 premium and loss accounts. (11) When the reinsurance  
5 intermediary-broker procures a reinsurance contract on behalf  
6 of a licensed ceding insurer: a. Directly from any assuming  
7 reinsurer, written evidence that the assuming reinsurer has  
8 agreed to assume the risk. b. If placed through a  
9 representative of the assuming reinsurer, other than an  
10 employee, written evidence that the reinsurer has delegated  
11 binding authority to the representative. (b) The insurer  
12 shall have access and the right to copy and audit all accounts  
13 and records maintained by the reinsurance intermediary-broker  
14 related to its business in a form usable by the insurer.

15 27-5A-6 (a) An insurer shall not engage the services  
16 of any person, firm, association, or corporation to act as a  
17 reinsurance intermediary-broker on its behalf unless the  
18 person is licensed as required by subsection (a) of Section  
19 27-5A-3. (b) An insurer may not employ an individual who is  
20 employed by a reinsurance intermediary-broker with which it  
21 transacts business, unless such reinsurance  
22 intermediary-broker is under common control with the insurer  
23 and subject to Chapter 29, Title 27. (c) The insurer shall  
24 annually obtain a copy of statements of the financial  
25 condition of each reinsurance intermediary-broker with which  
26 it transacts business.

27-5A-7 Transactions between a reinsurance intermediary-manager and the reinsurer it represents in that capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least 30 days before a reinsurer assumes or cedes business through a producer, a true copy of the approved contract shall be filed with the commissioner for approval. The contract shall, at a minimum, provide that: (1) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may immediately suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination. (2) The reinsurance intermediary-manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis. (3) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a qualified U.S. financial institution as defined herein. The reinsurance intermediary-manager may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain

1 a separate bank account for each reinsurer that it represents.

2 (4) For at least 10 years after expiration of each contract of  
3 reinsurance transacted by the reinsurance

4 intermediary-manager, the reinsurance intermediary-manager  
5 shall keep a complete record for each transaction showing all  
6 of the following: a. The type of contract, limits,

7 underwriting restrictions, classes, or risks and territory.

8 b. Period of coverage, including effective and expiration  
9 dates, cancellation provisions, and notice required of

10 cancellation, and disposition of outstanding reserves on

11 covered risks. c. Reporting and settlement requirements of

12 balances. d. Rate used to compute the reinsurance premium.

13 e. Names and addresses of reinsurers. f. Rates of all

14 reinsurance commissions, including the commissions on any

15 retrocessions handled by the reinsurance intermediary-manager.

16 g. Related correspondence and memoranda. h. Proof of

17 placement. i. Details regarding retrocessions handled by the

18 reinsurance intermediary-manager, as permitted by subsection

19 (d) of Section 27-5A-9, including the identity of

20 retrocessionaires and percentage of each contract assumed or

21 ceded. j. Financial records, including, but not limited to,

22 premium and loss accounts. k. When the reinsurance

23 intermediary-manager places a reinsurance contract on behalf

24 of a ceding insurer: 1. Directly from any assuming reinsurer,

25 written evidence that the assuming reinsurer has agreed to

26 assume the risk. 2. If placed through a representative of the

27 assuming reinsurer, other than an employee, written evidence

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 27-5A-4 to 27-5A-7, Code of  
3 Alabama 1975, are repealed.

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