

1 SB354
2 136075-1
3 By Senator Smitherman
4 RFD: Banking and Insurance
5 First Read: 14-MAR-13

2
3
4
5
6
7
8 SYNOPSIS: To repeal portions of Title 27 of the Code
9 of Alabama 1975.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to the Alabama Insurance Code, to repeal
16 the following:

17 27-3-8 (a) In addition to the minimum paid-in
18 capital stock (stock insurers) or minimum surplus (mutual and
19 reciprocal insurers) required by Section 27-3-7, special
20 surplus shall be possessed by insurers hereafter applying for
21 original certificates of authority in this state as follows:

22 (1) All stock insurers and foreign mutual and foreign
23 reciprocal insurers which have actively transacted insurance
24 in their states or countries of domicile as an authorized
25 insurer for less than five years and which do not meet the
26 requirements of paragraphs (2) a or (2) b of Section 27-3-4,
27 when first authorized to transact insurance in this state

1 shall have a surplus or additional surplus equal to 150
2 percent of the paid-up capital stock, if a stock insurer, or
3 surplus, if a foreign mutual or foreign reciprocal insurer,
4 otherwise required under Section 27-3-7 for the kinds of
5 insurance to be transacted; and (2) An insurer that has
6 actively transacted insurance as an authorized insurer in its
7 state or country of domicile for more than five years, or
8 which meets the requirements of paragraphs (2) a or (2) b of
9 Section 27-3-4, shall possess when first authorized in this
10 state surplus, if a stock insurer, or additional surplus, if a
11 mutual or reciprocal insurer, equal to 100 percent of the
12 paid-in capital stock, if a stock insurer, or surplus, if a
13 foreign mutual or foreign reciprocal insurer, otherwise
14 required under Section 27-3-7. (b) If within five years after
15 date of its original certificate of authority to transact
16 insurance in this state such an insurer requests authority to
17 transact an additional kind or kinds of insurance, it shall
18 not be so authorized unless it then possesses surplus, if a
19 stock insurer, or additional surplus, if a mutual or
20 reciprocal insurer, in such an amount as would be required
21 under this section as for an original certificate of authority
22 covering all the kinds of insurance the insurer then proposes
23 to transact. (c) After issuance of its original certificate
24 of authority the insurer may use the special surplus required
25 under this section in the normal course of its business only.
26 (d) Execution by a mutual or reciprocal surety insurer as sole
27 surety of certain bonds or undertakings required or permitted

1 by law or by certain political subdivisions, public bodies, or
2 public officers is subject further to surplus requirement as
3 provided in Section 27-24-3.

4 27-3-9 The minimum capital required to form and
5 organize a new domestic stock life insurance company shall be
6 \$1,000,000.00, and in addition thereto the minimum surplus to
7 form such a company shall be \$1,000,000.00.

8 27-3-10 (a) For the purposes of this section, the
9 following words and phrases shall have the following meanings:

10 (1) DOMESTIC STOCK INSURER. A corporation incorporated under
11 the laws of the State of Alabama with its capital divided into
12 shares and owned by its stockholders which is engaged as
13 indemnitor, surety or contractor in the business of entering
14 into contracts of insurance. (2) CAPITAL SURPLUS. Such term
15 shall have the meaning given thereto in the statutes of this
16 state relating to the powers and procedures of domestic
17 private corporations formed for profit. (3) EARNED SURPLUS.
18 Such term shall have the meaning given thereto in the statutes
19 of this state relating to the powers and procedures of
20 domestic private corporations formed for profit. (b) A
21 domestic stock insurer which has the minimum unimpaired
22 paid-in capital stock required for the transaction of
23 insurance by such domestic stock insurer by the statutes of
24 this state governing domestic stock insurers may, by
25 resolution of its board of directors, apply any part, or all,
26 of its capital surplus to the reduction or elimination of any
27 deficit, however incurred, but only after first eliminating

1 the then earned surplus, if any, of the domestic stock insurer
2 by applying such earned surplus against such deficit. Each
3 such application of capital surplus shall, to the extent
4 thereof, effect a reduction of capital surplus.

5 27-3-11 (a) The commissioner shall not issue or
6 permit to exist a certificate of authority as to any insurer,
7 other than an alien insurer, unless it has deposited and
8 maintains deposited in trust with the Treasurer of this state
9 cash or securities eligible under Section 27-6-3 and having a
10 value at all times of not less than \$100,000.00 or the minimum
11 paid-in capital stock, if a stock insurer, or surplus, if a
12 mutual or reciprocal insurer, required to be maintained by the
13 insurer under this title for authority to transact the kinds
14 of insurance to be transacted, whichever is the smaller
15 amount. (b) The deposit shall be for the general benefit and
16 protection of the insurer's policyholders or its policyholders
17 and creditors. (c) In lieu of such deposit, or part thereof,
18 in this state of a foreign insurer, the commissioner shall,
19 subject to the retaliatory law, Section 27-3-29, accept the
20 current certificate in proper form of the public official
21 having supervision over insurers in any other state to the
22 effect that a like deposit, or part thereof, of such insurer,
23 comprised of cash or securities of substantially the same
24 character as required under subsection (a) of this section, of
25 similar deposits in this state, is being maintained under law
26 in public custody or control in such state in trust for the
27 purpose, among other reasonable purposes of protection of

1 policyholders or policyholders and creditors, of the
2 protection of all the insurer's policyholders or of its
3 policyholders and creditors in this state. (d) All such
4 deposits in this state shall be subject to the applicable
5 provisions of Chapter 6 of this title. (e) Any insurance
6 company, with respect to its general account or separate
7 accounts, is authorized to deposit or arrange for the deposit
8 of securities which it may own in a clearing corporation, as
9 defined in Section 7-8-102(3), or in a federal reserve bank
10 under the book-entry system. When such securities are so
11 deposited, certificates representing securities of the same
12 class of the same insurer may be merged and held in bulk in
13 the name of the nominee of such clearing corporation with any
14 other securities deposited in such clearing corporation by any
15 person, regardless of the ownership of such securities, and
16 securities of small denominations may be merged into one or
17 more certificates of larger denominations. Title to such
18 securities may be transferred by bookkeeping entry on the
19 books of such clearing corporation or federal reserve bank
20 without physical delivery of certificates representing such
21 securities. Any company making deposits by means of such
22 securities shall provide to the commissioner evidence
23 customarily issued by federal reserve banks and clearing
24 corporations establishing that the securities are actually
25 recorded in a book-entry account or actually held in
26 safekeeping by a clearing corporation. Securities deposited
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 27-3-8 to 27-3-11, Code of
2 Alabama 1975, are repealed.

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