

1 SB269
2 127474-2
3 By Senator Blackwell
4 RFD: Banking and Insurance
5 First Read: 24-MAR-11

SYNOPSIS: Under existing law, independent insurance adjusters are licensed and regulated pursuant to the laws set forth in Chapter 9 of Title 27, Code of Alabama 1975.

This bill would repeal Chapter 9 of Title 27 and adopt Chapter 9A of Title 27, Code of Alabama 1975, to provide for the licensing and regulation of independent adjusters and apprentice independent adjusters and for the registration of emergency independent adjusters.

A BILL
TO BE ENTITLED
AN ACT

Relating to insurance; to provide for the qualifications and procedures for the licensing of independent insurance adjusters and apprentice independent adjusters, and for the registration of emergency independent adjusters, by providing definitions and exceptions to the licensing and

1 registration requirements, by requiring independent adjusters
2 to take and pass a written examination, with exceptions, to
3 provide for nonresident licensing; to require independent
4 adjusters to complete a minimum continuing education on a
5 biennial basis; to provide standards of conduct for
6 independent adjusters; to require independent adjusters to
7 report administrative action taken against them in other
8 jurisdictions; to give the Commissioner of Insurance authority
9 to promulgate regulations necessary to administer and enforce
10 this act; to provide a delayed effective date for certain
11 provisions to allow for proper implementation of this act; and
12 for these purposes to amend Section 27-4-2, relating to fees
13 and charges; to repeal Chapter 9 of Title 27, commencing with
14 Section 27-9-1; and to add Chapter 9A to Title 27, commencing
15 with Section 27-9A-1, Code of Alabama 1975.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Chapter 9A is added to Title 27, Code of
18 Alabama 1975, to read as follows:

19 Chapter 9A. Independent Adjusters.

20 Section 27-9A-1. Purpose and scope.

21 This chapter governs the qualifications and
22 procedures for licensing independent adjusters. It specifies
23 the duties of and restrictions on independent adjusters.

24 Section 27-9A-2. Definitions.

25 For purposes of this chapter, the following terms
26 shall have the meanings respectively ascribed to them by this
27 section:

1 (1) APPRENTICE INDEPENDENT ADJUSTER. As defined in
2 Section 27-9A-11.

3 (2) BUSINESS ENTITY. A corporation, association,
4 partnership, limited liability company, limited liability
5 partnership, or other legal entity.

6 (3) COMMISSIONER. The Alabama Commissioner of
7 Insurance.

8 (4) HOME STATE. The District of Columbia and any
9 state or territory of the United States in which an
10 independent adjuster maintains the principal place of
11 residence or business of the adjuster and in which the
12 adjuster is licensed to act as a resident independent
13 adjuster. In the case of a resident of a Canadian province, or
14 if the resident state or territory does not license
15 independent adjusters for the line of authority sought, the
16 home state of the independent adjuster shall be any state in
17 which the independent adjuster is licensed and in good
18 standing, as designated by the adjuster.

19 (5) INDEPENDENT ADJUSTER. As defined in Section
20 27-9A-3.

21 (6) INDIVIDUAL. A natural person.

22 (7) INSURER. As defined in Section 27-1-2.

23 (8) NAIC. The National Association of Insurance
24 Commissioners, its subsidiaries and affiliates, and any
25 successor thereof.

26 (9) PERSON. An individual or business entity.

1 (10) STATE OF EMERGENCY. An event for which the
2 existence of a state of emergency has been declared by the
3 Governor or the Legislature under Section 31-9-8.

4 (11) UNIFORM INDIVIDUAL APPLICATION. The versions of
5 the NAIC Uniform Individual Application for a license and for
6 renewal or continuation of a license current as of the time of
7 use.

8 (12) UNIFORM BUSINESS ENTITY APPLICATION. The
9 versions of the NAIC Uniform Business Entity Application for a
10 license and for renewal or continuation of a license current
11 as of the time of use.

12 Section 27-9A-3. Independent adjuster defined;
13 exclusions.

14 (a) For purposes of this chapter, an "independent
15 adjuster" is a person who, for compensation as an independent
16 contractor or as an employee of an independent contractor,
17 undertakes on behalf of an insurer to ascertain and determine
18 the amount of any claim, loss, or damage payable under a
19 contract of property, casualty, or workers' compensation
20 insurance or to effect settlement of such claim, loss, or
21 damage. This chapter shall not be construed to permit persons
22 not licensed as attorneys to engage in activities constituting
23 the practice of law.

24 (b) An independent adjuster does not include any of
25 the following:

1 (1) Attorneys-at-law admitted to practice in this
2 state when acting in their professional capacity as an
3 attorney.

4 (2) A salaried employee of an insurer.

5 (3) A person employed solely to obtain facts
6 surrounding a claim or to furnish technical assistance to a
7 licensed independent adjuster.

8 (4) An individual who is employed to investigate
9 suspected fraudulent insurance claims but who does not adjust
10 losses or determine claims payments.

11 (5) A person who solely performs executive,
12 administrative, managerial, or clerical duties or any
13 combination thereof and who does not investigate, negotiate,
14 or settle claims with policyholders, claimants, or their legal
15 representative.

16 (6) A licensed health care provider or its employee
17 who provides managed care services so long as the services do
18 not include the determination of compensability.

19 (7) A managed care organization or any of its
20 employees or an employee of any organization providing managed
21 care services so long as the services do not include the
22 determination of compensability.

23 (8) A person who settles only reinsurance or
24 subrogation claims.

25 (9) An officer, director, manager, or employee of an
26 authorized insurer, surplus lines insurer, a risk retention
27 group, or an attorney-in-fact of a reciprocal insurer.

1 (10) A U.S. manager of the United States branch of
2 an alien insurer.

3 (11) A person who investigates, negotiates, or
4 settles life, accident and health, annuity, or disability
5 insurance claims.

6 (12) Under a self-insured arrangement, an individual
7 employee who adjusts claims on behalf of his or her employer.

8 (13) A licensed insurance producer appointed to
9 represent the insurer, attorney-in-fact of a reciprocal
10 insurer, or managing general agent of the insurer, to any of
11 whom claim authority has been granted by the insurer.

12 (14)a. An individual who collects portable consumer
13 electronic device insurance claim information from insureds or
14 claimants, enters such data into an automated claims
15 adjudication system, and furnishes claim information to the
16 insureds or claimants from the results of such system.

17 b. For purposes of this subdivision, the individual
18 must be an employee of a licensed independent adjuster or of a
19 licensed insurance producer exempt from adjuster licensure
20 pursuant to subdivision (13) or of an affiliate of either a
21 licensed independent adjuster or a licensed insurance producer
22 exempt from adjuster licensure pursuant to subdivision (13),
23 but in any case where no more than 25 such individuals are
24 under the supervision of a single individual licensed
25 independent adjuster or insurance producer.

26 c. For purposes of this subdivision, "automated
27 claims adjudication system" means a preprogrammed computer

1 system designed for the collection, data entry, calculation
2 and system-generated final resolution of claims which meets
3 all of the following:

4 1. It shall only be utilized by a licensed
5 independent adjuster, licensed insurance producer, or by
6 individuals supervised by a licensed independent adjuster or
7 insurance producer pursuant to this subdivision.

8 2. It shall comply with all claims payment
9 requirements of the insurance code.

10 d. For purposes of this subdivision, "portable
11 consumer electronic device" means a personal, self-contained,
12 easily carried by an individual, battery-operated electronic
13 communication, viewing, listening, recording, gaming,
14 computing, or global position device, and other similar
15 devices and their accessories.

16 e. The licensed independent adjuster or insurance
17 producer who supervises the individuals shall file a report
18 with the commissioner indicating an intention to operate
19 pursuant to this subdivision, verifying eligibility to operate
20 hereunder, and providing the names of the individuals
21 supervised, which report shall be updated within 30 days of
22 any changes therein.

23 Section 27-9A-4. License required.

24 A person shall not act or hold the person out as an
25 independent adjuster in this state unless the person is
26 licensed as an independent adjuster in accordance with this
27 chapter.

1 Section 27-9A-5. Registration of emergency
2 independent adjusters.

3 (a) In the event of a state of emergency, a person
4 who is otherwise qualified to adjust claims, but is not
5 already licensed as an independent adjuster in this state, may
6 act as an emergency independent adjuster and adjust claims for
7 an insurer in this state in accordance with this section.

8 (b) The insurer shall file with the commissioner a
9 registration of each individual that will act as an emergency
10 independent adjuster on behalf of the insurer within five days
11 of deployment to adjust claims arising from the state of
12 emergency.

13 (c) The registration shall be in a format prescribed
14 by the commissioner and shall provide the following
15 information:

16 (1) Name of the individual.

17 (2) Social Security number of the individual.

18 (3) Name of insurer the independent adjuster will
19 represent.

20 (4) Effective date of the contract between the
21 insurer and independent adjuster.

22 (5) Catastrophe or loss control number.

23 (6) Catastrophe event name.

24 (7) Any other information the commissioner deems
25 necessary.

1 (d) An emergency independent adjuster's registration
2 shall remain in force for a period not to exceed 90 days
3 unless extended by the commissioner.

4 (e) At the time of registration, the commissioner
5 shall collect from the insurer a fee set by the commissioner
6 not to exceed fifty dollars (\$50) for each emergency
7 independent adjuster registered. The fee shall be deposited in
8 the State Treasury to the credit of the Insurance Department
9 Fund.

10 (f) The commissioner may establish by rule any
11 additional standards or procedures necessary to allow for the
12 registration of emergency independent adjusters in this state
13 in accordance with this section.

14 (g) A registered emergency independent adjuster
15 shall be subject to Sections 27-9A-12, 27-9A-14, 27-9A-15, and
16 Chapter 12 of this title to the same extent as if licensed as
17 an independent adjuster in this state.

18 Section 27-9A-6. Application for license.

19 (a) An individual applying for a resident
20 independent adjuster license shall apply to the commissioner
21 on the appropriate NAIC Uniform Individual Application and
22 declare under penalty of suspension, revocation, or refusal of
23 the license that the statements made in the application are
24 true, correct, and complete to the best of the individual's
25 knowledge and belief. Before approving the application, the
26 commissioner shall find that the individual:

27 (1) Is at least 18 years of age.

1 (2) Is eligible to designate this state as his or
2 her home state.

3 (3) Has not committed any act that is a ground for
4 probation, suspension, revocation, or refusal of an
5 independent adjuster's license as set forth in Section
6 27-9A-12.

7 (4) Has completed a prelicensing course of study for
8 the line of authority for which the person has applied.

9 (5) Has successfully passed the examination for the
10 line of authority for which the person has applied.

11 (6) Has paid the fees set forth in Section 27-4-2.

12 (b) The commissioner may contract with
13 non-governmental entities, including the NAIC, to perform any
14 ministerial functions, including the collection of fees and
15 data, related to licensing that the commissioner may deem
16 appropriate. The commissioner may require that license
17 applications, license renewal applications, and supporting
18 documentation be filed and all required fees and charges be
19 paid electronically through systems operated or maintained by
20 the non-governmental entities.

21 (c) No resident of another state or of the District
22 of Columbia or of Canada may be licensed pursuant to this
23 section or may designate Alabama as his or her home state
24 unless the person has successfully passed the independent
25 adjuster examination and has otherwise complied with the other
26 applicable portions of this section.

1 (d) A business entity applying for a resident
2 independent adjuster license shall apply to the commissioner
3 on the appropriate NAIC Uniform Business Entity Application
4 and declare under penalty of suspension, revocation, or
5 refusal of the license that the statements made in the
6 application are true, correct, and complete to the best of the
7 business entity's knowledge and belief. Before approving the
8 application, the commissioner shall find that the business
9 entity:

10 (1) Is eligible to designate this state as its home
11 state.

12 (2) As applicable, has qualified or registered with
13 the office of the Secretary of State to engage in business in
14 this state.

15 (3) Has designated an individual independent
16 adjuster licensed in this state as responsible for the
17 business entity's compliance with this chapter and with the
18 insurance laws and rules of this state.

19 (4) Has not committed an act that is a ground for
20 probation, suspension, revocation, or refusal of an
21 independent adjuster's license as set forth in Section
22 27-9A-12.

23 (5) Has paid the fees set forth in Section 27-4-2.

24 (e) The commissioner may require any documents
25 reasonably necessary to verify the information contained in
26 the application.

1 Section 27-9A-7. License; license renewal; name or
2 address change.

3 (a) Unless denied licensure pursuant to Section
4 27-9A-12, a person who meets the requirements of Sections
5 27-9A-6 and 27-9A-8 shall be issued an independent adjuster
6 license. An independent adjuster may qualify for a license in
7 one or more of the following lines of authority:

8 (1) Property and casualty.

9 (2) Workers' compensation.

10 (3) Crop.

11 (b) An independent adjuster license shall be
12 initially renewed in accordance with a schedule prescribed by
13 the commissioner and shall thereafter be subject to renewal on
14 a biennial basis. A renewal shall be effected by submitting a
15 renewal application, by paying the fee for renewal prescribed
16 in Section 27-4-2, and by meeting the requirements for
17 renewal, including any applicable continuing education
18 requirements, before the due date for renewal. A license
19 expires if not renewed by the due date for renewal.

20 (c) Within the first 30 days following the date an
21 independent adjuster license expires, a reinstatement
22 retroactive to the expiration date shall be effected by
23 submitting a renewal application, by paying a fee of one and
24 one-half times the renewal fee required in Section 27-4-2, and
25 by meeting the other requirements for renewal including any
26 applicable continuing education requirements.

1 (d) After the first 30 days following the date an
2 independent adjuster license expires, but within 12 months
3 after the expiration date, the license may be reinstated
4 effective as of the reinstatement by submitting a renewal
5 application, by paying a fee of double the renewal fee
6 required in Section 27-4-2, and by meeting the other
7 requirements for renewal including any applicable continuing
8 education requirements.

9 (e) After an independent adjuster license has been
10 expired 12 months, the person shall reapply pursuant to
11 Section 27-9A-6 to again become licensed.

12 (f) An independent adjuster who is unable to comply
13 with license renewal procedures and requirements due to
14 military service, long-term medical disability, or some other
15 extenuating circumstance may request a waiver of same and a
16 waiver of any examination requirement, fine, or other sanction
17 imposed for failure to comply with renewal procedures.

18 (g) The license shall contain the licensee's name,
19 address, personal identification number, the dates of issuance
20 and expiration, and any other information the commissioner
21 deems necessary.

22 (h) The independent adjuster shall inform the
23 commissioner of a change in legal name or address within 30
24 days of the change in a manner prescribed by the commissioner.
25 Failure to timely inform the commissioner of a change in legal
26 name or address shall result in a penalty of fifty dollars
27 (\$50). If the penalty is not paid within 30 days after notice

1 of the penalty assessment, the license shall be suspended
2 until the penalty is paid.

3 Section 27-9A-8. Prelicensing course and
4 examination.

5 (a)(1) Every individual subject to the examination
6 required in subsection (b) shall first complete a prelicensing
7 course consisting of 20 classroom hours per line of authority,
8 or equivalent individual instruction.

9 (2) The prelicensing course shall have been
10 completed within 12 months before the date of the related
11 examination as shown on the certificate furnished by the
12 prelicensing course provider.

13 (3) Every prelicensing course provider shall apply
14 annually for the continued authority to issue certificates of
15 completion under rules to be prescribed by the commissioner.

16 (4) At the time of initial approval and annually
17 thereafter, the commissioner shall collect from each
18 prelicensing course provider a fee set by the commissioner not
19 to exceed one hundred dollars (\$100). The fee shall be
20 deposited in the State Treasury to the credit of the Insurance
21 Department Fund. Public institutions shall be exempt from
22 paying the fee, but shall otherwise be subject to the rules
23 applicable to other providers.

24 (b)(1) An individual intending to apply for an
25 independent adjuster license shall pass a written examination
26 unless exempt pursuant to Section 27-9A-9.

1 (2) The examination shall test the knowledge of the
2 individual concerning the lines of authority for which
3 application is made, the duties and responsibilities of an
4 independent adjuster, and the insurance laws and regulations
5 of this state. Examinations required by this section shall be
6 developed and conducted under rules prescribed by the
7 commissioner.

8 (3) Each individual applying for an examination
9 shall furnish a certificate of completion of the prelicensing
10 course from an authorized prelicensing course provider and pay
11 a non-refundable fee prescribed by the commissioner as set
12 forth in Section 27-4-2.

13 (4) The commissioner may make arrangements,
14 including contracting with an outside testing service, for
15 administering examinations and collecting the nonrefundable
16 fee set forth in Section 27-4-2.

17 (5) An individual who fails to appear for the
18 examination as scheduled or fails to pass the examination
19 shall reapply for an examination and remit all required fees
20 and forms before being rescheduled for another examination.

21 (6) No individual who has taken and failed to pass
22 two examinations given pursuant to this section for a
23 particular line of insurance shall be entitled to take any
24 further examination for that line of insurance until after the
25 expiration of three months from the date of the last
26 examination which the individual failed to pass. If the
27 individual fails to pass the examination after two more

1 attempts, the individual shall not be eligible to take any
2 further examination for that line of insurance until after the
3 expiration of six months from the date of the last
4 unsuccessful examination. An examination fee shall be paid for
5 each and every examination.

6 Section 27-9A-9. Exemptions from examination.

7 (a) An individual applicant for an independent
8 adjuster license in this state shall not be required to
9 complete any prelicensing course or examination if the person
10 is currently licensed in another state for the same line or
11 lines of authority based on an independent adjuster
12 examination or if such state license has expired and the
13 application is received by this state within 90 days of
14 expiration. The applicant shall either provide certification
15 from the other state that the applicant's license is currently
16 in good standing or was in good standing at the time of
17 expiration or the state's producer database records maintained
18 by the NAIC must indicate that the applicant is or was
19 licensed in good standing. The certification must be of a
20 license with the same line of authority for which the
21 individual has applied.

22 (b) A person licensed as an independent adjuster in
23 another state based on an independent adjuster examination
24 who, within 90 days of establishing legal residency in this
25 state, applies to become a resident independent adjuster
26 licensee pursuant to Section 27-9A-6 shall not be required to
27 complete a prelicensing course or an examination.

1 (c) An individual who applies for an independent
2 adjuster license in this state who was previously licensed as
3 an independent adjuster in this state shall not be required to
4 complete a prelicensing course or examination, but this
5 exemption is only available if the application is received
6 within 12 months of the cancellation of the applicant's
7 previous license in this state and if, at the time of
8 cancellation, the applicant was in good standing in this
9 state.

10 Section 27-9A-10. Nonresident license.

11 (a) Unless refused licensure pursuant to Section
12 27-9A-12, a nonresident person shall receive a nonresident
13 independent adjuster license if:

14 (1) The person is currently licensed in good
15 standing as an independent adjuster in the resident or home
16 state of the person.

17 (2) The person has applied for a license and has
18 paid the fees required by Section 27-4-2.

19 (3) If a business entity, and as applicable, the
20 entity has qualified or registered with the office of the
21 Secretary of State to engage in business in this state.

22 (4) The person's designated home state awards
23 nonresident independent adjuster licenses to persons of this
24 state on the same basis.

25 (b) The commissioner may verify the independent
26 adjuster's licensing status through any appropriate database,
27 including the Producer Database maintained by the NAIC or may

1 request certification of good standing as described in
2 subsection (a) of Section 27-9A-9.

3 (c) As a condition to the continuation of a
4 nonresident independent adjuster license in this state, the
5 licensee shall maintain a resident independent adjuster
6 license in the adjuster's home state. A licensee shall notify
7 the commissioner within 30 days if the independent adjuster
8 license terminates for any reason and shall include the new
9 address if the licensee has obtained a resident license in a
10 new resident or home state. Termination of a resident or home
11 state license shall terminate the nonresident independent
12 adjuster license in this state unless the termination is due
13 to the independent adjuster being issued a new resident
14 independent adjuster license in a new resident or home state,
15 provided the new resident or home state awards nonresident
16 independent adjuster licenses to persons of this state on the
17 same basis.

18 (d) No resident of Canada may be licensed as a
19 non-resident independent adjuster unless the person has
20 obtained a resident or home state independent adjuster
21 license.

22 Section 27-9A-11. Apprentice independent adjuster
23 license.

24 (a) The apprentice independent adjuster license is a
25 temporary license for an individual residing in this state who
26 is qualified for an independent adjuster license except as to

1 having taken and passed the prelicensing course and
2 examination.

3 (b) An individual applying for an apprentice
4 independent adjuster license shall apply to the commissioner
5 on the appropriate NAIC Uniform Individual Application and
6 declare under penalty of suspension, revocation, or refusal of
7 the license that the statements made in the application are
8 true, correct, and complete to the best of the individual's
9 knowledge and belief. Before approving the application, the
10 commissioner shall find that the individual:

11 (1) Is at least 18 years of age.

12 (2) Is a resident of this state.

13 (3) Has a business or mailing address in this state.

14 (4) Has not committed any act that is a ground for
15 probation, suspension, revocation, or denial of licensure as
16 set forth in Section 27-9A-12.

17 (5) Has paid the fees for an individual independent
18 adjuster license as set forth in Section 27-4-2.

19 (c) The apprentice independent adjuster license
20 shall be subject to the following terms and conditions:

21 (1) Accompanying the apprentice adjuster application
22 shall be an attestation from an independent adjuster licensed
23 in this state with the same lines of authority for which the
24 apprentice has applied certifying that the apprentice will be
25 subject to training, direction, and control by the licensed
26 independent adjuster and further certifying that the licensed
27 independent adjuster assumes responsibility for the actions of

1 the apprentice in the apprentice's capacity as an independent
2 adjuster. A licensed independent adjuster shall not supervise
3 more than five active apprentice adjuster licensees at any
4 given time.

5 (2) The apprentice independent adjuster is only
6 authorized to adjust claims in this state.

7 (3) The apprentice licensee is restricted to
8 participation in the adjusting of claims subject to the review
9 and final determination of the claim by the supervising
10 licensed independent adjuster.

11 (4) Compensation of an apprentice independent
12 adjuster shall be on a salaried or hourly basis only.

13 (5) At any time during the period of the license the
14 apprentice independent adjuster may complete the prelicensing
15 course and take the examination required by Section 27-9A-8.
16 If the apprentice independent adjuster successfully completes
17 the independent adjuster examination, the apprentice
18 independent adjuster license shall automatically terminate and
19 an independent adjuster license shall be issued in place
20 thereof.

21 (6) The apprentice independent adjuster license is
22 valid for a period not to exceed 12 months and is
23 nonrenewable. An individual may only hold an apprentice
24 independent adjuster license once in his or her lifetime.

25 (7) An apprentice independent adjuster shall be
26 subject to Sections 27-9A-12, 27-9A-14, 27-9A-15, and Chapter

1 12 of this title to the same extent as if licensed as an
2 independent adjuster in this state.

3 Section 27-9A-12. License denial, non-renewal, or
4 revocation.

5 (a) The commissioner may place on probation,
6 suspend, revoke, or refuse to issue or renew an independent
7 adjuster's license, an apprentice independent adjuster's
8 license, or the registration of an emergency independent
9 adjuster, or may levy a civil penalty in accordance with
10 subsection (d), or any combination of these actions, for any
11 one or more of the following causes:

12 (1) Providing incorrect, misleading, incomplete, or
13 materially untrue information in the license application.

14 (2) Violating any insurance laws, rules, subpoena,
15 or order of the commissioner or of another state's insurance
16 regulator.

17 (3) Obtaining or attempting to obtain a license or
18 registration through misrepresentation or fraud.

19 (4) Improperly withholding, misappropriating, or
20 converting any monies or properties received in the course of
21 acting as an adjuster of any type or in otherwise doing
22 insurance business in this state or elsewhere.

23 (5) Intentionally misrepresenting the terms of an
24 actual insurance contract.

25 (6) Having been convicted of a felony.

26 (7) Having admitted or been found to have committed
27 any insurance unfair trade practice or fraud.

1 (8) Using fraudulent, coercive, or dishonest
2 practices, or demonstrating incompetence, untrustworthiness,
3 or financial irresponsibility, in the course of acting as an
4 adjuster of any type or otherwise in the conduct of business
5 in this state or elsewhere.

6 (9) Having an independent adjuster license, company
7 or employee adjuster license, public adjuster license,
8 emergency adjuster license or registration or its equivalent,
9 or insurance producer license or its equivalent suspended,
10 revoked, or refused in any other state, province, district, or
11 territory.

12 (10) Forging another's name to any document related
13 to an insurance transaction or in connection with a claim
14 being adjusted by the adjuster.

15 (11) Cheating, including improperly using notes or
16 any other reference material, to complete an examination for a
17 license.

18 (12) Failing to comply with an administrative or
19 court order imposing a child support obligation.

20 (13) Failing to pay state income tax or comply with
21 any administrative or court order directing payment of state
22 income tax which remains unpaid.

23 (b) In the event the action by the commissioner is
24 to refuse application for licensure or renewal of an existing
25 license, the commissioner shall notify the applicant or
26 licensee in writing, advising of the reason for the refusal.
27 The applicant or licensee may make written demand upon the

1 commissioner within 30 days for a hearing before the
2 commissioner to determine the reasonableness of the refusal.
3 The hearing shall be held pursuant to Chapter 2 of this title.

4 (c) The license of a business entity may be placed
5 on probation, suspended, or revoked if the commissioner finds,
6 after a hearing, that an individual licensee's violation
7 occurred while acting on behalf of or representing the
8 business entity and that the violation was known or should
9 have been known by one or more of the business entity's
10 partners, officers, or managers and that the violation was
11 neither reported to the commissioner nor was corrective action
12 taken in relation thereto.

13 (d) In the absence of a greater fine specifically
14 provided elsewhere in this title, and in addition to or in
15 lieu of any applicable probation, suspension, revocation, or
16 refusal, a person may, in the sole discretion of the
17 commissioner after a hearing, additionally be subject to a
18 civil fine in an amount not to exceed ten thousand dollars
19 (\$10,000) per violation.

20 (e) The commissioner shall retain the authority to
21 enforce the provisions of and impose any penalty or remedy
22 authorized by this chapter or elsewhere in Title 27 against
23 any person who is under investigation for or charged with a
24 violation of this chapter or Title 27 even if the person's
25 license or registration has been surrendered or has expired by
26 operation of law.

27 Section 27-9A-13. Continuing education.

1 (a) An individual who holds an independent adjuster
2 license and who is not exempt under subsection (b) shall
3 satisfactorily complete a minimum of 24 hours of continuing
4 education courses as may be approved by the commissioner, of
5 which three hours must be in ethics, reported to the
6 commissioner on a biennial basis in conjunction with the
7 license renewal cycle.

8 (b) This section shall not apply to:

9 (1) Licensees not licensed for one full year prior
10 to the end of the applicable continuing education biennium.

11 (2) Licensees holding nonresident independent
12 adjuster licenses who have met the continuing education
13 requirements of their designated home state and whose home
14 state gives credit to residents of this state on the same
15 basis.

16 (c) Only continuing education courses and providers
17 approved by the commissioner shall be used to satisfy the
18 continuing education requirements of this section. Continuing
19 education providers and courses shall be subject to the same
20 requirements and fees set forth in Chapter 8A of this title.

21 (d) The commissioner shall prescribe the number of
22 hours of continuing education credit for each continuing
23 education course approved. Continuing education courses
24 submitted in accordance with a reciprocal agreement the
25 commissioner enters with other states shall be approved
26 according to the provisions of the reciprocal agreement.

1 (e) If a continuing education course requires
2 successful completion of a written examination, no continuing
3 education credit shall be given to licensees who do not
4 successfully complete the written examination.

5 (f) An individual teaching any approved continuing
6 education course shall qualify for the same number of hours of
7 continuing education credit as would be granted to a licensee
8 taking and satisfactorily completing the course.

9 Section 27-9A-14. Record retention.

10 An independent adjuster shall maintain a copy of
11 each contract between the independent adjuster and the insurer
12 and comply with the record retention policy as agreed to in
13 that contract. Records retained by an independent adjuster
14 shall be made available for review or inspection if requested
15 by the commissioner or authorized representatives of the
16 commissioner.

17 Section 27-9A-15. Standards of conduct of
18 independent adjusters.

19 In the conduct of business in this state, each
20 independent adjuster, apprentice adjuster, and emergency
21 independent adjuster shall:

22 (1) Be honest and fair in all communications with
23 the insured, the insurer, and the public.

24 (2) Give policyholders and claimants prompt,
25 knowledgeable service, and courteous, fair, and objective
26 treatment at all times.

1 (3) Not give legal advice or engage in activities
2 which are the unauthorized practice of law, and not deal
3 directly with any policyholder or claimant who is represented
4 by legal counsel without the consent of the legal counsel
5 involved.

6 (4) Comply with all local, state, and federal
7 privacy and information security laws, if applicable.

8 (5) Identify himself or herself as an independent
9 adjuster and, if applicable, identify his or her employer when
10 dealing with any policyholder or claimant.

11 (6) Not have any financial interest in any
12 adjustment or acquire any interest or title in salvage without
13 first receiving written authority from the principal.

14 (7) Comply with Chapter 12 of this title and any
15 regulations implementing that chapter.

16 Section 27-9A-16. Reporting of actions.

17 (a) An independent adjuster shall report to the
18 commissioner any administrative action taken against the
19 independent adjuster by a governmental agency in another
20 jurisdiction or by another governmental agency in this state
21 within 30 days of the final disposition of the matter. This
22 report shall include a copy of the order, consent order, and
23 any other relevant legal documents.

24 (b) Within 30 days of the initial pretrial hearing
25 date, an independent adjuster shall report to the commissioner
26 any criminal action taken against the independent adjuster in
27 this or any jurisdiction. The report shall include a copy of

1 the initial complaint filed, the order resulting from the
2 hearing, and any other relevant legal documents.

3 Section 27-9A-17. Fingerprints.

4 (a) In order to make a determination of license
5 eligibility, the commissioner may require fingerprints of
6 applicants and to submit the fingerprints and the fee required
7 to perform the criminal history record checks to the Alabama
8 Department of Public Safety and the Federal Bureau of
9 Investigation for state and national criminal history record
10 checks.

11 (b) The commissioner may require a criminal history
12 record check on each applicant in accordance with this
13 section. The commissioner shall require each applicant to
14 submit a full set of fingerprints, including a scanned file
15 from a hard copy fingerprint, in order for the commissioner to
16 obtain and receive national criminal history records from the
17 Criminal Justice Information Services Division of the Federal
18 Bureau of Investigation. In the case of business entity
19 applicants, the commissioner shall require the submission of
20 fingerprints of all of the following:

21 (1) All executive officers and directors of the
22 applicant.

23 (2) Any individual owning, directly or indirectly,
24 51 percent or more of the outstanding voting securities of the
25 applicant.

1 (3) All executive officers and directors of entities
2 owning 51 percent or more of the outstanding voting securities
3 of the applicant.

4 (c) The commissioner may contract for the
5 collection, transmission, and resubmission of fingerprints
6 required under this section. If the commissioner does so, the
7 fee for collecting, transmitting, and retaining fingerprints
8 shall be payable directly to the contractor by the person. The
9 commissioner may agree to a reasonable fingerprinting fee to
10 be charged by the contractor.

11 (d) The commissioner may waive submission of
12 fingerprints by any person that has previously furnished
13 fingerprints and those fingerprints are on file with the
14 centralized repository of the NAIC.

15 (e) The commissioner may receive criminal history
16 record information in lieu of the Alabama Department of Public
17 Safety that submitted the fingerprints to the Federal Bureau
18 of Investigation.

19 (f) The commissioner may submit electronic
20 fingerprint records and necessary identifying information to
21 the NAIC for permanent retention in a centralized repository.
22 The purpose of such a centralized repository is to provide
23 insurance commissioners with access to fingerprint records in
24 order to perform criminal history record checks.

25 (g) The commissioner shall treat and maintain an
26 applicant's fingerprints and any criminal history record
27 information obtained under this section as confidential and

1 shall apply security measures consistent with the Criminal
2 Justice Information Services Division of the Federal Bureau of
3 Investigation standards for the electronic storage of
4 fingerprints and necessary identifying information and limit
5 the use of records solely to the purposes authorized in this
6 section. The fingerprints and any criminal history record
7 information shall not be subject to subpoena, other than one
8 issued in a criminal action or investigation, and shall be
9 confidential.

10 Section 27-9A-18. Rules.

11 (a) The commissioner may promulgate reasonable rules
12 as are necessary or proper to carry out the purposes of this
13 chapter in accordance with Chapter 2 of this title.

14 (b) The commissioner, by regulation, may provide for
15 delayed enforcement dates of up to 24 months following the
16 effective date of this act to allow for implementation of the
17 provisions of this chapter relating to apprentice independent
18 adjuster licensing, fingerprinting, the prelicensing course
19 and examination, and continuing education.

20 Section 2. Section 27-4-2, Code of Alabama 1975, is
21 amended to read as follows:

22 "§27-4-2.

23 "(a) The Commissioner of Insurance shall collect in
24 advance fees, licenses, and miscellaneous charges as follows:

25 "(1) Certificate of authority:

1 "a. Initial application for original certificate of
2 authority, including the filing with the commissioner of all
3 documents incidental thereto \$500

4 "b. Issuance of original certificate of authority
5 500

6 "c. Annual continuation or renewal fee 500

7 "d. Reinstatement fee 500

8 "(2) Charter documents, filing with the commissioner
9 amendment to articles of incorporation or of association, or
10 of other charter documents or to bylaws 25

11 "(3) Solicitation permit, filing application and
12 issuance 250

13 "(4) Annual statement of insurer, except when filed
14 as part of application for original certificate of authority,
15 filing 25

16 "(5) Producer licenses (resident or nonresident):

17 "a. Individuals:

18 "1. Application fee (For filing of initial
19 application for license) 20

20 "2. License fee (For issuance of original license)
21 40

22 "b. Business entities:

23 "1. Application fee (For filing of initial
24 application for license) 20

25 "2. License fee (For original license and each
26 biennial renewal) 100

1 "c. Examination fees (For producer examination or
 2 reexamination, each classification of examination) 50
 3 "(6) Producer appointment fee:
 4 "a. Filing notice of appointment 30
 5 "b. Annual continuation of appointment 10
 6 "(7) Reinsurance intermediary license:
 7 "a. Filing application for license 30
 8 "b. Issuance of initial license 140
 9 "c. Annual continuation of license 100
 10 "(8) Managing general ~~agent's~~ agent license:
 11 "a. Application fee (For filing of initial
 12 application for license, each insurer) 30
 13 "b. Issuance of initial license, each insurer
 14 125
 15 "c. Annual continuation of license, each insurer
 16 75
 17 "(9) Service representative's license:
 18 "a. Application fee (For filing of initial
 19 application for license, each insurer) 20
 20 "b. Appointment fee, property and casualty, each
 21 insurer (For original appointment and each annual renewal)
 22 30
 23 "(10) Surplus line broker:
 24 "a. Application fee (For filing of initial
 25 application for license) 20
 26 "b. License fee (For original license and each
 27 annual renewal):

1 "1. Individual licensees 200
2 "2. Business entity licensees 500
3 "(11) Adjusters (resident or nonresident):
4 "a. Application fee (For filing of initial
5 application for license; individuals and business entities)
6 20
7 "b. License fee (For original license and each
8 biennial continuation) 80
9 "1. Individual licensees 80
10 "2. Business entity licensees 200
11 "c. Examination fee, an amount set by the
12 commissioner not to exceed 100
13 "(12) Miscellaneous services:
14 "a. For copies of documents, records on file in
15 Insurance Department, per page 1
16 "b. For each certificate under seal of the
17 commissioner, other than licenses 5
18 "(13) The commissioner shall collect a fee of fifty
19 dollars (\$50) when, in acting as agent for service of process
20 for any insurance company, fraternal benefit society, mutual
21 aid association, nonresident producer, nonresident independent
22 adjuster, or nonresident surplus line broker, he or she
23 accepts the service of legal process as provided by the laws
24 of this state. The commissioner shall refuse to receive and
25 file or serve any process unless the process is accompanied by
26 the aforementioned fee, which shall be taxed as costs in the
27 action.

1 "(b) The fees and licenses specified in subsection
2 (a) shall be deposited in the State Treasury with 50 percent
3 credited to the General Fund and 50 percent credited to the
4 Insurance Department Fund."

5 Section 3. Chapter 9, commencing with Section 27-9-1
6 of Title 27 of the Code of Alabama 1975, is repealed.

7 Section 4. This act shall become effective on the
8 first day of January next following its passage and approval
9 by the Governor, or its otherwise becoming law.