

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

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to insurance; to provide for the
12 qualifications and procedures for the licensing of independent
13 insurance adjusters and apprentice independent adjusters, and
14 for the registration of emergency independent adjusters, by
15 providing definitions and exceptions to the licensing and
16 registration requirements, by requiring independent adjusters
17 to take and pass a written examination, with exceptions, to
18 provide for nonresident licensing; to require independent
19 adjusters to complete a minimum continuing education on a
20 biennial basis; to provide standards of conduct for
21 independent adjusters; to require independent adjusters to
22 report administrative action taken against them in other
23 jurisdictions; to give the Commissioner of Insurance authority
24 to promulgate regulations necessary to administer and enforce
25 this act; to provide a delayed effective date for certain
26 provisions to allow for proper implementation of this act; and
27 for these purposes to amend Section 27-4-2, relating to fees

1 and charges; to repeal Chapter 9 of Title 27, commencing with
2 Section 27-9-1; and to add Chapter 9A to Title 27, commencing
3 with Section 27-9A-1, Code of Alabama 1975.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 Chapter 9A. Independent Adjusters.

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

9 This chapter governs the qualifications and
10 procedures for licensing independent adjusters. It specifies
11 the duties of and restrictions on independent adjusters.

12 Section 27-9A-2. Definitions.

13 For purposes of this chapter, the following terms
14 shall have the meanings respectively ascribed to them by this
15 section:

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

18 (2) BUSINESS ENTITY. A corporation, association,
19 partnership, limited liability company, limited liability
20 partnership, or other legal entity.

21 (3) COMMISSIONER. The Alabama Commissioner of
22 Insurance.

23 (4) HOME STATE. The District of Columbia and any
24 state or territory of the United States in which an
25 independent adjuster maintains the principal place of
26 residence or business of the adjuster and in which the
27 adjuster is licensed to act as a resident independent

1 adjuster. In the case of a resident of a Canadian province, or
2 if the resident state or territory does not license
3 independent adjusters for the line of authority sought, the
4 home state of the independent adjuster shall be any state in
5 which the independent adjuster is licensed and in good
6 standing, as designated by the adjuster.

7 (5) INDEPENDENT ADJUSTER. As defined in Section
8 27-9A-3.

9 (6) INDIVIDUAL. A natural person.

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

11 (8) NAIC. The National Association of Insurance
12 Commissioners, its subsidiaries and affiliates, and any
13 successor thereof.

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

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

18 (11) UNIFORM INDIVIDUAL APPLICATION. The versions of
19 the NAIC Uniform Individual Application for a license and for
20 renewal or continuation of a license current as of the time of
21 use.

22 (12) UNIFORM BUSINESS ENTITY APPLICATION. The
23 versions of the NAIC Uniform Business Entity Application for a
24 license and for renewal or continuation of a license current
25 as of the time of use.

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

1 (a) For purposes of this chapter, an "independent
2 adjuster" is a person who, for compensation as an independent
3 contractor or as an employee of an independent contractor,
4 undertakes on behalf of an insurer to ascertain and determine
5 the amount of any claim, loss, or damage payable under a
6 contract of property, casualty, or workers' compensation
7 insurance or to effect settlement of such claim, loss, or
8 damage. This chapter shall not be construed to permit persons
9 not licensed as attorneys to engage in activities constituting
10 the practice of law.

11 (b) An independent adjuster does not include any of
12 the following:

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

16 (2) A salaried employee of an insurer.

17 (3) A person employed solely to obtain facts
18 surrounding a claim or to furnish technical assistance to a
19 licensed independent adjuster.

20 (4) An individual who is employed to investigate
21 suspected fraudulent insurance claims but who does not adjust
22 losses or determine claims payments.

23 (5) A person who solely performs executive,
24 administrative, managerial, or clerical duties or any
25 combination thereof and who does not investigate, negotiate,
26 or settle claims with policyholders, claimants, or their legal
27 representative.

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

4 (7) A managed care organization or any of its
5 employees or an employee of any organization providing managed
6 care services so long as the services do not include the
7 determination of compensability.

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

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

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

15 (11) A person who investigates, negotiates, or
16 settles life, accident and health, annuity, or disability
17 insurance claims.

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

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

24 (14)a. An individual who collects portable consumer
25 electronic device insurance claim information from insureds or
26 claimants, enters such data into an automated claims

1 adjudication system, and furnishes claim information to the
2 insureds or claimants from the results of such system.

3 b. For purposes of this subdivision, the individual
4 must be an employee of a licensed independent adjuster or of a
5 licensed insurance producer exempt from adjuster licensure
6 pursuant to subdivision (13) or of an affiliate of either a
7 licensed independent adjuster or a licensed insurance producer
8 exempt from adjuster licensure pursuant to subdivision (13),
9 but in any case where no more than 25 such individuals are
10 under the supervision of a single individual licensed
11 independent adjuster or insurance producer.

12 c. For purposes of this subdivision, "automated
13 claims adjudication system" means a preprogrammed computer
14 system designed for the collection, data entry, calculation
15 and system-generated final resolution of claims which meets
16 all of the following:

17 1. It shall only be utilized by a licensed
18 independent adjuster, licensed insurance producer, or by
19 individuals supervised by a licensed independent adjuster or
20 insurance producer pursuant to this subdivision.

21 2. It shall comply with all claims payment
22 requirements of the insurance code.

23 d. For purposes of this subdivision, "portable
24 consumer electronic device" means a personal, self-contained,
25 easily carried by an individual, battery-operated electronic
26 communication, viewing, listening, recording, gaming,

1 computing, or global position device, and other similar
2 devices and their accessories.

3 e. The licensed independent adjuster or insurance
4 producer who supervises the individuals shall file a report
5 with the commissioner indicating an intention to operate
6 pursuant to this subdivision, verifying eligibility to operate
7 hereunder, and providing the names of the individuals
8 supervised, which report shall be updated within 30 days of
9 any changes therein.

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

11 A person shall not act or hold the person out as an
12 independent adjuster in this state unless the person is
13 licensed as an independent adjuster in accordance with this
14 chapter.

15 Section 27-9A-5. Registration of emergency
16 independent adjusters.

17 (a) In the event of a state of emergency, a person
18 who is otherwise qualified to adjust claims, but is not
19 already licensed as an independent adjuster in this state, may
20 act as an emergency independent adjuster and adjust claims for
21 an insurer in this state in accordance with this section.

22 (b) The insurer shall file with the commissioner a
23 registration of each individual that will act as an emergency
24 independent adjuster on behalf of the insurer within five days
25 of deployment to adjust claims arising from the state of
26 emergency.

1 (c) The registration shall be in a format prescribed
2 by the commissioner and shall provide the following
3 information:

4 (1) Name of the individual.

5 (2) Social Security number of the individual.

6 (3) Name of insurer the independent adjuster will
7 represent.

8 (4) Effective date of the contract between the
9 insurer and independent adjuster.

10 (5) Catastrophe or loss control number.

11 (6) Catastrophe event name.

12 (7) Any other information the commissioner deems
13 necessary.

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

17 (e) At the time of registration, the commissioner
18 shall collect from the insurer a fee set by the commissioner
19 not to exceed fifty dollars (\$50) for each emergency
20 independent adjuster registered. The fee shall be deposited in
21 the State Treasury to the credit of the Insurance Department
22 Fund.

23 (f) The commissioner may establish by rule any
24 additional standards or procedures necessary to allow for the
25 registration of emergency independent adjusters in this state
26 in accordance with this section.

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

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

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

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

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

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

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

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

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

26 (b) The commissioner may contract with
27 non-governmental entities, including the NAIC, to perform any

1 ministerial functions, including the collection of fees and
2 data, related to licensing that the commissioner may deem
3 appropriate. The commissioner may require that license
4 applications, license renewal applications, and supporting
5 documentation be filed and all required fees and charges be
6 paid electronically through systems operated or maintained by
7 the non-governmental entities.

8 (c) No resident of another state or of the District
9 of Columbia or of Canada may be licensed pursuant to this
10 section or may designate Alabama as his or her home state
11 unless the person has successfully passed the independent
12 adjuster examination and has otherwise complied with the other
13 applicable portions of this section.

14 (d) A business entity applying for a resident
15 independent adjuster license shall apply to the commissioner
16 on the appropriate NAIC Uniform Business Entity Application
17 and declare under penalty of suspension, revocation, or
18 refusal of the license that the statements made in the
19 application are true, correct, and complete to the best of the
20 business entity's knowledge and belief. Before approving the
21 application, the commissioner shall find that the business
22 entity:

23 (1) Is eligible to designate this state as its home
24 state.

25 (2) As applicable, has qualified or registered with
26 the office of the Secretary of State to engage in business in
27 this state.

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

5 (4) Has not committed an act that is a ground for
6 probation, suspension, revocation, or refusal of an
7 independent adjuster's license as set forth in Section
8 27-9A-12.

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

10 (e) The commissioner may require any documents
11 reasonably necessary to verify the information contained in
12 the application.

13 Section 27-9A-7. License; license renewal; name or
14 address change.

15 (a) Unless denied licensure pursuant to Section
16 27-9A-12, a person who meets the requirements of Sections
17 27-9A-6 and 27-9A-8 shall be issued an independent adjuster
18 license. An independent adjuster may qualify for a license in
19 one or more of the following lines of authority:

20 (1) Property and casualty.

21 (2) Workers' compensation.

22 (3) Crop.

23 (b) An independent adjuster license shall be
24 initially renewed in accordance with a schedule prescribed by
25 the commissioner and shall thereafter be subject to renewal on
26 a biennial basis. A renewal shall be effected by submitting a
27 renewal application, by paying the fee for renewal prescribed

1 in Section 27-4-2, and by meeting the requirements for
2 renewal, including any applicable continuing education
3 requirements, before the due date for renewal. A license
4 expires if not renewed by the due date for renewal.

5 (c) Within the first 30 days following the date an
6 independent adjuster license expires, a reinstatement
7 retroactive to the expiration date shall be effected by
8 submitting a renewal application, by paying a fee of one and
9 one-half times the renewal fee required in Section 27-4-2, and
10 by meeting the other requirements for renewal including any
11 applicable continuing education requirements.

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

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

23 (f) An independent adjuster who is unable to comply
24 with license renewal procedures and requirements due to
25 military service, long-term medical disability, or some other
26 extenuating circumstance may request a waiver of same and a

1 waiver of any examination requirement, fine, or other sanction
2 imposed for failure to comply with renewal procedures.

3 (g) The license shall contain the licensee's name,
4 address, personal identification number, the dates of issuance
5 and expiration, and any other information the commissioner
6 deems necessary.

7 (h) The independent adjuster shall inform the
8 commissioner of a change in legal name or address within 30
9 days of the change in a manner prescribed by the commissioner.
10 Failure to timely inform the commissioner of a change in legal
11 name or address shall result in a penalty of fifty dollars
12 (\$50). If the penalty is not paid within 30 days after notice
13 of the penalty assessment, the license shall be suspended
14 until the penalty is paid.

15 Section 27-9A-8. Prelicensing course and
16 examination.

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

21 (2) The prelicensing course shall have been
22 completed within 12 months before the date of the related
23 examination as shown on the certificate furnished by the
24 prelicensing course provider.

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

1 (4) At the time of initial approval and annually
2 thereafter, the commissioner shall collect from each
3 prelicensing course provider a fee set by the commissioner not
4 to exceed one hundred dollars (\$100). The fee shall be
5 deposited in the State Treasury to the credit of the Insurance
6 Department Fund. Public institutions shall be exempt from
7 paying the fee, but shall otherwise be subject to the rules
8 applicable to other providers.

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

12 (2) The examination shall test the knowledge of the
13 individual concerning the lines of authority for which
14 application is made, the duties and responsibilities of an
15 independent adjuster, and the insurance laws and regulations
16 of this state. Examinations required by this section shall be
17 developed and conducted under rules prescribed by the
18 commissioner.

19 (3) Each individual applying for an examination
20 shall furnish a certificate of completion of the prelicensing
21 course from an authorized prelicensing course provider and pay
22 a non-refundable fee prescribed by the commissioner as set
23 forth in Section 27-4-2.

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

1 (5) An individual who fails to appear for the
2 examination as scheduled or fails to pass the examination
3 shall reapply for an examination and remit all required fees
4 and forms before being rescheduled for another examination.

5 (6) No individual who has taken and failed to pass
6 two examinations given pursuant to this section for a
7 particular line of insurance shall be entitled to take any
8 further examination for that line of insurance until after the
9 expiration of three months from the date of the last
10 examination which the individual failed to pass. If the
11 individual fails to pass the examination after two more
12 attempts, the individual shall not be eligible to take any
13 further examination for that line of insurance until after the
14 expiration of six months from the date of the last
15 unsuccessful examination. An examination fee shall be paid for
16 each and every examination.

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

18 (a) An individual applicant for an independent
19 adjuster license in this state shall not be required to
20 complete any prelicensing course or examination if the person
21 is currently licensed in another state for the same line or
22 lines of authority based on an independent adjuster
23 examination or if such state license has expired and the
24 application is received by this state within 90 days of
25 expiration. The applicant shall either provide certification
26 from the other state that the applicant's license is currently
27 in good standing or was in good standing at the time of

1 expiration or the state's producer database records maintained
2 by the NAIC must indicate that the applicant is or was
3 licensed in good standing. The certification must be of a
4 license with the same line of authority for which the
5 individual has applied.

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

12 (c) An individual who applies for an independent
13 adjuster license in this state who was previously licensed as
14 an independent adjuster in this state shall not be required to
15 complete a prelicensing course or examination, but this
16 exemption is only available if the application is received
17 within 12 months of the cancellation of the applicant's
18 previous license in this state and if, at the time of
19 cancellation, the applicant was in good standing in this
20 state.

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

22 (a) Unless refused licensure pursuant to Section
23 27-9A-12, a nonresident person shall receive a nonresident
24 independent adjuster license if:

25 (1) The person is currently licensed in good
26 standing as an independent adjuster in the resident or home
27 state of the person.

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

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

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

9 (b) The commissioner may verify the independent
10 adjuster's licensing status through any appropriate database,
11 including the Producer Database maintained by the NAIC or may
12 request certification of good standing as described in
13 subsection (a) of Section 27-9A-9.

14 (c) As a condition to the continuation of a
15 nonresident independent adjuster license in this state, the
16 licensee shall maintain a resident independent adjuster
17 license in the adjuster's home state. A licensee shall notify
18 the commissioner within 30 days if the independent adjuster
19 license terminates for any reason and shall include the new
20 address if the licensee has obtained a resident license in a
21 new resident or home state. Termination of a resident or home
22 state license shall terminate the nonresident independent
23 adjuster license in this state unless the termination is due
24 to the independent adjuster being issued a new resident
25 independent adjuster license in a new resident or home state,
26 provided the new resident or home state awards nonresident

1 independent adjuster licenses to persons of this state on the
2 same basis.

3 (d) No resident of Canada may be licensed as a
4 non-resident independent adjuster unless the person has
5 obtained a resident or home state independent adjuster
6 license.

7 Section 27-9A-11. Apprentice independent adjuster
8 license.

9 (a) The apprentice independent adjuster license is a
10 temporary license for an individual residing in this state who
11 is qualified for an independent adjuster license except as to
12 having taken and passed the prelicensing course and
13 examination.

14 (b) An individual applying for an apprentice
15 independent adjuster license shall apply to the commissioner
16 on the appropriate NAIC Uniform Individual Application and
17 declare under penalty of suspension, revocation, or refusal of
18 the license that the statements made in the application are
19 true, correct, and complete to the best of the individual's
20 knowledge and belief. Before approving the application, the
21 commissioner shall find that the individual:

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

23 (2) Is a resident of this state.

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

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

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

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

5 (1) Accompanying the apprentice adjuster application
6 shall be an attestation from an independent adjuster licensed
7 in this state with the same lines of authority for which the
8 apprentice has applied certifying that the apprentice will be
9 subject to training, direction, and control by the licensed
10 independent adjuster and further certifying that the licensed
11 independent adjuster assumes responsibility for the actions of
12 the apprentice in the apprentice's capacity as an independent
13 adjuster. A licensed independent adjuster shall not supervise
14 more than five active apprentice adjuster licensees at any
15 given time.

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

18 (3) The apprentice licensee is restricted to
19 participation in the adjusting of claims subject to the review
20 and final determination of the claim by the supervising
21 licensed independent adjuster.

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

24 (5) At any time during the period of the license the
25 apprentice independent adjuster may complete the prelicensing
26 course and take the examination required by Section 27-9A-8.
27 If the apprentice independent adjuster successfully completes

1 the independent adjuster examination, the apprentice
2 independent adjuster license shall automatically terminate and
3 an independent adjuster license shall be issued in place
4 thereof.

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

9 (7) An apprentice independent adjuster shall be
10 subject to Sections 27-9A-12, 27-9A-14, 27-9A-15, and Chapter
11 12 of this title to the same extent as if licensed as an
12 independent adjuster in this state.

13 Section 27-9A-12. License denial, non-renewal, or
14 revocation.

15 (a) The commissioner may place on probation,
16 suspend, revoke, or refuse to issue or renew an independent
17 adjuster's license, an apprentice independent adjuster's
18 license, or the registration of an emergency independent
19 adjuster, or may levy a civil penalty in accordance with
20 subsection (d), or any combination of these actions, for any
21 one or more of the following causes:

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

24 (2) Violating any insurance laws, rules, subpoena,
25 or order of the commissioner or of another state's insurance
26 regulator.

1 (3) Obtaining or attempting to obtain a license or
2 registration through misrepresentation or fraud.

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

7 (5) Intentionally misrepresenting the terms of an
8 actual insurance contract.

9 (6) Having been convicted of a felony.

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

12 (8) Using fraudulent, coercive, or dishonest
13 practices, or demonstrating incompetence, untrustworthiness,
14 or financial irresponsibility, in the course of acting as an
15 adjuster of any type or otherwise in the conduct of business
16 in this state or elsewhere.

17 (9) Having an independent adjuster license, company
18 or employee adjuster license, public adjuster license,
19 emergency adjuster license or registration or its equivalent,
20 or insurance producer license or its equivalent suspended,
21 revoked, or refused in any other state, province, district, or
22 territory.

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

1 (11) Cheating, including improperly using notes or
2 any other reference material, to complete an examination for a
3 license.

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

6 (13) Failing to pay state income tax or comply with
7 any administrative or court order directing payment of state
8 income tax which remains unpaid.

9 (b) In the event the action by the commissioner is
10 to refuse application for licensure or renewal of an existing
11 license, the commissioner shall notify the applicant or
12 licensee in writing, advising of the reason for the refusal.
13 The applicant or licensee may make written demand upon the
14 commissioner within 30 days for a hearing before the
15 commissioner to determine the reasonableness of the refusal.
16 The hearing shall be held pursuant to Chapter 2 of this title.

17 (c) The license of a business entity may be placed
18 on probation, suspended, or revoked if the commissioner finds,
19 after a hearing, that an individual licensee's violation
20 occurred while acting on behalf of or representing the
21 business entity and that the violation was known or should
22 have been known by one or more of the business entity's
23 partners, officers, or managers and that the violation was
24 neither reported to the commissioner nor was corrective action
25 taken in relation thereto.

26 (d) In the absence of a greater fine specifically
27 provided elsewhere in this title, and in addition to or in

1 lieu of any applicable probation, suspension, revocation, or
2 refusal, a person may, in the sole discretion of the
3 commissioner after a hearing, additionally be subject to a
4 civil fine in an amount not to exceed ten thousand dollars
5 (\$10,000) per violation.

6 (e) The commissioner shall retain the authority to
7 enforce the provisions of and impose any penalty or remedy
8 authorized by this chapter or elsewhere in Title 27 against
9 any person who is under investigation for or charged with a
10 violation of this chapter or Title 27 even if the person's
11 license or registration has been surrendered or has expired by
12 operation of law.

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

14 (a) An individual who holds an independent adjuster
15 license and who is not exempt under subsection (b) shall
16 satisfactorily complete a minimum of 24 hours of continuing
17 education courses as may be approved by the commissioner, of
18 which three hours must be in ethics, reported to the
19 commissioner on a biennial basis in conjunction with the
20 license renewal cycle.

21 (b) This section shall not apply to:

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

24 (2) Licensees holding nonresident independent
25 adjuster licenses who have met the continuing education
26 requirements of their designated home state and whose home

1 state gives credit to residents of this state on the same
2 basis.

3 (c) Only continuing education courses and providers
4 approved by the commissioner shall be used to satisfy the
5 continuing education requirements of this section. Continuing
6 education providers and courses shall be subject to the same
7 requirements and fees set forth in Chapter 8A of this title.

8 (d) The commissioner shall prescribe the number of
9 hours of continuing education credit for each continuing
10 education course approved. Continuing education courses
11 submitted in accordance with a reciprocal agreement the
12 commissioner enters with other states shall be approved
13 according to the provisions of the reciprocal agreement.

14 (e) If a continuing education course requires
15 successful completion of a written examination, no continuing
16 education credit shall be given to licensees who do not
17 successfully complete the written examination.

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

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

23 An independent adjuster shall maintain a copy of
24 each contract between the independent adjuster and the insurer
25 and comply with the record retention policy as agreed to in
26 that contract. Records retained by an independent adjuster
27 shall be made available for review or inspection if requested

1 by the commissioner or authorized representatives of the
2 commissioner.

3 Section 27-9A-15. Standards of conduct of
4 independent adjusters.

5 In the conduct of business in this state, each
6 independent adjuster, apprentice adjuster, and emergency
7 independent adjuster shall:

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

10 (2) Give policyholders and claimants prompt,
11 knowledgeable service, and courteous, fair, and objective
12 treatment at all times.

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

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

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

23 (6) Not have any financial interest in any
24 adjustment or acquire any interest or title in salvage without
25 first receiving written authority from the principal.

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

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

2 (a) An independent adjuster shall report to the
3 commissioner any administrative action taken against the
4 independent adjuster by a governmental agency in another
5 jurisdiction or by another governmental agency in this state
6 within 30 days of the final disposition of the matter. This
7 report shall include a copy of the order, consent order, and
8 any other relevant legal documents.

9 (b) Within 30 days of the initial pretrial hearing
10 date, an independent adjuster shall report to the commissioner
11 any criminal action taken against the independent adjuster in
12 this or any jurisdiction. The report shall include a copy of
13 the initial complaint filed, the order resulting from the
14 hearing, and any other relevant legal documents.

15 Section 27-9A-17. Fingerprints.

16 (a) In order to make a determination of license
17 eligibility, the commissioner may require fingerprints of
18 applicants and to submit the fingerprints and the fee required
19 to perform the criminal history record checks to the Alabama
20 Department of Public Safety and the Federal Bureau of
21 Investigation for state and national criminal history record
22 checks.

23 (b) The commissioner may require a criminal history
24 record check on each applicant in accordance with this
25 section. The commissioner shall require each applicant to
26 submit a full set of fingerprints, including a scanned file
27 from a hard copy fingerprint, in order for the commissioner to

1 obtain and receive national criminal history records from the
2 Criminal Justice Information Services Division of the Federal
3 Bureau of Investigation. In the case of business entity
4 applicants, the commissioner shall require the submission of
5 fingerprints of all of the following:

6 (1) All executive officers and directors of the
7 applicant.

8 (2) Any individual owning, directly or indirectly,
9 51 percent or more of the outstanding voting securities of the
10 applicant.

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

14 (c) The commissioner may contract for the
15 collection, transmission, and resubmission of fingerprints
16 required under this section. If the commissioner does so, the
17 fee for collecting, transmitting, and retaining fingerprints
18 shall be payable directly to the contractor by the person. The
19 commissioner may agree to a reasonable fingerprinting fee to
20 be charged by the contractor.

21 (d) The commissioner may waive submission of
22 fingerprints by any person that has previously furnished
23 fingerprints and those fingerprints are on file with the
24 centralized repository of the NAIC.

25 (e) The commissioner may receive criminal history
26 record information in lieu of the Alabama Department of Public

1 Safety that submitted the fingerprints to the Federal Bureau
2 of Investigation.

3 (f) The commissioner may submit electronic
4 fingerprint records and necessary identifying information to
5 the NAIC for permanent retention in a centralized repository.
6 The purpose of such a centralized repository is to provide
7 insurance commissioners with access to fingerprint records in
8 order to perform criminal history record checks.

9 (g) The commissioner shall treat and maintain an
10 applicant's fingerprints and any criminal history record
11 information obtained under this section as confidential and
12 shall apply security measures consistent with the Criminal
13 Justice Information Services Division of the Federal Bureau of
14 Investigation standards for the electronic storage of
15 fingerprints and necessary identifying information and limit
16 the use of records solely to the purposes authorized in this
17 section. The fingerprints and any criminal history record
18 information shall not be subject to subpoena, other than one
19 issued in a criminal action or investigation, and shall be
20 confidential.

21 Section 27-9A-18. Rules.

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

25 (b) The commissioner, by regulation, may provide for
26 delayed enforcement dates of up to 24 months following the
27 effective date of this act to allow for implementation of the

1 provisions of this chapter relating to apprentice independent
2 adjuster licensing, fingerprinting, the prelicensing course
3 and examination, and continuing education.

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

6 "§27-4-2.

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

9 "(1) Certificate of authority:

10 "a. Initial application for original certificate of
11 authority, including the filing with the commissioner of all
12 documents incidental thereto \$500

13 "b. Issuance of original certificate of authority
14 500

15 "c. Annual continuation or renewal fee 500

16 "d. Reinstatement fee 500

17 "(2) Charter documents, filing with the commissioner
18 amendment to articles of incorporation or of association, or
19 of other charter documents or to bylaws 25

20 "(3) Solicitation permit, filing application and
21 issuance 250

22 "(4) Annual statement of insurer, except when filed
23 as part of application for original certificate of authority,
24 filing 25

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

26 "a. Individuals:

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

3 "2. License fee (For issuance of original license)
4 40

5 "b. Business entities:

6 "1. Application fee (For filing of initial
7 application for license) 20

8 "2. License fee (For original license and each
9 biennial renewal) 100

10 "c. Examination fees (For producer examination or
11 reexamination, each classification of examination) 50

12 "(6) Producer appointment fee:

13 "a. Filing notice of appointment 30

14 "b. Annual continuation of appointment 10

15 "(7) Reinsurance intermediary license:

16 "a. Filing application for license 30

17 "b. Issuance of initial license 140

18 "c. Annual continuation of license 100

19 "(8) Managing general ~~agent's~~ agent license:

20 "a. Application fee (For filing of initial
21 application for license, each insurer) 30

22 "b. Issuance of initial license, each insurer
23 125

24 "c. Annual continuation of license, each insurer
25 75

26 "(9) Service representative's license:

1 "a. Application fee (For filing of initial
2 application for license, each insurer) 20

3 "b. Appointment fee, property and casualty, each
4 insurer (For original appointment and each annual renewal)
5 30

6 "(10) Surplus line broker:

7 "a. Application fee (For filing of initial
8 application for license) 20

9 "b. License fee (For original license and each
10 annual renewal):

11 "1. Individual licensees 200

12 "2. Business entity licensees 500

13 "(11) Adjusters (resident or nonresident):

14 "a. Application fee (For filing of initial
15 application for license; individuals and business entities)
16 20

17 "b. License fee (For original license and each
18 biennial continuation) ~~..... 80~~

19 "1. Individual licensees 80

20 "2. Business entity licensees 200

21 "c. Examination fee, an amount set by the
22 commissioner not to exceed 100

23 "(12) Miscellaneous services:

24 "a. For copies of documents, records on file in
25 Insurance Department, per page 1

26 "b. For each certificate under seal of the
27 commissioner, other than licenses 5

1 "(13) The commissioner shall collect a fee of fifty
2 dollars (\$50) when, in acting as agent for service of process
3 for any insurance company, fraternal benefit society, mutual
4 aid association, nonresident producer, nonresident independent
5 adjuster, or nonresident surplus line broker, he or she
6 accepts the service of legal process as provided by the laws
7 of this state. The commissioner shall refuse to receive and
8 file or serve any process unless the process is accompanied by
9 the aforementioned fee, which shall be taxed as costs in the
10 action.

11 "(b) The fees and licenses specified in subsection
12 (a) shall be deposited in the State Treasury with 50 percent
13 credited to the General Fund and 50 percent credited to the
14 Insurance Department Fund."

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

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

1
2
3 Senate
4 Read for the first time and referred to the Senate
5 committee on Banking and Insurance..... 24-MAR-11
6
7 Read for the second time and placed on the calen-
8 dar..... 31-MAR-11
9
10 Read for the third time and passed as amended 27-APR-11

11 Yeas 24
12 Nays 0

13
14
15 Patrick Harris
16 Secretary
17