

1 SB269
2 127474-6
3 By Senator Blackwell
4 RFD: Banking and Insurance
5 First Read: 24-MAR-11

SB269

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 Chapter 9A. Independent Adjusters.

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

5 This chapter governs the qualifications and
6 procedures for licensing independent adjusters. It specifies
7 the duties of and restrictions on independent adjusters.

8 Section 27-9A-2. Definitions.

9 For purposes of this chapter, the following terms
10 shall have the meanings respectively ascribed to them by this
11 section:

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

14 (2) BUSINESS ENTITY. A corporation, association,
15 partnership, limited liability company, limited liability
16 partnership, or other legal entity.

17 (3) COMMISSIONER. The Alabama Commissioner of
18 Insurance.

19 (4) HOME STATE. The District of Columbia and any
20 state or territory of the United States in which an
21 independent adjuster maintains the principal place of
22 residence or business of the adjuster and in which the
23 adjuster is licensed to act as a resident independent
24 adjuster. In the case of a resident of a Canadian province, or
25 if the resident state or territory does not license

independent adjusters for the line of authority sought, the home state of the independent adjuster shall be any state in which the independent adjuster is licensed and in good standing, as designated by the adjuster.

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

(6) INDIVIDUAL. A natural person.

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

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

(9) PERSON. An individual or business entity.

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

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

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

Section 27-9A-3. Independent adjuster defined; 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,

1 or settle claims with policyholders, claimants, or their legal
2 representative.

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

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

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

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

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

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

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

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

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

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

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

20 1. It shall only be utilized by a licensed
21 independent adjuster, licensed insurance producer, or by
22 individuals supervised by a licensed independent adjuster or
23 insurance producer pursuant to this subdivision.

24 2. It shall comply with all claims payment
25 requirements of the insurance code.

1 d. For purposes of this subdivision, "portable
2 consumer electronic device" means a personal, self-contained,
3 easily carried by an individual, battery-operated electronic
4 communication, viewing, listening, recording, gaming,
5 computing, or global position device, and other similar
6 devices and their accessories.

7 e. The licensed independent adjuster or insurance
8 producer who supervises the individuals shall file a report
9 with the commissioner indicating an intention to operate
10 pursuant to this subdivision.

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

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

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

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

23 (b) The insurer shall file with the commissioner a
24 registration of each individual that will act as an emergency
25 independent adjuster on behalf of the insurer within five days

1 of deployment to adjust claims arising from the state of
2 emergency.

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

6 (1) Name of the individual.

7 (2) Social Security number of the individual.

8 (3) Name of insurer the independent adjuster will
9 represent.

10 (4) Effective date of the contract between the
11 insurer and independent adjuster.

12 (5) Catastrophe or loss control number.

13 (6) Catastrophe event name.

14 (7) Any other information the commissioner deems
15 necessary.

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

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

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

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

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

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

(1) Is at least 18 years of age.

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

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

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

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

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

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

15 (c) No resident of another state or of the District
16 of Columbia or of Canada may be licensed pursuant to this
17 section or may designate Alabama as his or her home state
18 unless the person has successfully passed the independent
19 adjuster examination and has otherwise complied with the other
20 applicable portions of this section.

21 (d) A business entity applying for a resident
22 independent adjuster license shall apply to the commissioner
23 on the appropriate NAIC Uniform Business Entity Application
24 and declare under penalty of suspension, revocation, or
25 refusal of the license that the statements made in the

1 application are true, correct, and complete to the best of the
2 business entity's knowledge and belief. Before approving the
3 application, the commissioner shall find that the business
4 entity:

5 (1) Is eligible to designate this state as its home
6 state.

7 (2) As applicable, has qualified or registered with
8 the office of the Secretary of State to engage in business in
9 this state.

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

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

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

19 (e) The commissioner may require any documents
20 reasonably necessary to verify the information contained in
21 the application.

22 Section 27-9A-7. License; license renewal; name or
23 address change.

24 (a) Unless denied licensure pursuant to Section
25 27-9A-12, a person who meets the requirements of Sections

1 27-9A-6 and 27-9A-8 shall be issued an independent adjuster
2 license. An independent adjuster may qualify for a license in
3 one or more of the following lines of authority:

4 (1) Property and casualty.

5 (2) Workers' compensation.

6 (3) Crop.

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

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

23 (d) After the first 30 days following the date an
24 independent adjuster license expires, but within 12 months
25 after the expiration date, the license may be reinstated

1 effective as of the reinstatement by submitting a renewal
2 application, by paying a fee of double the renewal fee
3 required in Section 27-4-2, and by meeting the other
4 requirements for renewal including any applicable continuing
5 education requirements.

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

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

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

19 (h) The independent adjuster shall inform the
20 commissioner of a change in legal name or address within 30
21 days of the change in a manner prescribed by the commissioner.
22 Failure to timely inform the commissioner of a change in legal
23 name or address shall result in a penalty of fifty dollars
24 (\$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 prelimensing
7 course consisting of 20 classroom hours per line of authority,
8 or equivalent individual instruction.

9 (2) The prelimensing 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 prelimensing course provider.

13 (3) Every prelimensing 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 prelimensing 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.

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

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

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

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

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

24 (6) No individual who has taken and failed to pass
25 two examinations given pursuant to this section for a

1 particular line of insurance shall be entitled to take any
2 further examination for that line of insurance until after the
3 expiration of three months from the date of the last
4 examination which the individual failed to pass. If the
5 individual fails to pass the examination after two more
6 attempts, the individual shall not be eligible to take any
7 further examination for that line of insurance until after the
8 expiration of six months from the date of the last
9 unsuccessful examination. An examination fee shall be paid for
10 each and every examination.

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

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

1 license with the same line of authority for which the
2 individual has applied.

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

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

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

19 (a) Unless refused licensure pursuant to Section
20 27-9A-12, a nonresident person shall receive a nonresident
21 independent adjuster license if:

22 (1) The person is currently licensed in good
23 standing as an independent adjuster in the resident or home
24 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,

provided the new resident or home state awards nonresident independent adjuster licenses to persons of this state on the same basis.

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

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

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

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

- (1) Is at least 18 years of age.
- (2) Is a resident of this state.
- (3) Has a business or mailing address in this state.

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

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

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

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

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

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

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

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

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

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

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

(a) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an independent adjuster's license, an apprentice independent adjuster's license, or the registration of an emergency independent adjuster, or may levy a civil penalty in accordance with

subsection (d), or any combination of these actions, for any one or more of the following causes:

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

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

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

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

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

(6) Having been convicted of a felony.

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

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

(9) Having an independent adjuster license, company or employee adjuster license, public adjuster license,

1 emergency adjuster license or registration or its equivalent,
2 or insurance producer license or its equivalent suspended,
3 revoked, or refused in any other state, province, district, or
4 territory.

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

8 (11) Cheating, including improperly using notes or
9 any other reference material, to complete an examination for a
10 license.

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

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

16 (b) In the event the action by the commissioner is
17 to refuse application for licensure or renewal of an existing
18 license, the commissioner shall notify the applicant or
19 licensee in writing, advising of the reason for the refusal.
20 The applicant or licensee may make written demand upon the
21 commissioner within 30 days for a hearing before the
22 commissioner to determine the reasonableness of the refusal.
23 The hearing shall be held pursuant to Chapter 2 of this title.

24 (c) If the commissioner finds, after a hearing, that
25 an individual licensee's violation occurred while acting on

1 behalf of or representing the business entity and that the
2 violation was known by one or more of the business entity's
3 partners in the partnership, corporate officers in a
4 corporation, or managers of the limited liability company and
5 that the violation was neither reported to the commissioner
6 nor was corrective action taken in relation thereto, the
7 licenses of such individual employees or personnel of a
8 business entity may be placed on probation, suspended, or
9 revoked.

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

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

24 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

1 commissioner enters with other states shall be approved
2 according to the provisions of the reciprocal agreement.

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

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

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

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

19 Section 27-9A-15. Standards of conduct of
20 independent adjusters.

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

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

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

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

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

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

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

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

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

(a) An independent adjuster shall report to the commissioner any administrative action taken against the independent adjuster by a governmental agency in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This

1 report shall include a copy of the order, consent order, and
2 any other relevant legal documents.

3 (b) Within 30 days of the initial pretrial hearing
4 date, an independent adjuster shall report to the commissioner
5 any criminal action taken against the independent adjuster in
6 this or any jurisdiction. The report shall include a copy of
7 the initial complaint filed, the order resulting from the
8 hearing, and any other relevant legal documents.

9 Section 27-9A-17. Fingerprints.

10 (a) In order to make a determination of license
11 eligibility, the commissioner may require fingerprints of
12 applicants and to submit the fingerprints and the fee required
13 to perform the criminal history record checks to the Alabama
14 Department of Public Safety and the Federal Bureau of
15 Investigation for state and national criminal history record
16 checks.

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

1 applicants, the commissioner shall require the submission of
2 fingerprints of all of the following:

3 (1) All executive officers and directors of the
4 applicant.

5 (2) Any individual owning, directly or indirectly,
6 51 percent or more of the outstanding voting securities of the
7 applicant.

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

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

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

22 (e) The commissioner may receive criminal history
23 record information in lieu of the Alabama Department of Public
24 Safety that submitted the fingerprints to the Federal Bureau
25 of Investigation.

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

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

19 Section 27-9A-18. Rules.

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

23 (b) The commissioner, by regulation, may provide for
24 delayed enforcement dates of up to 24 months following the
25 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):

1 "a. Individuals:

2 "1. Application fee (For filing of initial

3 application for license) 20

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

5 40

6 "b. Business entities:

7 "1. Application fee (For filing of initial

8 application for license) 20

9 "2. License fee (For original license and each

10 biennial renewal) 100

11 "c. Examination fees (For producer examination or

12 reexamination, each classification of examination) 50

13 "(6) Producer appointment fee:

14 "a. Filing notice of appointment 30

15 "b. Annual continuation of appointment 10

16 "(7) Reinsurance intermediary license:

17 "a. Filing application for license 30

18 "b. Issuance of initial license 140

19 "c. Annual continuation of license 100

20 "(8) Managing general agent license:

21 "a. Application fee (For filing of initial

22 application for license, each insurer) 30

23 "b. Issuance of initial license, each insurer

24 125

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

"(9) Service representative's license:

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

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

"(10) Surplus line broker:

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

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

"1. Individual licensees 200

"2. Business entity licensees 500

"(11) Adjusters (resident or nonresident):

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

"b. License fee (For original license and each
biennial continuation)

"1. Individual licensees 80

"2. Business entity licensees 200

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

"(12) Miscellaneous services:

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

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

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

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

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB269

Senate 27-APR-11

I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Amended and passed 02-JUN-11

Senate concurred in House amendment 02-JUN-11

By: Senator Blackwell