

1 HB189
2 135931-3
3 By Representative Hill
4 RFD: Insurance
5 First Read: 07-FEB-12

1 "§27-27-26.

2 ~~"(a) Any officer, or director, or any member of any~~
3 ~~committee or any employee of a domestic insurer who is charged~~
4 ~~with the duty of investing or handling the insurer's funds of~~
5 ~~an insurer shall not do any of the following:~~

6 "(a) Any No officer, or director of a domestic
7 insurer, or any and no member of any committee or any employee
8 of a domestic insurer who is charged with the duty of
9 investing or handling the insurer's funds of the insurer,
10 shall not do any of the following:

11 "(1) Deposit deposit or invest such the funds except
12 in the insurer's corporate name of the insurer; except, that
13 such the insurer may for its convenience hold any equity
14 investment in a street name or in the name of a nominee,.

15 "(2) Borrow shall not borrow the funds of such the
16 insurer,.

17 "(3) Be shall not be pecuniarily interested in any
18 loan, pledge or deposit, security, investment, sale, purchase,
19 exchange, reinsurance, or other similar transaction or
20 property of such the insurer except as follows:

21 "a. As a stockholder or member of the insurer.

22 "a. A holder b. As a holder or owner of common stock
23 or equity-like preferred stock in any corporation or business
24 entity trading on a national or international stock exchange.

25 "b. A holder c. As a holder or owner of shares of
26 mutual funds, bond funds, or private equity funds registered
27 with the United States Securities and Exchange Commission.

1 ~~"c. A holder~~ d. As a holder or owner of bonds and
2 other evidences of indebtedness of governmental units in the
3 United States or Canada or private business entities domiciled
4 in the United States or Canada.

5 ~~"d. A holder~~ e. As a holder or owner of bonds and
6 other evidences of indebtedness of international development
7 organizations of which the United States is a member.

8 ~~"e. A a stockholder or member and shall not take or~~
9 ~~receive to his own use any fee, brokerage, commission, gift,~~
10 ~~or other consideration for, or on account of, any such~~
11 ~~transaction made by, or on behalf of, such insurer.~~

12 " (4) Take a stockholder or member and shall not
13 take or receive to his or her own use any fee, brokerage,
14 commission, gift, or other consideration for, or on account
15 of, any such transaction made by, or on behalf of, such the
16 insurer.

17 ~~"(b) No An insurer shall may guarantee any financial~~
18 "(b) No insurer shall guarantee any financial obligation of
19 any of its officers or directors.

20 ~~"(c) This section shall may not prohibit such a~~
21 "(c) This section shall not prohibit such a director, or
22 officer, or member of a committee or employee from becoming a
23 policyholder of the insurer and enjoying the usual rights so
24 provided for its policyholders, nor shall it prohibit any ~~such~~
25 officer, director, or member of a committee or employee from
26 participating as beneficiary in any pension trust, deferred
27 compensation plan, profit-sharing plan, or stock option plan

1 authorized by the insurer and to which he or she may be
2 eligible, nor shall it prohibit any director or member of a
3 committee from receiving a reasonable fee for legal services
4 actually rendered to ~~such~~ the insurer.

5 "(d) The commissioner may, by regulations from time
6 to time, define and permit additional exceptions to the
7 prohibition contained in subsection (a) of this section solely
8 to enable payment of reasonable compensation to a director who
9 is not otherwise an officer or employee of the insurer, or to
10 a corporation or firm in which a director is interested, for
11 necessary services performed or sales or purchases made to, or
12 for, the insurer in the ordinary course of the ~~insurer's~~
13 business of the insurer and in the usual private professional
14 or business capacity of ~~such~~ the director or ~~such~~ the
15 corporation or firm.

16 "§27-27-29.

17 "(a) Every domestic insurer shall have, and
18 maintain, its principal place of business and home office in
19 this state and shall keep ~~therein~~ in this state complete
20 records of its assets, transactions, and affairs in accordance
21 with such methods and systems as are customary or suitable as
22 to the kind, or kinds, of insurance transacted.

23 "(b) Every domestic insurer shall have, and
24 maintain, its assets in this state, or in a financial
25 institution conducting business in this state except as to:

1 "(1) Real property and personal property appurtenant
2 ~~thereto~~ to the real property lawfully owned by the insurer and
3 located outside this state; ~~and.~~

4 "(2) ~~Such~~ The property of the insurer as may be
5 customary, necessary, and convenient to enable and facilitate
6 the operation of its branch offices and regional home offices
7 located outside this state as referred to in subsection (d).

8 "(3) Having, depositing, or transmitting funds and
9 assets of the insurer in, or to, a jurisdiction outside of
10 this state as required by the law of the jurisdiction or as
11 reasonably required in the course of its business, including
12 the retention of funds, assets, personal property, or
13 securities in a depository outside the State of Alabama for
14 purposes of safekeeping or for the convenient operation of the
15 insurer.

16 "(c) Removal of all, or a material part of, the
17 records or assets of a domestic insurer from this state except
18 pursuant to a plan of merger or consolidation approved by the
19 commissioner under this title, or for such reasonable purposes
20 and periods of time as may be approved by the commissioner in
21 writing in advance of ~~such~~ the removal, or concealment of ~~such~~
22 the records or assets, or material part ~~thereof~~ of the records
23 or assets, from the commissioner is prohibited. Any person who
24 removes, or attempts to remove, such records or assets, or
25 such material part ~~thereof~~ of the records or assets, from the
26 home office or other place of business or of safekeeping of
27 the insurer in this state with the intent to remove the ~~same~~

1 records or assets from this state or who conceals or attempts
2 to conceal the ~~same~~ records or assets from the commissioner,
3 in violation of this section, shall, upon conviction ~~thereof~~,
4 be guilty of a felony, punishable by a fine of not more than
5 ten thousand dollars (\$10,000), or by imprisonment in the
6 penitentiary for not more than five years, or by both ~~such the~~
7 fine and imprisonment in the discretion of the court. Upon any
8 removal or attempted removal of ~~such the~~ records or assets or
9 upon retention of ~~such the~~ records or assets, or material part
10 thereof, outside this state beyond the period therefor
11 specified in the ~~commissioner's~~ consent of the commissioner
12 under which the records were so removed thereat or upon
13 concealment of, or attempt to conceal, records or assets in
14 violation of this section, the commissioner may institute
15 delinquency proceedings against the insurer pursuant to the
16 provisions of Chapter 32 of this title.

17 " (d) This section ~~shall~~ may not be deemed to
18 prohibit or prevent an insurer from:

19 " (1) Establishing and maintaining branch offices or
20 regional home offices in other states where necessary or
21 convenient for the transaction of its business and keeping
22 therein the detailed records and assets customary and
23 necessary for the servicing of its insurance in force and
24 affairs in the territory served by such an office, as long as
25 such records and assets are made readily available at ~~such the~~
26 office for examination by the commissioner or at ~~the~~
27 ~~commissioner's~~ his or her request; ~~or.~~

1 ~~"(2) Having, depositing, or transmitting funds and~~
2 ~~assets of the insurer in, or to, jurisdictions outside of this~~
3 ~~state required by the law of such jurisdiction or as~~
4 ~~reasonably and customarily required in the regular course of~~
5 ~~its business, including the retention of personal property or~~
6 ~~securities in a depository outside the State of Alabama for~~
7 ~~purposes of safekeeping or for the convenient operation of the~~
8 ~~insurer.~~

9 "(2) Using custodial arrangements for the holding of
10 securities owned by the insurer, either in or outside of this
11 state, and either segregated from or commingled with
12 securities owned by others, if the arrangements conform to
13 rules adopted by the commissioner for safeguarding the assets
14 and facilitating the examination by the commissioner of
15 insurers using the custodial arrangements.

16 "(e) With the written permission of the
17 commissioner, a domestic insurer may maintain its executive
18 offices outside the State of Alabama and keep there complete
19 records of its assets, transactions, and affairs in accordance
20 with the methods and systems as are customary or suitable for
21 the kind or kinds of insurance transacted. All records kept at
22 the executive offices outside Alabama shall be made available
23 to the commissioner of Alabama upon reasonable notice by the
24 commissioner.

25 "(f) This section shall not apply to those actions
26 taken by insurance companies prior to January 1, 1972, but

1 only applies to future actions of domestic insurance
2 companies.

3 "(g) Notwithstanding any other provision of this
4 section, any company may evidence ownership of its assets by
5 use of a clearing corporation or book-entry deposit system.

6 "§27-41-5.

7 "An insurer shall not make any investment or loan
8 exceeding 10 percent of the admitted assets of the insurer,
9 other than loans on policies or annuity contracts, unless ~~the~~
10 ~~same be~~ authorized, approved or ratified by the board of
11 directors of the insurer or by ~~such~~ the committee or person as
12 the board of directors shall expressly authorize. The action
13 of the board of directors, the committee, or other persons so
14 authorized shall be recorded and regular reports thereof shall
15 be submitted to the board of directors. This requisite shall
16 not apply to funeral supplies authorized for mutual aid
17 associations under Section 27-41-38 which are purchased in the
18 regular course of business under the general supervision of
19 the association's board of directors.

20 "§27-41-27.

21 ~~"An insurer authorized to transact insurance in a~~
22 ~~foreign country may make investments, in an aggregate amount~~
23 ~~not exceeding its obligations incurred in such country, in~~
24 ~~securities of or in such country possessing characteristics~~
25 ~~similar to like investments required pursuant to this chapter~~
26 ~~for investments in the United States of America. Canadian~~

1 ~~securities eligible for investment under other provisions of~~
2 ~~this chapter are not subject to this section.~~

3 "(a) An insurer may invest in securities or other
4 investments (1) issued in, (2) located in, (3) denominated in
5 the currency of, (4) whose ultimate payment amounts of
6 principal or interest are subject to fluctuations in the
7 currency of, or (5) whose obligors are domiciled in countries
8 other than the United States or Canada, which are
9 substantially of the same kinds and classes as those
10 authorized for investment under this chapter.

11 "(b) Subject to the limitations in subsection (c) of
12 this section.

13 "(1) An investment of an insurer authorized under
14 subsection (a) of this section in any one foreign jurisdiction
15 whose sovereign debt has a 1 designation from the Securities
16 Valuation Office shall not exceed 10 percent of the admitted
17 assets of the insurer.

18 "(2) An investment of an insurer authorized under
19 subsection (a) of this section in any one foreign jurisdiction
20 whose sovereign debt has a 2 or 3 designation from the
21 Securities Valuation Office may not exceed five percent of the
22 admitted assets of the insurer.

23 "(3) An investment of an insurer authorized under
24 subsection (a) of this section in any one foreign jurisdiction
25 whose sovereign debt has a 4, 5, or 6 designation from the
26 Securities Valuation Office may not exceed three percent of
27 the admitted assets of the insurer.

1 "(4) An investment of an insurer authorized under
2 subsection (a) of this section denominated in any one foreign
3 currency may not exceed two percent of the admitted assets of
4 the insurer.

5 "(5) An investment of an insurer authorized under
6 subsection (a) of this section denominated in foreign
7 currencies may not exceed, in the aggregate, five percent of
8 the admitted assets of the insurer.

9 "(6) An investment of an insurer authorized under
10 subsection (a) of this section may not be considered
11 denominated in a foreign currency if the acquiring insurer
12 enters into one or more contracts in permitted transactions to
13 exchange all payments made on the foreign currency denominated
14 investment for United States currency at a rate which
15 effectively insulates the investment cash flow against future
16 changes in currency exchange rates during the period the
17 contract or contracts are in effect.

18 "(c) An investment of an insurer authorized under
19 subsection (a) of this section may not exceed, in the
20 aggregate, 20 percent of its admitted assets.

21 "(7) The Securities Valuation Office (SVO) or its
22 successor or interest means the National Association of
23 Insurance Commissioners office that is responsible for the
24 day-to-day credit quality assessment and valuation of
25 securities owned by state regulated insurance companies.

26 "(d) An insurer which is authorized to do business
27 in a foreign country or which has outstanding insurance,

1 annuity, or reinsurance contracts on lives or risks resident
2 in or located in a foreign country may, in addition to the
3 investments authorized by subsection (a) of this section,
4 invest securities and investments (1) issued in, (2) located
5 in, (3) denominated in the currency of, (4) whose ultimate
6 payment amounts of principal and interest are subject to
7 fluctuations in the currency of, or (5) whose obligors are
8 domiciled in the foreign countries which are substantially of
9 the same kinds and classes as those authorized for investment
10 under this chapter.

11 "(e) An investment of an insurer authorized under
12 subsection (d) of this section and cash in the currency of the
13 country which is at any time held by the insurer, may not
14 exceed, in the aggregate, the greater of (1) one and one-half
15 times the amount of its reserves and other obligations under
16 the contracts or (2) the amount which the insurer is required
17 by law to invest in the country."

18 Section 2. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Insurance 07-FEB-12

Read for the second time and placed
on the calendar 1 amendment 16-FEB-12

Read for the third time and passed
as amended..... 06-MAR-12

Yeas 95, Nays 0, Abstains 1

Greg Pappas
Clerk