

1 HB306
2 127474-3
3 By Representative Canfield
4 RFD: Insurance
5 First Read: 22-MAR-11

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to insurance; to provide for the
9 qualifications and procedures for the licensing of independent
10 insurance adjusters and apprentice independent adjusters, and
11 for the registration of emergency independent adjusters, by
12 providing definitions and exceptions to the licensing and
13 registration requirements, by requiring independent adjusters
14 to take and pass a written examination, with exceptions, to
15 provide for nonresident licensing; to require independent
16 adjusters to complete a minimum continuing education on a
17 biennial basis; to provide standards of conduct for
18 independent adjusters; to require independent adjusters to
19 report administrative action taken against them in other
20 jurisdictions; to give the Commissioner of Insurance authority
21 to promulgate regulations necessary to administer and enforce
22 this act; to provide a delayed effective date for certain
23 provisions to allow for proper implementation of this act; and
24 for these purposes to amend Section 27-4-2, relating to fees
25 and charges; to repeal Chapter 9 of Title 27, commencing with
26 Section 27-9-1; and to add Chapter 9A to Title 27, commencing
27 with Section 27-9A-1, Code of Alabama 1975.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 Chapter 9A. Independent Adjusters.

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

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

9 Section 27-9A-2. Definitions.

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

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

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

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

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

1 home state of the independent adjuster shall be any state in
2 which the independent adjuster is licensed and in good
3 standing, as designated by the adjuster.

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

6 (6) INDIVIDUAL. A natural person.

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

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

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

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

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

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

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

25 (a) For purposes of this chapter, an "independent
26 adjuster" is a person who, for compensation as an independent
27 contractor or as an employee of an independent contractor,

1 undertakes on behalf of an insurer to ascertain and determine
2 the amount of any claim, loss, or damage payable under a
3 contract of property, casualty, or workers' compensation
4 insurance or to effect settlement of such claim, loss, or
5 damage. This chapter shall not be construed to permit persons
6 not licensed as attorneys to engage in activities constituting
7 the practice of law.

8 (b) An independent adjuster does not include any of
9 the following:

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

13 (2) A salaried employee of an insurer.

14 (3) A person employed solely to obtain facts
15 surrounding a claim or to furnish technical assistance to a
16 licensed independent adjuster.

17 (4) An individual who is employed to investigate
18 suspected fraudulent insurance claims but who does not adjust
19 losses or determine claims payments.

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

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

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

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

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

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

12 (11) A person who investigates, negotiates, or
13 settles life, accident and health, annuity, or disability
14 insurance claims.

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

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

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

26 b. For purposes of this subdivision, the individual
27 must be an employee of a licensed independent adjuster or of a

1 licensed insurance producer exempt from adjuster licensure
2 pursuant to subdivision (13) or of an affiliate of either a
3 licensed independent adjuster or a licensed insurance producer
4 exempt from adjuster licensure pursuant to subdivision (13),
5 but in any case where no more than 25 such individuals are
6 under the supervision of a single individual licensed
7 independent adjuster or insurance producer.

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

13 1. It shall only be utilized by a licensed
14 independent adjuster, licensed insurance producer, or by
15 individuals supervised by a licensed independent adjuster or
16 insurance producer pursuant to this subdivision.

17 2. It shall comply with all claims payment
18 requirements of the insurance code.

19 d. For purposes of this subdivision, "portable
20 consumer electronic device" means a personal, self-contained,
21 easily carried by an individual, battery-operated electronic
22 communication, viewing, listening, recording, gaming,
23 computing, or global position device, and other similar
24 devices and their accessories.

25 e. The licensed independent adjuster or insurance
26 producer who supervises the individuals shall file a report
27 with the commissioner indicating an intention to operate

1 pursuant to this subdivision, verifying eligibility to operate
2 hereunder, and providing the names of the individuals
3 supervised, which report shall be updated within 30 days of
4 any changes therein.

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

6 A person shall not act or hold the person out as an
7 independent adjuster in this state unless the person is
8 licensed as an independent adjuster in accordance with this
9 chapter.

10 Section 27-9A-5. Registration of emergency
11 independent adjusters.

12 (a) In the event of a state of emergency, a person
13 who is otherwise qualified to adjust claims, but is not
14 already licensed as an independent adjuster in this state, may
15 act as an emergency independent adjuster and adjust claims for
16 an insurer in this state in accordance with this section.

17 (b) The insurer shall file with the commissioner a
18 registration of each individual that will act as an emergency
19 independent adjuster on behalf of the insurer within five days
20 of deployment to adjust claims arising from the state of
21 emergency.

22 (c) The registration shall be in a format prescribed
23 by the commissioner and shall provide the following
24 information:

25 (1) Name of the individual.

26 (2) Social Security number of the individual.

1 (3) Name of insurer the independent adjuster will
2 represent.

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

5 (5) Catastrophe or loss control number.

6 (6) Catastrophe event name.

7 (7) Any other information the commissioner deems
8 necessary.

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

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

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

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

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

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

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

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

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

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

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

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

21 (b) The commissioner may contract with
22 non-governmental entities, including the NAIC, to perform any
23 ministerial functions, including the collection of fees and
24 data, related to licensing that the commissioner may deem
25 appropriate. The commissioner may require that license
26 applications, license renewal applications, and supporting
27 documentation be filed and all required fees and charges be

1 paid electronically through systems operated or maintained by
2 the non-governmental entities.

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

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

18 (1) Is eligible to designate this state as its home
19 state.

20 (2) As applicable, has qualified or registered with
21 the office of the Secretary of State to engage in business in
22 this state.

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

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

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

6 (e) The commissioner may require any documents
7 reasonably necessary to verify the information contained in
8 the application.

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

11 (a) Unless denied licensure pursuant to Section
12 27-9A-12, a person who meets the requirements of Sections
13 27-9A-6 and 27-9A-8 shall be issued an independent adjuster
14 license. An independent adjuster may qualify for a license in
15 one or more of the following lines of authority:

16 (1) Property and casualty.

17 (2) Workers' compensation.

18 (3) Crop.

19 (b) An independent adjuster license shall be
20 initially renewed in accordance with a schedule prescribed by
21 the commissioner and shall thereafter be subject to renewal on
22 a biennial basis. A renewal shall be effected by submitting a
23 renewal application, by paying the fee for renewal prescribed
24 in Section 27-4-2, and by meeting the requirements for
25 renewal, including any applicable continuing education
26 requirements, before the due date for renewal. A license
27 expires if not renewed by the due date for renewal.

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

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

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

19 (f) An independent adjuster who is unable to comply
20 with license renewal procedures and requirements due to
21 military service, long-term medical disability, or some other
22 extenuating circumstance may request a waiver of same and a
23 waiver of any examination requirement, fine, or other sanction
24 imposed for failure to comply with renewal procedures.

25 (g) The license shall contain the licensee's name,
26 address, personal identification number, the dates of issuance

1 and expiration, and any other information the commissioner
2 deems necessary.

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

11 Section 27-9A-8. Prelicensing course and
12 examination.

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

17 (2) The prelicensing course shall have been
18 completed within 12 months before the date of the related
19 examination as shown on the certificate furnished by the
20 prelicensing course provider.

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

24 (4) At the time of initial approval and annually
25 thereafter, the commissioner shall collect from each
26 prelicensing course provider a fee set by the commissioner not
27 to exceed one hundred dollars (\$100). The fee shall be

1 deposited in the State Treasury to the credit of the Insurance
2 Department Fund. Public institutions shall be exempt from
3 paying the fee, but shall otherwise be subject to the rules
4 applicable to other providers.

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

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

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

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

24 (5) An individual who fails to appear for the
25 examination as scheduled or fails to pass the examination
26 shall reapply for an examination and remit all required fees
27 and forms before being rescheduled for another examination.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) Is a resident of this state.

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

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

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

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

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

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

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

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

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

1 an independent adjuster license shall be issued in place
2 thereof.

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

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

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

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

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

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

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

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

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

7 (6) Having been convicted of a felony.

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

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

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

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

24 (11) Cheating, including improperly using notes or
25 any other reference material, to complete an examination for a
26 license.

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

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

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

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

23 (d) In the absence of a greater fine specifically
24 provided elsewhere in this title, and in addition to or in
25 lieu of any applicable probation, suspension, revocation, or
26 refusal, a person may, in the sole discretion of the
27 commissioner after a hearing, additionally be subject to a

1 civil fine in an amount not to exceed ten thousand dollars
2 (\$10,000) per violation.

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

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

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

18 (b) This section shall not apply to:

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

21 (2) Licensees holding nonresident independent
22 adjuster licenses who have met the continuing education
23 requirements of their designated home state and whose home
24 state gives credit to residents of this state on the same
25 basis.

26 (c) Only continuing education courses and providers
27 approved by the commissioner shall be used to satisfy the

1 continuing education requirements of this section. Continuing
2 education providers and courses shall be subject to the same
3 requirements and fees set forth in Chapter 8A of this title.

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

10 (e) If a continuing education course requires
11 successful completion of a written examination, no continuing
12 education credit shall be given to licensees who do not
13 successfully complete the written examination.

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

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

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

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

1 In the conduct of business in this state, each
2 independent adjuster, apprentice adjuster, and emergency
3 independent adjuster shall:

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

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

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

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

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

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

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

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

25 (a) An independent adjuster shall report to the
26 commissioner any administrative action taken against the
27 independent adjuster by a governmental agency in another

1 jurisdiction or by another governmental agency in this state
2 within 30 days of the final disposition of the matter. This
3 report shall include a copy of the order, consent order, and
4 any other relevant legal documents.

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

11 Section 27-9A-17. Fingerprints.

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

19 (b) The commissioner may require a criminal history
20 record check on each applicant in accordance with this
21 section. The commissioner shall require each applicant to
22 submit a full set of fingerprints, including a scanned file
23 from a hard copy fingerprint, in order for the commissioner to
24 obtain and receive national criminal history records from the
25 Criminal Justice Information Services Division of the Federal
26 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.

26 (f) The commissioner may submit electronic
27 fingerprint records and necessary identifying information to

1 the NAIC for permanent retention in a centralized repository.
2 The purpose of such a centralized repository is to provide
3 insurance commissioners with access to fingerprint records in
4 order to perform criminal history record checks.

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

17 Section 27-9A-18. Rules.

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

21 (b) The commissioner, by regulation, may provide for
22 delayed enforcement dates of up to 24 months following the
23 effective date of this act to allow for implementation of the
24 provisions of this chapter relating to apprentice independent
25 adjuster licensing, fingerprinting, the prelicensing course
26 and examination, and continuing education.

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

3 "§27-4-2.

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

6 "(1) Certificate of authority:

7 "a. Initial application for original certificate of
8 authority, including the filing with the commissioner of all
9 documents incidental thereto \$500

10 "b. Issuance of original certificate of authority
11 500

12 "c. Annual continuation or renewal fee 500

13 "d. Reinstatement fee 500

14 "(2) Charter documents, filing with the commissioner
15 amendment to articles of incorporation or of association, or
16 of other charter documents or to bylaws 25

17 "(3) Solicitation permit, filing application and
18 issuance 250

19 "(4) Annual statement of insurer, except when filed
20 as part of application for original certificate of authority,
21 filing 25

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

23 "a. Individuals:

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

26 "2. License fee (For issuance of original license)
27 40

1 "b. Business entities:

2 "1. Application fee (For filing of initial

3 application for license) 20

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

5 biennial renewal) 100

6 "c. Examination fees (For producer examination or

7 reexamination, each classification of examination) 50

8 "(6) Producer appointment fee:

9 "a. Filing notice of appointment 30

10 "b. Annual continuation of appointment 10

11 "(7) Reinsurance intermediary license:

12 "a. Filing application for license 30

13 "b. Issuance of initial license 140

14 "c. Annual continuation of license 100

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

16 "a. Application fee (For filing of initial

17 application for license, each insurer) 30

18 "b. Issuance of initial license, each insurer

19 125

20 "c. Annual continuation of license, each insurer

21 75

22 "(9) Service representative's license:

23 "a. Application fee (For filing of initial

24 application for license, each insurer) 20

25 "b. Appointment fee, property and casualty, each

26 insurer (For original appointment and each annual renewal)

27 30

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

1 accepts the service of legal process as provided by the laws
2 of this state. The commissioner shall refuse to receive and
3 file or serve any process unless the process is accompanied by
4 the aforementioned fee, which shall be taxed as costs in the
5 action.

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

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

12 Section 4. This act shall become effective on the
13 first day of January next following its passage and approval
14 by the 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 22-MAR-11

Read for the second time and placed
on the calendar..... 31-MAR-11

Read for the third time and passed
as amended..... 19-APR-11

Yeas 100, Nays 0, Abstains 1

Greg Pappas
Clerk