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3 By Representative Hill  
4 RFD: Insurance  
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ENROLLED, An Act,

Relating to the Insurance Department; to further provide for the regulation of reinsurance; to add Chapter 5B to Title 27, Code of Alabama 1975; and to repeal Section 27-5-12, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Chapter 5B. Reinsurance.

Section 27-5B-1. Purpose.

The purpose of this chapter is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The Legislature declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that state interest, the Legislature provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides security to fund its U.S. obligations in accordance with this chapter, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled

1 that are applicable to the liquidation of domestic U.S.  
2 insurance companies. The Legislature declares that the matters  
3 contained in this chapter are fundamental to the business of  
4 insurance in accordance with 15 U.S.C. §§ 1011-1012.

5 §27-5B-2. Reinsurance permitted.

6 (a) An insurer authorized under this title may  
7 accept reinsurance only of such risks and retain risk thereon  
8 within such limits as it is otherwise authorized to insure.

9 (b) An insurer authorized under this title may  
10 reinsure all, or any part, of any particular risk with any  
11 solvent insurer.

12 §27-5B-3. Credit allowed a domestic ceding insurer.

13 Credit for reinsurance shall be allowed a domestic  
14 ceding insurer as either an asset or a reduction from  
15 liability on account of reinsurance ceded only when the  
16 reinsurer meets the requirements of Section 27-5B-4, 27-5B-5,  
17 27-5B-6, 27-5B-7, 27-5B-8, or 27-5B-9. Credit shall be allowed  
18 under Sections 27-5B-4, 27-5B-5, or 27-B5-6 only as respects  
19 cessions of those kinds or classes of business which the  
20 assuming insurer is licensed or otherwise permitted to write  
21 or assume in its state of domicile or, in the case of a U.S.  
22 branch of an alien assuming insurer, in the state through  
23 which it is entered and licensed to transact insurance or  
24 reinsurance. Credit shall be allowed under Section 27-5B-6 or

1 27-5B-7 only if the applicable requirements of Section  
2 27-5B-10 have been satisfied.

3 §27-5B-4. Licensed reinsurer.

4 Credit shall be allowed when the reinsurance is  
5 ceded to an assuming insurer that is licensed to transact  
6 insurance or reinsurance in this state.

7 §27-5B-5. Accredited reinsurer.

8 Credit shall be allowed when the reinsurance is  
9 ceded to an assuming insurer that is accredited by the  
10 commissioner as a reinsurer in this state. In order to be  
11 eligible for accreditation, a reinsurer must do all of the  
12 following:

13 (1) File with the commissioner evidence of its  
14 submission to this state's jurisdiction.

15 (2) Submit to this state's authority to examine its  
16 books and records.

17 (3) Be licensed to transact insurance or reinsurance  
18 in at least one state, or in the case of a U.S. branch of an  
19 alien assuming insurer, be entered through and licensed to  
20 transact insurance or reinsurance in at least one state.

21 (4) File annually with the commissioner a copy of  
22 its annual statement filed with the insurance department of  
23 its state of domicile and a copy of its most recent audited  
24 financial statement.

1           (5) Demonstrate to the satisfaction of the  
 2 commissioner that it has adequate financial capacity to meet  
 3 its reinsurance obligations and is otherwise qualified to  
 4 assume reinsurance from domestic insurers. An assuming insurer  
 5 is deemed to meet this requirement as of the time of its  
 6 application if it maintains a surplus as regards policyholders  
 7 in an amount not less than twenty million dollars  
 8 (\$20,000,000) and its accreditation has not been denied by the  
 9 commissioner within 90 days after submission of its  
 10 application.

11           §27-5B-6. Reinsurer domiciled in state with  
 12 substantially similar law.

13           (a) Credit shall be allowed when the reinsurance is  
 14 ceded to an assuming insurer that is domiciled in, or in the  
 15 case of a U.S. branch of an alien assuming insurer is entered  
 16 through, a state that employs standards regarding credit for  
 17 reinsurance substantially similar to those applicable under  
 18 this chapter and the assuming insurer or U.S. branch of an  
 19 alien assuming insurer does both of the following:

20           (1) Maintains a surplus as regards policyholders in  
 21 an amount not less than twenty million dollars (\$20,000,000).

22           (2) Submits to the authority of this state to  
 23 examine its books and records.

24           (b) The requirement of subdivision (1) of subsection  
 25 (a) does not apply to reinsurance ceded and assumed pursuant

1 to pooling arrangements among insurers in the same holding  
2 company system.

3 §27-5B-7. Reinsurer maintaining a trust fund.

4 (a) Credit shall be allowed when the reinsurance is  
5 ceded to an assuming insurer that maintains a trust fund in a  
6 qualified U.S. financial institution, as defined in subsection  
7 (b) of Section 27-5B-15, for the payment of the valid claims  
8 of its U.S. ceding insurers, their assigns and successors in  
9 interest. To enable the commissioner to determine the  
10 sufficiency of the trust fund, the assuming insurer shall  
11 report annually to the commissioner information substantially  
12 the same as that required to be reported on the NAIC Annual  
13 Statement form by licensed insurers. The assuming insurer  
14 shall submit to examination of its books and records by the  
15 commissioner and bear the expense of examination.

16 (b) (1) Credit for reinsurance shall not be granted  
17 under this section unless the form of the trust and any  
18 amendments to the trust have been approved by either:

19 a. The commissioner of the state where the trust is  
20 domiciled.

21 b. The commissioner of another state who, pursuant  
22 to the terms of the trust instrument, has accepted principal  
23 regulatory oversight of the trust.

24 (2) The form of the trust and any trust amendments  
25 also shall be filed with the commissioner of every state in

1 which the ceding insurer beneficiaries of the trust are  
2 domiciled. The trust instrument shall provide that contested  
3 claims shall be valid and enforceable upon the final order of  
4 any court of competent jurisdiction in the United States. The  
5 trust shall vest legal title to its assets in its trustees for  
6 the benefit of the assuming insurer's U.S. ceding insurers,  
7 their assigns and successors in interest. The trust and the  
8 assuming insurer shall be subject to examination as determined  
9 by the commissioner.

10 (3) The trust shall remain in effect for as long as  
11 the assuming insurer has outstanding obligations due under the  
12 reinsurance agreements subject to the trust. No later than  
13 February 28 of each year the trustee of the trust shall report  
14 to the commissioner in writing the balance of the trust and  
15 listing the trust's investments at the preceding year-end and  
16 shall certify the date of termination of the trust, if so  
17 planned, or certify that the trust will not expire prior to  
18 the following December 31.

19 (c) The following requirements apply to the  
20 following categories of assuming insurer:

21 (1) The trust fund for a single assuming insurer  
22 shall consist of funds in trust in an amount not less than the  
23 assuming insurer's liabilities attributable to reinsurance  
24 ceded by U.S. ceding insurers, and, in addition, the assuming  
25 insurer shall maintain a trusteed surplus of not less than

1 twenty million dollars (\$20,000,000), except as provided in  
2 subdivision (2).

3 (2) At any time after the assuming insurer has  
4 permanently discontinued underwriting new business secured by  
5 the trust for at least three full years, the commissioner with  
6 principal regulatory oversight of the trust may authorize a  
7 reduction in the required trusteed surplus, but only after a  
8 finding, based on an assessment of the risk, that the new  
9 required surplus level is adequate for the protection of U.S.  
10 ceding insurers, policyholders and claimants in light of  
11 reasonably foreseeable adverse loss development. The risk  
12 assessment may involve an actuarial review, including an  
13 independent analysis of reserves and cash flows, and shall  
14 consider all material risk factors, including when applicable  
15 the lines of business involved, the stability of the incurred  
16 loss estimates and the effect of the surplus requirements on  
17 the assuming insurer's liquidity or solvency. The minimum  
18 required trusteed surplus may not be reduced to an amount less  
19 than 30 percent of the assuming insurer's liabilities  
20 attributable to reinsurance ceded by U.S. ceding insurers  
21 covered by the trust.

22 (3)a. In the case of a group including incorporated  
23 and individual unincorporated underwriters:

24 1. For reinsurance ceded under reinsurance  
25 agreements with an inception, amendment or renewal date on or



1 after August 1, 1995, the trust shall consist of a trustee'd  
2 account in an amount not less than the respective  
3 underwriter's several liabilities attributable to business  
4 ceded by U.S. domiciled ceding insurers to any underwriter of  
5 the group.

6 2. For reinsurance ceded under reinsurance  
7 agreements with an inception date on or before July 31, 1995,  
8 and not amended or renewed after that date, notwithstanding  
9 the other provisions of this chapter, the trust shall consist  
10 of a trustee'd account in an amount not less than the  
11 respective underwriter's several insurance and reinsurance  
12 liabilities attributable to business written in the United  
13 States.

14 3. In addition to these trusts, the group shall  
15 maintain in trust a trustee'd surplus of which one hundred  
16 million dollars (\$100,000,000) shall be held jointly for the  
17 benefit of the U.S. domiciled ceding insurers of any member of  
18 the group for all years of account.

19 b. The incorporated members of the group shall not  
20 be engaged in any business other than underwriting as a member  
21 of the group and shall be subject to the same level of  
22 regulation and solvency control by the group's domiciliary  
23 regulator as are the unincorporated members.

24 c. Within 90 days after its financial statements are  
25 due to be filed with the group's domiciliary regulator, the

1 group shall provide to the commissioner an annual  
2 certification by the group's domiciliary regulator of the  
3 solvency of each underwriter member; or if a certification is  
4 unavailable, financial statements, prepared by independent  
5 public accountants, of each underwriter member of the group.

6 (4) In the case of a group of incorporated  
7 underwriters under common administration, the group shall do  
8 all of the following:

9 a. Have continuously transacted an insurance  
10 business outside the United States for at least three (3)  
11 years immediately prior to making application for  
12 accreditation.

13 b. Maintain aggregate policyholders' surplus of at  
14 least ten billion dollars (\$10,000,000,000).

15 c. Maintain a trust fund in an amount not less than  
16 the group's several liabilities attributable to business ceded  
17 by U.S. domiciled ceding insurers to any member of the group  
18 pursuant to reinsurance contracts issued in the name of the  
19 group.

20 d. In addition, maintain a joint trustee surplus of  
21 which one hundred million dollars (\$100,000,000) shall be held  
22 jointly for the benefit of U.S. domiciled ceding insurers of  
23 any member of the group as additional security for these  
24 liabilities.

1 e. Within 90 days after its financial statements are  
2 due to be filed with the group's domiciliary regulator, make  
3 available to the commissioner an annual certification of each  
4 underwriter member's solvency by the member's domiciliary  
5 regulator and financial statements of each underwriter member  
6 of the group prepared by its independent public accountant.

7 §27-5B-8. Certified reinsurer.

8 (a) Credit shall be allowed when the reinsurance is  
9 ceded to an assuming insurer that is certified by the  
10 commissioner as a reinsurer in this state and secures its  
11 obligations in accordance with the requirements of this  
12 section. In order to be eligible for certification, the  
13 assuming insurer shall meet all of the following requirements:

14 (1) The assuming insurer must be domiciled and  
15 licensed to transact insurance or reinsurance in a qualified  
16 jurisdiction, as determined by the commissioner pursuant to  
17 subsection (c).

18 (2) The assuming insurer must maintain minimum  
19 capital and surplus, or its equivalent, in an amount to be  
20 determined by the commissioner pursuant to regulation.

21 (3) The assuming insurer must maintain financial  
22 strength ratings from two or more rating agencies deemed  
23 acceptable by the commissioner pursuant to regulation.

24 (4) The assuming insurer must agree to submit to the  
25 jurisdiction of this state, appoint the commissioner as its

1 agent for service of process in this state, and agree to  
2 provide security for 100 percent of the assuming insurer's  
3 liabilities attributable to reinsurance ceded by U.S. ceding  
4 insurers if it resists enforcement of a final U.S. judgment.

5 (5) The assuming insurer must agree to meet  
6 applicable information filing requirements as determined by  
7 the commissioner, both with respect to an initial application  
8 for certification and on an ongoing basis.

9 (6) The assuming insurer must satisfy any other  
10 requirements for certification deemed relevant by the  
11 commissioner.

12 (b) An association including incorporated and  
13 individual unincorporated underwriters may be a certified  
14 reinsurer. In order to be eligible for certification, in  
15 addition to satisfying requirements of subsection (a):

16 (1) The association shall satisfy its minimum  
17 capital and surplus requirements through the capital and  
18 surplus equivalents (net of liabilities) of the association  
19 and its members, which shall include a joint central fund that  
20 may be applied to any unsatisfied obligation of the  
21 association or any of its members, in an amount determined by  
22 the commissioner to provide adequate protection.

23 (2) The incorporated members of the association  
24 shall not be engaged in any business other than underwriting  
25 as a member of the association and shall be subject to the

1 same level of regulation and solvency control by the  
2 association's domiciliary regulator as are the unincorporated  
3 members.

4 (3) Within 90 days after its financial statements  
5 are due to be filed with the association's domiciliary  
6 regulator, the association shall provide to the commissioner  
7 an annual certification by the association's domiciliary  
8 regulator of the solvency of each underwriter member; or if a  
9 certification is unavailable, financial statements, prepared  
10 by independent public accountants, of each underwriter member  
11 of the association.

12 (c) (1) The commissioner shall create and publish a  
13 list of qualified jurisdictions, under which an assuming  
14 insurer licensed and domiciled in such jurisdiction is  
15 eligible to be considered for certification by the  
16 commissioner as a certified reinsurer.

17 (2) In order to determine whether the domiciliary  
18 jurisdiction of a non-U.S. assuming insurer is eligible to be  
19 recognized as a qualified jurisdiction, the commissioner shall  
20 evaluate the appropriateness and effectiveness of the  
21 reinsurance supervisory system of the jurisdiction, both  
22 initially and on an ongoing basis, and consider the rights,  
23 benefits and the extent of reciprocal recognition afforded by  
24 the non-U.S. jurisdiction to reinsurers licensed and domiciled  
25 in the U.S. A qualified jurisdiction must agree to share

1 information and cooperate with the commissioner with respect  
2 to all certified reinsurers domiciled within the jurisdiction.  
3 A jurisdiction may not be recognized as a qualified  
4 jurisdiction if the commissioner has determined that the  
5 jurisdiction does not adequately and promptly enforce final  
6 U.S. judgments and arbitration awards. Additional factors may  
7 be considered in the discretion of the commissioner.

8 (3) A list of qualified jurisdictions shall be  
9 published through the National Associations of Insurance  
10 Commissioners committee process. The commissioner shall  
11 consider this list in determining qualified jurisdictions. If  
12 the commissioner approves a jurisdiction as qualified that  
13 does not appear on the list of qualified jurisdictions, the  
14 commissioner shall provide thoroughly documented justification  
15 in accordance with criteria to be developed under regulations.

16 (4) U.S. jurisdictions that meet the requirement for  
17 accreditation under the National Associations of Insurance  
18 Commissioners financial standards and accreditation program  
19 shall be recognized as qualified jurisdictions.

20 (5) If a certified reinsurer's domiciliary  
21 jurisdiction ceases to be a qualified jurisdiction, the  
22 commissioner has the discretion to suspend the reinsurer's  
23 certification indefinitely, in lieu of revocation.

24 (d) The commissioner shall assign a rating to each  
25 certified reinsurer, giving due consideration to the financial

1 strength ratings that have been assigned by rating agencies  
2 deemed acceptable by the commissioner pursuant to regulation.  
3 The commissioner shall publish a list of all certified  
4 reinsurers and their ratings.

5 (e) (1) A certified reinsurer shall secure  
6 obligations assumed from U.S. ceding insurers under this  
7 subsection at a level consistent with its rating, as specified  
8 in regulations promulgated by the commissioner.

9 (2) In order for a domestic ceding insurer to  
10 qualify for full financial statement credit for reinsurance  
11 ceded to a certified reinsurer, the certified reinsurer shall  
12 maintain security in a form acceptable to the commissioner and  
13 consistent with the provisions of Section 27-5B-14, or in a  
14 multibeneficiary trust in accordance with Section 27-5B-7,  
15 except as otherwise provided in this section.

16 (3) If a certified reinsurer maintains a trust to  
17 fully secure its obligations subject to Section 27-5B-7, and  
18 chooses to secure its obligations incurred as a certified  
19 reinsurer in the form of a multibeneficiary trust, the  
20 certified reinsurer shall maintain separate trust accounts for  
21 its obligations incurred under reinsurance agreements issued  
22 or renewed as a certified reinsurer with reduced security as  
23 permitted by this section or comparable laws of other U.S.  
24 jurisdictions and for its obligations subject to Section  
25 27-5B-7. It shall be a condition to the grant of certification

1 under Section 27-5B-8 that the certified reinsurer shall have  
2 bound itself, by the language of the trust and agreement with  
3 the commissioner with principal regulatory oversight of each  
4 such trust account, to fund, upon termination of any such  
5 trust account, out of the remaining surplus of such trust any  
6 deficiency of any other such trust account.

7 (4) The minimum trustee surplus requirements  
8 provided in Section 27-5B-7 are not applicable with respect to  
9 a multibeneficiary trust maintained by a certified reinsurer  
10 for the purpose of securing obligations incurred under this  
11 section, except that such trust shall maintain a minimum  
12 trustee surplus of ten million dollars (\$10,000,000).

13 (5) With respect to obligations incurred by a  
14 certified reinsurer under this section, if the security is  
15 insufficient, the commissioner shall reduce the allowable  
16 credit by an amount proportionate to the deficiency, and has  
17 the discretion to impose further reductions in allowable  
18 credit upon finding that there is a material risk that the  
19 certified reinsurer's obligations will not be paid in full  
20 when due.

21 (6)a. For purposes of this section, a certified  
22 reinsurer whose certification has been terminated for any  
23 reason shall be treated as a certified reinsurer required to  
24 secure 100 percent of its obligations.



1           b. As used in this section, the term "terminated"  
2 refers to revocation, suspension, voluntary surrender and  
3 inactive status.

4           c. If the commissioner continues to assign a higher  
5 rating as permitted by other provisions of this chapter, this  
6 requirement does not apply to a certified reinsurer in  
7 inactive status or to a reinsurer whose certification has been  
8 suspended.

9           (f) If an applicant for certification has been  
10 certified as a reinsurer in an NAIC accredited jurisdiction,  
11 the commissioner has the discretion to defer to that  
12 jurisdiction's certification, and has the discretion to defer  
13 to the rating assigned by that jurisdiction, and such assuming  
14 insurer shall be considered to be a certified reinsurer in  
15 this state.

16           (g) A certified reinsurer that ceases to assume new  
17 business in this state may request to maintain its  
18 certification in inactive status in order to continue to  
19 qualify for a reduction in security for its in-force business.  
20 An inactive certified reinsurer shall continue to comply with  
21 all applicable requirements of this section, and the  
22 commissioner shall assign a rating that takes into account, if  
23 relevant, the reasons why the reinsurer is not assuming new  
24 business.

25           §27-5B-9. Credit for reinsurance required by law.

1           Credit shall be allowed when the reinsurance is  
 2           ceded to an assuming insurer not meeting the requirements of  
 3           Section 27-5B-4, 27-5B-5, 27-5B-6, 27-5B-7, or 27-5B-8, but  
 4           only as to the insurance of risks located in jurisdictions  
 5           where the reinsurance is required by applicable law or  
 6           regulation of that jurisdiction.

7           §27-5B-10. Reinsurer not licensed, accredited or  
 8           certified - additional requirements.

9           (a) If the assuming insurer is not licensed,  
 10          accredited or certified to transact insurance or reinsurance  
 11          in this state, the credit permitted by Sections 27-5B-6 and  
 12          27-5B-7 shall not be allowed unless the assuming insurer  
 13          agrees in the reinsurance agreements:

14          (1) That in the event of the failure of the assuming  
 15          insurer to perform its obligations under the terms of the  
 16          reinsurance agreement, the assuming insurer, at the request of  
 17          the ceding insurer, shall submit to the jurisdiction of any  
 18          court of competent jurisdiction in any state of the United  
 19          States, will comply with all requirements necessary to give  
 20          the court jurisdiction, and will abide by the final decision  
 21          of the court or of any appellate court in the event of an  
 22          appeal.

23          (2) To designate the commissioner or a designated  
 24          attorney as its true and lawful attorney upon whom may be

1 served any lawful process in any action, suit or proceeding  
 2 instituted by or on behalf of the ceding insurer.

3 (b) This section is not intended to conflict with or  
 4 override the obligation of the parties to a reinsurance  
 5 agreement to arbitrate their disputes, if this obligation is  
 6 created in the agreement.

7 §27-5B-11. Reinsurer not licensed or accredited or  
 8 subject to substantially similar laws - additional  
 9 requirements.

10 If the assuming insurer does not meet the  
 11 requirements of Section 27-5B-4, 27-5B-5 or 27-5B-6, the  
 12 credit permitted by Section 27-5B-7 or 27-5B-8 shall not be  
 13 allowed unless the assuming insurer agrees in the trust  
 14 agreements to the following conditions:

15 (1) Notwithstanding any other provisions in the  
 16 trust instrument, if the trust fund is inadequate because it  
 17 contains an amount less than the amount required by subsection  
 18 (c) of Section 27-5B-7, or if the grantor of the trust has  
 19 been declared insolvent or placed into receivership,  
 20 rehabilitation, liquidation or similar proceedings under the  
 21 laws of its state or country of domicile, the trustee shall  
 22 comply with an order of the commissioner with regulatory  
 23 oversight over the trust or with an order of a court of  
 24 competent jurisdiction directing the trustee to transfer to

1 the commissioner with regulatory oversight all of the assets  
2 of the trust fund.

3 (2) The assets shall be distributed by and claims  
4 shall be filed with and valued by the commissioner with  
5 regulatory oversight in accordance with the laws of the state  
6 in which the trust is domiciled that are applicable to the  
7 liquidation of domestic insurance companies.

8 (3) If the commissioner with regulatory oversight  
9 determines that the assets of the trust fund or any part  
10 thereof are not necessary to satisfy the claims of the U.S.  
11 ceding insurers of the grantor of the trust, the assets or  
12 part thereof shall be returned by the commissioner with  
13 regulatory oversight to the trustee for distribution in  
14 accordance with the trust agreement.

15 (4) The grantor shall waive any right otherwise  
16 available to it under U.S. law that is inconsistent with this  
17 provision.

18 Section 27-5B-12. Accredited or certified reinsurer  
19 ceasing to meet requirements.

20 (a) If an accredited or certified reinsurer ceases  
21 to meet the requirements for accreditation or certification,  
22 the commissioner may suspend or revoke the reinsurer's  
23 accreditation or certification.

24 (b) The commissioner must give the reinsurer notice  
25 and opportunity for hearing. The suspension or revocation may

1 not take effect until after the commissioner's order on  
2 hearing, unless any of the following occurs:

3 (1) The reinsurer waives its right to hearing.

4 (2) The commissioner's order is based on regulatory  
5 action by the reinsurer's domiciliary jurisdiction or the  
6 voluntary surrender or termination of the reinsurer's  
7 eligibility to transact insurance or reinsurance business in  
8 its domiciliary jurisdiction or in the primary certifying  
9 state of the reinsurer under subsection (f) of Section  
10 27-5B-8.

11 (3) The commissioner finds that an emergency  
12 requires immediate action and a court of competent  
13 jurisdiction has not stayed the commissioner's action.

14 (c) While a reinsurer's accreditation or  
15 certification is suspended, no reinsurance contract issued or  
16 renewed after the effective date of the suspension qualifies  
17 for credit except to the extent that the reinsurer's  
18 obligations under the contract are secured in accordance with  
19 Section 27-5B-14. If a reinsurer's accreditation or  
20 certification is revoked, no credit for reinsurance may be  
21 granted after the effective date of the revocation except to  
22 the extent that the reinsurer's obligations under the contract  
23 are secured in accordance with subsection (e) of Section  
24 27-5B-8 or Section 27-5B-14.

25 §27-5B-13. Concentration Risk.

1           (a) A ceding insurer shall take steps to manage its  
2 reinsurance recoverables proportionate to its own book of  
3 business. A domestic ceding insurer shall notify the  
4 commissioner within 30 days after reinsurance recoverables  
5 from any single assuming insurer, or group of affiliated  
6 assuming insurers, exceeds 50 percent of the domestic ceding  
7 insurer's last reported surplus to policyholders, or after it  
8 is determined that reinsurance recoverables from any single  
9 assuming insurer, or group of affiliated assuming insurers, is  
10 likely to exceed this limit. The notification shall  
11 demonstrate that the exposure is safely managed by the  
12 domestic ceding insurer.

13           (b) A ceding insurer shall take steps to diversify  
14 its reinsurance program. A domestic ceding insurer shall  
15 notify the commissioner within 30 days after ceding to any  
16 single assuming insurer, or group of affiliated assuming  
17 insurers, more than 20 percent of the ceding insurer's gross  
18 written premium in the prior calendar year, or after it has  
19 determined that the reinsurance ceded to any single assuming  
20 insurer, or group of affiliated assuming insurers, is likely  
21 to exceed this limit. The notification shall demonstrate that  
22 the exposure is safely managed by the domestic ceding insurer.

23           §27-5B-14. Asset or Reduction from Liability for  
24 Reinsurance Ceded by a Domestic Insurer to an Assuming Insurer

1 not Meeting the Requirements of Sections 27-5B-3 through 27-5B-13.

2 An asset or a reduction from liability for the  
3 reinsurance ceded by a domestic insurer to an assuming insurer  
4 not meeting the requirements of Section 27-5B-3, 27-5B-4,  
5 27-5B-5, 27-5B-6, 27-5B-7, 27-5B-8, 27-5B-9, 27-5B-10,  
6 27-5B-11, 27-5B-12 or 27-5B-13 shall be allowed in an amount  
7 not exceeding the liabilities carried by the ceding insurer.  
8 The reduction shall be in the amount of funds held by or on  
9 behalf of the ceding insurer, including funds held in trust  
10 for the ceding insurer, under a reinsurance contract with the  
11 assuming insurer as security for the payment of obligations  
12 thereunder, if the security is held in the United States  
13 subject to withdrawal solely by, and under the exclusive  
14 control of, the ceding insurer; or, in the case of a trust,  
15 held in a qualified U.S. financial institution, as defined in  
16 subsection (b) of Section 27-5B-15. This security may be in  
17 the form of any of the following:

18 (1) Cash.

19 (2) Securities listed by the Securities Valuation  
20 Office of the National Association of Insurance Commissioners,  
21 including those deemed exempt from filing as defined by the  
22 Purposes and Procedures Manual of the Securities Valuation  
23 Office, and qualifying as admitted assets.

24 (3) Clean, irrevocable, unconditional letters of  
25 credit, issued or confirmed by a qualified U.S. financial

1 institution, as defined in subsection (a) of Section 27-5B-15,  
2 effective no later than December 31 of the year for which the  
3 filing is being made, and in the possession of, or in trust  
4 for, the ceding insurer on or before the filing date of its  
5 annual statement.

6 (4) Letters of credit meeting applicable standards  
7 of issuer acceptability as of the dates of their issuance (or  
8 confirmation) shall, notwithstanding the issuing (or  
9 confirming) institution's subsequent failure to meet  
10 applicable standards of issuer acceptability, continue to be  
11 acceptable as security until their expiration, extension,  
12 renewal, modification or amendment, whichever first occurs.

13 (5) Any other form of security acceptable to the  
14 commissioner.

15 Section 27-5B-15. Qualified U.S. Financial  
16 Institutions.

17 (a) For purposes of subdivision (3) of Section  
18 27-5B-14, a "qualified U.S. financial institution" means an  
19 institution that meets all of the following:

20 (1) Is organized or (in the case of a U.S. office of  
21 a foreign banking organization) licensed, under the laws of  
22 the United States or any state thereof.

23 (2) Is regulated, supervised and examined by U.S.  
24 federal or state authorities having regulatory authority over  
25 banks and trust companies.



1           (3) Has been determined by either the commissioner  
2 or the Securities Valuation Office of the National Association  
3 of Insurance Commissioners to meet such standards of financial  
4 condition and standing as are considered necessary and  
5 appropriate to regulate the quality of financial institutions  
6 whose letters of credit will be acceptable to the  
7 commissioner.

8           (b) A "qualified U.S. financial institution" means,  
9 for purposes of those provisions of this law specifying those  
10 institutions that are eligible to act as a fiduciary of a  
11 trust, an institution that meets both of the following:

12           (1) Is organized, or, in the case of a U.S. branch  
13 or agency office of a foreign banking organization, licensed,  
14 under the laws of the United States or any state thereof and  
15 has been granted authority to operate with fiduciary powers.

16           (2) Is regulated, supervised and examined by federal  
17 or state authorities having regulatory authority over banks  
18 and trust companies.

19           §27-5B-16. Insolvency clause.

20           Except as provided in Section 27-5B-17, no credit  
21 shall be allowed, as an admitted asset or deduction from  
22 liability, to any ceding insurer for reinsurance placed with a  
23 reinsurer qualified under this chapter, unless the reinsurance  
24 contract provides, in substance, that in the event of the  
25 insolvency of the ceding insurer, the reinsurance shall be

1 payable under a contract reinsured by the assuming insurer on  
 2 the basis of reported claims allowed by the liquidation court,  
 3 without diminution because of the insolvency of the ceding  
 4 insurer. The payments shall be made directly to the ceding  
 5 insurer or to its domiciliary liquidator except in either of  
 6 the following instances:

7 (1) Where the contract or other written agreement  
 8 specifically provides another payee of the reinsurance in the  
 9 event of the insolvency of the ceding insurer.

10 (2) Where the assuming insurer, with the consent of  
 11 the direct insured, has assumed the policy obligations of the  
 12 ceding insurer as direct obligations of the assuming insurer  
 13 to the payees under the policies and in substitution for the  
 14 obligations of the ceding insurer to the payees.

15 §27-5B-17. Guaranty association election.

16 Notwithstanding Section 27-5B-16, in the event that  
 17 a life and health insurance guaranty association has made the  
 18 election to succeed to the rights and obligations of the  
 19 insolvent insurer under the contract of reinsurance, the  
 20 reinsurer's liability to pay covered reinsured claims shall  
 21 continue under the contract of reinsurance subject to the  
 22 payment to the reinsurer of the reinsurance premiums for the  
 23 coverage. Payment for the reinsured claims shall only be made  
 24 by the reinsurer pursuant to the direction of the guaranty  
 25 association or its designated successor. Any payment made at

1 the direction of the guaranty association or its designated  
2 successor by the reinsurer shall discharge the reinsurer of  
3 all further liability to any other party for the claim  
4 payment.

5 §27-5B-18. Notice by domiciliary liquidator.

6 The reinsurance agreement may provide that the  
7 domiciliary liquidator of an insolvent ceding insurer shall  
8 give written notice to the assuming insurer of the pendency of  
9 a claim against the ceding insurer on the contract within a  
10 reasonable time after the claim is filed in the liquidation  
11 proceeding. During the pendency of the claim, any assuming  
12 insurer may investigate the claim and interpose, at its own  
13 expense, in the proceeding where the claim is to be  
14 adjudicated any defenses which it deems available to the  
15 ceding insurer, or its liquidator. The expense may be filed as  
16 a claim against the insolvent ceding insurer to the extent of  
17 a proportionate share of the benefit which may accrue to the  
18 ceding insurer solely as a result of the defense undertaken by  
19 the assuming insurer. Where two or more assuming insurers are  
20 involved in the same claim and a majority in interest elect to  
21 interpose a defense to the claim, the expense shall be  
22 apportioned in accordance with the terms of the reinsurance  
23 agreement as though the expense had been incurred by the  
24 ceding insurer.

25 §27-5B-19. Rules.

1                   The commissioner may adopt rules implementing the  
2 provisions of this chapter.

3                   Section 2. Section 27-5-12, Code of Alabama 1975, is  
4 repealed.

5                   Section 3. This act shall become effective on the  
6 first day of January following its passage and approval by the  
7 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 18-APR-13, as amended.

Jeff Woodard  
Clerk

Senate

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02-MAY-13

Passed