

1 HB166
2 141213-5
3 By Representatives McMillan, Faust, Baker, Buskey, Kennedy,
4 Gaston, Davis, Fincher, Sessions and Barton
5 RFD: Insurance
6 First Read: 07-FEB-12

1 ENGROSSED

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

8 To provide for the Alabama Homeowners Bill of Rights
9 Act; to require insurance carriers to provide to homeowner
10 policyholders an outline of policy coverage and a standard
11 checklist of policy contents at issuance, within 30 days after
12 issuance of the policy under separate cover, or included in
13 the policy when issued or mailed; to provide specific rights
14 of policyholders regarding pricing, advertising, financial
15 assurances, readable policies, balanced regulation by the
16 Department of Insurance, inquiring about the licensing status
17 of insurance personnel, cancellation rights, timely claim
18 payment, the receiving of copies of certain reports relating
19 to claim estimates, filing complaints, fair treatment, and
20 rejection of settlement offers; to specify that violations of
21 this act shall be punishable as a violation of the Unfair
22 Trade Practices Act; and in connection therewith would have as
23 its purpose or effect the requirement of a new or increased
24 expenditure of local funds within the meaning of Amendment 621
25 of the Constitution of Alabama of 1901, now appearing as
26 Section 111.05 of the Official ReCompilation of the
27 Constitution of Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Purpose, Intent, Name of Act.

3 (a) The purpose of this act is to set forth the
4 rights Alabama homeowners have with respect to their insurance
5 policies and with insurance companies.

6 (b) It is the intent of this act to improve
7 homeowners understanding of their policies and to better
8 enable a policyholder to understand their coverages.

9 (c) This act shall be known and may be cited as the
10 "Alabama Homeowners Bill of Rights Act."

11 Section 2. (a) This act shall apply to all insurance
12 companies authorized under a certificate of authority for
13 property insurance and writing homeowners and other personal
14 lines residential property insurance policies in the State of
15 Alabama.

16 (b) For purposes of this act, the term "personal
17 lines residential property insurance" shall include
18 condominium insurance, dwelling fire policies that provide
19 dwelling or contents coverage, renters/tenants insurance, and
20 mobile home or manufactured home insurance. Creditor placed
21 property insurance and condominium association or homeowner
22 association property insurance is excluded from this act.

23 Section 3. Policyholders Bill of Rights.

24 The following shall serve as the minimum standards
25 to be followed by the Alabama Department of Insurance in
26 exercising the department's powers and duties in regulating
27 insurance companies pursuant to Title 27, Chapter 12, Code of

1 Alabama 1975. The Department of Insurance and insurance
2 companies shall post this list or an electronic link of this
3 list on their respective websites. These standards include the
4 following:

5 (1) Policyholders shall have the right to
6 competitive pricing practices of insurers as prescribed by
7 applicable federal or state insurance law and regulation.

8 (2) Policyholders shall have the right to insurance
9 advertising and sales approaches that provide representative
10 information on the policy in accordance with Title 27, Chapter
11 12, Code of Alabama 1975.

12 (3) Policyholders shall have the right to assurance
13 that the insurance market in general and their insurance
14 company in particular are financially stable as provided in
15 Section 27-12-7, Code of Alabama 1975.

16 (4) Policyholders shall have the right to receive
17 service from licensed producers in accordance with Title 27,
18 Chapter 7, Code of Alabama 1975, and to request the license
19 status of an insurance company or producer.

20 (5) Policyholders shall have the right to a policy
21 as prescribed in Title 27, Chapter 14, Code of Alabama 1975,
22 to receive a complete policy, and to request a duplicate or
23 replacement policy, if needed.

24 (6) Policyholders shall have the right to receive in
25 writing from their insurance company the reason for any
26 cancellation of coverage and a minimum number of days' notice

1 of cancellation of coverage, subject to applicable federal or
2 state insurance law and regulation.

3 (7) Policyholders shall have the right to cancel
4 their policy and receive a refund of any unearned premium. If
5 a policy was funded by a premium finance company, the unearned
6 premium will be returned to the premium finance company to pay
7 toward the policyholder's financing loan.

8 (8) Policyholders shall have the right to a written
9 notification, at renewal, describing changes in their
10 insurance contract language that are applicable to the renewal
11 period.

12 (9) Policyholders shall have the right, in the event
13 of a claim, to reject any settlement amount offered by the
14 insurance company.

15 (10) Policyholders shall have the right to select
16 their licensed contractor or vendor to repair, replace, or
17 rebuild damaged property covered by the insurance policy.

18 (11) Policyholders shall have the right to file a
19 written complaint against any insurance company with the
20 Department of Insurance and to have that complaint reviewed by
21 the Department of Insurance.

22 (12) Policyholders shall have the right to file a
23 written complaint against any insurance producer with the
24 Department of Insurance and to have that complaint reviewed by
25 the Department of Insurance.

26 Section 4. Outline of Coverage and Comprehensive
27 Policy Checklist.

1 (a) No homeowners personal lines residential
2 property coverage insurance policy shall be delivered or
3 issued for delivery in this state unless an appropriate
4 outline of coverage and comprehensive policy checklist have
5 been delivered to the policyholder prior to issuance, within
6 30 days after issuance of the policy under separate cover, or
7 included in the policy when issued or mailed. The
8 comprehensive policy checklist shall contain a list of
9 provisions and elements, whether or not they are included in
10 the policy being issued, in a format that allows the insurer
11 to indicate what is and what is not included in the policy
12 being issued. The outline of coverage and comprehensive
13 checklist shall provide information on the policy and may, but
14 is not required to, include coverage by endorsement.

15 (b) To be in compliance with this section, an
16 insurer may use an approved outline of coverage and
17 comprehensive policy checklist, to be promulgated by the
18 Alabama Department of Insurance. If a company wishes to create
19 and use its own outline of coverage and comprehensive policy
20 checklist, it must be approved by the Alabama Department of
21 Insurance and include, at a minimum, the following:

22 (1) A brief description of the type of coverage
23 provided in the policy, amount of coverage, and whether the
24 coverage is replacement cost or actual cash value.

25 (2) A summary statement of the principal exclusions
26 and limitations or reductions contained in the policy and any
27 other limitations or reductions.

1 (3) A summary of any additional coverages provided
2 through any rider or endorsement that accompanies the policy,
3 amount of that coverage, and whether the coverage is
4 replacement cost or actual cash value.

5 (c) In addition, an insurer must include the
6 following language on the outline of coverage and
7 comprehensive policy checklist:

8 "The following is an outline of coverage and
9 comprehensive policy checklist of your insurance policy and is
10 for informational purposes only. Alabama law prohibits this
11 checklist from changing any provisions of the insurance
12 contract which is the subject of this checklist. Any
13 endorsement regarding changes in types of coverage,
14 exclusions, limitations, reductions, deductibles, coinsurance,
15 renewal provisions, cancellation provisions, surcharges, or
16 credits is not included in this checklist, unless otherwise
17 indicated. This checklist does not operate to expand coverage
18 beyond the coverage provided in the policy. If there is a
19 contradiction between this checklist and the policy, the terms
20 of this policy govern.

21 "Policyholders should read their policy thoroughly.
22 Policyholders should review their insurance policy annually
23 with their insurance producer to ensure they are adequately
24 covered."

25 (d) Also, as part of the outline of coverage and
26 comprehensive policy checklist, an insurance company shall
27 include a section of the document which contains a checklist

1 of provisions, coverage, and exclusions offered within a
2 policy, whether or not they have been included, or accepted,
3 as part of the policy being issued, or considered. The
4 comprehensive policy checklist shall include, at a minimum,
5 the following:

6 (1) Property coverage for the principal premises
7 shown in the declarations.

8 (2) Property coverage for other structures on the
9 residence premises.

10 (3) Whether the principal premises and other
11 structures are insured against the following perils:

- 12 a. Fire.
- 13 b. Lightning.
- 14 c. Explosion.
- 15 d. Wind and hail.
- 16 e. Flood.
- 17 f. Earthquake.
- 18 g. Collapse.
- 19 h. Mold.
- 20 i. Theft.

21 (4) Personal property and contents coverage and the
22 amount of or percentage of coverage.

23 (5) Whether personal property and contents are
24 insured against the following perils:

- 25 a. Fire.
- 26 b. Lightning.
- 27 c. Explosion.

1 d. Wind and hail.

2 e. Flood.

3 f. Earthquake.

4 g. Collapse.

5 h. Mold.

6 i. Theft.

7 (6) Whether the policy provides the following
8 additional coverage:

9 a. Debris removal.

10 b. Loss assessment.

11 c. Additional living expenses.

12 d. Personal liability coverage.

13 e. Medical payments coverage.

14 f. Named windstorm deductible.

15 g. Building and ordinance or law coverage.

16 Section 5. Cause of Action.

17 Any violation of this act or any provision therein
18 shall be enforceable only by the Department of Insurance as
19 provided herein. Nothing in this act shall be used to provide
20 a basis for a private cause of action. This act does not
21 operate to expand coverage beyond the coverage provided by the
22 policy.

23 Section 6. Violations and Penalties.

24 The failure of an insurance company writing
25 homeowners personal lines residential property coverage
26 insurance policies in this state to comply with the material
27 provisions of this act shall be a violation of the Unfair

1 Trade Practices Act as set forth in Section 27-12-1 et seq. of
2 the Alabama Insurance Code, Code of Alabama 1975. Violation of
3 the Unfair Trade Practices Act may subject the insurance
4 company to the suspension or revocation of the Insurer's
5 Certificate of Authority or the imposition of an
6 administrative fine, or both.

7 Section 7. If any section or portion of a section of
8 this act or the application thereof is held by a court to be
9 invalid, such invalidity shall not affect any other provision
10 of that section or application of the act which can be given
11 effect without the invalid provision or application, and to
12 this end the provisions of the act are declared to be
13 severable.

14 Section 8. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 9. This act shall become effective for
23 policies of new business with an effective date on or after
24 July 1, 2013, following its passage and approval by the
25 Governor, or its otherwise becoming law. This act shall become
26 effective for existing policies at the time of renewal with a

1 renewal date on or after July 1, 2013, following its passage
2 and approval 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 07-FEB-12

Read for the second time and placed
on the calendar with 1 substitute
and..... 19-APR-12

Read for the third time and passed
as amended..... 03-MAY-12

Yeas 96, Nays 0, Abstains 0

Greg Pappas
Clerk