

1 SB339  
2 136072-1  
3 By Senator Smitherman  
4 RFD: Banking and Insurance  
5 First Read: 14-MAR-13

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: To repeal portions of Title 27 of the Code  
9 of Alabama 1975.

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

15 Relating to the Alabama Insurance Code, to repeal  
16 the following:

17 27-2B-6 (a) "Authorized control level event" means  
18 any of the following events: (1) The filing of an RBC report  
19 by the insurer which indicates that the insurer's total  
20 adjusted capital is greater than or equal to its mandatory  
21 control level RBC but less than its authorized control level  
22 RBC. (2) The notification by the commissioner to the insurer  
23 of an adjusted RBC report that indicates the event in  
24 subdivision (1), provided the insurer does not challenge the  
25 adjusted RBC report under Section 27-2B-8. (3) If, pursuant  
26 to Section 27-2B-8, the insurer challenges an adjusted RBC  
27 report that indicates the event in subdivision (1),

1 notification by the commissioner to the insurer that the  
2 commissioner has, after a hearing, rejected the insurer's  
3 challenge. (4) The failure of the insurer to respond, in a  
4 manner satisfactory to the commissioner, to a corrective  
5 order, provided the insurer has not challenged the corrective  
6 order under Section 27-2B-8. (5) If the insurer has  
7 challenged a corrective order under Section 27-2B-8 and the  
8 commissioner has, after a hearing, rejected the challenge or  
9 modified the corrective order, the failure of the insurer to  
10 respond, in a manner satisfactory to the commissioner, to the  
11 corrective order subsequent to rejection or modification by  
12 the commissioner. (b) In the event of an authorized control  
13 level event with respect to an insurer, the commissioner  
14 shall: (1) Take actions as required under Section 27-2B-5  
15 regarding an insurer with respect to which a regulatory action  
16 level event has occurred, or (2) If the commissioner deems it  
17 to be in the best interests of the policyholders and creditors  
18 of the insurer and of the public, take actions as necessary to  
19 cause the insurer to be placed under regulatory control,  
20 pursuant to Chapter 32. In the event the commissioner takes  
21 actions, the authorized control level event shall be deemed  
22 sufficient grounds for the commissioner to take action  
23 pursuant to Chapter 32, and the commissioner shall have the  
24 rights, powers, and duties with respect to the insurer as are  
25 set forth in Chapter 32.

26 27-2B-7 (a) "Mandatory control level event" means  
27 any of the following events: (1) The filing of an RBC report

1 which indicates that the insurer's total adjusted capital is  
2 less than its mandatory control level RBC. (2) Notification  
3 by the commissioner to the insurer of an adjusted RBC report  
4 that indicates the event in subdivision (1), provided the  
5 insurer does not challenge the adjusted RBC report under  
6 Section 27-2B-8. (3) If, pursuant to Section 27-2B-8, the  
7 insurer challenges an adjusted RBC report that indicates the  
8 event in subdivision (1), notification by the commissioner to  
9 the insurer that the commissioner has, after a hearing,  
10 rejected the insurer's challenge. (b) In the event of a  
11 mandatory control level event: (1) With respect to a life  
12 insurer, the commissioner shall take actions as necessary to  
13 place the insurer under regulatory control pursuant to Chapter  
14 32. In that event, the mandatory control level event shall be  
15 deemed sufficient grounds for the commissioner to take action  
16 pursuant to Chapter 32, and the commissioner shall have the  
17 rights, powers, and duties with respect to the insurer as are  
18 set forth in Chapter 32. Notwithstanding any of the foregoing,  
19 the commissioner may forego action for up to 90 days after the  
20 mandatory control level event if the commissioner finds there  
21 is a reasonable expectation that the mandatory control level  
22 event may be eliminated within the 90-day period. (2) With  
23 respect to a property and casualty insurer, the commissioner  
24 shall take actions as necessary to place the insurer under  
25 regulatory control pursuant to Chapter 32. In the case of an  
26 insurer which is writing no business and which is running-off  
27 its existing business, the commissioner may allow the insurer

1 to continue its run-off under his or her supervision. In  
2 either event, the mandatory control level event shall be  
3 deemed sufficient grounds for the commissioner to take action,  
4 pursuant to Chapter 32, and the commissioner shall have the  
5 rights, powers, and duties with respect to the insurer as are  
6 set forth in Chapter 32. Notwithstanding any of the foregoing,  
7 the commissioner may forego action for up to 90 days after the  
8 mandatory control level event if the commissioner finds there  
9 is a reasonable expectation that the mandatory control level  
10 event may be eliminated within the 90-day period.

11 27-2B-8 (a) An insurer shall have the right to a  
12 departmental hearing, on the record, at which the insurer may  
13 challenge a determination or action by the commissioner upon  
14 any of the following: (1) Notification to an insurer by the  
15 commissioner of an adjusted RBC report. (2) Notification to  
16 an insurer by the commissioner that: a. The insurer's RBC  
17 plan or revised RBC plan is unsatisfactory. b. The  
18 notification constitutes a regulatory action level event with  
19 respect to the insurer. (3) Notification to any insurer by  
20 the commissioner that the insurer has failed to adhere to its  
21 RBC plan or revised RBC plan and that the failure has a  
22 substantial adverse effect on the ability of the insurer to  
23 eliminate the company action level event with respect to the  
24 insurer in accordance with its RBC plan or revised RBC plan.  
25 (4) Notification to an insurer by the commissioner of a  
26 corrective order with respect to the insurer. (b) The insurer  
27 shall notify the commissioner of its request for a hearing

1 within five days after the notification by the commissioner  
2 under subdivisions (1), (2), (3), or (4) of subsection (a).  
3 Upon receipt of the insurer's request for a hearing, the  
4 commissioner shall set a date for the hearing, which date  
5 shall be no less than 10 nor more than 30 days after the date  
6 of the insurer's request.

7 27-2B-9 (a) All RBC reports, to the extent the  
8 information therein is not required to be set forth in a  
9 publicly available annual statement schedule, and RBC plans,  
10 including the results or report of any examination or analysis  
11 of an insurer performed pursuant hereto and any corrective  
12 order issued by the commissioner pursuant to examination or  
13 analysis, with respect to any domestic insurer or foreign  
14 insurer which are filed with the commissioner constitute  
15 information that may be damaging to the insurer if made  
16 available to its competitors and therefore shall be kept  
17 confidential by the commissioner. This information shall not  
18 be made public or be subject to subpoena, other than by the  
19 commissioner, and then only for the purpose of enforcement  
20 actions taken by the commissioner pursuant to this chapter or  
21 any other provision of the insurance laws of this state. (b)  
22 It is the judgment of the Legislature that the comparison of  
23 an insurer's total adjusted capital to any of its RBC levels  
24 is a regulatory tool which may indicate the need for possible  
25 corrective action with respect to the insurer, and is not  
26 intended as a means to rank insurers generally. Therefore,  
27 except as otherwise required under the provisions

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 27-2B-6 to 27-2B-9, Code of  
3 Alabama 1975, are repealed.

4 Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.