

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 46
(As Passed the House)

1 AN ACT TO AMEND SECTION 83-19-51, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT A DOMESTIC INSURANCE COMPANY FROM LOANING CERTAIN
3 FUNDS OR INVESTMENTS TO ANY STOCKHOLDER, OFFICER OR DIRECTOR OF
4 THE COMPANY; TO AMEND SECTION 83-19-31, MISSISSIPPI CODE OF 1972,
5 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 83-19-51, Mississippi Code of 1972, is
8 amended as follows:

9 83-19-51. (1) A domestic insurance company may invest its
10 capital, surplus, and other funds, or certain parts thereof, in
11 the following:

12 (a) Bonds or other evidence of indebtedness of the
13 United States, of any state of the United States, of the Dominion
14 of Canada, or of any province thereof.

15 (b) Bonds or other evidence of indebtedness of any
16 county, city, town, village, school district, municipal district,
17 or other civil district within the United States or the Dominion
18 of Canada.

19 (c) Bonds or notes secured by mortgages or deeds of
20 trust upon unencumbered real estate in the United States or
21 Dominion of Canada worth at least thirty-three and one-third
22 percent (33-1/3%) more than the amount loaned thereon, and may
23 also loan upon the security of improved unencumbered real property
24 in any state, provided the security be eligible for insurance and
25 be insured under provisions of the National Housing Act and any
26 amendments thereto. Where improvements on the land constitute a
27 part of the value on which the loan is made, the improvements

28 shall be insured against fire and tornado for the benefit of the
29 mortgagee, in an amount not less than the difference between
30 seventy-five percent (75%) of the value of the land and the amount
31 of the loan. For the purposes of this subsection (c), real estate
32 shall not be deemed to be encumbered within the meaning of this
33 section by reason of the existence of taxes or assessments that
34 are not delinquent, instruments creating or reserving mineral,
35 oil, or timber rights, rights-of-way, joint driveways, sewer
36 rights, rights in walls, or other comparable or similar
37 instruments, rights, restrictions, and covenants, nor by reason of
38 building restrictions or restrictive covenants, nor when such real
39 estate is subject to lease in whole or in part whereby rents or
40 profits are reserved to the owner, provided such lease and the
41 notes for rent given thereunder be assigned by the lessor to the
42 company.

43 (d) Bonds, notes, or other evidences of indebtedness
44 which are secured by mortgages, security deeds, vendor's liens, or
45 deeds of trust upon leasehold estates having an unexpired term of
46 twenty-five (25) years or longer in improved unencumbered real
47 estate in the United States worth at least thirty-three and
48 one-third percent (33-1/3%) more than the amount loaned thereon.
49 For the purposes of this subsection (d), the real estate on which
50 such leasehold estate exists shall not be deemed to be encumbered
51 within the meaning of this section by reason of the existence of
52 taxes or assessments that are not delinquent, instruments creating
53 or reserving mineral, oil, or timber rights, rights-of-way, joint
54 driveways, sewer rights, rights in walls, or other comparable or
55 similar instruments, rights, restrictions, and covenants, nor by
56 reason of building restrictions or restrictive covenants.

57 (e) In bankers' acceptances and bills of exchange of
58 the kinds and maturities made eligible by law for rediscount with
59 Federal Reserve banks, provided that the same are accepted by a
60 bank or trust company incorporated under the laws of the United
61 States, of this commonwealth, or by any other bank or trust
62 company which is a member of the Federal Reserve system. However,
63 not more than ten percent (10%) of the admitted assets shall be so
64 invested.

65 (f) Stock in Federal Home Loan Bank, or bonds,
66 debentures, notes, or other evidences of indebtedness, or the
67 preferred or guaranteed stock or shares of any solvent institution
68 created or existing under the laws of the United States, of any
69 state thereof, of the Dominion of Canada, or of any province
70 thereof, if such institution, or in the case of guaranteed bonds,
71 debentures, notes, or other evidences of indebtedness, or
72 guaranteed stocks or shares, the guaranteeing institution, during
73 each of any three (3) years, including the last two (2) years, of
74 the five (5) years next preceding such investment, shall have
75 earned a sum applicable to dividends equal, at least, to four
76 percent (4%) upon the par value (or, in the case of stock or
77 shares having no par value, then upon the value upon which such
78 stock was issued) of all its capital stock or shares outstanding
79 in each of such three (3) years. No life insurance company shall
80 invest in its own stock and may not invest more than ten percent
81 (10%) of its total assets in the preferred or guaranteed stock or
82 bonds of any one (1) corporation, as above described.

83 (g) Loans upon the pledge of any of the securities
84 herein authorized.

85 (h) In adequately secured equipment trust certificates
86 or other adequately secured instruments evidencing an interest in
87 equipment wholly or partly within the United States, and a right
88 to receive determined portions or rental, purchase or other fixed
89 obligatory payments for the use or purchase of such equipment,
90 provided that not more than five percent (5%) of its total assets
91 be so invested.

92 (i) The common capital stock of any bank or trust
93 company which is a member of the Federal Deposit Insurance
94 Corporation and has earned no less than five percent (5%) on its
95 total capital accounts for each of the preceding three (3) years,
96 not to exceed, however, ten percent (10%) of the actually issued
97 and outstanding common capital stock of any one (1) such bank or

98 trust company; or a building and loan association which is a
99 member of the Federal Savings and Loan Insurance Association and
100 has earned no less than five percent (5%) on its total capital
101 accounts for each of the preceding three (3) years, not to exceed,
102 however, ten percent (10%) of the actually issued and outstanding
103 common capital stock of any one (1) such building and loan
104 association; provided that not more than five percent (5%) of the
105 assets of such domestic company shall be so invested at any time
106 in common stock of either banks or trust companies, or building
107 and loan associations, or in an aggregate of the two (2).

108 Provided, however, no domestic insurance company may acquire
109 common stock in any bank or building and loan association in this
110 state when such acquisition will cause the aggregate of such stock
111 held by any domestic insurance company or companies to exceed
112 fifteen percent (15%) of the common stock of such bank or building
113 and loan association.

114 (j) A life insurance company may also purchase for its
115 own benefit any policy of life insurance or other obligation of
116 the company and claims of the holders thereof, and may lend to the
117 holders of its life insurance policies sums not exceeding in any
118 case the reserve value of the policy at the time the loan is made
119 and, for the payment of any such loan, the policy and all profits
120 thereon shall be pledged.

121 (k) A company doing business in a foreign country may
122 invest the funds required to meet its obligations in such country
123 and, in conformity to the laws thereof, in the same kinds of
124 securities in such foreign country that such company is allowed by
125 law to invest in the United States.

126 (l) Bonds or other evidences of indebtedness of the
127 Inter-American Development Bank.

128 (m) Cash or deposits in checking or savings accounts,
129 under certificates of deposit or in any other form, or other
130 certificates or evidence of indebtedness from solvent banks and

131 trust companies and in savings accounts, certificates of deposit
132 or similar certificates or evidences of deposits in solvent
133 savings and loan associations and building and loan associations.

134 (n) Construction loans, repurchase agreement
135 transactions, standby mortgage loan commitments, electronic,
136 computer or data processing equipment investments, financial risk
137 limiting and balancing transactions, including put and call
138 options purchased solely for legitimate financial futures hedging,
139 non-speculative purposes if these transactions are traded upon a
140 contract market designated and regulated by a federal agency.

141 (o) Bonds or other evidences of indebtedness of the
142 African Development Bank.

143 (p) Any other investment expressly authorized by law.

144 (2) Any domestic company may invest an amount not to exceed
145 in the aggregate ten percent (10%) of its admitted assets and to
146 further increase such authority by an additional four percent (4%)
147 provided such four percent (4%) investments are made in the State
148 of Mississippi without regard to the restrictions in, and
149 notwithstanding the provisions of, any other subsection of this
150 section or of any other act or acts regulating or governing the
151 investments of domestic companies.

152 (3) Any domestic company may invest an amount not to exceed
153 ten percent (10%) of its admitted assets in common shares of
154 solvent corporations incorporated under the laws of any of the
155 states among the United States of America without regard to the
156 restrictions in, and notwithstanding the provisions of, any other
157 subsection of this section or of any other act or acts regulating
158 or governing the investments of domestic companies; provided,
159 however, that the solvent corporation, during each of any three
160 (3) years, including the last two (2) years, of the five (5) years
161 next preceding such investment, shall have earned a sum applicable
162 to dividends equal, at least, to four percent (4%) upon the par
163 value (or, in the case of stock or shares having no par value,

164 then upon the value upon which such stock was issued) of all of
165 its capital stock or shares outstanding in each of such three (3)
166 years. No life insurance company shall invest more than five
167 percent (5%) of its admitted assets in common shares of any one
168 (1) corporation as hereinbefore provided.

169 Conflict of interest. Provided, however, no domestic
170 insurance company shall under this section acquire common stock in
171 any company where the officers or directors of the insurance
172 company, individually or collectively, hold an interest in excess
173 of ten percent (10%) of the company in which the common stock is
174 acquired. For the purpose of this limitation, interest is defined
175 as actual ownership, ownership in the name of a trustee, ownership
176 in the name of a relative within the third degree, ownership in
177 the name of an owned or controlled corporation or business, or
178 ownership in the form of an option.

179 Provided, further, no officer or director of the insurance
180 company shall either directly or indirectly derive any profit or
181 revenue from stock purchases under the above subsection, either in
182 the form of commissions, brokerage, or the outright sale of shares
183 of stock to the insurance company.

184 (4) No amount at any time shall be loaned from any funds or
185 investments described herein to any stockholder, officer or
186 director of the company.

187 (5) Notwithstanding the provisions of this section, the
188 commissioner may, after notice and hearing, order a company to
189 limit or withdraw from certain investments, or discontinue certain
190 investment practices, to the extent that the commissioner finds
191 that such investments or investment practices endanger the
192 solvency of the company.

193 (6) No loan or investment, except loans on the security of
194 life insurance policies, shall be made by any such company unless
195 the same shall have been authorized by the board of directors or
196 by a committee thereof charged with the duty of supervising loans

197 or investments, and no company shall enter into any agreement to
198 withhold from sale any of its securities or property; but the
199 disposition of its assets shall at all times be within the control
200 of the company.

201 Nothing in this law shall prohibit a company from accepting
202 in good faith, to protect its interest, securities or property
203 other than herein referred to, in payment of or to secure debts
204 due or to become due the company.

205 (7) Nothing in this section shall be construed as affecting
206 any investment existing on April 27, 1966; and this section shall
207 not repeal Sections 43-33-301 through 43-33-307 of the Mississippi
208 Code of 1972.

209 SECTION 2. Section 83-19-31, Mississippi Code of 1972, is
210 amended as follows:

211 83-19-31. (1) No corporation so formed shall transact any
212 other business than that specified in its charter and articles of
213 association. Companies so formed must meet the following capital
214 and surplus requirements:

215 (a) Single-line companies so formed to write a
216 classification listed in paragraphs (a) through (n) in Section
217 27-15-83, the minimum capital requirement shall be Four Hundred
218 Thousand Dollars (\$400,000.00) and the surplus shall be a minimum
219 of Six Hundred Thousand Dollars (\$600,000.00).

220 (b) Multi-line companies so formed to write a
221 combination of the classifications listed in paragraphs (a)
222 through (n) in Section 27-15-83, the minimum capital requirement
223 shall be Six Hundred Thousand Dollars (\$600,000.00) and the
224 surplus shall be a minimum of Nine Hundred Thousand Dollars
225 (\$900,000.00).

226 (c) Companies so formed for the purpose of transacting
227 the business of life insurance on the industrial plan may organize
228 with a minimum capital of One Hundred Thousand Dollars
229 (\$100,000.00) and a minimum surplus of Fifty Thousand Dollars

230 (\$50,000.00).

231 An industrial life insurer shall be limited to the following:

232 1. A life insurance policy, in the aggregate value
233 of Five Thousand Dollars (\$5,000.00) in death benefits, exclusive
234 of multiple indemnity benefits.

235 2. A disability policy in the aggregate benefits
236 of Sixty Dollars (\$60.00) per week.

237 3. A policy providing benefits for dismembered and
238 broken limbs and/or loss of eyesight in the aggregate of Five
239 Thousand Dollars (\$5,000.00) per policy year.

240 4. A policy which provides benefits for the
241 payment for or furnishing of hospitalization, drugs, attending
242 physicians and surgical costs in the aggregate of Three Thousand
243 Five Hundred Dollars (\$3,500.00) per policy year.

244 (d) All mutual and reciprocal companies shall possess
245 at the time of initial license and maintain thereafter a surplus,
246 after deductions for services, in an amount equal to the capital
247 and surplus requirements of a stock company writing similar lines
248 of insurance.

249 (e) If at any time the surplus of such domestic company
250 or association shall be less than the minimum surplus noted above,
251 such company or association shall be considered impaired; and it
252 shall be the duty of the officers of such company or association
253 to report any such impairment of surplus to the State Commissioner
254 of Insurance in writing within ten (10) days after such impairment
255 occurs. When any such impairment is reported, or if the
256 Commissioner of Insurance should determine that the company is
257 operating in an impaired condition, the commissioner may suspend
258 the certificate of authority and license of such domestic
259 insurance company or association to do business in this state
260 until such company shall raise or increase its surplus to the
261 minimum amount required herein.

262 (2) Any domestic company qualifying under the foregoing

263 sections shall deposit with the State Treasurer fifty percent
264 (50%) of its capital stock, either in cash or in such bonds or
265 securities in which such company is authorized by law to invest
266 its funds. Upon such deposit and evidence, by affidavit or
267 otherwise, satisfactory to the Insurance Commissioner that the
268 capital and surplus is all paid in and that the company is the
269 actual and unqualified owner of the securities representing the
270 paid-up capital and surplus, he shall issue to such company his
271 certificate authorizing it to transact business in this
272 state * * *.

273 The provisions of this section as to the minimum requirements
274 as to paid-up capital stock and cash surplus shall not become
275 effective until January 1, 1988, concerning any domestic company
276 which was authorized to do business and was writing business in
277 this state on July 1, 1985.

278 (3) No insurance company, including any mutual insurance
279 company, organized under the laws of this state and transacting
280 business in this state shall expose itself to loss on any one (1)
281 risk or hazard to an amount exceeding ten percent (10%) of its
282 paid-up capital and surplus unless the excess is reinsured in some
283 other company duly authorized to transact similar business in this
284 state or as otherwise provided in the insurance code. For
285 purposes of this subsection, the terms "risk" and "hazard" apply
286 to the subject matter of any one (1) insurance policy and not to
287 any one (1) peril.

288 (4) The Commissioner of Insurance may require additional
289 capital and surplus based on the type, nature or volume of
290 business transacted.

291 SECTION 3. This act shall take effect and be in force from
292 and after July 1, 1999.