

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 46  
(As Sent to Governor)

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; provided, however, this subsection shall  
187 not prohibit any person from obtaining a loan or exercising other  
188 contractual rights pursuant to the provisions of a policy or  
189 contract for insurance to which the person is a party or otherwise  
190 has the legal right to exercise such contractual rights.

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

197       (6) No loan or investment, except loans on the security of  
198 life insurance policies, shall be made by any such company unless  
199 the same shall have been authorized by the board of directors or  
200 by a committee thereof charged with the duty of supervising loans  
201 or investments, and no company shall enter into any agreement to  
202 withhold from sale any of its securities or property; but the  
203 disposition of its assets shall at all times be within the control  
204 of the company.

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

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

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

215       83-19-31. (1) No corporation so formed shall transact any  
216 other business than that specified in its charter and articles of  
217 association. Companies so formed must meet the following capital  
218 and surplus requirements:

219           (a) Single-line companies so formed to write a  
220 classification listed in paragraphs (a) through (n) in Section  
221 27-15-83, the minimum capital requirement shall be Four Hundred  
222 Thousand Dollars (\$400,000.00) and the surplus shall be a minimum  
223 of Six Hundred Thousand Dollars (\$600,000.00).

224           (b) Multi-line companies so formed to write a  
225 combination of the classifications listed in paragraphs (a)  
226 through (n) in Section 27-15-83, the minimum capital requirement  
227 shall be Six Hundred Thousand Dollars (\$600,000.00) and the  
228 surplus shall be a minimum of Nine Hundred Thousand Dollars  
229 (\$900,000.00).

230 (c) Companies so formed for the purpose of transacting  
231 the business of life insurance on the industrial plan may organize  
232 with a minimum capital of One Hundred Thousand Dollars  
233 (\$100,000.00) and a minimum surplus of Fifty Thousand Dollars  
234 (\$50,000.00).

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

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

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

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

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

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

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



263 insurance company or association to do business in this state  
264 until such company shall raise or increase its surplus to the  
265 minimum amount required herein.

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

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

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

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

295 SECTION 3. This act shall take effect and be in force from

296 and after July 1, 1999.