

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 48
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-57-13, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT ASSETS AND INVESTMENTS OF A HOME WARRANTY
3 ASSOCIATION MUST BE MAINTAINED IN ACCORDANCE WITH THE NATIONAL
4 ASSOCIATION OF INSURANCE COMMISSIONERS ACCOUNTING PRACTICES AND
5 PROCEDURES MANUAL; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 83-57-13, Mississippi Code of 1972, is
8 amended as follows:

9 83-57-13. (1) An association licensed under this chapter
10 shall maintain a funded, unearned premium reserve account,
11 consisting of unencumbered assets, equal to a minimum of
12 twenty-five percent (25%) of the gross written premiums received
13 by it from all warranty contracts in force. Such assets shall be
14 held in the form of cash or invested in approved securities for
15 investments.

16 (2) An association shall maintain, at a minimum, net assets
17 equal to one-sixth (1/6) of the written premiums it receives for
18 the issuance and delivery of any binder or warranty in force. Net
19 assets may be less than one-sixth (1/6) of the premiums written
20 provided the association has net assets of not less than Five
21 Hundred Thousand Dollars (\$500,000.00) and maintains a funded,
22 unearned premium reserve account consisting of unencumbered assets
23 equal to a minimum of forty percent (40%) of the gross written
24 premiums received by it from all warranty contracts in force which
25 shall be held in the form of cash or invested in securities for
26 investments.

27 (3) In computing the net asset requirement, goodwill,

28 franchises, customer lists, patents or trademarks, receivables
29 from or advances to officers, directors, employees, salesmen or
30 affiliated companies, assets deposited outside the United States
31 and any other assets that are nonadmitted in accordance with the
32 National Association of Insurance Commissioners Accounting
33 Practices and Procedures Manual shall be deducted from the net
34 assets of the association.

35 (4) An association shall not be required to set up an
36 unearned premium reserve if it has purchased contractual liability
37 insurance which demonstrates to the satisfaction of the department
38 that one hundred percent (100%) of its claim exposure is covered
39 by such insurance. Such contractual liability insurance shall be
40 obtained from an insurer that holds a certificate of authority to
41 do business within the state or from an insurer approved by the
42 department as financially capable of meeting the obligations
43 incurred pursuant to the policy. For purposes of this subsection,
44 the contractual liability policy shall contain the following
45 provisions:

46 (a) If the home warranty association is unable to
47 fulfill its obligation under its contracts issued in this state
48 for any reason, including insolvency, bankruptcy, or dissolution,
49 the contractual liability insurer will pay losses and unearned
50 premiums under such plans directly to persons making claims under
51 such contracts.

52 (b) The insurer issuing the policy shall assume full
53 responsibility for the administration of claims in the event of
54 the inability of the association to do so.

55 (c) The policy may not be canceled or not renewed by
56 either the insurer or the association unless sixty (60) days'
57 written notice thereof has been given to the department by the
58 insurer before the date of such cancellation or nonrenewal.

59 (5) An association that purchases contractual liability
60 insurance on the warranties that it issues shall provide the

61 department with claim statistics required to be filed by
62 associations not purchasing such insurance.

63 SECTION 2. This act shall take effect and be in force from
64 and after July 1, 1999.