

By: Representative Moak

To: Insurance

## HOUSE BILL NO. 266

1 AN ACT TO AMEND SECTION 83-5-3, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE EVERY INSURANCE COMPANY, FOREIGN OR DOMESTIC, THAT  
3 QUALIFIES TO DO BUSINESS IN THE STATE TO WRITE IN EQUAL  
4 PROPORTIONS ALL LINES OF INSURANCE OFFERED WITHIN THE STATE; TO  
5 AMEND SECTION 83-5-55, MISSISSIPPI CODE OF 1972, TO REQUIRE  
6 INSURANCE COMPANIES TO SUBMIT CERTAIN INFORMATION IN ORDER TO GAIN  
7 APPROVAL OF THE COMMISSIONER OF INSURANCE TO CEASE OFFERING A LINE  
8 OF INSURANCE; TO AMEND SECTIONS 83-19-1 AND 83-21-3, MISSISSIPPI  
9 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 83-5-3, Mississippi Code of 1972, is  
12 amended as follows:

13 83-5-3. Every insurance company, foreign or domestic, that  
14 qualifies to do business in the State of Mississippi shall be  
15 required to execute an agreement to write in equal proportions  
16 within the state all lines of insurance described in Section  
17 83-19-1, except as provided in Section 83-5-55, and to be bound by  
18 the statute laws of the State of Mississippi pertaining to the  
19 periods of limitation prescribed by the statute law of this state.

20 The Insurance Commissioner is \* \* \* required, as a condition  
21 precedent to authorizing any insurance company to qualify and  
22 operate under the laws of this state or to do business in this  
23 state, to require such companies to execute an agreement binding  
24 the company to conform to and to be bound and regulated by the  
25 statute laws of this jurisdiction as defined in the first  
26 paragraph.

27 For purposes of the administration of this section, insurance  
28 companies shall consist of all types of insurance companies, both  
29 domestic and foreign, that operate in this jurisdiction, including

30 stock companies, mutuals, and fraternal societies and  
31 organizations when such fraternal society or organization engages  
32 in the insuring of its members or other persons.

33 SECTION 2. Section 83-5-55, Mississippi Code of 1972, is  
34 amended as follows:

35 83-5-55. Every insurance company shall file in the office of  
36 the Commissioner of Insurance on or before the first day of March  
37 of each year, a statement showing the business standing and  
38 financial condition of the company and sworn to by the president  
39 or vice-president and secretary or treasurer or chief managing  
40 agent or officer of such company. The statement to be filed shall  
41 be on and in accordance with the NAIC Annual Statement Blank and  
42 Instructions thereto and the NAIC Accounting Practices and  
43 Procedures Manual. Every life insurance company, corporation, or  
44 association which was licensed to transact the business of life  
45 insurance in Mississippi within the preceding calendar year shall  
46 file with the Commissioner of Insurance of this state, in writing,  
47 on and in accordance with the requirements of such form prepared  
48 and furnished by the Commissioner of Insurance for that purpose, a  
49 report showing the entire amount of its Mississippi reserves on  
50 the thirty-first day of the preceding December, and containing an  
51 itemized schedule of the Mississippi securities owned by it on  
52 said date, which report shall be sworn to by the president or  
53 vice-president and the secretary or treasurer of said company,  
54 corporation, or association. For approval to cease offering any  
55 line of insurance as required in Section 83-5-3, the company shall  
56 submit, with the statement of financial condition, an itemized  
57 schedule of all profits and losses from all lines of insurance  
58 sold in the state.

59 The term "Mississippi securities" shall be held to include  
60 the bonds of the State of Mississippi; the bonds of any city,  
61 town, or county in this state; bonds of any road, school,  
62 drainage, or levee district in the state; the bonds of any other  
63 subdivision or district of the state, or subdivision or district  
64 of any county in the state, which said subdivision or district is  
65 organized according to the laws of this state and authorized to  
66 issue bonds, promissory notes, or other obligations, the payment

67 of which is secured by mortgage, deed of trust, or other valid  
68 lien upon unencumbered real estate situated in this state, the  
69 title to which is valid and the market value of which is at least  
70 double the amount of money loaned thereon, exclusive of buildings,  
71 unless such buildings are insured and kept insured in some company  
72 authorized to transact business in this state and the policy or  
73 policies transferred to the company taking such mortgage, deed of  
74 trust, or lien; the first mortgage bonds or securities of solvent  
75 corporations, which corporations are incorporated under and by  
76 virtue of the laws of this state and are transacting business  
77 exclusively within this state, which such corporations shall not  
78 have, in one (1) year next preceding the date of the investment by  
79 which company in such bonds or securities, defaulted for more than  
80 three (3) months in the payment of any such bonds or securities,  
81 and the market value of which bonds or securities shall be equal  
82 to the amount invested therein; the loans made to policyholders on  
83 the sold security of the reserve value of their policies. The  
84 said statement shall also show the gross amount of premiums  
85 received by such life insurance company, corporation, or  
86 association during the year ending the preceding thirty-first day  
87 of December on account of policies of insurance upon the lives of  
88 residents of Mississippi.

89 The phrase "Mississippi reserve," as used in this chapter,  
90 signifies the amount of the legal reserve required by the laws of  
91 the state of the domicile of an insurance company to be maintained  
92 on account of its policies of insurance on the lives of residents  
93 of Mississippi or risks located in Mississippi.

94 SECTION 3. Section 83-19-1, Mississippi Code of 1972, is  
95 amended as follows:

96 83-19-1. Insurance companies may be formed for the following  
97 classifications; however, such companies are required to write in  
98 equal proportions within the lines of insurance:

99 **Class 1. Fire and Casualty.**

100           (a) **Fire and Allied Lines.** Coverage protecting against  
101 loss to real or personal property from damage caused by the peril  
102 of fire, lightning, windstorm and hail, sprinkler and water  
103 damage, smoke, explosion, riot, riot attending strike, civil  
104 commotion, aircraft, vehicle and business interruption caused by  
105 one of the above.

106           (b) **Industrial Fire.** Limited coverage protecting  
107 against loss to real or personal property from damage caused by  
108 the peril of fire, lightning, windstorm and hail, sprinkler and  
109 water damage, smoke, explosion, riot, riot attending strike, civil  
110 commotion, aircraft, vehicle and business interruption caused by  
111 one of the above.

112           (c) **Casualty/Liability.** Coverage protecting the  
113 insured against legal liability resulting from negligence,  
114 carelessness or a failure to act causing property damage or  
115 personal injury to others. Coverage may include burglary and  
116 theft.

117           (d) **Fidelity.** A bond covering an employer's loss  
118 resulting from an employee's dishonest act.

119           (e) **Surety.** A three-party agreement where the insurer  
120 agrees to pay a second party (the obligee) or make complete an  
121 obligation in response to the default, acts or omissions of a  
122 third party (the principal).

123           (f) **Workers' Compensation.** Coverage for an employer's  
124 liability for injuries, disability or death to persons in their  
125 employment, without regard to fault, as prescribed by state  
126 workers' compensation laws.

127           (g) **Boiler and Machinery.** Coverage for the failure of  
128 boilers, machinery and electrical equipment.

129           (h) **Plate Glass.** Coverage for the cost of replacement  
130 and incidental cost of building glass due to breakage or  
131 application of chemicals to glass.

132           (i) **Aircraft.** Coverage for aircraft (hull) and

133 contents; aircraft owner's and manufacturer's liability to  
134 passengers, airports and other third parties.

135 (j) **Inland Marine.** Coverage for inland transportation  
136 exposures, property in transit, held by a bailee, scheduled,  
137 bridges and tunnels.

138 (k) **Ocean Marine.** Coverage for ocean and inland water  
139 transportation exposures; goods or cargoes; ships or hulls.

140 (l) **Automobile Physical Damage/Automobile Liability.**  
141 Coverage protecting against loss to owner's vehicle, personal  
142 injury and damage to property of others.

143 (m) **Homeowners/Farmowners.** A package policy covering  
144 real and personal property, liability and theft.

145 (n) **Guaranty.** An indemnity contract under which loss  
146 is payable upon proof of occurrence of financial loss to an  
147 insured claimant, obligee or indemnitee as a result of failure to  
148 perform a financial obligation.

149 (o) **Mortgage Guaranty.** Coverage indemnifying a lender  
150 from loss when a borrower fails to meet required mortgage  
151 payments.

152 (p) **Title.** Coverage protecting the insured against  
153 risk resulting from defective titles or invalidity or adverse  
154 claim to title.

155 (q) **Trip Accident and Baggage.** Coverage protecting the  
156 insured against risk resulting from accidental death; loss or  
157 damage to personal effects carried as baggage in connection with  
158 transportation provided by a common carrier.

159 (r) **Legal.** Coverage protecting the insured against the  
160 risk resulting from the cost of legal services.

161 **Class 2. Life.**

162 (a) **Life.** Insurance contract for the payment of  
163 endowments or annuities, or make and enter into such other  
164 contracts conditioned upon the continuance or cessation of human  
165 life.

166           (b) **Accident and Health.** Individual or group policy or  
167 contract of insurance against loss resulting from sickness or  
168 bodily injury, including dental care expenses resulting from  
169 sickness or bodily injury, or death by accident, or accidental  
170 means, or both.

171           (c) **Credit Life, Credit Accident and Health.** Insurance  
172 on the life of a debtor in connection with a specific loan or  
173 other credit transactions; insurance on a debtor to provide  
174 indemnity for payments becoming due on a specific loan or other  
175 credit transaction while the debtor is disabled as defined in the  
176 policy.

177           (d) **Industrial Life, Industrial Accident and Health.**  
178 Limited insurance coverage protecting the insured in case of  
179 death, bodily injury or disability.

180           (e) **Variable Contracts.** Contract which provides for  
181 annuity benefits which may vary according to the investment  
182 experience of any separate account or accounts maintained by the  
183 insurer as to such contract.

184           (f) **Life (Burial).** A limited life contract for payment  
185 of the burial expenses of the insured.

186           **Class 3. Fraternal.** Coverage for the mutual benefit of  
187 fraternal members and their beneficiaries and not for profit or  
188 which limits its membership to a secret fraternity having a lodge  
189 system and representative form of government. Benefits may be  
190 paid in case of death, disability, funeral expenses, monuments or  
191 tombstones.

192           **Class 4. Burial.** Insurance coverage protecting the insured  
193 against the risk resulting from the cost of burial expenses.

194           **Class 5. Home Warranty.** A contract or agreement, designated  
195 as a service contract, maintenance agreement, extended warranty or  
196 any similar term, whereby a person for a specified period of time  
197 indemnifies the warranty holder for a predetermined fee against  
198 the cost of repair or replacement.

199 SECTION 4. Section 83-21-3, Mississippi Code of 1972, is  
200 amended as follows:

201 83-21-3. (1) No foreign insurance company, association, or  
202 other insurance entity, either stock, mutual, or reciprocal, shall  
203 be admitted to do business or granted a certificate of authority  
204 or license to do business in this state unless and until such  
205 company or association shall be in compliance with Section 83-5-3  
206 and shall have done business for a period of at least two (2)  
207 years in the state of its domicile, or unless such company seeking  
208 admission is the subsidiary or affiliate of a company already  
209 licensed in Mississippi.

210 (2) No foreign stock insurance company shall be admitted or  
211 granted a certificate of authority or license to do business in  
212 this state unless its paid-up capital stock and its surplus at the  
213 time of licensing or renewal of license shall be equal to that  
214 required for the organization or incorporation of a like domestic  
215 company under the laws of this state.

216 (3) No foreign mutual or reciprocal insurance company or  
217 association shall be admitted or granted a certificate of  
218 authority or license to do business in this state unless, at the  
219 time of licensing or renewal of license, its surplus shall be  
220 equal to that required by the laws of this state for the  
221 organization or formation of a like domestic insurance company or  
222 association.

223 (4) No foreign stock, mutual, or reciprocal insurance  
224 company or association, incorporated or organized under the laws  
225 of any state of the United States, shall be admitted to do  
226 business, or granted a certificate of authority, or have license  
227 therefor renewed until such company shall have deposited with the  
228 state treasurer of this state securities in an amount not less  
229 than Fifty Thousand Dollars (\$50,000.00). Securities deposited in  
230 accordance with this section shall be classified as admitted  
231 assets for the purpose of determining eligibility of such

232 securities. \* \* \* Any company maintaining a deposit with the  
233 insurance regulatory authority or any other designated public  
234 official of its state of domicile, or of any other state, in trust  
235 for the benefit of all its policyholders, or policyholders and  
236 creditors, may be exempt from the deposit herein provided upon  
237 such company delivering to the insurance commissioner a  
238 certificate to such effect, duly authenticated by the appropriate  
239 state official holding such deposit. The commissioner may require  
240 in addition to the certification of deposit by the public official  
241 of its state of domicile an amount not less than Fifty Thousand  
242 Dollars (\$50,000.00) be deposited with the State Treasurer of this  
243 state. Any deposit made in this state under the provisions of this  
244 section shall be for the exclusive use and benefit of  
245 policyholders, or policyholders and creditors, in this state; and  
246 such deposit shall not bar claim to other assets of the company by  
247 policyholders, or policyholders and creditors, in this state in  
248 the event of insolvency, receivership, or liquidation of the  
249 company.

250 (5) In case any insurer which has made a deposit with the  
251 commissioner of insurance, or other designated official or  
252 custodian in this state, of cash or securities in trust for the  
253 protection of its policyholders or creditors or both in this  
254 state, or of its policyholders or creditors or both in the United  
255 States, thereafter becomes merged or consolidated in accordance  
256 with the laws of this state if a domestic insurer, or in  
257 accordance with the laws of its domiciliary state or nation if a  
258 foreign or alien insurer, and upon the effectuation of the merger  
259 or consolidation, the resulting corporation is or becomes  
260 authorized to do business in this state, the commissioner, or  
261 other designated official or custodian, as the case may be, upon  
262 the resulting corporation's being so authorized, shall release and  
263 transfer the cash or securities so deposited by the merged or  
264 consolidated insurer to the resulting corporation, or to such

265 person as it may designate to take and receive the same.

266         If any insurer which has made such a deposit with the  
267 commissioner of insurance or other designated official or  
268 custodian in the state hereafter withdraws from and ceases to do  
269 business in this state, and has paid or provided for the payment  
270 of all its obligations and liabilities to its policyholders and  
271 creditors in this state by the assumption or reinsurance of the  
272 same by an insurer which is or becomes authorized to transact  
273 business in this state, the commissioner of insurance or other  
274 designated official or custodian, as the case may be, shall  
275 release and transfer the cash or securities constituting its  
276 deposit to such withdrawing insurer, or to such person as it may  
277 designate to take and receive the same.

278         Any release or transfer pursuant hereto shall be made upon  
279 application to and the written order of the commissioner of  
280 insurance. Neither the commissioner of insurance, nor other  
281 designated official or custodian, as the case may be, shall have  
282 any liability for the release or transfer of any such deposit made  
283 or authorized in good faith.

284         SECTION 5. This act shall take effect and be in force from  
285 and after July 1, 1999.