

By: Representative Simpson

To: Insurance; Ways and  
Means

## HOUSE BILL NO. 1207

1 AN ACT TO CREATE THE CERTIFIED CAPITAL COMPANY LAW TO PROVIDE  
2 INCENTIVES FOR INSURANCE COMPANIES TO INVEST IN QUALIFIED  
3 BUSINESS; TO PROVIDE THAT THE DEPARTMENT OF INSURANCE SHALL  
4 ESTABLISH RULES AND REGULATIONS CONCERNING APPLICATIONS AND  
5 QUALIFICATIONS FOR BECOMING A CERTIFIED CAPITAL COMPANY; TO  
6 PROVIDE THAT CERTIFIED INVESTORS SHALL BE ENTITLED TO CERTAIN  
7 PREMIUM TAX CREDITS; TO PROVIDE AGGREGATE LIMITATIONS ON THE  
8 PREMIUM TAX CREDITS; TO PROVIDE REQUIREMENTS FOR CONTINUATION OF  
9 CERTIFICATION; TO PROVIDE FOR DECERTIFICATION FOR VIOLATIONS; TO  
10 BRING FORWARD SECTIONS 27-15-103, 27-15-105, 27-15-107, 27-15-109,  
11 27-15-113, 27-15-115, 27-15-117, 27-15-119, 27-15-121, 27-15-123,  
12 27-15-125, 27-15-127, 27-15-129 AND 27-15-131, MISSISSIPPI CODE OF  
13 1972, WHICH RELATE TO INSURANCE PREMIUM TAXES, FOR PURPOSES OF  
14 AMENDMENT; AND FOR RELATED PURPOSES.

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

16 SECTION 1. This act shall be known and may be cited as the  
17 "Certified Capital Company Law."

18 SECTION 2. The primary purpose of the Certified Capital  
19 Company Law is to provide assistance in the formation of new and  
20 expansion of existing businesses which create jobs in the state by  
21 providing an incentive for insurance companies to invest in  
22 certified capital companies.

23 SECTION 3. For the purpose of this law, the following terms  
24 shall mean:

25 (a) "Affiliate of a certified capital company or  
26 insurance company" means:

27 (i) Any person, directly or indirectly  
28 beneficially owning (whether through rights, options, convertible  
29 interests or otherwise), controlling or holding power to vote ten  
30 percent (10%) or more of the outstanding voting securities or  
31 other ownership interests of the certified capital company or  
32 insurance company, as applicable;

33                   (ii) Any person ten percent (10%) or more of whose  
34 outstanding voting securities or other ownership interest are  
35 directly or indirectly beneficially owned (whether through rights,  
36 options, convertible interests or otherwise), controlled or held  
37 with power to vote by the certified capital company or insurance  
38 company, as applicable;

39                   (iii) Any person directly or indirectly  
40 controlling, controlled by or under common control with the  
41 certified capital company or insurance company, as applicable;

42                   (iv) A partnership in which the certified capital  
43 company or insurance company, as applicable, is a general partner;  
44 and

45                   (vi) Any person who is an officer, director,  
46 employee or agent of the certified capital company or insurance  
47 company, as applicable, or an immediate family member of such  
48 officer, director, employee or agent.

49                   (b) "Certification date" means the date on which a  
50 certified capital company is so designated by the Department.

51                   (c) "Certified capital" means an investment of cash by  
52 a certified investor in a certified capital company which fully  
53 funds the purchase price of either or both its equity interest in  
54 the certified capital company or a qualified debt instrument  
55 issued by the certified capital company.

56                   (d) "Certified capital company" means a partnership,  
57 corporation, trust or limited liability company, whether organized  
58 on a profit or not-for-profit basis, that has as its primary  
59 business activity the investment of cash in qualified businesses  
60 and that is certified by the Department as meeting the criteria of  
61 this law.

62                   (e) "Certified investor" means any insurance company  
63 that (i) contributes certified capital pursuant to an allocation  
64 of premium tax credits under Section 6 of this act; or (ii)  
65 becomes irrevocably committed to contribute certified capital by

66 preparing and executing a premium tax credit allocation claim.

67 (f) "Department" means the Department of Insurance.

68 (g) "Person" means any natural person or entity,  
69 including a corporation, general or limited partnership, trust or  
70 limited liability company.

71 (h) "Premium tax credit allocation claim" means a claim  
72 for allocation of premium tax credits prepared and executed by a  
73 certified investor on a form provided by the department and filed  
74 by a certified capital company with the department. The form  
75 shall include an affidavit of the certified investor pursuant to  
76 which such certified investor shall become legally bound and  
77 irrevocably committed to make an investment of certified capital  
78 in a certified capital company in the amount allocated (even if  
79 such amount is less than the amount of the claim), subject only to  
80 the receipt of an allocation pursuant to Section 6 of this act.

81 (i) "Qualified business" means a business that meets  
82 all of the following conditions as of the time of a certified  
83 capital company's first investment in the business:

84 (i) It is headquartered in this state, and its  
85 principal business operations are located in this state;

86 (ii) It is a small business concern as defined in  
87 Section 121.201 of the small business size regulations of the  
88 United States Small Business Administration, 13 CFR 121.201.

89 A business predominantly engaged in professional services  
90 provided by accountants, lawyers or physicians shall not  
91 constitute a qualified business.

92 (j) "Qualified debt instrument" means a debt instrument  
93 issued by a certified capital company, at par value or a premium,  
94 with an original maturity date of at least five (5) years from  
95 date of issuance, a repayment schedule which is no faster than a  
96 level principal amortization over five (5) years, and interest,  
97 distribution or payment features which are not related to the  
98 profitability of the certified capital company or the performance

99 of the certified capital company's investment portfolio.

100 (k) "Qualified distribution" means any distribution or  
101 payment to equity holders of a certified capital company in  
102 connection with the following:

103 (i) Costs and expenses of forming, syndicating,  
104 managing and operating the certified capital company, including  
105 reasonable and necessary fees paid for professional services (such  
106 as legal and accounting services) related to the formation and  
107 operation of the certified capital company and an annual  
108 management fee in an amount that does not exceed two and one-half  
109 percent (2-1/2%) of the value of the assets of the certified  
110 capital company; and

111 (ii) Any projected increase in federal or state  
112 taxes, including penalties and interest related to state and  
113 federal income taxes, of the equity owners of a certified capital  
114 company resulting from the earnings or other tax liability of the  
115 certified capital company to the extent that the increase is  
116 related to the ownership, management or operation of a certified  
117 capital company.

118 (l) "Qualified investment" means the investment of cash  
119 by a certified capital company in a qualified business for the  
120 purchase of any debt, equity or hybrid security, of any nature and  
121 description whatsoever, including a debt instrument or security  
122 which has the characteristics of debt but which provides for  
123 conversion into equity or equity participation instruments such as  
124 options or warrants.

125 (m) "State premium tax liability" means any liability  
126 incurred by an insurance company under the provisions of Section  
127 27-15-103 et seq.

128 SECTION 4. (1) The department shall establish by rule or  
129 regulation the procedures for making an application to become a  
130 certified capital company. The applicant shall pay a  
131 nonrefundable application fee of Seven Thousand Five Hundred

132 Dollars (\$7,500.00) at the time of filing the application with the  
133 department.

134 (2) A certified capital company's equity capitalization at  
135 the time of seeking certification must be Five Hundred Thousand  
136 Dollars (\$500,000.00) or more and must be in the form of  
137 unencumbered cash, marketable securities or other liquid assets.

138 (3) The department shall review the organizational documents  
139 of each applicant for certification and the business history of  
140 the applicant and shall determine that the applicant's cash,  
141 marketable securities and other liquid assets are at least Five  
142 Hundred Thousand Dollars (\$500,000.00).

143 (4) The department shall verify that at least two (2)  
144 principals of the certified capital company or at least two (2)  
145 persons employed to manage the funds of the certified capital  
146 company have not less than two (2) years of experience in the  
147 venture capital industry.

148 (5) Any offering material involving the sale of securities  
149 of the certified capital company shall include the following  
150 statement:

151 "By authorizing the formation of a certified capital company,  
152 the state does not necessarily endorse the quality of management  
153 or the potential for earnings of such company and is not liable  
154 for damages or losses to a certified investor in the company. Use  
155 of the word "certified" in an offering does not constitute a  
156 recommendation or endorsement of the investment by the Department  
157 of Insurance. If applicable provisions of this law are violated,  
158 the state may require forfeiture of unused premium tax credits and  
159 repayment of used premium tax credits."

160 (6) Within thirty (30) days of application, the department  
161 shall issue the certification or shall refuse the certification  
162 and communicate in detail to the applicant the grounds for the  
163 refusal, including suggestions for the removal of those grounds.  
164 The department shall review and approve or reject applications in

165 the order submitted, and in the event more than one (1)  
166 application is received by the department on any date, all such  
167 applications shall be reviewed and approved simultaneously, except  
168 in the case of incomplete applications or applications for which  
169 additional information is requested by the department and is not  
170 supplied by the applicant within the allowable time limits  
171 established by the department.

172 (7) No insurance company or any affiliate of an insurance  
173 company shall, directly or indirectly, manage a certified capital  
174 company or control the direction of investments for a certified  
175 capital company. This provision shall not preclude a certified  
176 investor, insurance company or any other party from exercising its  
177 legal rights and remedies (which may include interim management of  
178 a certified capital company) in the event that a certified capital  
179 company is in default of its statutory obligations or its  
180 contractual obligations to such certified investor, insurance  
181 company or other party.

182 SECTION 5. (1) Any certified investor who makes an  
183 investment of certified capital pursuant to an allocation of  
184 premium tax credits under Section 7 of this act shall, in the year  
185 of investment, earn a vested credit against state premium tax  
186 liability equal to one hundred percent (100%) of the certified  
187 investor's investment of certified capital. A certified investor  
188 shall be entitled to take up to ten percent (10%) of the vested  
189 premium tax credit in any taxable year of the certified investor.

190 (2) The credit to be applied against state premium tax  
191 liability in any one (1) year may not exceed the state premium tax  
192 liability of the certified investor for such taxable year. All  
193 unused credits against state premium tax liability may be carried  
194 forward indefinitely until the premium tax credits are utilized.

195 (3) A certified investor claiming a credit against state  
196 premium tax liability earned through an investment in a certified  
197 capital company shall not be required to pay any additional

198 retaliatory tax levied pursuant to Section 27-15-121 et seq., as a  
199 result of claiming that credit.

200       SECTION 6. (1) The aggregate amount of certified capital  
201 for which premium tax credits shall be allowed for all certified  
202 investors under this act shall not exceed the amount which would  
203 entitle all certified investors in certified capital companies to  
204 take aggregate credits of Fifteen Million Dollars (\$15,000,000.00)  
205 per year. No certified capital company may file premium tax  
206 credit allocation claims in excess of the maximum amount of  
207 certified capital for which premium tax credits may be allowed as  
208 provided in this subsection (1).

209       (2) Certified capital for which premium tax credits are  
210 allowed will be allocated to certified investors in certified  
211 capital companies in the order that premium tax credit allocation  
212 claims are filed with the department by such certified capital  
213 companies on behalf of their certified investors. All filings  
214 made on the same day shall be treated as having been made  
215 contemporaneously.

216       (3) In the event that two (2) or more certified capital  
217 companies file premium tax credit allocation claims with the  
218 department on behalf of their respective certified investors on  
219 the same day, and the amount of such premium tax credit allocation  
220 claims exceeds in the aggregate the limit of available tax credits  
221 under the provisions of Section 6 of this act, capital for which  
222 premium tax credits are allowed shall be allocated among the  
223 certified investors on a pro rata basis with respect to the  
224 amounts claimed. The pro rata allocation for any one (1)  
225 certified investor shall be the product of a fraction, the  
226 numerator of which is the amount of the premium tax credit  
227 allocation claim filed on behalf of such certified investor and  
228 the denominator of which is the total of all premium tax credit  
229 allocation claims filed on behalf of all certified investors,  
230 multiplied by the aggregate limitation as provided in subsection

231 (1) of this section.

232 (4) Within five (5) business days after the department  
233 receives a premium tax credit allocation claim filed by a  
234 certified capital company on behalf of one or more of its  
235 certified investors, the department shall notify the certified  
236 capital company of the amount of tax credits allocated to each of  
237 the certified investors in such certified capital company.

238 (5) In the event a certified capital company does not  
239 receive an investment of certified capital equaling the amount of  
240 premium tax credits allocated to a certified investor for which it  
241 filed a premium tax credit allocation claim within five (5)  
242 business days of its receipt of notice of allocation, that portion  
243 of the premium tax credits allocated to such certified investor in  
244 the certified capital company will be forfeited, and the  
245 department will reallocate that certified capital among the other  
246 certified investors in all certified capital companies on a pro  
247 rata basis with respect to the premium tax credit allocation  
248 claims filed on behalf of such certified investors by all  
249 certified capital companies.

250 (6) The maximum amount of certified capital for which  
251 premium tax credits shall be allowed to any one (1) certified  
252 investor (and its affiliates) in one or more certified capital  
253 companies in any year shall not exceed ten percent (10%) of the  
254 aggregate limitation as provided in subsection (1) of this  
255 section.

256 SECTION 7. (1) To continue to be certified, a certified  
257 capital company must make qualified investments according to the  
258 following schedule:

259 (a) Within the period ending three (3) years after its  
260 certification date, a certified capital company must have made  
261 qualified investments cumulatively equal to thirty percent (30%)  
262 of its certified capital.

263 (b) Within the period ending five (5) years after its



264 certification date, a certified capital company must have made  
265 qualified investments cumulatively equal to fifty percent (50%) of  
266 its certified capital.

267 (2) The aggregate cumulative amount of all qualified  
268 investments made by the certified capital company from its  
269 certification date shall be considered in the calculation of the  
270 percentage requirements under this act. Any proceeds received  
271 from a qualified investment may be invested in another qualified  
272 investment and shall count toward any requirement in this act with  
273 respect to investments of certified capital.

274 (3) Any business which is classified as a qualified business  
275 at the time of the first investment in such business by a  
276 certified capital company shall remain classified as a qualified  
277 business and may receive follow-on investments from any certified  
278 capital company or any of its affiliates, and such follow-on  
279 investments shall be qualified investments even though such  
280 business may not meet the definition of a qualified business at  
281 the time of such follow-on investments.

282 (4) No qualified investment may be made at a cost to a  
283 certified capital company greater than fifteen percent (15%) of  
284 the total certified capital of the certified capital company at  
285 the time of investment.

286 (5) At its option, a certified capital company, before  
287 making a proposed investment in a specific business, may request  
288 from the department a written opinion that the business in which  
289 it proposes to invest should be considered a qualified business.  
290 Upon receiving such a request, the department shall have ten (10)  
291 working days to determine whether or not the business meets the  
292 definition of a qualified business and notify the certified  
293 capital company of its determination and an explanation thereof.  
294 If the department fails to notify the certified capital company  
295 with respect to the proposed investment within the ten-working-day  
296 period, the business in which the certified capital company

297 proposes to invest shall be deemed to be a qualified business. If  
298 the department determines that the business in which the certified  
299 capital company proposes to invest does not meet all of the  
300 criteria set forth in Section 3(i) of this act, the department may  
301 nevertheless consider the business a qualified business and  
302 approve the investment if the department determines that the  
303 proposed investment will further state economic development.

304 (6) All certified capital not currently invested in  
305 qualified investments by the certified capital company must be  
306 invested in cash deposited with a federally insured financial  
307 institution, certificates of deposit in a federally insured  
308 financial institution, investment securities that are obligations  
309 of the United States, its agencies or instrumentalities, or  
310 obligations that are guaranteed fully as to principal and interest  
311 by the United States, investment-grade instruments (rated in the  
312 top four (4) rating categories by a nationally recognized rating  
313 organization), obligations of this state, or any municipality in  
314 this state, or any political subdivision thereof; or any other  
315 investments approved in advance and in writing by the department.

316

317 (7) Each certified capital company shall report the  
318 following to the department:

319 (a) As soon as practicable after the receipt of  
320 certified capital, each certified capital company shall report the  
321 following to the department: (i) the name of each certified  
322 investor from which the certified capital was received, including  
323 such certified investor's insurance premium tax identification  
324 number; (ii) the amount of each certified investor's investment of  
325 certified capital and premium tax credits; and (iii) the date on  
326 which the certified capital was received.

327 (b) On a annual basis, on or before January 31, (i) the  
328 amount of the certified capital company's certified capital at the  
329 end of the immediately preceding year; (ii) whether or not the

330 certified capital company has invested more than fifteen percent  
331 (15%) of its total certified capital in any one (1) business; and  
332 (iii) all qualified investments that the certified capital company  
333 made during the previous calendar year.

334 (c) Each certified capital company shall provide to the  
335 department annual audited financial statements, which shall  
336 include the opinion of an independent certified public accountant,  
337 within ninety (90) days of the close of the fiscal year. The  
338 audit shall address the methods of operation and conduct of the  
339 business of the certified capital company to determine if the  
340 certified capital company is complying with the statutes and  
341 program rules and that the funds received by the certified capital  
342 company have been invested as required within the time limits  
343 provided by Section 6(1) of this act.

344 (d) On or before January 31 of each year, each  
345 certified capital company shall pay an annual, nonrefundable  
346 certification fee of Five Thousand Dollars (\$5,000.00) to the  
347 department; provided, that no such fee shall be required within  
348 six (6) months of the initial certification date of a certified  
349 capital company.

350 SECTION 8. A certified capital company may make qualified  
351 distributions at any time. In order to make a distribution to its  
352 equity holders, other than a qualified distribution, a certified  
353 capital company must have made qualified investments in an amount  
354 cumulatively equal to one hundred percent (100%) of its certified  
355 capital. A certified capital company may, however, make  
356 repayments of principal and interest on its indebtedness without  
357 any restriction whatsoever, including repayments of indebtedness  
358 of the certified capital company on which certified investors  
359 earned premium tax credits.

360 SECTION 9. (1) The department shall conduct an annual  
361 review of each certified capital company to determine if the  
362 certified capital company is abiding by the requirements of

363 certification, to advise the certified capital company as to the  
364 eligibility status of its qualified investments, and to ensure  
365 that no investment has been made in violation of this act. The  
366 cost of the annual review shall be paid by each certified capital  
367 company according to a reasonable fee schedule adopted by the  
368 department.

369 (2) Any material violation of Section 7 of this act shall be  
370 grounds for decertification of the certified capital company. If  
371 the department determines that a certified capital company is not  
372 in compliance with the requirements of Section 7 of this act, it  
373 shall, by written notice, inform the officers of the certified  
374 capital company that the certified capital company may be subject  
375 to decertification in one hundred twenty (120) days from the date  
376 of mailing of the notice, unless the deficiencies are corrected  
377 and the certified capital company is again in compliance with all  
378 requirements for certification.

379 (3) At the end of the one-hundred-twenty-day grace period,  
380 if the certified capital company is still not in compliance with  
381 Section 7 of this act, the department may send a notice of  
382 decertification to the certified capital company and to all other  
383 appropriate state agencies.

384 (4) Decertification of a certified capital company may cause  
385 the recapture of premium tax credits previously claimed and the  
386 forfeiture of future premium tax credits to be claimed by  
387 certified investors with respect to such certified capital  
388 company, as follows:

389 (a) Decertification of a certified capital company  
390 within three (3) years of its certification date shall cause the  
391 recapture of all premium tax credits previously claimed and the  
392 forfeiture of all future premium tax credits to be claimed by  
393 certified investors with respect to such certified capital  
394 company.

395 (b) When a certified capital company meets all

396 requirements for continued certification under Section 7(1)(a) of  
397 this act and subsequently fails to meet the requirements for  
398 continued certification under the provisions of Section 107(1)(b)  
399 of this act, those premium tax credits which have been or will be  
400 taken by certified investors within three (3) years from the  
401 certification date of the certified capital company will not be  
402 subject to recapture or forfeiture; however, all premium tax  
403 credits that have been or will be taken by certified investors  
404 after the third anniversary of the certification date of the  
405 certified capital company shall be subject to recapture or  
406 forfeiture.

407           (c) Once a certified capital company has met all  
408 requirements for continued certification under Section 7(1)(a) and  
409 Section 7(1)(b) of this act, and is subsequently decertified,  
410 those premium tax credits which have been or will be taken by  
411 certified investors within five (5) years from the certification  
412 date of the certified capital company will not be subject to  
413 recapture or forfeiture. Those premium tax credits to be taken  
414 subsequent to the fifth year of certification shall be subject to  
415 forfeiture only if the certified capital company is decertified  
416 within five (5) years from its certification date.

417           (d) Once a certified capital company has invested an  
418 amount cumulatively equal to one hundred percent (100%) of its  
419 certified capital in qualified investments, all premium tax  
420 credits claimed or to be claimed by its certified investors shall  
421 no longer be subject to recapture or forfeiture.

422           (5) Once a certified capital company has invested an amount  
423 cumulatively equal to one hundred percent (100%) of its certified  
424 capital in qualified investments, the certified capital company  
425 shall no longer be subject to regulation by the department.

426           (6) The department shall send written notice to the address  
427 of each certified investor whose premium tax credit has been  
428 subject to recapture or forfeiture, using the address last shown

429 on the last premium tax filing.

430 (7) The department shall have the authority to waive any  
431 recapture or forfeiture of credits if, after considering all facts  
432 and circumstances, it determines that such waiver will have the  
433 effect of furthering state economic development.

434 SECTION 10. The premium tax credit established under this  
435 act may be transferred or sold. The department shall promulgate  
436 regulations to facilitate the transfer or sale of the premium tax  
437 credits. Any such transfer or sale shall not affect the time  
438 schedule for taking the premium tax credit as provided in this  
439 act. Any premium tax credits recaptured pursuant to Section 9 of  
440 this act shall be the liability of the taxpayer which actually  
441 claimed the premium tax credits.

442 SECTION 11. The department shall make and promulgate rules  
443 and regulations necessary to carry out the provisions of this act  
444 within sixty (60) days of the effective date of this act. Such  
445 rules and regulations shall provide that the department shall  
446 begin accepting applications for certification as a certified  
447 capital company not later than ninety (90) days of the effective  
448 date of this act. Such rules and regulations shall further  
449 provide that any certified capital company may file premium tax  
450 credit allocation claims on behalf of its certified investors at  
451 any time on or after its certification date and that premium tax  
452 credits shall be earned by and vested in certified investors at  
453 the time of such investment of certified capital, although such  
454 premium tax credits may not be claimed or utilized until 1999.

455 SECTION 12. Section 27-15-103, Mississippi Code of 1972, is  
456 brought forward as follows:

457 27-15-103. (1) Except as otherwise provided in Section  
458 83-61-11, in addition to the license tax now or hereafter provided  
459 by law, which tax shall be paid when the company enters or is  
460 admitted to do business in this state, there is hereby levied and  
461 imposed upon all foreign insurance companies and associations,

462 including life insurance companies and associations, health,  
463 accident and industrial insurance companies and associations, fire  
464 and casualty insurance companies and associations, and all other  
465 foreign insurance companies and associations of every kind and  
466 description, an additional annual license or privilege tax of  
467 three percent (3%) of the gross amount of premium receipts  
468 received from, and on insurance policies and contracts written in,  
469 or covering risks located in this state, except for premiums  
470 received on policies issued to fund a deferred compensation plan  
471 qualified under Section 457 of the Federal Tax Code for federal  
472 tax exemption. In determining said amount of premiums, there  
473 shall be deducted therefrom premiums received for reinsurance from  
474 companies authorized to do business in this state, cash dividends  
475 paid under policy contracts in this state, and premiums returned  
476 to policyholders and cancellations on accounts of policies not  
477 taken, and, in the case of mutual insurance companies (including  
478 interinsurance and reciprocal exchanges, but not including mutual  
479 life, accident, health or industrial insurance companies) any  
480 refund made or credited to the policyholder other than for losses.  
481 The term "premium" as used herein shall also include policy fees,  
482 membership fees, and all other fees collected by the companies. No  
483 credit or deduction from gross premium receipts shall be allowed  
484 for any commission, fee or compensation paid to any agent,  
485 solicitor or representative. Provided, however, that any foreign  
486 insurance carrier selected to furnish service to the State of  
487 Mississippi under the State Employees Life and Health Insurance  
488 Plan shall not be required to pay the annual license or privilege  
489 tax on the premiums collected for coverage under the said plan.

490 (2) In the event that the Mississippi Supreme Court or  
491 another court finally adjudicates that any tax levied prior to  
492 July 1, 1985, under the provisions of this section was collected  
493 unconstitutionally and that a liability for a credit or refund for  
494 such collection has accrued, then the rate of tax set forth above

495 shall be increased to four percent (4%) for a period of six (6)  
496 years beginning July 1 following such adjudication.

497 (3) The taxes herein levied and imposed for the calendar  
498 year 1982 and all calendar years thereafter shall be reduced by  
499 the net amount of income tax paid to this state for the preceding  
500 calendar year, provided, in no event may the credit be taken more  
501 than once. The credit herein authorized shall, in no event, be  
502 greater than the premium tax due under this section; it being the  
503 purpose and intent of this paragraph that whichever of the annual  
504 insurance premium tax or the income tax is greater in amount shall  
505 be paid.

506 SECTION 13. Section 27-15-105, Mississippi Code of 1972, is  
507 brought forward as follows:

508 27-15-105. Every insurance company which, having been  
509 admitted to do business in this state, has withdrawn or shall  
510 hereafter withdraw from the state, shall continue to be liable for  
511 the tax hereby imposed and shall be required to make and file the  
512 annual statement thereof as is herein required and pay the  
513 required tax so long as it shall continue to collect premiums from  
514 its policyholders in the state.

515 SECTION 14. Section 27-15-107, Mississippi Code of 1972, is  
516 brought forward as follows:

517 27-15-107. Every insurance company liable for the tax under  
518 the provisions hereof shall make and file with the State Tax  
519 Commission a full and correct statement, under the oath of its  
520 president, secretary or other duly authorized officer at its home  
521 or head office in this country, of the gross amount of its premium  
522 receipts during the reporting period, and shall, at the time of  
523 filing such report, pay to the State Tax Commission the tax levied  
524 hereby upon the premium collections for said period, computed as  
525 provided in Sections 27-15-103 and 27-15-109.

526 Such report and payment are due as follows:

527 For the period July 1 through September 30, the report and



528 payment are due by October 20;

529         For the period October 1 through December 31, the report and  
530 payment are due by February 20;

531         For the period January 1 through March 31, the report and  
532 payment are due by April 20;

533         For the period April 1 through June 30, the report and  
534 payment are due by July 20.

535         On or before July 31, 1982, every insurance company liable  
536 for the payment of tax hereunder shall make and file with the  
537 State Tax Commission, as provided herein, a report of the gross  
538 amount of its premium receipts not heretofore reported for periods  
539 prior to July 1, 1982, and shall, at the time of filing such  
540 report, pay to the State Tax Commission the tax levied upon the  
541 premium collections for said periods computed as provided in  
542 Sections 27-15-103 and 27-15-109.

543         Every insurance company liable for the payment of tax  
544 hereunder shall file an annual reconciliation statement of taxes  
545 paid during the previous year. The annual reconciliation  
546 statement shall be in the form prescribed by the State Tax  
547 Commission and shall be filed with the State Tax Commission on or  
548 before February 20 following the close of each calendar year.

549         The State Tax Commission shall have the authority to  
550 promulgate rules and regulations, not inconsistent with this  
551 article, as it may deem necessary to enforce its provisions.

552         SECTION 15. Section 27-15-109, Mississippi Code of 1972, is  
553 brought forward as follows:

554         27-15-109. (1) Except as otherwise provided in Section  
555 83-61-11, there is hereby levied and imposed upon each domestic  
556 company doing business in this state an annual tax of three  
557 percent (3%) of the gross amount of premiums collected by such  
558 domestic company on insurance policies and contracts written in,  
559 or covering risks located in this state, except for premiums  
560 received on policies issued to fund a retirement, thrift or

561 deferred compensation plan qualified under Section 401, Section  
562 403 or Section 457 of the Federal Tax Code for federal tax  
563 exemption. Provided, however, that a domestic insurance company  
564 against which is levied additional premium tax under retaliatory  
565 laws of other states in which it does business, as a result of the  
566 tax increase provided by Sections 27-15-103 through 27-15-117, may  
567 deduct the total of such additional retaliatory tax from the state  
568 income tax due by it to the State of Mississippi. The insurance  
569 carriers selected to furnish service to the State of Mississippi,  
570 under the State Employees Life and Health Insurance Plan, shall  
571 not be required to pay the premium tax levied against insurance  
572 companies under this section on the premiums collected for  
573 coverage under the state employees plan.

574 (2) Except as expressly provided by subsection (1) of this  
575 section, all of the provisions of Sections 27-15-103 through  
576 27-15-117 shall be applicable to such domestic insurance  
577 companies. However, the statement filed with the State Tax  
578 Commission by domestic insurance companies as provided in Section  
579 27-15-107 shall include therein a sworn statement of all  
580 additional retaliatory premium taxes paid by them to other states  
581 as a result of the increase in premium taxes imposed by Sections  
582 27-15-103 through 27-15-117, itemized by states to which paid.

583 (3) In the event that the Mississippi Supreme Court or  
584 another court finally adjudicates that any tax levied prior to  
585 July 1, 1985, under the provisions of this section was collected  
586 unconstitutionally and that a liability for a credit or refund for  
587 such collection has accrued, then the rate of tax set forth above  
588 shall be increased to four percent (4%) for a period of six (6)  
589 years beginning July 1 following such adjudication.

590 SECTION 16. Section 27-15-113, Mississippi Code of 1972, is  
591 brought forward as follows:

592 27-15-113. All taxes for which any company is liable under  
593 the provisions of this chapter or any other title or chapter which

594 imposes a tax on insurance premiums shall be collected and  
595 recovered by the State Tax Commission in the same manner provided  
596 by law for the collection of sales taxes; and all administrative  
597 provisions of the Mississippi Sales Tax Law, including those which  
598 fix damages, penalties and interest for nonpayment of taxes,  
599 failure to file returns, and for other noncompliance with the  
600 provisions of said chapter, and all other requirements and duties  
601 imposed upon taxpayers, shall apply to all persons liable for  
602 taxes under the provisions of this chapter or any other title or  
603 chapter which imposes a tax on insurance premiums and the  
604 commission shall exercise all the power and authority and perform  
605 all the duties with respect to taxpayers under this chapter or any  
606 other title or chapter which imposes a tax on insurance premiums  
607 as are provided in said sales tax law, except that in cases of  
608 conflict, then the provisions of this chapter or any other title  
609 or chapter which imposes a tax on insurance premiums shall  
610 control.

611 SECTION 17. Section 27-15-115, Mississippi Code of 1972, is  
612 brought forward as follows:

613 27-15-115. In addition to all other taxes authorized by law,  
614 insurance companies shall pay the license and privilege taxes  
615 imposed by Sections 27-15-81 and 27-15-83, the taxes imposed by  
616 Sections 27-15-103 to 27-15-117, ad valorem taxes on real estate  
617 and tangible personal property, state income tax, sales tax levied  
618 on a vendor with a requirement of adding it to the sales price and  
619 use tax levied on the cost of tangible personal property purchased  
620 outside this state for use within this state.

621 SECTION 18. Section 27-15-117, Mississippi Code of 1972, is  
622 brought forward as follows:

623 27-15-117. All of the provisions of Sections 27-15-103 to  
624 27-15-117 shall be applicable to mutual and reciprocal insurance  
625 companies and associations.

626 SECTION 19. Section 27-15-119, Mississippi Code of 1972, is

627 brought forward as follows:

628         27-15-119. (1) Notwithstanding any other provisions of the  
629 laws of this state, the rate of the annual license or privilege  
630 tax on the gross amount of premium receipts received from and on  
631 annuity policies and contracts written in or covering risks  
632 located in this state shall be one percent (1%) upon all insurance  
633 companies and associations from July 1, 1994, through June 30,  
634 1995, and thereafter there shall be no annual license or privilege  
635 tax on the gross amount of premium receipts received from and on  
636 annuity policies and contracts written in or covering risks  
637 located in this state upon all insurance companies and  
638 associations. Provided, however, an annual license or privilege  
639 tax on the gross amount of premium receipts received from and on  
640 policies and contracts issued to fund a retirement, thrift or  
641 deferred compensation plan qualified under Section 401, Section  
642 403, an individual retirement annuity qualified under Section 408  
643 or Section 457 of the Federal Tax Code for federal tax exemption  
644 shall not be imposed on any foreign or domestic company, unless  
645 such foreign company has its principal place of business in a  
646 state which imposes a license or privilege tax on such policies  
647 issued by companies having their principal place of business in  
648 Mississippi, in which case said foreign company shall be taxed at  
649 the same rate its state of principal business imposes a license or  
650 privilege tax on Mississippi companies with respect to such  
651 policies. Provided further, in the event an insurance company has  
652 heretofore included in its premium charge the tax required hereby,  
653 said premium charges on all such annuity policies and contracts  
654 shall be reduced by the amount of said tax within one hundred  
655 twenty (120) days from the effective date of this section. This  
656 latter provision shall apply to all such annuity policies and  
657 contracts qualified under Section 401, Section 403, Section 408 or  
658 Section 457 of the Federal Tax Code for federal tax exemption  
659 presently in force as well as to those hereafter issued.

660           (2) In the event that the Mississippi Supreme Court or  
661 another court finally adjudicates that any tax levied prior to  
662 July 1, 1985, under the provisions of this section was collected  
663 unconstitutionally and that a liability for a credit or refund for  
664 such collection has accrued, then the rate of tax set forth above  
665 shall be increased to four percent (4%) for a period of six (6)  
666 years beginning July 1 following such adjudication.

667           SECTION 20. Section 27-15-121, Mississippi Code of 1972, is  
668 brought forward as follows:

669           27-15-121. Sections 27-15-121 to 27-15-127 shall be known as  
670 the "Mississippi Insurance Premium Tax Retaliatory Law."

671           SECTION 21. Section 27-15-123, Mississippi Code of 1972, is  
672 brought forward as follows:

673           27-15-123. When by or pursuant to the laws of any other  
674 state or foreign country any taxes, licenses and other fees, in  
675 the aggregate, and any fines, penalties, deposit requirements or  
676 other material obligations, prohibitions or restrictions are or  
677 would be imposed upon Mississippi insurers, or upon the agents or  
678 representatives of such insurers, which are in excess of such  
679 taxes, licenses and other fees, in the aggregate, or which are in  
680 excess of the fines, penalties, deposit requirements or other  
681 obligations, prohibitions, or restrictions directly imposed upon  
682 similar insurers, or upon the agents or representatives of such  
683 insurers, of such other state or country under the statutes of  
684 this state, so long as such laws of such other state or country  
685 continue in force or are so applied, the same taxes, licenses and  
686 other fees, in the aggregate, or fines, penalties or deposit  
687 requirements or other material obligations, prohibitions or  
688 restrictions of whatever kind shall be imposed by the State Tax  
689 Commission or the Commissioner of Insurance upon the insurers, or  
690 upon the agents or representatives of such insurers, of such other  
691 state or country doing business or seeking to do business in  
692 Mississippi. Any tax, license or other fee or other obligation

693 imposed by any city, county or other political subdivision or  
694 agency of such other state or country on Mississippi insurers or  
695 their agents or representatives shall be deemed to be imposed by  
696 such state or country within the meaning of this section.

697 SECTION 22. Section 27-15-125, Mississippi Code of 1972, is  
698 brought forward as follows:

699 27-15-125. Sections 27-15-121 through 27-15-127 shall not  
700 apply as to personal income taxes, nor as to ad valorem taxes on  
701 real or personal property nor as to special purpose obligations or  
702 assessments imposed by another state in connection with particular  
703 kinds of insurance, other than property insurance, except that  
704 deductions, from premium taxes or other taxes otherwise payable,  
705 allowed on account of real estate or personal property taxes paid  
706 shall be taken into consideration by the State Tax Commission in  
707 determining the propriety and extent of retaliatory action under  
708 this section.

709 SECTION 23. Section 27-15-127, Mississippi Code of 1972, is  
710 brought forward as follows:

711 27-15-127. For the purposes of Sections 27-15-121 to  
712 27-15-127 the domicile of a foreign insurer other than insurers  
713 formed under the laws of Canada, shall be that state designated by  
714 the insurer in writing filed with the commissioner at time of  
715 admission to this state or within six (6) months after the  
716 effective date of Sections 27-15-121 to 27-15-127, whichever date  
717 is the later, and may be any one (1) of the following states:

718 (a) That in which the insurer was first authorized to  
719 transact insurance;

720 (b) That in which is located the insurer's principal  
721 place of business in the United States; or

722 (c) That in which is held the larger deposit of  
723 trusteed assets of the insurer for the protection of its  
724 policyholders and creditors in the United States.

725 If the insurer makes no such designation its domicile shall

726 be deemed to be that state in which is located its principal place  
727 of business in the United States.

728 In the case of an insurer formed under the laws of Canada or  
729 a province thereof, its domicile shall be deemed to be that  
730 province in which its head office is situated.

731 SECTION 24. Section 27-15-129, Mississippi Code of 1972, is  
732 brought forward as follows:

733 27-15-129. (1) The amount of premium tax payable pursuant  
734 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
735 Mississippi Code of 1972, shall be reduced from the amount  
736 otherwise fixed in such sections if the payer files a sworn  
737 statement with the required annual report showing as of the  
738 beginning of the reporting period that at least the following  
739 amounts of the total admitted assets of the payer were invested  
740 and maintained in qualifying Mississippi investments as  
741 hereinafter defined in subsection (2) of this section over the  
742 period covered by such report:

743	Percentage of Total Admitted	Percentage of Premium
744	Assets in Qualifying	Tax Payable
745	Mississippi Investments	
746	1%	99%
747	2%	98%
748	3%	97%
749	4%	96%
750	5%	95%
751	6%	94%
752	7%	93%
753	8%	92%
754	9%	91%
755	10%	80%
756	15%	70%
757	20%	60%
758	25%	50%

759           (2) For the purpose of this section, "a qualifying  
760 Mississippi investment" is hereby defined as follows:  
761           (a) Certificates of deposit issued by any bank or  
762 savings and loan association domiciled in this state;  
763           (b) Bonds of this state or bonds of municipal, school,  
764 road or levee districts, or other political subdivisions of this  
765 state;  
766           (c) Loans evidenced by notes and secured by deeds of  
767 trust on property located in this state;  
768           (d) Real property located in this state;  
769           (e) Policy loans to residents of Mississippi, or other  
770 loans to residents of this state, or to corporations domiciled in  
771 this state;  
772           (f) Common or preferred stock, bonds and other  
773 evidences of indebtedness of corporations domiciled in this state;  
774 and  
775           (g) Cash on deposit in any bank or savings and loan  
776 association domiciled in this state.

777           (3) If the credits, or any part thereof, authorized by the  
778 preceding provisions of this section shall be held by a court of  
779 final jurisdiction to be unconstitutional and void for any reason  
780 or to make the annual premium taxes levied by Sections 27-15-103,  
781 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
782 unlawfully discriminatory or otherwise invalid under the  
783 Fourteenth Amendment or the Commerce Clause of the Constitution of  
784 the United States or under any state or other Federal  
785 Constitutional provisions, it is hereby expressly declared that  
786 such fact shall in no way affect the validity of the annual  
787 premium taxes levied thereby, and that such provisions would have  
788 been enacted even though the Legislature had known this credit  
789 section would be held invalid.

790           (4) This section shall apply to taxes accruing and  
791 investments existing from and after July 1, 1985.



792 SECTION 25. Section 27-15-131, Mississippi Code of 1972, is  
793 brought forward as follows:

794 27-15-131. In the event a company has overpaid taxes levied  
795 pursuant to Section 27-15-103, 27-15-109, 27-15-119 or 83-31-45,  
796 the commissioner may give credit for such overpayment and allow  
797 the company to take credit on subsequent returns or, if necessary,  
798 in the discretion of the commission, refund such overpayemnt as  
799 otherwise provided by Section 37-15-113.

800 SECTION 26. This act shall take effect and be in force from  
801 and after July 1, 1999.