

By: Stevens

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1195

1 Amend by striking all after the enacting clause and inserting  
2 in lieu thereof the following:  
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4 SECTION 1. The following shall be codified as Section  
5 25-15-107, Mississippi Code of 1972:

6 ~~25-15-107.~~ With regard to any self-insured and pooled risks  
7 health insurance plans authorized under Section 25-15-101:

8 (a) If medical assistance is provided to an employee or  
9 dependent under this article for injuries, disease or sickness  
10 caused under circumstances creating a cause of action in favor of  
11 the employee or eligible dependent against any person, firm or  
12 corporation, then the political subdivision or its designees shall  
13 be entitled to recover all proceeds that may result from the  
14 exercise of any rights of recovery which the employee or dependent  
15 may have against any such person, firm or corporation to the  
16 extent of the actual amount of the medical payments made by the  
17 plan on behalf of the employee or dependent. However, any  
18 benefits received by the employee or the dependent from uninsured  
19 motorist insurance coverage are exempted from the subrogation  
20 rights of the political subdivision provided herein. The employee  
21 or dependent shall execute and deliver instruments and papers to  
22 do whatever is necessary to secure such rights and shall do  
23 nothing after the medical assistance is provided to prejudice the  
24 subrogation rights of the political subdivision. The political  
25 subdivision or its designee may compromise or settle any such  
26 claim and execute a release of any claim it has by virtue of this  
27 section.

28 (b) The acceptance of medical assistance under this  
29 article or making of a claim thereunder shall not affect the right  
30 of the employee, dependent or his legal representative to recover  
31 the medical assistance payments made by the plan as an element of  
32 special or general damages in any action at law or as part of any  
33 settlement in favor of the employee or eligible dependent against  
34 any person, firm or corporation. However, if an action at law is  
35 pursued, a copy of the pleadings shall be mailed certified to the  
36 political subdivision or its designee at the time of the  
37 institution of suit, and proof of such notice shall be filed of  
38 record in such action. The political subdivision, at any time  
39 before the trial on the facts, may join in such action or may  
40 intervene therein. Any amount recovered by an employee, dependent  
41 or legal representative through settlement or an action at law  
42 shall be applied in the following order:

43 (i) The reasonable cost of the collection incurred  
44 by the plan or its designee, including attorney's fees.

45 (ii) The remainder of the recovery shall be  
46 divided equally between the employee, dependent or legal  
47 representative and the plan, subject to recovery of the maximum  
48 expenditure by the plan.

49 (c) No compromise of any claim by the employee,  
50 dependent or his legal representative shall be binding upon or

51affect the rights of the political subdivision against the third  
52party unless the political subdivision or its designee has entered  
53into the compromise. Any compromise effected by the employee,  
54dependent or legal representative with the third party in the  
55absence of advance notification to and approval by the political  
56subdivision or its designee shall constitute conclusive evidence  
57of the liability of the third party, and the political subdivision  
58or its designee in litigating its claim against the third party  
59shall be required only to prove the amount and correctness of its  
60claim relating to such injury, disease or sickness. It is further  
61provided that should the employee, dependent or his legal  
62representative fail to notify the political subdivision or its  
63designee of the institution of legal proceedings against a third  
64party for which the political subdivision has a cause of action,  
65the facts relating to negligence and the liability of the third  
66party, if judgment is rendered for the employee or dependent,  
67shall constitute conclusive evidence of liability in a subsequent  
68action maintained by the political subdivision or its designee and  
69only the amount and correctness of the political subdivision's  
70claim relating to the injuries, disease or sickness shall be tried  
71before the court. The political subdivision shall be authorized  
72in bringing such action against the third party and his insurer  
73jointly or against the insurer alone.

74 (d) The third party or insurer of the third party may  
75inquire directly with the political subdivision, or its designee,  
76on the status or existence of any relevant subrogation lien.

77 (e) Nothing herein shall be construed to diminish or  
78otherwise restrict the subrogation right of the political  
79subdivision against a third party for medical assistance paid by  
80the plan on behalf of the employee or dependent as a result of  
81injuries, disease or sickness caused under circumstances creating  
82a cause of action in favor of the employee or dependent against  
83such a third party.

84 SECTION 2. This act shall take effect and be in force  
85retroactively from and after March 18, 1999.

86 **Further, amend by striking the title in its entirety and**  
87 **inserting in lieu thereof the following:**

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89  
90 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION  
9125-15-107, MISSISSIPPI CODE OF 1972, TO PROVIDE SUBROGATION RIGHTS  
92UNDER SELF-INSURED AND POOLED RISKS HEALTH INSURANCE PLANS FOR  
93POLITICAL SUBDIVISIONS OF THE STATE; TO EXEMPT THE BENEFITS OF ANY  
94UNINSURED MOTORIST INSURANCE COVERAGE FROM THE SUBROGATION RIGHTS  
95PROVIDED IN THIS ACT; AND FOR RELATED PURPOSES.