

By: Representative Stevens

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 643

1 AN ACT TO AMEND SECTION 83-6-25, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE INSURANCE COMPANIES TO RECEIVE WRITTEN APPROVAL FROM THE  
3 INSURANCE COMMISSIONER BEFORE DISTRIBUTING EXTRAORDINARY  
4 DIVIDENDS; TO ELIMINATE THE THIRTY-DAY WAITING PERIOD FOR THE  
5 COMMISSIONER'S RESPONSE BEFORE DISTRIBUTION; TO PROVIDE THAT THE  
6 INSURER MAY PAY EXTRAORDINARY DIVIDENDS IF THE COMMISSIONER HAS  
7 NOT DISAPPROVED SUCH PAYMENT WITHIN FORTY-FIVE DAYS AFTER HE  
8 RECEIVES THE WRITTEN REQUEST FOR APPROVAL; AND FOR RELATED  
9 PURPOSES.

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

11 SECTION 1. Section 83-6-25, Mississippi Code of 1972, is  
12 amended as follows:

13 83-6-25. (1) No domestic insurer shall pay any  
14 extraordinary dividend or make any other extraordinary  
15 distributions to its shareholders without first making a written  
16 request and receiving written approval for such payment from the  
17 commissioner or unless, within the forty-five (45) days after the  
18 commissioner has received such written request, the commissioner  
19 has not disapproved such payment.

20 (2) For purposes of this section, an extraordinary dividend  
21 or distribution includes any dividend or distribution of cash or  
22 other property whose fair market value together with that of other  
23 dividends or distributions made within the preceding twelve (12)  
24 months exceeds the lesser of: (a) ten percent (10%) of such  
25 insurer's surplus as regards policyholders as of the thirty-first  
26 day of December next preceding; or (b) the net gain from  
27 operations of such insurer, if such insurer is a life insurer, or  
28 the net income, if such insurer is not a life insurer, not  
29 including realized capital gains, for the twelve-month period

30 ending the thirty-first day of December next preceding, but shall  
31 not include pro rata distributions of any class of the insurer's  
32 own securities. In determining whether a dividend or distribution  
33 is extraordinary, an insurer may carry forward net gain from  
34 operations, if such insurer is a life insurer, or net income, if  
35 such insurer is not a life insurer, from the previous two (2)  
36 calendar years that has not already been paid out as dividends.  
37 This carry-forward shall be computed by taking the net gain from  
38 operations or the net income, as the case may be, from the second  
39 and third preceding calendar years, not including realized capital  
40 gains, less dividends paid in the second and immediate preceding  
41 calendar years.

42 (3) Notwithstanding any other provision of law, an insurer  
43 may declare an extraordinary dividend or distribution which is  
44 conditional upon the commissioner's approval thereof, and such a  
45 declaration shall confer no rights upon shareholders until \* \* \*  
46 the commissioner has approved the payment of such a dividend or  
47 distribution or \* \* \* the commissioner has not disapproved such  
48 payment within forty-five (45) days after he has received notice  
49 of the declaration.

50 SECTION 2. This act shall take effect and be in force from  
51 and after July 1, 2001.