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

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

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

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

(2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the lesser of: (a) ten percent (10%) of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding; or (b) the net gain from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains, for the twelve-month period.
ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities. In determining whether a dividend or distribution is extraordinary, an insurer may carry forward net gain from operations, if such insurer is a life insurer, or net income, if such insurer is not a life insurer, from the previous two (2) calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net gain from operations or the net income, as the case may be, from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

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

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