

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 644

1 AN ACT TO AMEND SECTION 83-5-55, MISSISSIPPI CODE OF 1972, TO  
 2 DELETE THE PROVISION REQUIRING LIFE INSURANCE COMPANIES TO FILE  
 3 WITH THE COMMISSIONER OF INSURANCE A REPORT SHOWING THE AMOUNT OF  
 4 MISSISSIPPI RESERVES; TO AMEND SECTION 83-15-5, MISSISSIPPI CODE  
 5 OF 1972, TO REQUIRE TITLE INSURANCE COMPANIES TO DEPOSIT WITH THE  
 6 STATE TREASURER A CERTAIN PERCENTAGE OF THEIR CAPITAL STOCK; TO  
 7 AMEND SECTION 83-17-7, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
 8 DATE OF THE REPEALER ON THE PROVISION OF LAW WHICH PROHIBITS  
 9 COMMISSIONS TO UNAUTHORIZED AGENTS AND AUTHORIZES REFERRAL FEES TO  
 10 CERTAIN UNLICENSED EMPLOYEES OF THE AGENT, AGENCY OR AFFILIATE; TO  
 11 AMEND SECTION 83-29-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
 12 LEGAL PROCESSES SERVED UPON THE COMMISSIONER OF INSURANCE AS  
 13 ATTORNEY FOR FRATERNAL SOCIETIES SHALL BE FORWARDED TO FRATERNAL  
 14 SOCIETIES BY CERTIFIED MAIL INSTEAD OF REGISTERED MAIL; AND FOR  
 15 RELATED PURPOSES.

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

17 SECTION 1. Section 83-5-55, Mississippi Code of 1972, is  
 18 amended as follows:

19 83-5-55. Every insurance company shall file in the Office of  
 20 the Commissioner of Insurance, on or before the first day of March  
 21 of each year, a statement showing the business standing and  
 22 financial condition of the company and sworn to by the president  
 23 or vice president and secretary or treasurer or chief managing  
 24 agent or officer of such company. The statement to be filed shall  
 25 be on and in accordance with the NAIC Annual Statement Blank and  
 26 Instructions thereto and the NAIC Accounting Practices and  
 27 Procedures Manual. \* \* \*

28 \* \* \*

29 SECTION 2. Section 83-15-5, Mississippi Code of 1972, is  
 30 amended as follows:

31 83-15-5. (1) A corporation created as herein provided shall  
 32 not issue any title insurance policy until it has capital of not

33 less than One Hundred Fifty Thousand Dollars (\$150,000.00) and  
34 surplus of not less than Seventy-five Thousand Dollars  
35 (\$75,000.00). The total amount of any policy issued by such  
36 corporation without reinsurance shall not exceed fifty percent  
37 (50%) of the capital and surplus of the company, as reflected by  
38 its latest statement to the commissioner. In transactions where a  
39 primary risk is carried by another title insurance company, a  
40 domestic title insurance company may issue its reinsurance or  
41 coinsurance for an amount not exceeding its capital and surplus.

42 (2) A corporation created as herein provided shall deposit  
43 with the State Treasurer fifty percent (50%) of its capital stock,  
44 either in cash or in such bonds or securities in which the company  
45 is authorized by law to invest its funds. Upon such deposit and  
46 evidence, by affidavit or otherwise, satisfactory to the  
47 Commissioner of Insurance that the capital and surplus is all paid  
48 in and that the company is the actual and unqualified owner of the  
49 securities representing the paid-up capital and surplus, he shall  
50 issue to the company his certificate authorizing it to transact  
51 business in this state.

52 SECTION 3. Section 83-17-7, Mississippi Code of 1972, is  
53 amended as follows:

54 83-17-7. It shall be unlawful for any insurance company or  
55 any insurance agent to pay, directly or indirectly, any  
56 commission, brokerage or other valuable consideration on account  
57 of any policy or policies written on risks in this state to any  
58 person, agent, firm or corporation not duly licensed as an  
59 insurance agent in this state, except that property and other  
60 risks of nonresident persons, and of foreign corporations not  
61 qualified in this state, may be insured by brokers or other agents  
62 duly licensed in other states.

63 It shall be lawful, however, for an insurance company or any  
64 insurance agent to pay, directly or indirectly, to the surviving  
65 spouse or heirs of a deceased licensed insurance agent in this

66 state any commissions or other valuable consideration to which the  
67 deceased agent would be entitled, whether such surviving spouse or  
68 heir is or is not a licensed agent.

69 It shall be lawful for an insurance agent, agency or  
70 affiliate to pay a referral fee to any unlicensed employee of the  
71 agent, agency or affiliate when the employee refers a prospective  
72 insured to the licensed agent or agency. The referral fee shall  
73 be a one-time nominal fee of a fixed dollar amount for each  
74 referral customer. The payment of any referral fee shall not  
75 depend on whether the referral results in a sale of any insurance  
76 products. Furthermore, the referral fee shall not be based on a  
77 percentage of any premiums or commissions collected by the  
78 licensed agent. The referral fee shall not be paid, either  
79 directly or indirectly, to the prospective insured.

80 The Commissioner of Insurance may promulgate rules and  
81 regulations necessary to carry out the provisions of this section.

82 The provisions of this section shall stand repealed from and  
83 after July 1, 2006.

84 SECTION 4. Section 83-29-31, Mississippi Code of 1972, is  
85 amended as follows:

86 83-29-31. Every society, whether domestic or foreign, now  
87 transacting business in this state and every such society  
88 hereafter applying for admission shall, before being licensed,  
89 appoint in writing the Commissioner of Insurance and his  
90 successors in office to be its true and lawful attorney on whom  
91 all legal process in any action or proceeding against it shall be  
92 served, and in such writing shall agree that any lawful process  
93 against it which is served upon such attorney shall be of the same  
94 legal force and validity as if served upon the society, and that  
95 the authority shall continue in force so long as any liability  
96 remains outstanding in this state.

97 Copies of such appointment, certified by the Commissioner of  
98 Insurance, shall be deemed sufficient evidence thereof and shall

99 be admitted in evidence with the same force and effect as the  
100 original thereof might be admitted. Service shall only be made  
101 upon such attorney, shall be made in duplicate upon the  
102 Commissioner of Insurance or, in his absence, upon the person in  
103 charge of his office, and shall be deemed sufficient service upon  
104 such society. No such service shall be valid or binding against  
105 any such society when it is required thereunder to file its  
106 answer, pleading, or defense in less than thirty (30) days from  
107 the date of mailing the copy of the service to the society. When  
108 legal process against any such society is served upon the  
109 Commissioner of Insurance, he shall forthwith forward by certified  
110 mail one of the duplicate copies prepaid and directed to the  
111 secretary or corresponding officer. Legal process shall not be  
112 served upon any such society except in the manner provided herein.

113 SECTION 5. This act shall take effect and be in force from  
114 and after July 1, 2001.