

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 649

1 AN ACT TO AMEND SECTION 83-17-123, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE AUTOMATIC SUSPENSION OF AN INSURANCE AGENT'S LICENSE  
3 BEFORE A HEARING IS HELD ON THE MATTER; TO AMEND SECTION 83-39-17,  
4 MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTOMATIC SUSPENSION OF A  
5 BAIL AGENT'S LICENSE BEFORE A HEARING IS HELD ON THE MATTER; AND  
6 FOR RELATED PURPOSES.

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

8 SECTION 1. Section 83-17-123, Mississippi Code of 1972, is  
9 amended as follows:

10 83-17-123. (1) A license may be refused, or a license duly  
11 issued may be suspended or revoked or the renewal thereof refused  
12 by the commissioner if, after notice and hearing as hereinafter  
13 provided, he finds that the applicant for, or holder of, such  
14 license:

15 (a) Has willfully violated any provision of the  
16 insurance laws of this state; or

17 (b) Has intentionally made a material misstatement in  
18 the application for such license; or

19 (c) Has obtained, or attempted to obtain, such license  
20 by fraud or misrepresentation; or

21 (d) Has misappropriated or converted to his own use or  
22 illegally withheld money belonging to an insurer or beneficiary;  
23 or

24 (e) Has otherwise demonstrated lack of trustworthiness  
25 or competence to act as an agent; or

26 (f) Has been guilty of fraudulent or dishonest  
27 practices or has been convicted of a felony; or

28           (g) Has materially misrepresented the terms and  
29 conditions of insurance policies or contracts; or willfully  
30 exaggerated prospective returns on investment features of  
31 policies, or fails to identify himself as an agent and as  
32 receiving a compensation for his participation in the sale of  
33 insurance; or

34           (h) Has made or issued, or caused to be made or issued,  
35 any statement misrepresenting or making incomplete comparisons  
36 regarding the terms or conditions of any insurance or annuity  
37 contract legally issued by any insurer, for the purpose of  
38 inducing or attempting to induce the owner of such contract to  
39 forfeit or surrender such contract or allow it to lapse for the  
40 purpose of replacing such contract with another; or

41           (i) Has obtained or attempted to obtain such license,  
42 not for the purpose of holding himself out to the general public  
43 as an agent, but primarily for the purpose of soliciting,  
44 negotiating or procuring insurance or annuity contracts covering  
45 himself or members of his family; or

46           (j) Has solicited insurance prior to having personally  
47 received a license and a certificate of authority to represent the  
48 particular insurer for which he solicited business, even though  
49 application for same has been made.

50           (2) Before any license is refused (except for failure to  
51 pass a required written examination) or suspended or revoked or  
52 the renewal thereof refused hereunder, the commissioner shall give  
53 notice of his intention so to do, by certified mail, to the  
54 applicant for or holder of such license and the insurer whom he  
55 represents or who desires that he be licensed, and shall set a  
56 date not less than ten (10) days from the date of mailing such  
57 notice when the applicant or licensee and a duly authorized  
58 representative of the insurer may appear to be heard and produce  
59 evidence. \* \* \* In the conduct of such hearing, the commissioner  
60 or any regular salaried employee specially designated by him for

61 such purpose shall have power to administer oaths, to require the  
62 appearance of and examine any person under oath, and to require  
63 the production of books, records or papers relevant to the inquiry  
64 upon his own initiative or upon the request of the applicant or  
65 licensee. Upon the termination of such hearing, findings shall be  
66 reduced to writing and, upon approval by the commissioner, shall  
67 be filed in his office; and notice of the findings shall be sent  
68 by certified mail to the applicant or licensee and the insurer  
69 concerned.

70 (3) Where the grounds set out in paragraph (1)(d) or (1)(g)  
71 are the grounds for any hearing, the commissioner may, in his  
72 discretion in lieu of the hearing provided for in subsection (2)  
73 above, file a petition to suspend or revoke any license authorized  
74 hereunder in a court of competent jurisdiction of the county or  
75 district in which the alleged offense occurred. In such cases,  
76 subpoenas may be issued for witnesses, and mileage and witness  
77 fees paid as in other cases. All costs of the cause shall be paid  
78 by the defendant, if found guilty, and if costs cannot be made and  
79 collected from the defendant, such costs shall be assessed against  
80 the company issuing the contract involved in the cause.

81 (4) No licensee whose license has been revoked hereunder  
82 shall be entitled to file another application for a license as an  
83 agent within one (1) year from the effective date of such  
84 revocation or, if judicial review of such revocation is sought,  
85 within one (1) year from the date of final court order or decree  
86 affirming such revocation. Such application, when filed, may be  
87 refused by the commissioner unless the applicant shows good cause  
88 why the revocation of his license shall not be deemed a bar to the  
89 issuance of a new license.

90 (5) In addition to, or in lieu of, the remedies provided in  
91 this section, the commissioner may, after a hearing in accordance  
92 with subsection (2), impose an administrative fine for violations  
93 of paragraphs (a) through (j) of subsection (1). Such

94 administrative fine shall not exceed One Thousand Dollars  
95 (\$1,000.00) per violation and shall be deposited into the special  
96 fund in the State Treasury designated as the "Insurance Department  
97 Fund."

98 (6) In addition to the reasons specified in subsection (1)  
99 of this section, the commissioner shall be authorized to suspend  
100 the license of any licensee for being out of compliance with an  
101 order for support, as defined in Section 93-11-153. The procedure  
102 for suspension of a license for being out of compliance with an  
103 order for support, and the procedure for the reissuance or  
104 reinstatement of a license suspended for that purpose, and the  
105 payment of any fees for the reissuance or reinstatement of a  
106 license suspended for that purpose, shall be governed by Section  
107 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
108 board in suspending a license when required by Section 93-11-157  
109 or 93-11-163 are not actions from which an appeal may be taken  
110 under this section. Any appeal of a license suspension that is  
111 required by Section 93-11-157 or 93-11-163 shall be taken in  
112 accordance with the appeal procedure specified in Section  
113 93-11-157 or 93-11-163, as the case may be, rather than the  
114 procedure specified in this section. If there is any conflict  
115 between any provision of Section 93-11-157 or 93-11-163 and any  
116 provision of this chapter, the provisions of Section 93-11-157 or  
117 93-11-163, as the case may be, shall control.

118 SECTION 2. Section 83-39-17, Mississippi Code of 1972, is  
119 amended as follows:

120 83-39-17. Before any license shall be refused or suspended  
121 or revoked, or the renewal thereof refused hereunder, the  
122 commissioner shall give notice of his intention to do so, by  
123 registered mail, to the applicant or licensee and to the insurer  
124 or professional bail agent appointing or employing the applicant  
125 or licensee, as the case may be, and shall set a date, not less  
126 than twenty (20) days from the date of mailing the notice, when

127 the applicant or licensee and a duly authorized representative of  
128 the insurer or professional bail agent may appear to be heard and  
129 produce evidence. \* \* \* In the conduct of the hearing, the  
130 commissioner or any regular salaried employee specially designated  
131 by him for this purpose shall have power to administer oaths, to  
132 require the appearance of and examine any person under oath, and  
133 to require the production of books, records, or papers relevant to  
134 the inquiry upon his own initiative or upon the request of the  
135 applicant or licensee. Upon the termination of the hearing,  
136 findings shall be reduced to writing and, upon approval by the  
137 commissioner, shall be filed in his office and notice of the  
138 findings sent by registered mail to the applicant or licensee and  
139 the insurer or professional bail agent concerned.

140 SECTION 3. This act shall take effect and be in force from  
141 and after July 1, 2001.