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

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

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

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

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

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

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

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

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

(f) Has been guilty of fraudulent or dishonest practices or has been convicted of a felony; or
(g) Has materially misrepresented the terms and conditions of insurance policies or contracts; or willfully exaggerated prospective returns on investment features of policies, or fails to identify himself as an agent and as receiving a compensation for his participation in the sale of insurance; or

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

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

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

(2) Before any license is refused (except for failure to pass a required written examination) or suspended or revoked or the renewal thereof refused hereunder, the commissioner shall give notice of his intention so to do, by certified mail, to the applicant for or holder of such license and the insurer whom he represents or who desires that he be licensed, and shall set a date not less than ten (10) days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurer may appear to be heard and produce evidence. * * * In the conduct of such hearing, the commissioner or any regular salaried employee specially designated by him for
such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon the termination of such hearing, findings shall be reduced to writing and, upon approval by the commissioner, shall be filed in his office; and notice of the findings shall be sent by certified mail to the applicant or licensee and the insurer concerned.

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

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

(5) In addition to, or in lieu of, the remedies provided in this section, the commissioner may, after a hearing in accordance with subsection (2), impose an administrative fine for violations of paragraphs (a) through (j) of subsection (1). Such
administrative fine shall not exceed One Thousand Dollars ($1,000.00) per violation and shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

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

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

83-39-17. Before any license shall be refused or suspended or revoked, or the renewal thereof refused hereunder, the commissioner shall give notice of his intention to do so, by registered mail, to the applicant or licensee and to the insurer or professional bail agent appointing or employing the applicant or licensee, as the case may be, and shall set a date, not less than twenty (20) days from the date of mailing the notice, when
the applicant or licensee and a duly authorized representative of
the insurer or professional bail agent may appear to be heard and
produce evidence. * * * In the conduct of the hearing, the
commissioner or any regular salaried employee specially designated
by him for this purpose shall have power to administer oaths, to
require the appearance of and examine any person under oath, and
to require the production of books, records, or papers relevant to
the inquiry upon his own initiative or upon the request of the
applicant or licensee. Upon the termination of the hearing,
findings shall be reduced to writing and, upon approval by the
commissioner, shall be filed in his office and notice of the
findings sent by registered mail to the applicant or licensee and
the insurer or professional bail agent concerned.

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