

By: Representatives Stevens, Barbour,  
Coleman (65th), Masterson

To: Insurance

HOUSE BILL NO. 652

1 AN ACT TO AUTHORIZE THE USE OF CLEARING CORPORATIONS AND THE  
2 FEDERAL RESERVE BOOK-ENTRY SYSTEM BY INSURANCE COMPANIES FOR THE  
3 DEPOSIT OF SECURITIES; TO DEFINE CERTAIN TERMS; TO AUTHORIZE THE  
4 COMMISSIONER OF INSURANCE TO PROMULGATE RULES AND REGULATIONS  
5 GOVERNING SUCH DEPOSITS; TO AMEND SECTIONS 83-7-21, 83-19-31 AND  
6 83-21-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
7 RELATED PURPOSES.

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

9 SECTION 1. The purpose of Sections 1 through 3 of this act  
10 is to authorize domestic insurance companies to utilize modern  
11 systems for holding and transferring securities without physical  
12 delivery of securities certificates, subject to appropriate  
13 regulations of the Commissioner of Insurance.

14 SECTION 2. As used in Sections 1 through 3 of this act, the  
15 term:

16 (a) "Clearing corporation" means a corporation as  
17 defined in Section 75-8-102, except that with respect to  
18 securities issued by institutions organized or existing under the  
19 laws of any foreign country or securities used to meet the deposit  
20 requirements pursuant to the laws of a foreign country as a  
21 condition of doing business therein, clearing corporation may  
22 include a corporation which is organized or existing under the  
23 laws of any foreign country and is legally qualified under such  
24 laws to effect transactions in securities by computerized  
25 book-entry.

26 (b) "Direct participant" means a bank or trust company  
27 or other institution which maintains an account in its name in a

28 clearing corporation and through which an insurance company  
29 participates in a clearing corporation.

30 (c) "Federal Reserve book-entry system" means the  
31 computerized systems sponsored by the United States Department of  
32 the Treasury and certain agencies and instrumentalities of the  
33 United States for holding and transferring securities of the  
34 United States government and such agencies and instrumentalities,  
35 respectively, in Federal Reserve Banks through banks which are  
36 members of the Federal Reserve System or which otherwise have  
37 access to such computerized systems.

38 (d) "Member bank" means a national bank, state bank or  
39 trust company which is a member of the Federal Reserve System and  
40 through which an insurance company participates in the Federal  
41 Reserve book-entry system.

42 (e) "Securities" means instruments as defined in  
43 Section 75-8-102 or as permitted by the insurance laws of the  
44 State of Mississippi.

45 SECTION 3. (1) Notwithstanding any other provision of law,  
46 a domestic insurance company may deposit or arrange for the  
47 deposit of securities held in or purchased for its general account  
48 and its separate accounts in a clearing corporation or the Federal  
49 Reserve book-entry system. When securities are deposited with a  
50 clearing corporation, certificates representing securities of the  
51 same class of the same issuer may be merged and held in bulk in  
52 the name of the nominee of such clearing corporation with any  
53 other securities deposited with such clearing corporation by any  
54 person, regardless of the ownership of such securities, and  
55 certificates representing securities of small denominations may be  
56 merged into one or more certificates of larger denominations. The  
57 records of any member bank through which an insurance company  
58 holds securities in the Federal Reserve book-entry system, and the  
59 records of any custodian banks through which an insurance company  
60 holds securities in a clearing corporation shall at all times show

61 that such securities are held for such insurance company and for  
62 which accounts thereof. Ownership of, and other interests in,  
63 such securities may be transferred by bookkeeping entry on the  
64 books of such clearing corporation or in the Federal Reserve  
65 book-entry system without, in either case, physical delivery of  
66 certificates representing such securities.

67 (2) The Commissioner of Insurance is authorized to  
68 promulgate rules and regulations governing the deposit by  
69 insurance companies of securities with clearing corporations and  
70 in the Federal Reserve book-entry system.

71 SECTION 4. Section 83-7-21, Mississippi Code of 1972, is  
72 amended as follows:

73 83-7-21. The reserve liabilities for all policies in force  
74 in any domestic company being ascertained in the manner provided  
75 in Section 83-7-23, the Insurance Commissioner shall notify it of  
76 the amount. The officers of such company shall deposit with the  
77 State Treasurer for the security and benefit of all the  
78 policyholders the sum of One Hundred Thousand Dollars  
79 (\$100,000.00). Provided, this sum may be increased to the amount  
80 necessary for a domestic company to be qualified to do business in  
81 another state, so long as such state will accept a certificate  
82 verified by the State Treasurer of Mississippi showing that such  
83 company has on deposit in Mississippi the required sum.

84 So long as the company continues solvent and complies with  
85 the laws of the state, it may collect the income on such  
86 securities. The company may substitute therefor other securities  
87 recognized by law as lawful investments of the company; provided,  
88 however, it shall be the duty of the State Treasurer to accept  
89 from such insurance companies securities tendered to him for  
90 deposit upon the representation of such companies by their  
91 officers or agents that such securities comply with the laws of  
92 the State of Mississippi, as provided in this chapter. Once a  
93 year the Insurance Commissioner shall examine all of the

94 securities so deposited and all of the securities held as reserves  
95 by each company and either approve or disapprove such securities.  
96 Should he disapprove any such securities, then such securities  
97 shall be replaced by such companies with other securities approved  
98 by the Insurance Commissioner, sufficient in amount to comply with  
99 the requirement of deposit with the State Treasurer and sufficient  
100 in amount under the law. Any fraud on the part of any officer or  
101 agent of a company in making any substitution of securities shall  
102 be a violation of law and subject any such person to the penalties  
103 provided in this chapter.

104 It is also provided that all bonds or other evidences of debt  
105 having a fixed term and rate held by any life insurance company  
106 authorized to do business in this state may, if amply secured and  
107 not in default as to principal and interest, be valued as follows:  
108 if purchased at par, at the par value; if purchased above or below  
109 par, on the basis of the purchase price adjusted so as to bring  
110 the value to par at maturity and so as to yield in the meantime  
111 the effective rate of interest at which the purchase was made;  
112 provided that the purchase price shall in no case be taken at a  
113 higher figure than the actual market value at the time of  
114 purchase; and, provided further that the Insurance Commissioner  
115 shall have full discretion in determining the method of  
116 calculating values according to the foregoing rule.

117 When in the opinion of the State Treasurer there is  
118 insufficient space in vaults and safes in the Treasury Department  
119 in which to keep the securities as provided in this chapter, then  
120 the State Treasurer is authorized, empowered, and directed to:

121 (a) Deposit for safekeeping in the vaults of any of the  
122 state or national banks located within this state which are  
123 members of the Federal Deposit Insurance Corporation and which  
124 have appropriate safekeeping facilities which have been approved  
125 by the State Depository Commission, any Federal Reserve bank, any  
126 Federal Reserve branch bank, or any bank which is a member of the

127 Federal Reserve system and is located in a city where there is a  
128 Federal Reserve branch bank, the securities placed with him by  
129 insurance companies; or

130 (b) Accept, in lieu of the securities themselves,  
131 safekeeping trust receipts issued to the State Treasurer by the  
132 authorized safekeeping banks located within this state which are  
133 members of the Federal Deposit Insurance Corporation and which  
134 have appropriate safekeeping facilities which have been approved  
135 by the State Depository Commission, such safekeeping trust  
136 receipts to describe the securities and show that such securities  
137 are held for safekeeping for the account of the State Treasurer.  
138 The securities so deposited shall not be commingled in any manner  
139 with the assets of the safekeeping bank.

140 The State Treasurer shall be responsible to such insurance  
141 companies for any loss of securities deposited with and actually  
142 held by the State Treasurer under the provisions of this chapter.

143 Notwithstanding any other provision of law, the securities  
144 qualified for deposit under this section may be deposited with a  
145 clearing corporation or held in the Federal Reserve book-entry  
146 system. Securities deposited with a clearing corporation or held  
147 in the Federal Reserve book-entry system and used to meet the  
148 deposit requirements set forth in this section shall be under the  
149 control of the Insurance Commissioner and shall not be withdrawn  
150 by the insurance company without the approval of the Insurance  
151 Commissioner. Any insurance company holding securities in such  
152 manner shall provide to the Insurance Commissioner evidence issued  
153 by its custodian or member bank through which such insurance  
154 company has deposited such securities in a clearing corporation or  
155 through which such securities are held in the Federal Reserve  
156 book-entry system, respectively, in order to establish that the  
157 securities are actually recorded in an account in the name of the  
158 custodian or other direct participant or member bank, and that the  
159 records of the custodian, other participant or member bank reflect

160 that such securities are held subject to the order of the  
161 Insurance Commissioner.

162 SECTION 5. Section 83-19-31, Mississippi Code of 1972, is  
163 amended as follows:

164 83-19-31. (1) No corporation so formed shall transact any  
165 other business than that specified in its charter and articles of  
166 association. Companies so formed must meet the following capital  
167 and surplus requirements:

168 (a) Single-line companies so formed to write a  
169 classification listed in paragraphs (a) through (n) in Section  
170 27-15-83, the minimum capital requirement shall be Four Hundred  
171 Thousand Dollars (\$400,000.00) and the surplus shall be a minimum  
172 of Six Hundred Thousand Dollars (\$600,000.00).

173 (b) Multi-line companies so formed to write a  
174 combination of the classifications listed in paragraphs (a)  
175 through (n) in Section 27-15-83, the minimum capital requirement  
176 shall be Six Hundred Thousand Dollars (\$600,000.00) and the  
177 surplus shall be a minimum of Nine Hundred Thousand Dollars  
178 (\$900,000.00).

179 (c) Companies so formed for the purpose of transacting  
180 the business of life insurance on the industrial plan may organize  
181 with a minimum capital of One Hundred Thousand Dollars  
182 (\$100,000.00) and a minimum surplus of Fifty Thousand Dollars  
183 (\$50,000.00).

184 An industrial life insurer shall be limited to the following:

185 1. A life insurance policy, in the aggregate value  
186 of Five Thousand Dollars (\$5,000.00) in death benefits, exclusive  
187 of multiple indemnity benefits.

188 2. A disability policy in the aggregate benefits  
189 of Sixty Dollars (\$60.00) per week.

190 3. A policy providing benefits for dismembered and  
191 broken limbs and/or loss of eyesight in the aggregate of Five  
192 Thousand Dollars (\$5,000.00) per policy year.

193                   4. A policy which provides benefits for the  
194 payment for or furnishing of hospitalization, drugs, attending  
195 physicians and surgical costs in the aggregate of Three Thousand  
196 Five Hundred Dollars (\$3,500.00) per policy year.

197                   (d) All mutual and reciprocal companies shall possess  
198 at the time of initial license and maintain thereafter a surplus,  
199 after deductions for services, in an amount equal to the capital  
200 and surplus requirements of a stock company writing similar lines  
201 of insurance.

202                   (e) If at any time the surplus of such domestic company  
203 or association shall be less than the minimum surplus noted above,  
204 such company or association shall be considered impaired; and it  
205 shall be the duty of the officers of such company or association  
206 to report any such impairment of surplus to the State Commissioner  
207 of Insurance in writing within ten (10) days after such impairment  
208 occurs. When any such impairment is reported, or if the  
209 Commissioner of Insurance should determine that the company is  
210 operating in an impaired condition, the commissioner may suspend  
211 the certificate of authority and license of such domestic  
212 insurance company or association to do business in this state  
213 until such company shall raise or increase its surplus to the  
214 minimum amount required herein.

215                   (2) Any domestic company qualifying under the foregoing  
216 sections shall deposit with the State Treasurer fifty percent  
217 (50%) of its capital stock, either in cash or in such bonds or  
218 securities in which such company is authorized by law to invest  
219 its funds. Upon such deposit and evidence, by affidavit or  
220 otherwise, satisfactory to the Insurance Commissioner that the  
221 capital and surplus is all paid in and that the company is the  
222 actual and unqualified owner of the securities representing the  
223 paid-up capital and surplus, he shall issue to such company his  
224 certificate authorizing it to transact business in this state.

225           The provisions of this section as to the minimum requirements  
226 as to paid-up capital stock and cash surplus shall not become  
227 effective until January 1, 1988, concerning any domestic company  
228 which was authorized to do business and was writing business in  
229 this state on July 1, 1985.

230           Notwithstanding any other provision of law, the securities  
231 qualified for deposit under this section may be deposited with a  
232 clearing corporation or held in the Federal Reserve book-entry  
233 system. Securities deposited with a clearing corporation or held  
234 in the Federal Reserve book-entry system and used to meet the  
235 deposit requirements set forth in this section shall be under the  
236 control of the Insurance Commissioner and shall not be withdrawn  
237 by the insurance company without the approval of the Insurance  
238 Commissioner. Any insurance company holding securities in such  
239 manner shall provide to the Insurance Commissioner evidence issued  
240 by its custodian or member bank through which such insurance  
241 company has deposited such securities in a clearing corporation or  
242 through which such securities are held in the Federal Reserve  
243 book-entry system, respectively, in order to establish that the  
244 securities are actually recorded in an account in the name of the  
245 custodian or other direct participant or member bank, and that the  
246 records of the custodian, other participant or member bank reflect  
247 that such securities are held subject to the order of the  
248 Insurance Commissioner.

249           (3) No insurance company, including any mutual insurance  
250 company, organized under the laws of this state and transacting  
251 business in this state shall expose itself to loss on any one (1)  
252 risk or hazard to an amount exceeding ten percent (10%) of its  
253 paid-up capital and surplus unless the excess is reinsured in some  
254 other company duly authorized to transact similar business in this  
255 state or as otherwise provided in the insurance code. For  
256 purposes of this subsection, the terms "risk" and "hazard" apply



257 to the subject matter of any one (1) insurance policy and not to  
258 any one (1) peril.

259 (4) The Commissioner of Insurance may require additional  
260 capital and surplus based on the type, nature or volume of  
261 business transacted.

262 SECTION 6. Section 83-21-3, Mississippi Code of 1972, is  
263 amended as follows:

264 83-21-3. (1) No foreign insurance company, association, or  
265 other insurance entity, either stock, mutual, or reciprocal, shall  
266 be admitted to do business or granted a certificate of authority  
267 or license to do business in this state unless and until such  
268 company or association shall have done business for a period of at  
269 least two (2) years in the state of its domicile, or unless such  
270 company seeking admission is the subsidiary or affiliate of a  
271 company already licensed in Mississippi.

272 (2) No foreign stock insurance company shall be admitted or  
273 granted a certificate of authority or license to do business in  
274 this state unless its paid-up capital stock and its surplus at the  
275 time of licensing or renewal of license shall be equal to that  
276 required for the organization or incorporation of a like domestic  
277 company under the laws of this state.

278 (3) No foreign mutual or reciprocal insurance company or  
279 association shall be admitted or granted a certificate of  
280 authority or license to do business in this state unless, at the  
281 time of licensing or renewal of license, its surplus shall be  
282 equal to that required by the laws of this state for the  
283 organization or formation of a like domestic insurance company or  
284 association.

285 (4) No foreign stock, mutual, or reciprocal insurance  
286 company or association, incorporated or organized under the laws  
287 of any state of the United States, shall be admitted to do  
288 business, or granted a certificate of authority, or have license  
289 therefor renewed until such company shall have deposited with the

290 State Treasurer of this state securities in an amount not less  
291 than Fifty Thousand Dollars (\$50,000.00). Securities deposited in  
292 accordance with this section shall be classified as admitted  
293 assets for the purpose of determining eligibility of such  
294 securities. Provided, however, any company maintaining a deposit  
295 with the insurance regulatory authority or any other designated  
296 public official of its state of domicile, or of any other state,  
297 in trust for the benefit of all its policyholders, or  
298 policyholders and creditors, may be exempt from the deposit herein  
299 provided upon such company delivering to the Insurance  
300 Commissioner a certificate to such effect, duly authenticated by  
301 the appropriate state official holding such deposit. The  
302 commissioner may require in addition to the certification of  
303 deposit by the public official of its state of domicile an amount  
304 not less than Fifty Thousand Dollars (\$50,000.00) be deposited  
305 with the State Treasurer of this state. Any deposit made in this  
306 state under the provisions of this section shall be for the  
307 exclusive use and benefit of policyholders, or policyholders and  
308 creditors, in this state; and such deposit shall not bar claim to  
309 other assets of the company by policyholders, or policyholders and  
310 creditors, in this state in the event of insolvency, receivership,  
311 or liquidation of the company.

312 Notwithstanding any other provision of law, the securities  
313 eligible for deposit under the insurance laws of this state  
314 relating to deposit of securities by an insurance company as a  
315 condition of commencing or continuing to do an insurance business  
316 in this state may be deposited with a clearing corporation or held  
317 in the Federal Reserve book-entry system. Securities deposited  
318 with a clearing corporation or held in the Federal Reserve  
319 book-entry system and used to meet the deposit requirements under  
320 the insurance laws of this state shall be under the control of the  
321 Insurance Commissioner and shall not be withdrawn by the insurance  
322 company without the approval of the Insurance Commissioner. Any

323 insurance company holding securities in such manner shall provide  
324 to the Insurance Commissioner evidence issued by its custodian or  
325 member bank through which such insurance company has deposited  
326 such securities in a clearing corporation or through which such  
327 securities are held in the Federal Reserve book-entry system,  
328 respectively, in order to establish that the securities are  
329 actually recorded in an account in the name of the custodian or  
330 other direct participant or member bank, and that the records of  
331 the custodian, other participant or member bank reflect that such  
332 securities are held subject to the order of the Insurance  
333 Commissioner.

334 (5) In case any insurer which has made a deposit with the  
335 Commissioner of Insurance, or other designated official or  
336 custodian in this state, of cash or securities in trust for the  
337 protection of its policyholders or creditors or both in this  
338 state, or of its policyholders or creditors or both in the United  
339 States, thereafter becomes merged or consolidated in accordance  
340 with the laws of this state if a domestic insurer, or in  
341 accordance with the laws of its domiciliary state or nation if a  
342 foreign or alien insurer, and upon the effectuation of the merger  
343 or consolidation, the resulting corporation is or becomes  
344 authorized to do business in this state, the commissioner, or  
345 other designated official or custodian, as the case may be, upon  
346 the resulting corporation's being so authorized, shall release and  
347 transfer the cash or securities so deposited by the merged or  
348 consolidated insurer to the resulting corporation, or to such  
349 person as it may designate to take and receive the same.

350 If any insurer which has made such a deposit with the  
351 Commissioner of Insurance or other designated official or  
352 custodian in the state hereafter withdraws from and ceases to do  
353 business in this state, and has paid or provided for the payment  
354 of all its obligations and liabilities to its policyholders and  
355 creditors in this state by the assumption or reinsurance of the

356 same by an insurer which is or becomes authorized to transact  
357 business in this state, the Commissioner of Insurance or other  
358 designated official or custodian, as the case may be, shall  
359 release and transfer the cash or securities constituting its  
360 deposit to such withdrawing insurer, or to such person as it may  
361 designate to take and receive the same.

362 Any release or transfer pursuant hereto shall be made upon  
363 application to and the written order of the Commissioner of  
364 Insurance. Neither the Commissioner of Insurance, nor other  
365 designated official or custodian, as the case may be, shall have  
366 any liability for the release or transfer of any such deposit made  
367 or authorized in good faith.

368 SECTION 7. This act shall take effect and be in force from  
369 and after July 1, 2001.