S. B. No. 2162

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

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

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

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

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

(b) "Direct participant" means a bank or trust company or other institution which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation.
(c) "Federal Reserve book-entry system" means the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System or which otherwise have access to such computerized systems.

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

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

SECTION 3. (1) Notwithstanding any other provision of law, a domestic insurance company may deposit or arrange for the deposit of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the Federal Reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of any member bank through which an insurance company holds securities in the Federal Reserve book-entry system, and the records of any custodian banks through which an insurance company holds securities in shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities
may be transferred by bookkeeping entry on the books of such clearing corporation or in the Federal Reserve book-entry system without, in either case, physical delivery of certificates representing such securities.

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

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

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

So long as the company continues solvent and complies with the laws of the state, it may collect the income on such securities. The company may substitute therefor other securities recognized by law as lawful investments of the company; provided, however, it shall be the duty of the State Treasurer to accept from such insurance companies securities tendered to him for deposit upon the representation of such companies by their officers or agents that such securities comply with the laws of the State of Mississippi, as provided in this chapter. Once a year the Insurance Commissioner shall examine all of the securities so deposited and all of the securities held as reserves by each company and either approve or disapprove such securities.
Should he disapprove any such securities, then such securities shall be replaced by such companies with other securities approved by the Insurance Commissioner, sufficient in amount to comply with the requirement of deposit with the State Treasurer and sufficient in amount under the law. Any fraud on the part of any officer or agent of a company in making any substitution of securities shall be a violation of law and subject any such person to the penalties provided in this chapter.

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

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

(a) Deposit for safekeeping in the vaults of any of the state or national banks located within this state which are members of the Federal Deposit Insurance Corporation and which have appropriate safekeeping facilities which have been approved by the State Depository Commission, any Federal Reserve bank, any Federal Reserve branch bank, or any bank which is a member of the Federal Reserve system and is located in a city where there is a...
Federal Reserve branch bank, the securities placed with him by insurance companies; or

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

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

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

Insurance Commissioner.

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

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

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

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

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

An industrial life insurer shall be limited to the
following:

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

2. A disability policy in the aggregate benefits
of Sixty Dollars ($60.00) per week.
3. A policy providing benefits for dismembered and broken limbs and/or loss of eyesight in the aggregate of Five Thousand Dollars ($5,000.00) per policy year.

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

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

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

(2) Any domestic company qualifying under the foregoing sections shall deposit with the State Treasurer fifty percent (50%) of its capital stock, either in cash or in such bonds or securities in which such company is authorized by law to invest its funds. Upon such deposit and evidence, by affidavit or otherwise, satisfactory to the Insurance Commissioner that the capital and surplus is all paid in and that the company is the actual and unqualified owner of the securities representing the
paid-up capital and surplus, he shall issue to such company his

certificate authorizing it to transact business in this state.

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

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

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

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purposes of this subsection, the terms "risk" and "hazard" apply
to the subject matter of any one (1) insurance policy and not to
any one (1) peril.

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

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

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

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

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

(4) No foreign stock, mutual, or reciprocal insurance
company or association, incorporated or organized under the laws
of any state of the United States, shall be admitted to do
business, or granted a certificate of authority, or have license
therefor renewed until such company shall have deposited with the State Treasurer of this state securities in an amount not less than Fifty Thousand Dollars ($50,000.00). Securities deposited in accordance with this section shall be classified as admitted assets for the purpose of determining eligibility of such securities. Provided, however, any company maintaining a deposit with the insurance regulatory authority or any other designated public official of its state of domicile, or of any other state, in trust for the benefit of all its policyholders, or policyholders and creditors, may be exempt from the deposit herein provided upon such company delivering to the Insurance Commissioner a certificate to such effect, duly authenticated by the appropriate state official holding such deposit. The commissioner may require in addition to the certification of deposit by the public official of its state of domicile an amount not less than Fifty Thousand Dollars ($50,000.00) be deposited with the State Treasurer of this state. Any deposit made in this state under the provisions of this section shall be for the exclusive use and benefit of policyholders, or policyholders and creditors, in this state; and such deposit shall not bar claim to other assets of the company by policyholders, or policyholders and creditors, in this state in the event of insolvency, receivership, or liquidation of the company.

Notwithstanding any other provision of law, the securities eligible for deposit under the insurance law of this state relating to deposit of securities by an insurance company as a condition of commencing or continuing to do an insurance business in this state may be deposited with a clearing corporation or held in the Federal Reserve book-entry system. Securities deposited with a clearing corporation or held in the Federal Reserve book-entry system and used to meet the deposit requirements under the insurance laws of this state shall be under the control of the Insurance Commissioner and shall not be withdrawn by the insurance
company without the approval of the Insurance Commissioner. Any insurance company holding securities in such manner shall provide to the Insurance Commissioner evidence issued by its custodian or member bank through which such insurance company has deposited such securities in a clearing corporation or through which such securities are held in the Federal Reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or member bank, and that the records of the custodian, other participant or member bank reflect that such securities are held subject to the order of the Insurance Commissioner.

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

If any insurer which has made such a deposit with the Commissioner of Insurance or other designated official or custodian in the state hereafter withdraws from and ceases to do business in this state, and has paid or provided for the payment of all its obligations and liabilities to its policyholders and
creditors in this state by the assumption or reinsurance of the
same by an insurer which is or becomes authorized to transact
business in this state, the Commissioner of Insurance or other
designated official or custodian, as the case may be, shall
release and transfer the cash or securities constituting its
deposit to such withdrawing insurer, or to such person as it may
designate to take and receive the same.

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

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