

By: Representatives Stevens, Chism, Coleman (65th), Dedeaux, Eads, Formby, Ketchings, Masterson, Montgomery (74th), Robinson (63rd), Robinson (84th), Simpson To: Insurance

HOUSE BILL NO. 688

1 AN ACT TO AMEND SECTION 83-19-51, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE PERCENTAGE OF ASSETS THAT A DOMESTIC INSURANCE  
3 COMPANY MAY INVEST; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 83-19-51, Mississippi Code of 1972, is  
6 amended as follows:

7 83-19-51. (1) A domestic insurance company may invest its  
8 capital, surplus, and other funds, or certain parts thereof, in  
9 the following:

10 (a) Bonds or other evidence of indebtedness of the  
11 United States, of any state of the United States, of the Dominion  
12 of Canada, or of any province thereof.

13 (b) Bonds or other evidence of indebtedness of any  
14 county, city, town, village, school district, municipal district,  
15 or other civil district within the United States or the Dominion  
16 of Canada.

17 (c) Bonds or notes secured by mortgages or deeds of  
18 trust upon unencumbered real estate in the United States or  
19 Dominion of Canada worth at least thirty-three and one-third  
20 percent (33-1/3%) more than the amount loaned thereon, and may  
21 also loan upon the security of improved unencumbered real property  
22 in any state, provided the security be eligible for insurance and  
23 be insured under provisions of the National Housing Act and any  
24 amendments thereto. Where improvements on the land constitute a  
25 part of the value on which the loan is made, the improvements  
26 shall be insured against fire and tornado for the benefit of the  
27 mortgagee, in an amount not less than the difference between



28 seventy-five percent (75%) of the value of the land and the amount  
29 of the loan. For the purposes of this paragraph (c), real estate  
30 shall not be deemed to be encumbered within the meaning of this  
31 section by reason of the existence of taxes or assessments that  
32 are not delinquent, instruments creating or reserving mineral,  
33 oil, or timber rights, rights-of-way, joint driveways, sewer  
34 rights, rights in walls, or other comparable or similar  
35 instruments, rights, restrictions, and covenants, nor by reason of  
36 building restrictions or restrictive covenants, nor when such real  
37 estate is subject to lease in whole or in part whereby rents or  
38 profits are reserved to the owner, provided such lease and the  
39 notes for rent given thereunder be assigned by the lessor to the  
40 company.

41 (d) Bonds, notes, or other evidences of indebtedness  
42 which are secured by mortgages, security deeds, vendor's liens, or  
43 deeds of trust upon leasehold estates having an unexpired term of  
44 twenty-five (25) years or longer in improved unencumbered real  
45 estate in the United States worth at least thirty-three and  
46 one-third percent (33-1/3%) more than the amount loaned thereon.  
47 For the purposes of this paragraph (d), the real estate on which  
48 such leasehold estate exists shall not be deemed to be encumbered  
49 within the meaning of this section by reason of the existence of  
50 taxes or assessments that are not delinquent, instruments creating  
51 or reserving mineral, oil, or timber rights, rights-of-way, joint  
52 driveways, sewer rights, rights in walls, or other comparable or  
53 similar instruments, rights, restrictions, and covenants, nor by  
54 reason of building restrictions or restrictive covenants.

55 (e) In bankers' acceptances and bills of exchange of  
56 the kinds and maturities made eligible by law for rediscount with  
57 Federal Reserve banks, provided that the same are accepted by a  
58 bank or trust company incorporated under the laws of the United  
59 States, of this commonwealth, or by any other bank or trust  
60 company which is a member of the Federal Reserve system. However,



61 not more than ten percent (10%) of the admitted assets shall be so  
62 invested.

63 (f) Stock in Federal Home Loan Bank, or bonds,  
64 debentures, notes, or other evidences of indebtedness, or the  
65 preferred or guaranteed stock or shares of any solvent institution  
66 created or existing under the laws of the United States, of any  
67 state thereof, of the Dominion of Canada, or of any province  
68 thereof, if such institution, or in the case of guaranteed bonds,  
69 debentures, notes, or other evidences of indebtedness, or  
70 guaranteed stocks or shares, the guaranteeing institution, during  
71 each of any three (3) years, including the last two (2) years, of  
72 the five (5) years next preceding such investment, shall have  
73 earned a sum applicable to dividends equal, at least, to four  
74 percent (4%) upon the par value (or, in the case of stock or  
75 shares having no par value, then upon the value upon which such  
76 stock was issued) of all its capital stock or shares outstanding  
77 in each of such three (3) years. No life insurance company shall  
78 invest in its own stock and may not invest more than ten percent  
79 (10%) of its total assets in the preferred or guaranteed stock or  
80 bonds of any one (1) corporation, as above described.

81 (g) Loans upon the pledge of any of the securities  
82 herein authorized.

83 (h) In adequately secured equipment trust certificates  
84 or other adequately secured instruments evidencing an interest in  
85 equipment wholly or partly within the United States, and a right  
86 to receive determined portions or rental, purchase or other fixed  
87 obligatory payments for the use or purchase of such equipment,  
88 provided that not more than five percent (5%) of its total assets  
89 be so invested.

90 (i) The common capital stock of any bank or trust  
91 company which is a member of the Federal Deposit Insurance  
92 Corporation and has earned no less than five percent (5%) on its  
93 total capital accounts for each of the preceding three (3) years,



94 not to exceed, however, ten percent (10%) of the actually issued  
95 and outstanding common capital stock of any one (1) such bank or  
96 trust company; or a building and loan association which is a  
97 member of the Federal Savings and Loan Insurance Association and  
98 has earned no less than five percent (5%) on its total capital  
99 accounts for each of the preceding three (3) years, not to exceed,  
100 however, ten percent (10%) of the actually issued and outstanding  
101 common capital stock of any one (1) such building and loan  
102 association; provided that not more than five percent (5%) of the  
103 assets of such domestic company shall be so invested at any time  
104 in common stock of either banks or trust companies, or building  
105 and loan associations, or in an aggregate of the two (2).

106        Provided, however, no domestic insurance company may acquire  
107 common stock in any bank or building and loan association in this  
108 state when such acquisition will cause the aggregate of such stock  
109 held by any domestic insurance company or companies to exceed  
110 fifteen percent (15%) of the common stock of such bank or building  
111 and loan association.

112        (j) A life insurance company may also purchase for its  
113 own benefit any policy of life insurance or other obligation of  
114 the company and claims of the holders thereof, and may lend to the  
115 holders of its life insurance policies sums not exceeding in any  
116 case the reserve value of the policy at the time the loan is made  
117 and, for the payment of any such loan, the policy and all profits  
118 thereon shall be pledged.

119        (k) A company doing business in a foreign country may  
120 invest the funds required to meet its obligations in such country  
121 and, in conformity to the laws thereof, in the same kinds of  
122 securities in such foreign country that such company is allowed by  
123 law to invest in the United States.

124        (l) Bonds or other evidences of indebtedness of the  
125 Inter-American Development Bank.



126           (m) Cash or deposits in checking or savings accounts,  
127 under certificates of deposit or in any other form, or other  
128 certificates or evidence of indebtedness from solvent banks and  
129 trust companies and in savings accounts, certificates of deposit  
130 or similar certificates or evidences of deposits in solvent  
131 savings and loan associations and building and loan associations.

132           (n) Construction loans, repurchase agreement  
133 transactions, standby mortgage loan commitments, electronic,  
134 computer or data processing equipment investments, financial risk  
135 limiting and balancing transactions, including put and call  
136 options purchased solely for legitimate financial futures hedging,  
137 nonspeculative purposes if these transactions are traded upon a  
138 contract market designated and regulated by a federal agency.

139           (o) Bonds or other evidences of indebtedness of the  
140 African Development Bank.

141           (p) Any other investment expressly authorized by law.

142           (2) Any domestic company may invest an amount not to exceed  
143 \* \* \* ten percent (10%) of its total admitted assets and to  
144 further increase such authority by an additional four percent (4%)  
145 provided such four percent (4%) investments are made in the State  
146 of Mississippi without regard to the limitations of any other  
147 subsection of this section or of any other act or acts regulating  
148 or governing the investments of domestic companies.

149           (3) Any domestic company may invest an amount not to exceed  
150 ten percent (10%) of its admitted assets in common shares of  
151 solvent corporations incorporated under the laws of any of the  
152 states among the United States of America without regard to the  
153 restrictions in, and notwithstanding the provisions of, any other  
154 subsection of this section or of any other act or acts regulating  
155 or governing the investments of domestic companies; provided,  
156 however, that the solvent corporation, during each of any three  
157 (3) years, including the last two (2) years, of the five (5) years  
158 next preceding such investment, shall have earned a sum applicable



159 to dividends equal, at least, to four percent (4%) upon the par  
160 value (or, in the case of stock or shares having no par value,  
161 then upon the value upon which such stock was issued) of all of  
162 its capital stock or shares outstanding in each of such three (3)  
163 years. No life insurance company shall invest more than five  
164 percent (5%) of its admitted assets in common shares of any one  
165 (1) corporation as hereinbefore provided.

166 Conflict of interest. Provided, however, no domestic  
167 insurance company shall under this section acquire common stock in  
168 any company where the officers or directors of the insurance  
169 company, individually or collectively, hold an interest in excess  
170 of ten percent (10%) of the company in which the common stock is  
171 acquired. For the purpose of this limitation, interest is defined  
172 as actual ownership, ownership in the name of a trustee, ownership  
173 in the name of a relative within the third degree, ownership in  
174 the name of an owned or controlled corporation or business, or  
175 ownership in the form of an option.

176 Provided, further, no officer or director of the insurance  
177 company shall either directly or indirectly derive any profit or  
178 revenue from stock purchases under the above subsection, either in  
179 the form of commissions, brokerage, or the outright sale of shares  
180 of stock to the insurance company.

181 (4) No amount at any time shall be loaned from any funds or  
182 investments described herein to any stockholder, officer or  
183 director of the company; provided, however, this subsection shall  
184 not prohibit any person from obtaining a loan or exercising other  
185 contractual rights pursuant to the provisions of a policy or  
186 contract for insurance to which the person is a party or otherwise  
187 has the legal right to exercise such contractual rights.

188 (5) Notwithstanding the provisions of this section, the  
189 commissioner may, after notice and hearing, order a company to  
190 limit or withdraw from certain investments, or discontinue certain  
191 investment practices, to the extent that the commissioner finds



192 that such investments or investment practices endanger the  
193 solvency of the company.

194 (6) No loan or investment, except loans on the security of  
195 life insurance policies, shall be made by any such company unless  
196 the same shall have been authorized by the board of directors or  
197 by a committee thereof charged with the duty of supervising loans  
198 or investments, and no company shall enter into any agreement to  
199 withhold from sale any of its securities or property; but the  
200 disposition of its assets shall at all times be within the control  
201 of the company.

202 Nothing in this law shall prohibit a company from accepting  
203 in good faith, to protect its interest, securities or property  
204 other than herein referred to, in payment of or to secure debts  
205 due or to become due the company.

206 (7) Nothing in this section shall be construed as affecting  
207 any investment existing on April 27, 1966; and this section shall  
208 not repeal Sections 43-33-301 through 43-33-307 of the Mississippi  
209 Code of 1972.

210 **SECTION 2.** This act shall take effect and be in force from  
211 and after July 1, 2003.

