

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2259

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

