

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 342

1 AN ACT TO AMEND SECTION 83-37-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE COMMISSIONER OF INSURANCE SHALL REVIEW THE
3 SWORN STATEMENTS OF BURIAL ASSOCIATIONS CONCERNING THEIR BUSINESS
4 DURING THE PREVIOUS YEAR TO DETERMINE THEIR ABILITY TO PAY THE
5 BENEFITS PROMISED UNDER THEIR CONTRACTS; TO AMEND SECTION
6 83-37-21, MISSISSIPPI CODE OF 1972, TO INCREASE PENALTIES ON
7 BURIAL ASSOCIATIONS WHO FAIL TO PROCURE OR RENEW PRIVILEGE
8 LICENSES; TO AMEND SECTION 83-37-25, MISSISSIPPI CODE OF 1972, TO
9 INCREASE THE AMOUNT ALLOWED FOR AN ACCOUNTANT'S EXPENSES IN
10 CONDUCTING THE YEARLY EXAMINATION OF THE BOOKS OF A BURIAL
11 ASSOCIATION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 83-37-19, Mississippi Code of 1972, is
14 amended as follows:

15 83-37-19. All such persons, firms, associations or
16 corporations shall, annually before the fifteenth day of February
17 of each year, in accordance with the requirements of a form
18 prepared and furnished by the Commissioner of Insurance for that
19 purpose and in such detail as the commissioner shall prescribe,
20 file with the commissioner a sworn statement of its business
21 during the year previous, ending with December 31, showing the
22 number of contracts in force, the number of contracts matured and
23 unpaid, the amount of liability in force on said contracts at the
24 end of the year, the business standing and the financial
25 conditions of said persons, firms, associations, or corporation,
26 and such other information as may be required by the Commissioner
27 of Insurance. The Commissioner of Insurance shall review the
28 information contained in the form to determine the ability of the
29 person, firm, association or corporation to pay the benefits
30 promised under its contracts. A person, firm, association or

31 corporation shall be held to be legally solvent as long as its
32 funds are equal to or in excess of its matured liabilities.

33 **SECTION 2.** Section 83-37-21, Mississippi Code of 1972, is
34 amended as follows:

35 83-37-21. When the above and foregoing provisions have been
36 complied with by any person, firm, association or corporation, the
37 Insurance Commissioner shall issue a license to such person, firm,
38 association or corporation upon the payment to him of a privilege
39 tax to engage in such business, according to the following
40 schedule, to-wit:

41	Any person, firm, association or corporation	
42	beginning the business or having not exceeding	
43	five hundred (500) contracts.....	\$ 50.00
44	Same, where contracts exceed five hundred (500) but	
45	do not exceed one thousand (1,000).....	100.00
46	Same, where contracts exceed one thousand (1,000)	
47	but do not exceed fifteen hundred (1500).....	150.00
48	Same, where contracts exceed fifteen hundred (1500)	
49	but do not exceed two thousand (2,000).....	200.00
50	Same, where contracts exceed two thousand	
51	(2,000).....	250.00

52 and the payment of said license shall exempt such person, firm,
53 association or corporation from any other privilege tax on account
54 of said business. Provided, however, that nothing in this chapter
55 shall exempt any such person, firm, association or corporation
56 from the payment of any tax now imposed by law for conducting an
57 undertaker's business or selling coffins. Every agent of any
58 corporation organized or admitted to do business hereunder shall
59 be required to obtain from the Commissioner of Insurance a
60 perpetual agent certificate as prescribed in Sections 83-5-73 and
61 83-17-5, Mississippi Code of 1972, under the seal of his office
62 showing that the company for which he or she is agent is licensed
63 to do business in this state and that he or she is an agent of

64 said company and duly authorized to do business for it. Every such
65 agent on demand shall exhibit the said certificate to the person
66 from whom he or she shall solicit contracts, and every such agent
67 shall annually pay a privilege tax of Five Dollars (\$5.00). The
68 Insurance Commissioner may issue a duplicate certificate in case
69 of loss or destruction of the original certificate and charge
70 therefor a fee of Five Dollars (\$5.00), and the Insurance
71 Commissioner shall have the right to pass upon the qualifications
72 of any such agent before issuing to him or her a license, and for
73 good cause shall have the right to cancel such license.

74 Any person, firm, association or corporation liable for the
75 privilege tax imposed herein who shall fail to procure the license
76 therefor before beginning the business for which such privilege
77 tax is required, or who shall fail to renew, during the month in
78 which it is due, the license on said business for which a
79 privilege license has theretofore been issued, shall, in each or
80 either instance, be liable for the amount of the tax required for
81 such business and a penalty of Two Hundred Fifty Dollars
82 (\$250.00). It is hereby made the duty of the Insurance
83 Commissioner to collect the said tax and penalty, and the
84 commissioner, or his duly authorized representative, may make
85 immediate demand upon such person, firm, association or
86 corporation for the payment of such tax and penalty, and proceed
87 to collect the same as is provided by law for the collection of
88 other privilege licenses, penalties and damages.

89 **SECTION 3.** Section 83-37-25, Mississippi Code of 1972, is
90 amended as follows:

91 83-37-25. The Insurance Commissioner shall have full
92 authority to examine the books, records, papers, and all other
93 data belonging to or bearing on the business of any such person,
94 firm, association or corporation and may designate any practical
95 accountant to make said examination at a reasonable per diem and
96 expenses not to exceed the sum of Two Hundred Fifty Dollars

97 (\$250.00) for any one (1) year, to be paid by such person, firm,
98 association or corporation. If upon examination the Insurance
99 Commissioner be of the opinion that the capital stock of a
100 domestic corporation has become impaired, or that any foreign
101 company admitted to do business hereunder is insolvent, the
102 commissioner may thereupon for said reason cancel its license to
103 do business in this state.

104 Any person, firm or corporation that may refuse to permit the
105 Insurance Commissioner or any practical accountant designated by
106 him to examine the books, records, papers and all other data
107 belonging to or bearing on the business of any such person, firm
108 or corporation shall have his, their, or its license canceled and
109 revoked by the commissioner.

110 The Insurance Commissioner shall have full power in the
111 regulation of any person, firm, or corporation, foreign or
112 domestic, and anyone attempting to write burial certificate
113 contracts without first having secured a license and having
114 qualified under the provisions of statutes which govern, may be
115 prosecuted under the provisions of Section 83-37-29.

116 **SECTION 4.** This act shall take effect and be in force from
117 and after July 1, 2004.