

By: Representatives Bailey, Holloway

To: Insurance

HOUSE BILL NO. 390

1 AN ACT TO AMEND SECTION 71-3-63, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE ATTORNEY FOR THE CLAIMANT IN WORKERS'
3 COMPENSATION CASES SHALL BE ALLOWED REIMBURSEMENT OF ALL
4 REASONABLE LITIGATION EXPENSES FROM THE CLAIMANT'S PORTION OF THE
5 AWARD OF COMPENSATION; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-3-63, Mississippi Code of 1972, is
8 amended as follows:

9 71-3-63. (1) No claim for legal services or for any other
10 services rendered in respect of a claim or award for compensation,
11 to or on account of any person, shall be valid unless approved by
12 the commission or, if proceedings for review of the order of the
13 commission in respect of such claim or award are had before any
14 court, unless approved by such court. Any claim so approved
15 shall, in the manner and to the extent fixed by the commission or
16 such court, be a lien upon such compensation.

17 (2) Any person (a) who receives any fee, other
18 consideration, or any gratuity on account of services so rendered,
19 unless such consideration or gratuity is approved by the
20 commission or such court, or (b) who makes it a business to
21 solicit employment for a lawyer or for himself in respect of any
22 claim or award for compensation, shall be guilty of a misdemeanor
23 and, upon conviction thereof, shall for each offense be punished
24 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
25 imprisonment not to exceed one (1) year, or by both such fine and
26 imprisonment.

27 (3) Representation of one other than himself or herself
28 before the commission shall be considered the practice of law, and



29 all statutes applying to and regulating the practice in all other
30 courts of law in this state shall likewise apply to practice
31 before the commission, insofar as the qualifications of those
32 practicing before the commission are concerned. This paragraph
33 shall not be construed as tightening the rules of evidence which
34 are otherwise relaxed in other sections of this chapter.

35 In no instance shall the amount recovered by an attorney for
36 an appearance before the commission exceed twenty-five percent
37 (25%) of the total award of compensation. Such limitations,
38 however, shall not be construed as applying to a fee awarded for
39 additional services by any superior court. In addition to the fee
40 awarded by the commission or any superior court, the attorney
41 shall be allowed reimbursement of all reasonable litigation
42 expenses from the claimant's portion of the award of compensation.

43 Legal services rendered where no motion to controvert has been
44 filed by either employer or employee shall be considered as
45 consultation, and that factor shall be taken into consideration in
46 awarding a fee. In all instances, fees shall be awarded on the
47 basis of fairness to both attorney and client. Although
48 exceptions may be made in the interest of justice, it shall be
49 deemed conducive to the best interest of all concerned for the
50 commission to approve contracts for attorneys' fees voluntarily
51 entered into between attorney and client, within the limitations
52 hereinabove set out.

53 When an award of compensation becomes final and an attorney's
54 fee and expenses of litigation are outstanding, a partial lump sum
55 settlement sufficient to cover the attorney's fee and expenses of
56 litigation approved therein by the commission shall be made
57 immediately, from payments last to become due, and the deductions
58 allowed by the law shall be borne equally by the attorney and the
59 client.

60 **SECTION 2.** This act shall take effect and be in force from
61 and after July 1, 2004.

