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To: Insurance

HOUSE BILL NO. 834
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 71-3-159, MISSISSIPPI CODE OF 1972,
2 TO CREATE TWO NONPROFIT UNINCORPORATED LEGAL ENTITIES TO BE KNOWN
3 AS THE "MISSISSIPPI WORKERS' COMPENSATION INDIVIDUAL SELF-INSURER
4 GUARANTY ASSOCIATION" AND THE "MISSISSIPPI WORKERS' COMPENSATION
5 GROUP SELF-INSURER GUARANTY ASSOCIATION"; TO PROVIDE THAT ANY
6 INDIVIDUAL OR GROUP SELF-INSURER COMPOSED OF THE STATE, OR ANY
7 AGENCY THEREOF, OR COUNTY OR MUNICIPAL GOVERNMENTS SHALL NOT BE
8 REQUIRED TO BE MEMBERS OF THE INDIVIDUAL ASSOCIATION OR THE GROUP
9 ASSOCIATION; TO AMEND SECTION 71-3-157, MISSISSIPPI CODE OF 1972,
10 TO REVISE DEFINITIONS; TO AMEND SECTION 71-3-161, MISSISSIPPI CODE
11 OF 1972, TO PROVIDE FOR BOARDS OF DIRECTORS OF THE INDIVIDUAL
12 ASSOCIATION AND THE GROUP ASSOCIATION; TO AMEND SECTION 71-3-163,
13 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL FUNDS IN THE
14 MISSISSIPPI WORKERS' COMPENSATION SELF-INSURER GUARANTY
15 ASSOCIATION SHALL BECOME AND REMAIN ASSETS OF THE MISSISSIPPI
16 WORKERS' COMPENSATION INDIVIDUAL SELF-INSURER GUARANTY
17 ASSOCIATION; TO PROVIDE FOR CERTAIN ASSESSMENTS TO EACH INDIVIDUAL
18 SELF-INSURER AND TO EACH GROUP SELF-INSURER; TO AMEND SECTION
19 71-3-165, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT EACH
20 ASSOCIATION SHALL SUBMIT A PLAN OF OPERATION TO THE COMMISSION; TO
21 AMEND SECTION 71-3-169, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
22 CERTAIN EXPENSES, INTEREST AND PENALTIES SHALL BE ADDED TO ANY
23 RECOVERY BY AN ASSOCIATION FROM A SELF-INSURER IN DEFAULT; TO
24 AMEND SECTION 71-3-173, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
25 CERTAIN EXAMINATIONS OF THE FINANCIAL CONDITION OF MEMBER
26 SELF-INSURERS AND GROUP SELF-INSURERS; TO CREATE NEW CODE SECTION
27 71-3-174, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SPECIAL
28 ASSESSMENT PLANS IF AN ASSOCIATION ASSUMES OBLIGATIONS OF AN
29 INDIVIDUAL SELF-INSURER OR GROUP SELF-INSURER WHICH EXCEED THE
30 ASSETS OF SUCH ASSOCIATION; TO AMEND SECTIONS 71-3-153, 71-3-167,
31 71-3-175, 71-3-177, 71-3-179 AND 71-3-181, MISSISSIPPI CODE OF
32 1972, IN CONFORMITY THERETO; TO AMEND SECTION 83-21-21,
33 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CERTAIN PROCEEDS OF THE
34 FEES LEVIED AND COLLECTED BY THE ASSOCIATION OF SURPLUS LINES
35 AGENTS ARE PUBLIC FUNDS THAT ARE SUBJECT TO TRANSFER TO THE
36 DEPARTMENT OF INSURANCE SPECIAL FUND BY THE LEGISLATURE; AND FOR
37 RELATED PURPOSES.

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

39 **SECTION 1.** Section 71-3-153, Mississippi Code of 1972, is
40 amended as follows:

41 71-3-153. The purpose of Sections 71-3-151 through 71-3-181
42 is to provide a mechanism for the payment of the covered claims
43 under the Workers' Compensation Law, to avoid excessive delay in
44 payment and to avoid financial loss to claimants because of the

45 insolvency of a self-insurer, to assist in the detection and
46 prevention of self-insurer insolvencies, and to provide * * *
47 associations to assess the cost of such protection among
48 self-insurers.

49 Sections 71-3-151 through 71-3-181 shall apply to all
50 employers who are self-insurers under the provisions of Section
51 71-3-75, Mississippi Code of 1972.

52 **SECTION 2.** Section 71-3-157, Mississippi Code of 1972, is
53 amended as follows:

54 71-3-157. For the purposes of Sections 71-3-151 through
55 71-3-181, the following words shall have the meanings ascribed
56 herein unless the context shall otherwise require:

57 (a) "Individual association" means the Mississippi
58 Workers' Compensation Individual Self-insurer Guaranty Association
59 created under Section 71-3-159.

60 (b) "Group association" means the Mississippi Workers'
61 Compensation Group Self-insurer Guaranty Association created under
62 Section 71-3-159.

63 (c) "Commission" means the Mississippi Workers'
64 Compensation Commission.

65 (d) "Compensation" means amounts payable to claimants
66 under the Mississippi Workers' Compensation Law as defined in
67 Section 71-3-3(j), Mississippi Code of 1972.

68 (e) "Covered claim" means an unpaid claim upon which
69 compensation or medical is payable by an individual self-insurer
70 or a group self-insurer under the Workers' Compensation Law.

71 (f) "Self-insurer in default" means an individual
72 self-insurer or a group self-insurer as defined by this chapter
73 that has defaulted or failed for any reason to satisfy any of its
74 obligations under the Workers' Compensation Law, including,
75 without limitation, all obligations for payment of indemnity
76 compensation, disability, expenses of medical, hospital, surgical,
77 rehabilitation and other services, death benefits and funeral

78 expenses, whether such default or failure is the result of
79 insolvency or bankruptcy or receivership or otherwise.

80 (g) "Member self-insurer" means a self-insurer as
81 defined by this chapter who is a member of the Mississippi
82 Workers' Compensation Individual Self-insurer Guaranty Association
83 or the Mississippi Workers' Compensation Group Self-insurer
84 Guaranty Association.

85 (h) "Individual self-insurer" is an employer who has
86 been authorized under Section 71-3-75(2), Mississippi Code of
87 1972, to insure under the Workers' Compensation Law.

88 (i) "Group self-insurer" is a group of employers who
89 have been authorized under Section 71-3-75(3), Mississippi Code of
90 1972, to insure under the Workers' Compensation Law.

91 (j) "Person" means any individual, corporation,
92 partnership, association or voluntary organization.

93 **SECTION 3.** Section 71-3-159, Mississippi Code of 1972, is
94 amended as follows:

95 71-3-159. The Mississippi Workers' Compensation Self-insurer
96 Guaranty Association created under this chapter shall be renamed
97 as the "Mississippi Workers' Compensation Individual Self-insurer
98 Guaranty Association" and there is created a separate nonprofit
99 unincorporated legal entity to be known as the "Mississippi
100 Workers' Compensation Group Self-insurer Guaranty Association."
101 All individual self-insurers shall be and remain members of the
102 individual association and all group self-insurers shall be and
103 remain members of the group association as a condition of their
104 authority under Section 71-3-75, Mississippi Code of 1972. These
105 associations shall perform their functions under * * * plans of
106 operation established and approved under Section 71-3-165 and
107 shall exercise their powers through * * * boards of directors
108 established under Section 71-3-161. However, any individual or
109 group self-insurer composed of the state, or any agency thereof,

110 or county or municipal governments shall not be required to be
111 members of the individual association or the group association.

112 **SECTION 4.** Section 71-3-161, Mississippi Code of 1972, is
113 amended as follows:

114 71-3-161. (1) The boards of directors of the individual
115 association and the group association shall each consist of not
116 less than five (5) nor more than nine (9) persons, serving terms
117 as established in their plans of operation. The members of each
118 of the boards shall be selected by their respective member
119 self-insurers, subject to the approval of the commission.
120 Vacancies of the boards shall be filled for the remaining period
121 of the term in the same manner as initial appointments.

122 (2) In approving selections to the boards, the commission
123 shall consider, among other things, whether all member
124 self-insurers of their respective association are fairly
125 represented.

126 (3) Subject to board approval, members of the boards may be
127 reimbursed from the assets of their respective associations for
128 expenses, including, but not limited to, attorney fees, incurred
129 by them as members of the boards of directors.

130 **SECTION 5.** Section 71-3-163, Mississippi Code of 1972, is
131 amended as follows:

132 71-3-163. (1) Each association shall:

133 (a) Be obligated to the extent of its covered claims
134 existing prior to the date of default and arising within thirty
135 (30) days after the date of default. In no event shall an
136 association be obligated to a claimant in an amount in excess of
137 the obligation of the defaulting member self-insurer of such
138 association.

139 (b) Be deemed the self-insurer to the extent of
140 obligations on its * * * covered claims and to such extent shall
141 have all rights, duties and obligations of the individual

142 self-insurer in default or insolvent group self-insurer in default
143 as if such self-insurer were not in default.

144 (c) Assess its respective individual self-insurers or
145 group self-insurers amounts necessary to pay the obligations of
146 the association under subsection (2) of this section, the expenses
147 of handling covered claims and other expenses authorized by
148 Sections 71-3-151 through 71-3-181. The assessments of each
149 individual self-insurer and each group self-insurer shall be two
150 percent (2%) of the gross paid compensation and medical supplies
151 and services of said member self-insurer during each period of six
152 (6) months. Said two percent (2%) assessment shall be collected
153 by the commission at the same time as and pursuant to the
154 procedures adopted by the commission pursuant to Section 71-3-99,
155 Mississippi Code of 1972. If the obligations of the individual
156 association incurred on or after July 1, 2004, for covered claims
157 arising before July 1, 2004, plus necessary expenses of the
158 individual association incurred on or after July 1, 2004, in
159 evaluating, adjusting, defending or settling such covered claims,
160 exceed the total amount of funds held by the individual
161 association on July 1, 2004, then and to that extent all
162 individual employers and groups of employers who were
163 self-insurers on the dates that the covered claims arose shall be
164 liable for a special assessment in the amount of such deficiency.
165 This special assessment shall be collected by the commission in
166 accordance with the procedures adopted by the commission under
167 Section 71-3-99. All obligations for covered claims arising on or
168 after July 1, 2004, shall be the sole obligation of the
169 association to which the self-insurer in default belongs. The two
170 percent (2%) assessment on each individual self-insurer and on
171 each group self-insurer shall be collected by the commission until
172 the sum of Two Million Dollars (\$2,000,000.00) is accumulated by
173 the individual association and the sum of One Million Dollars
174 (\$1,000,000.00) is accumulated by the group association. At that

175 time the assessments shall be suspended. However, any employer
176 that becomes authorized under Section 71-3-75 to be a member
177 self-insurer after July 1, 1996, is not entitled to have the two
178 percent (2%) assessment suspended until such member self-insurer
179 has contributed to the guaranty fund to which it belongs for the
180 first four (4) years such employer is a member self-insurer * * *
181 regardless of the amount in the guaranty fund of the association
182 to which it belongs. The two percent (2%) assessment shall be
183 reinstated for all member self-insurers of the individual
184 association at any time that the guaranty fund balance of the
185 individual association reaches One Million Five Hundred Thousand
186 Dollars (\$1,500,000.00) and such assessment shall continue until
187 such time as the balance * * * is Two Million Dollars
188 (\$2,000,000.00). The two percent (2%) assessment shall be
189 reinstated for all member self-insurers of the group association
190 at any time that the guaranty fund balance of the group
191 association reaches Seven Hundred Fifty Thousand Dollars
192 (\$750,000.00) and such assessment shall continue until such time
193 as the balance is One Million Dollars (\$1,000,000.00). If the
194 maximum assessment, together with the other assets of an
195 association, does not provide in any one (1) year an amount
196 sufficient to make all necessary payments, the funds available in
197 such association shall be paid as directed by the commission and
198 any unpaid portion shall be paid as soon thereafter as funds in
199 such association become available. When the guaranty fund balance
200 of the group association reaches One Million Dollars
201 (\$1,000,000.00), the commission may waive the need for bonding
202 requirements for self-funded pools.

203 (d) Investigate claims brought against the association;
204 adjust, compromise, settle and pay covered claims to the extent of
205 the association's obligations; deny all other claims; and may
206 review settlements, releases and judgments to which the member
207 self-insurer in default were parties to determine the extent to

208 which such settlements, releases and judgments may be properly
209 contested.

210 (e) Notify such persons as the commission directs under
211 Section 71-3-167(2)(a).

212 (f) Handle claims through its employees or through one
213 or more other persons designated as servicing facilities.
214 Designation of a servicing facility is subject to the approval of
215 the commission.

216 (g) Reimburse each servicing facility for obligations
217 of the association paid by the facility and for expenses incurred
218 by the facility while handling claims on behalf of the
219 association, and shall pay the other expenses of the association
220 authorized by Sections 71-3-151 through 71-3-181.

221 (2) Each association may:

222 (a) Employ or retain such persons as are necessary to
223 handle claims and perform other duties of the association.

224 (b) Sue or be sued.

225 (c) Negotiate and become a party to such contracts as
226 are necessary to carry out the purposes of Sections 71-3-151
227 through 71-3-181.

228 (d) Perform such other acts as are necessary or proper
229 to effectuate the purposes of Sections 71-3-151 through 71-3-181.

230 **SECTION 6.** Section 71-3-165, Mississippi Code of 1972, is
231 amended as follows:

232 71-3-165. (1) Each association shall submit to the
233 commission a plan of operation and any amendments thereto
234 necessary or suitable to assure the fair, reasonable and equitable
235 administration of the association. The plan of operation and any
236 amendments thereto shall become effective upon approval in writing
237 by the commission.

238 (2) If at any time an association fails to submit suitable
239 amendments to its plan, the commission shall, after notice and
240 hearings, adopt and promulgate such reasonable rules as are

241 necessary or advisable to effectuate the provisions of Sections
242 71-3-151 through 71-3-181. Such rules shall continue in force
243 until modified by the commission or superseded by a plan submitted
244 by the noncomplying association and approved by the commission.

245 (3) All member self-insurers shall comply with the plan of
246 operation of the association to which they belong. The plan of
247 operation of each association shall:

248 (a) Establish the procedures whereby all the powers and
249 duties of the association under Section 71-3-163 will be
250 performed.

251 (b) Establish procedures for handling assets of the
252 association.

253 (c) Establish the amount and method of reimbursing
254 members of the board of directors under Section 71-3-161.

255 (d) Establish procedures by which claims may be filed
256 with the association, and establish acceptable forms of proof of
257 covered claims.

258 (e) Establish regular places and times for meetings of
259 the board of directors.

260 (f) Establish procedures for records to be kept of all
261 financial transactions of the association, its agents and the
262 board of directors.

263 (g) Provide that any individual self-insurer or group
264 self-insurer aggrieved by any final action or decision of the
265 association to which it belongs may appeal to the commission
266 within thirty (30) days after the action or decision.

267 (h) Establish the procedures whereby selections for the
268 board of directors will be submitted to the commission.

269 (i) Contain additional provisions necessary or proper
270 for the execution of the powers and duties of the association.

271 (4) The plan of operation of each association may provide
272 that any or all powers and duties of the association, except those
273 under Section 71-3-163(1)(c) and Section 71-3-174, are delegated

274 to a corporation, association or other organization which performs
275 or will perform functions similar to those of the association.
276 Such a corporation, association or organization shall be
277 reimbursed as a servicing facility would be reimbursed, and shall
278 be paid for its performance of any other functions of the
279 association. A delegation under this subsection shall take effect
280 only with the approval of both the board of directors of the
281 association and the commission, and may be made only to a
282 corporation, association or organization which extends protection
283 not substantially less favorable and effective than that provided
284 by Sections 71-3-151 through 71-3-181.

285 **SECTION 7.** Section 71-3-167, Mississippi Code of 1972, is
286 amended as follows:

287 71-3-167. (1) The commission shall:

288 (a) Upon the request of an association or of any other
289 party or without any request on its own motion, enter any
290 appropriate order finding a member self-insurer to be in default
291 and to determine the date of such default and promptly notify the
292 association to which such member self-insurer belongs of the
293 existence of such default and the date of such default.

294 (b) Upon request of the board of directors of an
295 association, provide such association with a statement of
296 compensation payments of each member self-insurer of such
297 association.

298 (2) The commission may:

299 (a) Require that the group association notify the
300 member self-insurers of any group self-insurer in default and any
301 other interested parties of the default. Such notification shall
302 be by mail at their last known address, where available, but if
303 sufficient information for notification by mail is not available,
304 notice by publication in a newspaper of general circulation shall
305 be sufficient.

306 (b) Suspend or revoke, after notice and hearing, the
307 authority to self-insure granted under Section 71-3-75,
308 Mississippi Code of 1972, of any member self-insurer who fails to
309 pay an assessment when due, or fails to comply with the plan of
310 operation of the association to which it belongs. As an
311 alternative, the commission may levy a fine on any member
312 self-insurer who fails to pay an assessment when due or fails to
313 comply with the plan of operation. Such fine shall not exceed
314 five percent (5%) of the unpaid assessment per month, except that
315 no fine shall be less than One Hundred Dollars (\$100.00) per
316 month.

317 (c) Revoke the designation of any servicing facility if
318 it finds claims are being handled unsatisfactorily.

319 (3) Any final action or order of the commission under
320 Sections 71-3-151 through 71-3-181 shall be subject to judicial
321 review in a court of competent jurisdiction.

322 **SECTION 8.** Section 71-3-169, Mississippi Code of 1972, is
323 amended as follows:

324 71-3-169. (1) Any person recovering from an association
325 under Sections 71-3-151 through 71-3-181 shall be deemed to have
326 assigned his rights under the Workers' Compensation Law to such
327 association to the extent of his recovery from such association.
328 Any claimant seeking the protection of Sections 71-3-151 through
329 71-3-181 shall cooperate with the association against which claim
330 is made to the same extent as such person would have been required
331 to cooperate with the member self-insurer in default. Such
332 association shall have no cause of action under the Workers'
333 Compensation Law against the claimant * * * of the member
334 self-insurer in default for any sums it has paid out except such
335 causes of action as such member self-insurer in default would have
336 had if such sums had been paid by such member self-insurer in
337 default.

338 (2) An association may recover from the self-insurer in
339 default and from a group self-insurer in default all amounts paid
340 by such association on account of covered claims of employees of
341 the member self-insurer in default and any group self-insurer in
342 default to which such member self-insurer in default belongs, as
343 well as all expenses incurred by such association in evaluating,
344 adjusting, defending or settling covered claims of such
345 employees * * *. It shall be presumed that all amounts paid by
346 such association under this section are reasonable, necessary and
347 otherwise in compliance with this chapter. There shall be added
348 to any recovery under this section expenses of litigation of such
349 association in obtaining such recovery, interest at the rate of
350 eight percent (8%) per annum commencing on the date of such
351 default and a ten percent (10%) penalty.

352 **SECTION 9.** Section 71-3-173, Mississippi Code of 1972, is
353 amended as follows:

354 71-3-173. To aid in the detection and prevention of
355 individual self-insurer insolvencies and group self-insurer
356 insolvencies:

357 (a) The board of directors of an association may, upon
358 majority vote, request that the commission order an examination of
359 any of its member self-insurers and group self-insurers which the
360 board in good faith believes may be in a financial condition
361 hazardous to the potential claimants or the public. Upon making
362 any such request to the commission, such board of directors shall
363 recommend for commission approval persons to perform the
364 examination. The examination shall commence within thirty (30)
365 days following the commission's approval of such request for
366 examination. The commission may request a board of directors to
367 recommend for commission approval, and a board of directors can
368 request the commission to approve, alternative persons to complete
369 an examination if it is believed the examination is not being
370 performed in a timely and efficient manner. * * * The cost of

371 such examination shall be paid by the association requesting such
372 examination, and * * * examination reports shall be forwarded to
373 the commission and treated as are other examination reports. In
374 no event shall reports of such examination * * * be released to
375 the board of directors of such association prior to release to the
376 public, but this shall not preclude the commission from complying
377 with paragraph (b) of this section. The commission shall notify
378 the board of directors of such association when the examination is
379 completed. Each request for an examination by an association
380 shall be kept on file by the commission, but it shall not be open
381 to public inspection prior to the release of an examination report
382 to the public.

383 (b) It shall be the duty of the commission to report to
384 the board of directors of an association when it has reasonable
385 cause to believe that any member self-insurer or group
386 self-insurer examined or being examined at the request of the
387 board of directors of such association may be insolvent or in a
388 financial condition hazardous to potential claimants or the
389 public.

390 (c) The board of directors of an association may, upon
391 majority vote, make reports and recommendations to the commission
392 upon any matter germane to the solvency, bankruptcy or
393 reorganization of any of its member self-insurers and group
394 self-insurers. Such reports and recommendations shall not be
395 considered public documents.

396 (d) The board of directors of an association may, upon
397 majority vote, make recommendations to the commission for the
398 detection and prevention of member self-insurer insolvencies and
399 group self-insurer insolvencies.

400 (e) The board of directors of an association shall, at
401 the conclusion of any * * * insolvency, bankruptcy case or * * *
402 default * * * where such association was obligated to pay covered
403 claims, prepare a report on the history and causes of such

404 insolvency and bankruptcy, based on the information available to
405 such association, and submit such report to the commission.

406 **SECTION 10.** The following section shall be codified as
407 Section 71-3-174, Mississippi Code of 1972:

408 71-3-174. If an association assumes any obligations of an
409 individual self-insurer or group self-insurer under this chapter,
410 and payments of such obligations exceed the assets of such
411 association, such association shall within not less than sixty
412 (60) days thereafter submit for approval by the commission a plan
413 for special assessment of each individual self-insurer and group
414 self-insurer who may be responsible for payment of such
415 obligations in excess of the assets of such association. Such
416 plan for special assessment shall also include the expenses of
417 such association related to the processing of obligations covered
418 by the special assessment plan. Failure to comply with a
419 commission-approved special assessment plan of an association
420 shall create a cause of action in favor of such association
421 against any noncompliant member self-insurer and any noncompliant
422 group self-insurer for recovery of payments and expenses by such
423 association for which the noncompliant member self-insurer or
424 noncompliant group self-insurer should have been obligated. It
425 shall be presumed that all obligations paid by an association
426 pursuant to a commission-approved special assessment plan,
427 including, but not limited to, expenses associated with processing
428 such obligations, are reasonable, necessary and otherwise in
429 compliance with the requirements of this chapter. There shall be
430 added to any recovery under this section expenses of litigation of
431 such association related to such cause of action, interest at the
432 rate of eight percent (8%) per annum beginning on the date of such
433 noncompliance and a ten percent (10%) penalty.

434 **SECTION 11.** Section 71-3-175, Mississippi Code of 1972, is
435 amended as follows:

436 71-3-175. The individual association and group association
437 shall be subject to examination and regulation by the commission.
438 The board of directors of each association shall submit, not later
439 than March 30 of each year, a financial report for the preceding
440 calendar year in a form approved by the commission. The
441 commission shall furnish the board of directors of an association
442 any records of the commission which would aid in the preparation
443 of this financial report.

444 **SECTION 12.** Section 71-3-177, Mississippi Code of 1972, is
445 amended as follows:

446 71-3-177. The individual association and group association
447 shall be exempt from payment of all fees and all taxes levied by
448 this state or any of its subdivisions except taxes levied on real
449 or personal property.

450 **SECTION 13.** Section 71-3-179, Mississippi Code of 1972, is
451 amended as follows:

452 71-3-179. Subject to Section 71-3-174, there shall be no
453 liability on the part of and no cause of action of any nature
454 shall arise against any individual self-insurer, any group
455 self-insurer, association, * * * agents and employees of an
456 association, board of directors of an association, and the
457 commission and its employees and representatives, or any of them,
458 for any good faith, affirmative action taken by any of them in the
459 performance of their powers and duties under Sections 71-3-151
460 through 71-3-181. This section does not apply to individual
461 employers who are members of a group self-insurer. Such immunity
462 shall not extend to any acts of gross negligence by any such
463 individual self-insurer, group self-insurer, association, agents
464 and employees of an association, board of directors of an
465 association and the commission and its employees and
466 representative committed in the performance of their duties
467 hereunder.

468 **SECTION 14.** Section 71-3-181, Mississippi Code of 1972, is
469 amended as follows:

470 71-3-181. All proceedings in which any individual
471 self-insurer in default or group self-insurer in default is a
472 party before the commission or in any court in this state, on
473 order of the commission, may be stayed for a period not to exceed
474 six (6) months from the date of the default to permit proper
475 defense by such association of all covered claims. If any
476 judgment, order, decision, verdict or finding is made or entered
477 against such individual self-insurer in default or group
478 self-insurer in default while the stay provided in this section is
479 effective, the association to which such individual self-insurer
480 or group self-insurer belongs may apply to have such judgment,
481 order, decision, verdict or finding set aside by the same court or
482 administrator that made such judgment, order, decision, verdict or
483 finding. Such association shall be permitted to enter its
484 appearance and defend against any covered claim which is pending
485 on the date of default or which is filed thereafter.

486 **SECTION 15.** Section 83-21-21, Mississippi Code of 1972, is
487 amended as follows:

488 83-21-21. (1) The Commissioner of Insurance may establish a
489 stamping procedure for all eligible nonadmitted/surplus lines
490 insurance policies sold on risks subject to the payment of premium
491 taxes to the State of Mississippi.

492 (2) The Commissioner of Insurance may rely upon the advice
493 and assistance of a duly constituted association of surplus lines
494 agents in carrying out the purposes of this chapter, if the
495 association files with the commissioner:

496 (a) A copy of the association's constitution and
497 articles of agreement of association or the association's
498 certificate of incorporation and bylaws and any rules and
499 regulations governing the association's activities;

500 (b) A list of the association's members; and

501 (c) The name and address of a resident of this state
502 upon whom notices or orders of the commissioner or process issued
503 by the commissioner may be served.

504 (3) The Commissioner of Insurance may examine the
505 association's records concerning the functions or duties performed
506 on behalf of the commissioner by the association.

507 (4) The association shall provide a means for the
508 examination of all surplus lines coverages written to determine
509 whether such coverages comply with the law and such rules or
510 regulations as may be issued by the Commissioner of Insurance.

511 (5) The Commissioner of Insurance may refuse to accept, or
512 may suspend or revoke the acceptance of, an association for any of
513 the following reasons:

514 (a) It reasonably appears that the association will not
515 be able to carry out the purposes of this chapter;

516 (b) The association does not maintain and enforce rules
517 and regulations which will ensure that members of the association
518 and persons associated with those members will comply with this
519 chapter, other applicable state law or rules or regulations
520 promulgated under either;

521 (c) The rules or regulations of the association do not
522 ensure a fair representation of its members in the selection of
523 directors and in the administration of its affairs;

524 (d) The rules or regulations of the association do not
525 provide for an equitable allocation of reasonable dues, fees and
526 other charges among members;

527 (e) The rules or regulations of the association impose
528 an undue burden on competition; or

529 (f) The association fails to meet other applicable
530 requirements prescribed in this chapter.

531 (6) A surplus lines agent shall cooperate with the
532 association and the Commissioner of Insurance in fulfilling the
533 surplus lines agent's statutory responsibility under this chapter.

534 (7) Upon request from the association, the Commissioner of
535 Insurance may approve the levy of an examination fee of not more
536 than one percent (1%) of premiums charged under this chapter for
537 the operation of the association to the extent that such operation
538 relieves the commissioner of duties otherwise required of the
539 Commissioner of Insurance under this chapter.

540 (8) The association may revoke the membership of, and the
541 Commissioner of Insurance may revoke the license in this state of,
542 any licensee who fails to pay the examination fee when due, if the
543 examination fee has been approved by the Commissioner of
544 Insurance.

545 (9) The fees levied and collected by the association
546 pursuant to this section have been and remain public funds and
547 shall be subject to transfer to the Department of Insurance
548 Special Fund by act of the Legislature; provided, however, that
549 not more than Two Million Dollars (\$2,000,000.00) shall be
550 transferred.

551 **SECTION 16.** This act shall take effect and be in force from
552 and after July 1, 2004.