

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2080

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

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

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

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

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

90 83-37-25. The Insurance Commissioner shall have full
91 authority to examine the books, records, papers and all other data
92 belonging to or bearing on the business of any such person, firm,
93 association or corporation and may designate any practical
94 accountant to make said examination at a reasonable per diem and
95 expenses not to exceed the sum of Two Hundred Fifty Dollars
96 (\$250.00) for any one (1) year, to be paid by such person, firm,

97 association or corporation. If upon examination the Insurance
98 Commissioner be of the opinion that the capital stock of a
99 domestic corporation has become impaired, or that any foreign
100 company admitted to do business hereunder is insolvent, the
101 commissioner may thereupon for said reason cancel its license to
102 do business in this state.

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

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

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