

By: Representative Upshaw

To: Judiciary A

HOUSE BILL NO. 112

1 AN ACT TO REQUIRE THE SUBMISSION OF TORT DISPUTES FOR
2 MEDIATION; TO PROVIDE THAT THE MISSISSIPPI BAR SHALL APPOINT
3 MEDIATORS; TO PROVIDE THAT ANY APPLICABLE STATUTES OF LIMITATIONS
4 SHALL BE SUSPENDED WHILE A DISPUTE IS IN MEDIATION; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** (1) Before any civil suit involving a tort may
8 be filed, the dispute must be submitted for mediation. The
9 Mississippi Bar shall appoint and certify mediators for such
10 disputes. Mediators shall be members of the Mississippi Bar who
11 have been engaged in the active practice of law for a minimum of
12 five (5) years. The mediator shall make every effort to help
13 parties resolve their dispute in order to avoid litigation. Upon
14 written notice of a claim involving a tort being delivered in
15 person or by registered certified United States mail upon any
16 individual who may be properly served with process for such an
17 individual or entity, any applicable statute of limitation shall
18 be suspended. The statute of limitations shall remain suspended
19 while a dispute is in mediation. Mediation shall be informal and
20 rules of Civil Procedure and Evidence shall be relaxed. Mediation
21 under this act shall be nonbinding unless the parties agree in
22 writing to make the mediation binding. Any matter which is
23 submitted for mediation under this act which is not resolved may
24 not be filed as civil action until ninety (90) days after the
25 termination of mediation or upon receipt by the claimant of a
26 written notice of denial of claim.

27 (2) Every notice of claim under this section shall contain a
28 short and plain statement of the facts upon which the claim is

29 based, including the circumstances which brought about the injury,
30 the extent of the injury, the time and place the injury occurred,
31 the names of all persons known to be involved, the amount of money
32 damages sought and the residence of the person making the claim at
33 the time of the injury and at the time of filing the notice.

34 **SECTION 2.** This act shall not be construed to take away from
35 the courts their power over awards, nor to make invalid any award
36 good at common law. This act shall be liberally construed for the
37 encouragement of the settlement of disputes and the prevention of
38 litigation.

39 **SECTION 3.** This act shall take effect and be in force from
40 and after July 1, 2005.