

By: Representative Formby

To: Insurance

HOUSE BILL NO. 1457

1 AN ACT TO AMEND SECTION 83-55-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT OUT-OF-STATE RISK RETENTION GROUPS SHALL BE SUBJECT
3 TO TAXATION, AND ANY APPLICABLE FINES AND PENALTIES RELATED
4 THERETO, ON THE SAME BASIS AS ELIGIBLE NONADMITTED INSURERS; TO
5 AMEND SECTION 83-55-16, MISSISSIPPI CODE OF 1972, TO DELETE THE
6 ANNUAL REGISTRATION FEE REQUIRED TO BE PAID BY RISK RETENTION
7 GROUPS OR RISK PURCHASING GROUPS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 83-55-7, Mississippi Code of 1972, is
10 amended as follows:

11 83-55-7. Risk retention groups chartered and licensed in
12 states other than this state and seeking to do business as a risk
13 retention group in this state shall comply with the laws of this
14 state as follows:

15 (a) Notice of operations and designation of
16 Commissioner as agent.

17 (i) Before offering insurance in this state, a
18 risk retention group shall submit to the Commissioner:

19 1. A statement identifying the state or
20 states in which the risk retention group is chartered and licensed
21 as a liability insurance company, charter date, its principal
22 place of business, and such other information, including
23 information on its membership, as the Commissioner of this state
24 may require to verify that the risk retention group is qualified
25 under Section 83-55-3(k);

26 2. A copy of its plan of operations or
27 feasibility study and revisions of such plan or study submitted to
28 the state in which the risk retention group is chartered and
29 licensed; provided, however, that the provision relating to the

30 submission of a plan of operation or feasibility study shall not
31 apply with respect to any line or classification of liability
32 insurance which:

33 a. Was defined in the Product Liability
34 Risk Retention Act of 1981 before October 27, 1986; and

35 b. Was offered before such date by any
36 risk retention group which had been chartered and operating for
37 not less than three (3) years before such date; and

38 (ii) The risk retention group shall submit a copy
39 of any revision to its plan of operation or feasibility study
40 required by Section 83-55-5(2) at the same time that such revision
41 is submitted to the Commissioner of its chartering state.

42 (iii) A statement of registration, for which a
43 filing fee shall be determined by the Commissioner, which
44 designates the Commissioner as its agent for the purpose of
45 receiving service of legal documents or process.

46 (b) Financial condition. Any risk retention group
47 doing business in this state shall submit to the Commissioner:

48 (i) A copy of the group's financial statement
49 submitted to the state in which the risk retention group is
50 chartered and licensed which shall be certified by an independent
51 public accountant and contain a statement of opinion on loss and
52 loss adjustment expense reserves made by a member of the American
53 Academy of Actuaries or a qualified loss reserve specialist (under
54 criteria established by the National Association of Insurance
55 Commissioners);

56 (ii) A copy of each examination of the risk
57 retention group as certified by the Commissioner or public
58 official conducting the examination;

59 (iii) Upon request by the Commissioner, a copy of
60 any information or document pertaining to any outside audit
61 performed with respect to the risk retention group; and

62 (iv) Such information as may be required to verify
63 its continuing qualification as a risk retention group under
64 Section 83-55-3(k).

65 (c) Taxation.

66 (i) Each risk retention group shall be liable for
67 the payment of premium taxes and taxes on premiums of direct
68 business for risks resident or located within this state, and
69 shall report to the Commissioner the net premiums written for
70 risks resident or located within this state. Such risk retention
71 group shall be subject to taxation, and any applicable fines and
72 penalties related thereto, on the same basis as an eligible
73 nonadmitted insurer.

74 (ii) To the extent licensed agents or brokers are
75 utilized pursuant to Section 83-55-23, they shall report to the
76 Commissioner the premiums for direct business for risks resident
77 or located within this state which such licensees have placed with
78 or on behalf of a risk retention group not chartered in this
79 state.

80 (iii) To the extent that insurance agents or
81 brokers are utilized pursuant to Section 83-55-23, such agent or
82 broker shall keep a complete and separate record of all policies
83 procured from each such risk retention group, which record shall
84 be open to examination by the Commissioner, as provided in Section
85 83-5-65, Mississippi Code of 1972. These records shall, for each
86 policy and each kind of insurance provided thereunder, include the
87 following:

- 88 1. The limit of liability;
- 89 2. The time period covered;
- 90 3. The effective date;
- 91 4. The name of the risk retention group which
92 issued the policy;
- 93 5. The gross premium charged; and
- 94 6. The amount of return premiums, if any.

127 (ii) The solicitation or sale of insurance by, or
128 operation of, a risk retention group that is in hazardous
129 financial condition or financially impaired.

130 (h) Prohibition on ownership by an insurance company.
131 No risk retention group shall be allowed to do business in this
132 state if an insurance company is directly or indirectly a member
133 or owner of such risk retention group, other than in the case of a
134 risk retention group all of whose members are insurance companies.

135 (i) Prohibited coverage. The terms of any insurance
136 policy issued by any risk retention group shall not provide, or be
137 construed to provide, coverage prohibited generally by statute of
138 this state or declared unlawful by the highest court of this state
139 whose law applies to such policy.

140 (j) Delinquency proceedings. A risk retention group
141 not chartered in this state and doing business in this state shall
142 comply with a lawful order issued in a voluntary dissolution
143 proceeding or in a delinquency proceeding commenced by a State
144 Insurance Commissioner if there has been a finding of financial
145 impairment after an examination.

146 (k) Penalties. A risk retention group that violates
147 any provision of this chapter will be subject to fines and
148 penalties including revocation of its right to do business in this
149 state, applicable to licensed insurers generally.

150 (l) Operation prior to enactment of this chapter. In
151 addition to complying with the requirements of this section, any
152 risk retention group operating in this state prior to enactment of
153 this chapter shall, within thirty (30) days after the effective
154 date of this chapter, comply with the provision of paragraph
155 (a)(i) of this section.

156 **SECTION 2.** Section 83-55-16, Mississippi Code of 1972, is
157 amended as follows:

158 83-55-16. * * *

159 (1) Each risk retention group or risk purchasing group which
160 wishes to do or continue to do business in this state shall apply
161 for an annual license on or before March 1 of each year. If a
162 risk retention group or risk purchasing group fails to timely
163 renew its license, the commissioner shall immediately revoke
164 without notice or hearing any registration or license held by the
165 entity.

166 (2) Each risk retention group or risk purchasing group
167 operating in the **State of Mississippi shall file with the**
168 **Mississippi Department of Insurance on or before March 1 of each**
169 **year a listing of the premiums written on risks in Mississippi.**

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