

By: Representative Upshaw

To: Judiciary A

HOUSE BILL NO. 28

1 AN ACT TO EXTEND STATUTES OF LIMITATIONS FOR 90 DAYS FOR
2 CAUSES OF ACTION OCCURRING OR ACCRUING IN THE SECOND SUPREME COURT
3 DISTRICT; TO AMEND SECTION 7-3-35, MISSISSIPPI CODE OF 1972, TO
4 EXTEND LIMITATIONS FOR WORKERS' COMPENSATION CLAIMS FOR 90 DAYS;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** As a result of the catastrophic impact of
8 Hurricane Katrina on August 29, 2005, the statutes of limitations
9 applicable to any causes of action occurring or accruing in the
10 Second (Southern) Supreme Court District as defined in Section
11 9-3-1 are extended as follows: If the statute of limitations
12 expires or expired during the period beginning on Monday, August
13 29, 2005, through and including Monday, November 28, 2005, then
14 the time for filing a claim shall be extended to Monday, February
15 27, 2006. This section shall stand repealed on February 28, 2006.

16 **SECTION 2.** Section 71-3-35, Mississippi Code of 1972, is
17 amended as follows:

18 71-3-35. (1) No claim for compensation shall be maintained
19 unless, within thirty (30) days after the occurrence of the
20 injury, actual notice was received by the employer or by an
21 officer, manager, or designated representative of an employer. If
22 no representative has been designated by posters placed in one or
23 more conspicuous places, then notice received by any superior
24 shall be sufficient. Absence of notice shall not bar recovery if
25 it is found that the employer had knowledge of the injury and was
26 not prejudiced by the employee's failure to give notice.
27 Regardless of whether notice was received, if no payment of
28 compensation (other than medical treatment or burial expense) is

29 made and no application for benefits filed with the commission
30 within two (2) years from the date of the injury or death, the
31 right to compensation therefor shall be barred.

32 (2) If a person who is entitled to compensation under this
33 chapter is mentally incompetent or a minor, the limitation for
34 filing application for benefits shall not be applicable so long as
35 such person has no guardian or other authorized representative,
36 but shall be applicable in the case of a person who is mentally
37 incompetent or a minor from the date of appointment of such
38 guardian or other representative, or in the case of a minor, if no
39 guardian is appointed before he becomes of age, from the date he
40 becomes of age.

41 (3) Where recovery is denied to any person, in a suit
42 brought at law or admiralty to recover damages in respect of
43 injury or death, on the ground that such person was an employee
44 and that the defendant was an employer within the meaning of this
45 chapter and that such employer had secured compensation to such
46 employee under this chapter, the limitation upon filing
47 application for benefits shall begin to run only from the date of
48 termination of such suit.

49 (4) As a result of the catastrophic impact of Hurricane
50 Katrina on August 29, 2005, the limitations applicable to any
51 claims occurring or accruing in the Second (Southern) Supreme
52 Court District as defined in Section 9-3-1 are extended as
53 follows: If the limitation expires or expired during the period
54 beginning on Monday, August 29, 2005, through and including
55 Monday, November 28, 2005, then the time for filing a claim shall
56 be extended to Monday, February 27, 2006. This subsection shall
57 stand repealed on February 28, 2006.

58 **SECTION 3.** This act shall take effect and be in force from
59 and after August 29, 2005.