

By: Representative Formby

To: Insurance; Judiciary A

## HOUSE BILL NO. 360

1 AN ACT TO AMEND SECTION 71-3-37, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT BENEFITS COMMUTED BY ORDER OF THE WORKERS'  
3 COMPENSATION COMMISSION SHALL BE DISCOUNTED TO PRESENT VALUE USING  
4 VALID ACTUARIAL TABLES AS DETERMINED BY THE COMMISSION; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-3-37, Mississippi Code of 1972, is  
8 amended as follows:

9 71-3-37. (1) Compensation under this chapter shall be paid  
10 periodically, promptly, in the usual manner, and directly to the  
11 person entitled thereto, without an award except where liability  
12 to pay compensation is controverted by the employer.

13 (2) The first installment of compensation shall become due  
14 on the fourteenth day after the employer has notice, as provided  
15 in Section 71-3-35, of the injury or death, on which date all  
16 compensation then due shall be paid. Thereafter, compensation  
17 shall be paid in installments, every fourteen (14) days, except  
18 where the commission determines that payment in installments  
19 should be made at some other period.

20 (3) Upon making the first payment and upon suspension of  
21 payment for any cause, the employer shall immediately notify the  
22 commission in accordance with a form prescribed by the commission  
23 that payment of compensation has begun or has been suspended, as  
24 the case may be. No suspension in payments of compensation shall  
25 be made for refusing to submit to medical or surgical treatment  
26 until the reasonableness of such request or refusal has been  
27 determined by the commission, and a written order suspending  
28 payment issued.

29           (4) If the employer controverts the right to compensation he  
30 shall file with the commission, on or before the fourteenth day  
31 after he has knowledge of the alleged injury or death, a notice in  
32 accordance with a form prescribed by the commission, stating that  
33 the right to compensation is controverted, the name of the  
34 claimant, the name of the employer, the date of the alleged injury  
35 or death, and the grounds upon which the right to compensation is  
36 controverted. Failure to file this notice shall not prevent the  
37 employer raising any defense where claim is subsequently filed by  
38 the employee, nor shall the filing of the notice preclude the  
39 employer raising any additional defense.

40           (5) If any installment of compensation payable without an  
41 award is not paid within fourteen (14) days after it becomes due,  
42 as provided in subsection (2) of this section, there shall be  
43 added to such unpaid installment an amount equal to ten percent  
44 (10%) thereof, which shall be paid at the same time as, but in  
45 addition to, such installment unless notice is filed under  
46 subsection (4) of this section, or unless such nonpayment is  
47 excused by the commission after a showing by the employer that  
48 owing to conditions over which he had no control such installment  
49 could not be paid within the period prescribed for the payment.

50           (6) If any installment payable under the terms of an award  
51 is not paid within fourteen (14) days after it becomes due, there  
52 shall be added to such unpaid installment an amount equal to  
53 twenty percent (20%) thereof, which shall be paid at the same time  
54 as, but in addition to, such compensation unless review of the  
55 compensation order making such award is had.

56           (7) Within thirty (30) days after the final payment of  
57 compensation has been made, the employer shall send to the  
58 commission a notice in accordance with a form prescribed by the  
59 commission, stating that such final payment has been made, the  
60 total amount of compensation paid, the name of the employee and of  
61 any other person to whom compensation has been paid, the date of

62 the injury or death, and the date to which compensation has been  
63 paid. If the employer fails so to notify the commission within  
64 such time, the commission may assess against such employer a civil  
65 penalty in an amount not exceeding One Hundred Dollars (\$100.00).  
66 No case shall be closed nor any penalty be assessed without notice  
67 to all parties interested and without giving to all such parties  
68 an opportunity to be heard.

69 (8) The commission (a) may upon its own initiative at any  
70 time in a case in which payments are being made without an award,  
71 and (b) shall in any case where right to compensation is  
72 controverted or where payments of compensation have been stopped  
73 or suspended, upon receipt of notice from any person entitled to  
74 compensation or from the employer that the right to compensation  
75 is controverted or that payments of compensation have been stopped  
76 or suspended, make such investigations, cause such medical  
77 examinations to be made, hold such hearings, and take such further  
78 action as it considers will properly protect the rights of all  
79 parties.

80 (9) Whenever the commission deems it advisable, it may  
81 require any self-insurer to make a deposit with the State  
82 Treasurer to secure prompt and convenient payment of such  
83 compensation; and payments therefrom upon any awards shall be made  
84 upon order of the commission.

85 (10) Whenever the commission determines that it is for the  
86 best interests of a person entitled to compensation, the liability  
87 of the employer for compensation, or any part thereof as  
88 determined by the commission, may be discharged by the payment of  
89 a lump sum equal to the present value of future compensation  
90 payments commuted, computed at four percent (4%) true discount  
91 compounded annually. The probability of the death of the injured  
92 employee or other person entitled to compensation shall be  
93 determined in accordance with validated actuarial tables or  
94 factors as the commission finds equitable and consistent with the

95 purposes of the Workers' Compensation Law, and the probability of  
96 the remarriage of the surviving spouse or other person entitled to  
97 compensation may be determined in accordance with rules adopted by  
98 the commission which shall apply validated actuarial tables or  
99 factors as the commission finds equitable and consistent with the  
100 purposes of the Workers' Compensation Law. The probability of the  
101 happening of any other contingency affecting the amount or  
102 duration of the compensation shall be disregarded. The commission  
103 shall be the sole judge as to whether or not a lump sum payment  
104 shall be to the best interest of the injured worker or his  
105 dependents.

106 (11) If the employer has made advance payments of  
107 compensation, he shall be entitled to be reimbursed out of any  
108 unpaid installment or installments of compensation due.

109 (12) An injured employee or, in case of death, his  
110 dependents or personal representative shall give receipts for  
111 payment of compensation to the employer paying the same; and  
112 whenever required, such employer shall produce the same for  
113 inspection by the commission.

114 (13) Whenever a dispute arises between two (2) or more  
115 parties as to which party is liable for the payment of workers'  
116 compensation benefits to an injured employee and there is no  
117 genuine issue of material fact as to the employee's employment,  
118 his average weekly wage, the occurrence of an injury, the extent  
119 of the injury, and the fact that the injury arose out of and in  
120 the course of the employment, the commission may require the  
121 disputing parties involved to pay benefits immediately to the  
122 employee and to share equally in the payment of those benefits  
123 until it is determined which party is solely liable, at which time  
124 the liable party must reimburse all other parties for the benefits  
125 they have paid to the employee with interest at the legal rate.

126 **SECTION 2.** This act shall take effect and be in force from  
127 and after its passage.