

By: Representative Formby

To: Insurance

HOUSE BILL NO. 1313

1 AN ACT TO AMEND SECTION 83-5-55, MISSISSIPPI CODE OF 1972, TO
2 MAKE A TECHNICAL CORRECTION WHEN REFERRING TO THE NAIC QUARTERLY
3 AND ANNUAL STATEMENT BLANK AND INSTRUCTIONS; TO AMEND SECTION
4 83-5-102, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS
5 "INDEMNIFICATION" AND "INSURER" AS THEY RELATE TO THE AUDITING OF
6 INSURANCE COMPANIES; TO AMEND SECTION 83-5-103, MISSISSIPPI CODE
7 OF 1972, TO REVISE THE REQUIRED CONTENTS OF ANNUAL AUDITED
8 FINANCIAL REPORTS FILED WITH THE COMMISSIONER OF INSURANCE; TO
9 AMEND SECTION 83-5-107, MISSISSIPPI CODE OF 1972, TO REVISE THE
10 QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS
11 RECOGNIZED BY THE COMMISSIONER OF INSURANCE; AND FOR RELATED
12 PURPOSES.

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

14 **SECTION 1.** Section 83-5-55, Mississippi Code of 1972, is
15 amended as follows:

16 83-5-55. (1) Every insurance company shall file with the
17 Commissioner of Insurance, on or before the first day of March of
18 each year, a statement showing the business standing and financial
19 condition of the company and sworn to by the president or vice
20 president and secretary or treasurer or chief managing agent or
21 officer of such company. The annual statement to be filed shall
22 be in accordance with the NAIC Quarterly and Annual Statement
23 Blank and Instructions thereto and the NAIC Accounting Practices
24 and Procedures Manual.

25 (2) Every insurance company shall file with the Commissioner
26 of Insurance a quarterly statement showing the business standing
27 and financial condition of the company for that quarter and sworn
28 to by the president or vice president and secretary or treasurer
29 or chief managing agent or officer of such company. Each
30 quarterly statement shall be filed within forty-five (45) days of
31 the last day of the quarter. The quarterly statement to be filed
32 shall be in accordance with the NAIC Quarterly and Annual

33 Statement Blank and Instructions thereto and the NAIC Accounting
34 Practices and Procedures Manual. However, the Commissioner of
35 Insurance may grant an exemption to any domestic company
36 transacting business in Mississippi only. No exemption shall be
37 granted to any domestic company transacting business across state
38 lines.

39 **SECTION 2.** Section 83-5-102, Mississippi Code of 1972, is
40 amended as follows:

41 83-5-102. As used in Sections 83-5-102 through 83-5-113, the
42 following terms have the respective meanings herein set forth
43 unless the context shall require otherwise:

44 (a) "Audited financial report" means and includes those
45 items specified in Section 83-5-103.

46 (b) "Accountant" or "independent certified public
47 accountant" means an independent certified public accountant or
48 accounting firm in good standing with the American Institute of
49 Certified Public Accountants and in all states in which they are
50 licensed to practice.

51 (c) "Commissioner" means the Commissioner of Insurance.

52 (d) "Department" means the Department of Insurance.

53 (e) "Indemnification" means an agreement of indemnity
54 or a release from liability where the intent or effect is to shift
55 or limit in any manner the potential liability of the person or
56 firm for failure to adhere to applicable auditing or professional
57 standards, whether or not resulting in part from knowing or other
58 misrepresentations made by the insurer or its representatives.

59 (f) "Insurer" means a licensed insurer as defined in
60 Section 83-5-1.

61 **SECTION 3.** Section 83-5-103, Mississippi Code of 1972, is
62 amended as follows:

63 83-5-103. The annual audited financial report shall report
64 the financial position of the insurer as of the end of the most
65 recent calendar year and the results of its operations, cash flows

66 and changes in capital and surplus for the year then ended in
67 conformity with statutory accounting practices prescribed, or
68 otherwise permitted, by the Department of Insurance of the state
69 of domicile.

70 The annual audited financial report shall include the
71 following:

72 (a) Report of independent certified public accountant.

73 (b) Balance sheet reporting admitted assets,
74 liabilities, capital and surplus.

75 (c) Statement of operations.

76 (d) Statement of cash flows.

77 (e) Statement of changes in capital and surplus.

78 (f) Notes to financial statements. These notes shall
79 be those required by the appropriate NAIC Annual Statement
80 Instructions and the NAIC Accounting Practices and Procedures
81 Manual. The notes shall include a reconciliation of differences,
82 if any, between the audited statutory financial statements and the
83 annual statement filed pursuant to Section 83-5-55 with a written
84 description of the nature of these differences.

85 * * *

86 (g) The financial statements included in the audited
87 financial report shall be prepared in a form and using language
88 and groupings substantially the same as the relevant sections of
89 the annual statement of the insurer filed with the commissioner,
90 and the financial statements shall be comparative, presenting the
91 amounts as of December 31 of the current year and the amounts as
92 of the immediately preceding December 31. However, in the first
93 year in which an insurer is required to file an audited financial
94 report, the comparative data may be omitted.

95 **SECTION 4.** Section 83-5-107, Mississippi Code of 1972, is
96 amended as follows:

97 83-5-107. (1) The commissioner shall not recognize any
98 person or firm as a qualified independent certified public
99 accountant if the person or firm:

100 (a) Is not in good standing with the American Institute
101 of Certified Public Accountants and in all states in which the
102 accountant is licensed to practice, or for a Canadian company,
103 that is not a chartered account; or

104 (b) Has either directly or indirectly entered into an
105 agreement of indemnity or release from liability, collectively
106 referred to as indemnification, with respect to the audit of the
107 insurer.

108 (2) Except as otherwise provided herein, the commissioner
109 shall recognize an independent certified public accountant * * *
110 as qualified as long as he or she conforms to the standards of his
111 or her profession, as contained in the Code of Professional Ethics
112 of the American Institute of Certified Public Accountants and
113 rules and regulations and code of ethics and rules of professional
114 conduct of the appropriate state board of public accountancy, or
115 similar code.

116 (3) A qualified independent certified public accountant may
117 enter into an agreement with an insurer to have disputes relating
118 to an audit resolved by mediation or arbitration. However, in the
119 event of a delinquency proceeding commenced against the insurer
120 under Sections 83-23-1 through 83-23-9, the mediation or
121 arbitration provisions shall operate at the option of the
122 statutory successor.

123 (4) No partner or other person responsible for rendering a
124 report may act in that capacity for more than seven (7)
125 consecutive years. Following any period of service such person
126 shall be disqualified from acting in that or a similar capacity
127 for the same company or its insurance subsidiaries or affiliates
128 for a period of two (2) years. An insurer may make application to
129 the commissioner for relief from the above rotation requirement on

130 the basis of unusual circumstances. The commissioner may consider
131 the following factors in determining if the relief should be
132 granted: (a) number of partners, expertise of the partners or the
133 number of insurance clients in the currently registered firm; (b)
134 premium volume of the insurer; or (c) number of jurisdictions in
135 which the insurer transacts business.

136 (5) The commissioner shall not recognize as a qualified
137 independent certified public accountant, nor accept any annual
138 audited financial report, prepared in whole or in part by, any
139 natural person who (a) has been convicted of fraud, bribery, a
140 violation of the Racketeer Influenced and Corrupt Organizations
141 Act, 18 USCS Sections 1961-1968, or any dishonest conduct or
142 practices under federal or state law; (b) has been found to have
143 violated the insurance laws of this state with respect to any
144 previous reports submitted under this rule; or (c) has
145 demonstrated a pattern or practice of failing to detect or
146 disclose material information in previous reports filed under the
147 provisions of Sections 83-5-101 through 83-5-113.

148 (6) The commissioner may hold a hearing to determine whether
149 a certified public accountant is qualified and, considering the
150 evidence presented, may rule that the accountant is not qualified
151 for purposes of expressing his opinion on the financial statements
152 in the annual audited financial report made pursuant to Sections
153 83-5-101 through 83-5-113 and require the insurer to replace the
154 accountant with another whose relationship with the insurer is
155 qualified within the meaning of this section.

156 **SECTION 5.** This act shall take effect and be in force from
157 and after July 1, 2007.