

By: Senator(s) Kirby

To: Insurance

## SENATE BILL NO. 2267

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 Blank  
80 and 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 account is licensed to practice, or for a Canadian company, that  
103 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.