MISSISSIPPI LEGISLATURE

By: Representative Evans (91st)

To: Insurance; Public Health and Human Services

HOUSE BILL NO. 1351

AN ACT TO REQUIRE NURSING HOMES TO PURCHASE AND MAINTAIN A CERTAIN MINIMUM AMOUNT OF LIABILITY INSURANCE; TO AMEND SECTIONS 43-11-7 AND 43-11-9, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Any owner or operator of any nursing home shall purchase and maintain not less than One Million Dollars ($1,000,000.00) in liability insurance for each nursing home. The liability insurance shall cover each resident per occurrence of negligence. For the purposes of this section, "nursing home" means any nursing home, personal care home, assisted living facility, retirement home, convalescence home or facility, hospice care services, home health service, long term care facility, or any facility which provides medical treatment care, personal care, supervision, medicine, nutrition or other custodial palliative and rehabilitative care to the elderly, infirm, disabled or incapacitated.
(2) The liability coverage amount described in this section shall include coverage for indemnity of the insured only. The cost of defending the insured shall not be covered.

(3) No person may establish, own or operate a nursing home in the state unless and until the person provides proof of liability insurance coverage as described under this section to the State Department of Health.

(4) The owner or operator of any nursing home shall disclose to the patient or other person with whom the owner or operator is contracting at the signing of a contract or the initial agreement to provide nursing home care whether the owner or operator carries liability insurance. The disclosure shall be written, the structure and composition of which shall be determined by the State Department of Health, and shall be placed immediately before the space reserved in the contract for the signature of the patient or other person with whom the owner or operator is contracting to provide nursing home care. The disclosure shall be boldfaced and conspicuous type which is larger than the type of the remaining text of the contract. The owner or operator of any nursing home shall also prominently display such disclosure in a conspicuous location in each of his nursing home facilities.

(5) The State Department of Health shall suspend or revoke the license or certificate of any nursing home whose owner or operator violates the provisions of this section.
SECTION 2. Section 43-11-7, Mississippi Code of 1972, is amended as follows:

43-11-7. Any person, as defined in Section 43-11-1, may apply for a license as provided in this section. An application for a license shall be made to the licensing agency upon forms provided by it and shall contain such information as the licensing agency reasonably requires, which may include affirmative evidence of the ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed under this chapter. An application for a license to operate a nursing home also shall include affirmative evidence of the ability to comply with the requirement of liability insurance coverage. Each application for a license for an institution for the aged or infirm, except for personal care homes, shall be accompanied by a license fee of Twenty Dollars ($20.00) for each bed in the institution, with a minimum fee per institution of Two Hundred Dollars ($200.00), which shall be paid to the licensing agency. Each application for a license for a personal care home shall be accompanied by a license fee of Fifteen Dollars ($15.00) for each bed in the institution, with a minimum fee per institution of One Hundred Dollars ($100.00), which shall be paid to the licensing agency.

No governmental entity or agency shall be required to pay the fee or fees set forth in this section.

SECTION 3. Section 43-11-9, Mississippi Code of 1972, is amended as follows:
43-11-9. (1) Upon receipt of an application for license and the license fee, the licensing agency shall issue a license if the applicant and the institutional facilities meet the requirements established under this chapter and the requirements of Section 41-7-173 et seq., where determined by the licensing agency to be applicable. A license, unless suspended or revoked, shall be renewable annually upon payment by (a) the licensee of an institution for the aged or infirm, except for personal care homes, of a renewal fee of Twenty Dollars ($20.00) for each bed in the institution, with a minimum fee per institution of Two Hundred Dollars ($200.00), or (b) the licensee of a personal care home of a renewal fee of Fifteen Dollars ($15.00) for each bed in the institution, with a minimum fee per institution of One Hundred Dollars ($100.00), which shall be paid to the licensing agency, and upon filing by the licensee and approval by the licensing agency of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. For the renewal of a license to operate a nursing home, the annual report must show compliance with the requirement of liability insurance coverage. Each license shall be issued only for the premises and person or persons or other legal entity or entities named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Licenses shall be posted in a conspicuous place on the licensed premises.
(2) A fee known as a "User Fee" shall be applicable and shall be paid to the licensing agency as set out in subsection (1) hereof. This user fee shall be assessed for the purpose of the required reviewing and inspections of the proposal of any institution in which there are additions, renovations, modernizations, expansion, alterations, conversions, modifications or replacement of the entire facility involved in such proposal. This fee includes the reviewing of architectural plans in all steps required. There shall be a minimum user fee of Fifty Dollars ($50.00) and a maximum user fee of Five Thousand Dollars ($5,000.00).

(3) No governmental entity or agency shall be required to pay the fee or fees set forth in this section.

SECTION 4. This act shall take effect and be in force from and after July 1, 2013.