

By: Representatives Chism, Dixon

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 523

1 AN ACT TO AMEND SECTION 71-3-111, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT, WHENEVER A POLICY IS PURCHASED UNDER THE
3 MISSISSIPPI ASSIGNED RISK POOL AND A MINIMUM PREMIUM APPLIES TO
4 THE POLICY, THE INSURER SHALL PROVIDE WRITTEN NOTICE TO THE
5 INSURED THAT THE MINIMUM PREMIUM IS FULLY EARNED; TO PROVIDE THAT
6 ANY EMPLOYER OR PERSON AFFECTED BY THE OPERATION OF THE
7 MISSISSIPPI WORKERS' COMPENSATION ASSIGNED RISK PLAN OR THE
8 ACTIONS OF A SERVICING CARRIER OF THE PLAN WHO HAS A DISPUTE WITH
9 RESPECT TO ANY ASPECT OF THE PLAN OR THE ACTIONS OF A SERVICING
10 CARRIER OF THE PLAN SHALL EXHAUST ALL ADMINISTRATIVE DISPUTE
11 RESOLUTION REMEDIES PROVIDED FOR IN THE PLAN PRIOR TO COMMENCEMENT
12 OF A CIVIL ACTION AGAINST ANY SERVICING CARRIER OF THE PLAN; AND
13 FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 71-3-111, Mississippi Code of 1972, is
16 amended as follows:

17 71-3-111. (1) The Department of Insurance is directed to
18 promulgate such rules and regulations as will enable the
19 department to provide the "Mississippi Workers' Compensation
20 Assigned Risk Plan" for the assignment of risks which in good
21 faith are entitled to insurance under this chapter but which,
22 because of unusual conditions and circumstances, are unable to
23 obtain such insurance.



24 (2) The Commissioner of Insurance is designated as the
25 Director of the Mississippi Workers' Compensation Assigned Risk
26 Plan, and he shall design the assigned risk plan in such a manner
27 that the plan should become self-supporting with no outside
28 assessments. The commissioner may contract for a safety program.

29 (3) The Commissioner of Insurance is authorized to advertise
30 and contract with any workers' compensation insurance carriers
31 that are licensed and writing workers' compensation insurance
32 within the State of Mississippi or providers of workers'
33 compensation claims and loss control services within the State of
34 Mississippi to be servicing carriers. A servicing carrier shall
35 provide all insurance services to employers insured under the plan
36 as are otherwise rendered to those covered by policies voluntarily
37 written by companies licensed to write workers' compensation
38 insurance in the state.

39 (4) The Commissioner of Insurance may establish the
40 "Mississippi Workers' Compensation Assigned Risk Pool" as a
41 reinsurance mechanism for the "Mississippi Workers' Compensation
42 Assigned Risk Plan" to accomplish the equitable distribution of
43 all underwriting profit or loss of the plan to the companies
44 licensed to write workers' compensation insurance in the state in
45 direct proportion to their share of the total voluntary workers'
46 compensation premiums written in the state. If established, all
47 insurance companies licensed to write workers' compensation



48 insurance under this chapter shall be members of and participants
49 in this pool.

50 (5) The Commissioner of Insurance shall be responsible for
51 the administration of both the "Mississippi Workers' Compensation
52 Assigned Risk Plan" and the "Mississippi Workers' Compensation
53 Assigned Risk Pool" but may designate an administrator of either
54 or both, at his discretion. The Commissioner of Insurance may
55 levy special assessments against the Mississippi Workers'
56 Compensation Assigned Risk Pool, if necessary, to provide funding
57 for administrative expenses.

58 (6) Whenever a workers' compensation policy is purchased
59 using the Mississippi Assigned Risk Pool and a minimum premium
60 applies to the policy, the insurer shall notify the insured in
61 writing before the policy is issued that the minimum premium will
62 be fully earned and no refund of any premium will be given
63 regardless of the date of cancellation or the reason for
64 cancellation. Such notice shall be in letter form or in the form
65 of a stamp clearly visible on the policy face page.

66 (* * *7) The commissioner is hereby authorized to establish
67 a temporary joint underwriting association that shall consist of
68 all insurers authorized to write, or engaged in writing, within
69 this state on any basis, workers' compensation insurance as
70 reported in the companies' annual statements.

71 The purpose of the association shall be to provide a market
72 for workers' compensation insurance on a self-supporting basis.



73 The association shall not be established nor begin
74 underwriting operations until the commissioner, after due hearing
75 and investigation, has determined that workers' compensation
76 insurance is not readily available. A determination that such
77 insurance is not readily available shall be necessary before the
78 association begins operations.

79 Upon such determination, the association shall be authorized
80 to issue policies of workers' compensation insurance.

81 If the commissioner determines at any time that workers'
82 compensation insurance can be made readily available in the
83 voluntary market, the association shall then cease its
84 underwriting operations for such workers' compensation insurance
85 that has been determined to be available in the voluntary market.

86 The Commissioner of Insurance is authorized to promulgate
87 rules and regulations to effectuate the purposes of this section,
88 to include levying assessments, if necessary, to provide funding
89 for start-up and administrative expenses.

90 (8) Any employer or person affected by the operation of the
91 Mississippi Workers' Compensation Assigned Risk Plan or the
92 actions of a servicing carrier of the plan who has a dispute with
93 respect to any aspect of the plan or the actions of a servicing
94 carrier of the plan shall exhaust all administrative dispute
95 resolution remedies provided for in the plan prior to commencement
96 of a civil action against any servicing carrier of the plan.



97 **SECTION 2.** This act shall take effect and be in force from
98 and after July 1, 2016.

