

By: Representative Chism

To: Insurance

HOUSE BILL NO. 1193

1 AN ACT TO AMEND SECTION 83-21-21, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE COMMISSIONER OF INSURANCE MAY TRANSFER CERTAIN  
3 FUNDS COLLECTED BY THE MISSISSIPPI SURPLUS LINES ASSOCIATION IN  
4 EXCESS OF TWO MILLION DOLLARS TO THE INSURANCE DEPARTMENT SPECIAL  
5 FUND UPON SIXTY DAYS' NOTICE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 83-21-21, Mississippi Code of 1972, is  
8 amended as follows:

9 83-21-21. (1) The Commissioner of Insurance may establish a  
10 stamping procedure for all eligible nonadmitted/surplus lines  
11 insurance policies sold on risks subject to the payment of premium  
12 taxes to the State of Mississippi.

13 (2) The Commissioner of Insurance may rely upon the advice  
14 and assistance of a duly constituted association of surplus lines  
15 insurance producers in carrying out the purposes of this chapter,  
16 if the association files with the commissioner:

17 (a) A copy of the association's constitution and  
18 articles of agreement of association or the association's



19 certificate of incorporation and bylaws and any rules and  
20 regulations governing the association's activities;

21 (b) A list of the association's members; and

22 (c) The name and address of a resident of this state  
23 upon whom notices or orders of the commissioner or process issued  
24 by the commissioner may be served.

25 (3) The Commissioner of Insurance may examine the  
26 association's records concerning the functions or duties performed  
27 on behalf of the commissioner by the association.

28 (4) The association shall provide a means for the  
29 examination of all surplus lines coverages written to determine  
30 whether such coverages comply with the law and such rules or  
31 regulations as may be issued by the Commissioner of Insurance.

32 (5) The Commissioner of Insurance may refuse to accept, or  
33 may suspend or revoke the acceptance of, an association for any of  
34 the following reasons:

35 (a) It reasonably appears that the association will not  
36 be able to carry out the purposes of this chapter;

37 (b) The association does not maintain and enforce rules  
38 and regulations which will ensure that members of the association  
39 and persons associated with those members will comply with this  
40 chapter, other applicable state law or rules or regulations  
41 promulgated under either;



42 (c) The rules or regulations of the association do not  
43 ensure a fair representation of its members in the selection of  
44 directors and in the administration of its affairs;

45 (d) The rules or regulations of the association do not  
46 provide for an equitable allocation of reasonable dues, fees and  
47 other charges among members;

48 (e) The rules or regulations of the association impose  
49 an undue burden on competition; or

50 (f) The association fails to meet other applicable  
51 requirements prescribed in this chapter.

52 (6) A surplus lines insurance producer shall cooperate with  
53 the association and the Commissioner of Insurance in fulfilling  
54 the surplus lines agent's statutory responsibility under this  
55 chapter.

56 (7) Upon request from the association, the Commissioner of  
57 Insurance may approve the levy of an examination fee of not more  
58 than one percent (1%) of premiums charged under this chapter for  
59 the operation of the association to the extent that such operation  
60 relieves the commissioner of duties otherwise required of the  
61 Commissioner of Insurance under this chapter.

62 (8) The association may revoke the membership of, and the  
63 Commissioner of Insurance may revoke the license in this state of,  
64 any licensee who fails to pay the examination fee when due, if the  
65 examination fee has been approved by the Commissioner of  
66 Insurance.



67           (9) The fees levied and collected by the association  
68 pursuant to this section that are in excess of Two Million Dollars  
69 (\$2,000,000.00) shall be subject to transfer to the \* \* \*  
70 Insurance Department Special Fund \* \* \* upon request by the  
71 Commissioner of Insurance. The commissioner shall provide the  
72 association with at least sixty (60) days' notice of the request  
73 to transfer funds prior to transfer.

74           (10) The association, the association's board members and  
75 employees shall not be subject to liability for any functions or  
76 duties performed in good faith, from and after May 9, 2008, by the  
77 association pursuant to this chapter.

78           (11) In the alternative, the Commissioner of Insurance may  
79 contract with a third party to assist the commissioner with  
80 carrying out the purposes of this chapter. The third party may  
81 collect an examination fee in an amount determined by the  
82 commissioner but not more than one percent (1%) of premiums  
83 charged under this chapter. The fees shall be collected and  
84 deposited into the Department of Insurance Special Fund, and from  
85 this fund the department may pay the third party a reasonable fee  
86 for its services.

87           (12) Notwithstanding the provisions of Section 83-21-18(3),  
88 any stamping procedure established under this section may apply to  
89 the reporting, payment, collection and allocation of premium taxes  
90 for nonadmitted insurance consistent with any agreement, compact



91 or procedures entered into by the commissioner under Section  
92 83-21-18(1).

93 (13) The commissioner may promulgate rules and regulations  
94 necessary for the implementation of this section.

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

