

By: Representative Brown

To: Insurance; Judiciary A

HOUSE BILL NO. 186

1 AN ACT TO AMEND SECTION 71-3-59, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT WORKERS' COMPENSATION LAW BAD FAITH CLAIMS ARE UNDER  
3 THE EXCLUSIVE JURISDICTION OF THE WORKERS' COMPENSATION  
4 COMMISSION; TO PROVIDE VARIOUS OTHER PROVISIONS OF LAW REGARDING  
5 SUCH BAD FAITH CLAIMS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-3-59, Mississippi Code of 1972, is  
8 amended as follows:

9 71-3-59. (1) If the court having jurisdiction of  
10 proceedings in respect of any claim or compensation order  
11 determined that the proceedings in respect of such claim or order  
12 have been instituted or continued without reasonable ground, the  
13 costs of such proceedings shall be assessed against the party who  
14 has so instituted or continued such proceedings.

15 (2) If the full commission determines that proceedings in  
16 respect to a claim have been instituted, continued or delayed,  
17 including by way of appeal to the commission, without reasonable  
18 ground, the full commission shall require the party who has so  
19 instituted, continued or delayed such proceedings or the attorney



20 advising such party, or both, to pay the reasonable expenses,  
21 including attorney's fees, caused by such institution, continuance  
22 or delay to the opposing party. In addition to requiring the  
23 payment of reasonable expenses, including attorney's fees, to the  
24 opposing party, the commission may levy a civil penalty not to  
25 exceed Ten Thousand Dollars (\$10,000.00) against such party, or  
26 attorney advising or assisting such party, or both, payable to the  
27 commission. Any such civil penalty levied and collected by the  
28 commission shall be deposited into the Administrative Expense Fund  
29 provided for in Section 71-3-97 and any such penalty which is not  
30 voluntarily paid may be collected by civil suit brought by the  
31 commission.

32 (3) (a) The commission has the exclusive jurisdiction and  
33 control of claims for alleged bad faith claims handling and any  
34 alleged intentional torts arising out of the handling of workers'  
35 compensation claims by the employer, the employer's workers'  
36 compensation administrator, or the workers' compensation insurance  
37 carrier, and further has the exclusive jurisdiction to determine  
38 whether the employer, the employer's workers' compensation  
39 administrator, or the workers' compensation insurance carrier has  
40 acted in bad faith in adjusting or settling a claim for  
41 compensation. Such actions may not be brought or maintained in  
42 any other venue or jurisdiction; however, the determination by the  
43 commission may be appealed in like manner as other awards under



44 the Workers' Compensation Act. Any actions pending upon July 1,  
45 2017, shall be immediately transferred to the commission.

46 (b) The failure to pay a benefit timely does not in  
47 itself constitute bad faith claims handling, and penalties for  
48 such failure remain subject to Section 71-3-37.

49 (c) Where the commission finds by clear and convincing  
50 evidence conduct constituting bad faith claims handling, it may,  
51 in its discretion, levy a reasonable penalty payable as increased  
52 compensation to the claimant. In determining the amount of the  
53 penalty award, the commission shall take into account the wrongful  
54 conduct, intent to cause harm, if any, the amount not paid, single  
55 or repeated conduct, harm to the employee, and other  
56 characteristics of the conduct that the commission finds relevant.  
57 The commission shall ensure the penalty is reasonable in its  
58 amount and rationally related to the purpose to penalize what  
59 occurred giving rise to the penalty and to deter its repetition by  
60 the defendant and others.

61 (d) For purposes of this section, the term "bad faith  
62 claims handling" shall mean an intentional and malicious denial or  
63 substantial delay of compensation benefits without any reasonable  
64 basis or reasonable belief that such benefits were not currently  
65 due.

66 (e) The commission shall promulgate rules governing  
67 conduct subject to penalty under this section.



68           **SECTION 2.** This act shall take effect and be in force from  
69 and after July 1, 2017.

