

By: Representative Chism

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 447

1 AN ACT TO AMEND SECTIONS 83-21-19 AND 83-21-23, MISSISSIPPI
2 CODE OF 1972, TO PERMIT PLACEMENT OF INSURANCE WITH A SURPLUS
3 LINES INSURER WITHOUT REGARD TO THE AVAILABILITY OF AUTHORIZED
4 INSURANCE; TO REQUIRE AN INFORMATIONAL NOTICE BE PROVIDED BY THE
5 SURPLUS LINES INSURANCE PRODUCER TO THE INSURED REGARDING
6 PLACEMENT OF PERSONAL LINES POLICIES WITH SURPLUS LINES INSURERS;
7 AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 83-21-19, Mississippi Code of 1972, is
10 amended as follows:

11 83-21-19. (1) Surplus lines insurance may be placed by a
12 surplus lines insurance producer if:

13 (a) Each insurer is an eligible surplus lines
14 insurer; * * *

15 (b) Each insurer is authorized to write the line of
16 insurance in its domiciliary jurisdiction; and

17 * * *

18 (* * *c) All other requirements as set forth by law
19 are met.



20 (2) The Commissioner of Insurance, upon the biennial payment
21 of a fee of One Hundred Dollars (\$100.00) and submission of a
22 completed license application on a form approved by the
23 commissioner, may issue a surplus lines insurance producer license
24 to a qualified holder of an insurance producer license with a
25 property, casualty and/or personal lines line of authority, who is
26 regularly commissioned to represent * * * a fire and casualty
27 insurance * * * company licensed to do business in the state.

28 (3) The privilege license shall continue from the date of
29 issuance until the last day of the month of the licensee's
30 birthday in the second year following issuance or renewal of the
31 license, with a minimum term of twelve (12) months.

32 (4) A nonresident person shall receive a surplus lines
33 insurance producer license if:

34 (a) The person is currently licensed as a surplus lines
35 insurance producer or equivalent and in good standing in his or
36 her home state;

37 (b) The person has submitted the proper request for
38 licensure and has paid the biennial fee of One Hundred Dollars
39 (\$100.00); and

40 (c) The person's home state awards nonresident surplus
41 lines licenses to residents of this state on the same basis.

42 * * *

43 (* * * 5) The commissioner may verify a person's licensing
44 status through the National Producer Database maintained by the



45 National Association of Insurance Commissioners, its affiliates or
46 subsidiaries.

47 (* * *6) A nonresident surplus lines insurance producer
48 licensee who moves from one (1) state to another state, or a
49 resident surplus lines licensee who moves from this state to
50 another state, shall file a change of address and provide
51 certification from the new resident state within thirty (30) days
52 of the change of legal residence. No fee or license application
53 is required.

54 (* * *7) The commissioner may deny, suspend, revoke or
55 refuse the license of a surplus lines insurance producer licensee
56 and/or levy a civil penalty in an amount not to exceed Two
57 Thousand Five Hundred Dollars (\$2,500.00) per violation, after
58 notice and hearing as provided hereunder, for one or more of the
59 following grounds:

60 (a) Providing incorrect, misleading, incomplete or
61 materially untrue information in the license application;

62 (b) Violating any insurance laws, or violating any
63 regulation, subpoena or order of the commissioner or of another
64 state's commissioner;

65 (c) Obtaining or attempting to obtain a license through
66 misrepresentation or fraud;

67 (d) Improperly withholding, misappropriating or
68 converting any monies or properties received in the course of
69 doing the business of insurance;



70 (e) Intentionally misrepresenting the terms of an
71 actual or proposed insurance contract or application for
72 insurance;

73 (f) Having been convicted of a felony;

74 (g) Having admitted or been found to have committed any
75 insurance unfair trade practice or fraud;

76 (h) Using fraudulent, coercive or dishonest practices
77 or demonstrating incompetence, untrustworthiness or financial
78 irresponsibility in the conduct of business in this state or
79 elsewhere;

80 (i) Having an insurance producer license, or its
81 equivalent, denied, suspended or revoked in any other state,
82 province, district or territory;

83 (j) Forging another's name to an application for
84 insurance or to any document related to an insurance transaction;

85 (k) Improperly using notes or any other reference
86 material to complete an examination for an insurance license;

87 (l) Knowingly accepting insurance business from an
88 individual who is not licensed;

89 (m) Failing to comply with an administrative or court
90 order imposing a child support obligation; or

91 (n) Failing to pay state income tax or comply with any
92 administrative or court order directing payment of state income
93 tax.



94 (* * *8) If the action by the commissioner is to nonrenew,
95 suspend, revoke or to deny an application for a license, the
96 commissioner shall notify the applicant or licensee and advise, in
97 writing, the applicant or licensee of the reason for the denial or
98 nonrenewal of the applicant's or licensee's license. The
99 applicant or licensee may make written demand upon the
100 commissioner within ten (10) days for a hearing before the
101 commissioner to determine the reasonableness of the commissioner's
102 action. The hearing shall be held within thirty (30) days.

103 (* * *9) Every surplus lines insurance contract procured
104 and delivered according to Sections 83-21-17 through 83-21-31
105 shall have stamped upon it in bold ten-point type, and bear the
106 name of the surplus lines insurance producer who procured it, the
107 following: "NOTE: This insurance policy is issued pursuant to
108 Mississippi law covering surplus lines insurance. The company
109 issuing the policy is not licensed by the State of Mississippi,
110 but is authorized to do business in Mississippi as a nonadmitted
111 company. The policy is not protected by the Mississippi Insurance
112 Guaranty Association in the event of the insurer's insolvency."
113 No diminution of the license fee herein provided shall occur as to
114 any license effective after January 1 of any year.

115 **SECTION 2.** Section 83-21-23, Mississippi Code of 1972, is
116 amended as follows:

117 83-21-23. (1) When any policy of personal lines
118 insurance * * * is procured under the authority of such



119 license, * * * the surplus lines insurance producer * * * shall
120 furnish to the insured at the time of policy deliverance an
121 informational notice as promulgated by the commissioner. * * *

122 The informational notice shall address the following:

123 (a) The insurance procured may or may not be available
124 from the admitted market that may provide greater protection with
125 more regulatory oversight;

126 (b) In the event of an insolvency of the surplus lines
127 insurer, losses shall not be paid by the Mississippi Insurance
128 Guaranty Association;

129 (c) The coverage has been procured through a duly
130 licensed nonadmitted insurance producer; and

131 (d) Any other information the commissioner believes
132 should be disclosed to the insured.

133 (2) The Commissioner of Insurance may promulgate rules and
134 regulations and establish appropriate fees for the implementation
135 of Sections 83-21-17 through 83-21-31.

136 * * *

137 **SECTION 3.** This act shall take effect and be in force from
138 and after July 1, 2017.

