

By: Representative Touchstone

To: Judiciary A

HOUSE BILL NO. 961

1 AN ACT TO PROHIBIT CIVIL LIABILITY AGAINST A PERSON OR ENTITY  
 2 FOR FURNISHING INFORMATION CONCERNING INSURANCE FRAUD TO ANY LAW  
 3 ENFORCEMENT, INVESTIGATORY, PROSECUTORIAL OR REGULATORY AGENT OR  
 4 AGENCY, INSURER, STATUTORY RESIDUAL MARKET PLAN, OR NONPROFIT  
 5 ORGANIZATION DEDICATED TO THE INVESTIGATION AND PROSECUTION OF  
 6 INSURANCE FRAUD; TO AMEND SECTION 83-13-21, MISSISSIPPI CODE OF  
 7 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
 8 PURPOSES.

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

10 **SECTION 1.** (1) Except as otherwise provided in subsection  
 11 (2) of this section, there shall be no civil liability imposed on  
 12 and no cause of action shall arise against a person or entity for  
 13 furnishing information concerning suspected, anticipated or  
 14 completed insurance fraud to any law enforcement, investigatory,  
 15 prosecutorial or regulatory agent or agency, or insurer, statutory  
 16 residual market plan, or nonprofit organization dedicated to the  
 17 investigation and prosecution of insurance fraud. This shall not  
 18 abrogate or modify common law or statutory privileges or  
 19 immunities enjoyed by a person or entity. The prohibition of  
 20 civil liability applies only to the act of reporting and does not



21 limit civil liability against a person or entity for committing  
22 fraud or other tortious conduct.

23 (2) Subsection (1) of this section shall not apply to claims  
24 against persons where false statements were made with actual  
25 malice by persons furnishing information concerning suspected,  
26 anticipated or completed insurance fraud. Any civil action  
27 brought against a person for filing a report or furnishing other  
28 information concerning insurance fraud shall be dismissed unless  
29 the party bringing the action has pleaded specifically that  
30 subsection (1) does not apply because the person filing the report  
31 or furnishing the information did so with actual malice, and has  
32 pleaded specifically facts that support a claim of actual malice.  
33 The person bringing such civil action has a burden to prove actual  
34 malice by clear and convincing evidence.

35 (3) For purposes of this section, insurance fraud is  
36 committed if a person knowingly and with intent to defraud  
37 presents, causes to be presented, or prepares with knowledge or  
38 belief that it will be presented to or by an insurer, a purported  
39 insurer, or any producer thereof, any written statement as part or  
40 in support of an application of the issuance or the rating of an  
41 insurance policy or a claim for payment or other benefit pursuant  
42 to an insurance policy that he knows to contain false information  
43 concerning any fact material thereto or if he knowingly and with  
44 intent to defraud or mislead conceals information concerning any  
45 fact material thereto.



46           **SECTION 2.** Section 83-13-21, Mississippi Code of 1972, is  
47 amended as follows:

48           83-13-21. (1) The State Chief Deputy Fire Marshal, the  
49 Commissioner of Insurance or any other authorized law enforcement  
50 authority charged with the responsibility of investigating a fire  
51 loss of real or personal property which may have resulted from a  
52 fire of incendiary origin may require, in writing, any insurance  
53 company insuring the loss under investigation to release any  
54 information in its possession which is pertinent to such a loss.  
55 The information shall include, but is not limited to:

56                   (a) Any insurance policy relevant to a fire loss under  
57 investigation and any application for such a policy;

58                   (b) Policy premium payment records;

59                   (c) History of previous claims made by the insured for  
60 fire loss; and

61                   (d) Material relating to the investigation of the loss,  
62 including statements of any person, proof of loss, and any other  
63 relevant information or evidence.

64           (2) \* \* \* Any insurance company or agent thereof who  
65 furnishes information on its behalf shall be immune from liability  
66 for damages in a civil action \* \* \* as provided in Section 1 of  
67 this act.

68           (3) As used in this chapter, "insurance company" shall  
69 include the Mississippi Insurance Underwriting Association.



70           (4) Any insurance company providing information to an  
71 authorized agency pursuant to subsection (1) of this section, or  
72 any owner, insured tenant or resident of property which is the  
73 subject of a report, shall have the right to request of such  
74 agency relevant information in accordance with Section 45-11-1.

75           (5) Any insurance company that willfully violates the  
76 provisions of this section shall be guilty of a misdemeanor and,  
77 upon conviction, shall be fined not more than One Thousand Dollars  
78 (\$1,000.00) and the Commissioner of Insurance may revoke the  
79 license of such company to transact the business of insurance in  
80 this state.

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

