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To: Insurance

HOUSE BILL NO. 948
(As Passed the House)

1 AN ACT TO REENACT AND AMEND SECTION 83-34-4, MISSISSIPPI CODE
2 OF 1972, TO REQUIRE MONIES DERIVED FROM THE NONADMITTED POLICY FEE
3 TO BE DEPOSITED INTO THE RURAL FIRE TRUCK FUND OR SUPPLEMENTARY
4 RURAL FIRE TRUCK FUND AND TO EXTEND THE REPEALER THEREON; TO AMEND
5 SECTION 83-34-35, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
6 ASSOCIATION TO OBTAIN APPROVAL FROM THE COMMISSIONER BEFORE
7 OBTAINING REINSURANCE GREATER THAN THE PROBABLE MAXIMUM LOSS FOR A
8 STORM EXPECTED TO OCCUR EVERY ONE HUNDRED FIFTY YEARS, AND TO
9 REQUIRE ANY PURCHASE OF REINSURANCE TO INCLUDE AT A MINIMUM A
10 SELF-INSURED RETENTION OF ONE HUNDRED MILLION DOLLARS; TO REQUIRE
11 THE COMMISSIONER OF INSURANCE TO SUBMIT A STUDY OF THE ASSOCIATION
12 TO THE LEGISLATURE; TO AMEND SECTION 83-21-21, MISSISSIPPI CODE OF
13 1972, TO CONFORM; TO AMEND SECTION 17-23-1, MISSISSIPPI CODE OF
14 1972, TO AUTHORIZE AN ADDITIONAL ROUND FOR THE RURAL FIRE TRUCK
15 ACQUISITION ASSISTANCE PROGRAM; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 83-34-4, Mississippi Code of 1972, is
18 reenacted and amended as follows:

19 83-34-4. (1) Nonadmitted insurers shall not be assessable
20 insurers of the association. All surplus lines insurance
21 producers placing insurance through nonadmitted insurers shall
22 collect from the insured and remit to the * * * Department of
23 Insurance a nonadmitted policy fee on all premiums for all
24 insurance written by such surplus lines insurance producer for a



25 policy from a nonadmitted insurer for any and all risks in this
26 state, except that policies or portions thereof that cover
27 residential earthquake risks or residential flood risks that are
28 not written through the National Flood Insurance Program shall be
29 exempt from the nonadmitted policy fee. By procuring or selling
30 insurance on property in this state from a nonadmitted insurer,
31 each surplus lines insurance producer placing insurance through a
32 nonadmitted insurer agrees to be bound by the provisions of this
33 chapter and to collect and remit the nonadmitted policy fee
34 provided for herein.

35 (2) The nonadmitted policy fee shall be a percentage of the
36 total policy premium but the nonadmitted policy fee shall not be
37 considered premium and is not subject to premium taxes or
38 commissions. However, failure to pay the nonadmitted policy fee
39 shall be treated the same as failure to pay premium. "Total
40 policy premium" includes taxes and commissions.

41 (3) The nonadmitted policy fee percentage shall be three
42 percent (3%).

43 (4) Within twenty (20) days of the end of the quarter,
44 surplus lines insurance producers placing insurance through
45 nonadmitted insurers shall remit directly to the * * * Department
46 of Insurance all nonadmitted policy fees collected in the
47 preceding quarter. In addition to the nonadmitted policy fee
48 provided for herein, surplus lines insurance producers placing
49 insurance through nonadmitted insurers shall collect and remit



50 surcharges as provided by this chapter. Surplus lines insurance
51 producers placing insurance through nonadmitted insurers may
52 designate another surplus lines insurance producer that actually
53 procured the insurance from the nonadmitted carrier to collect and
54 remit the nonadmitted policy fees.

55 (5) Each insured in this state who directly procures or
56 renews insurance with a nonadmitted insurer on properties, risks
57 or exposures located or to be performed, in whole or in part, in
58 this state, other than insurance procured through a surplus lines
59 licensee, shall be subject to the nonadmitted policy fee which
60 shall be paid by the insured according to the procedures provided
61 for premium taxes in Section 83-21-17(5).

62 (6) Monies derived from the nonadmitted policy fee collected
63 under this section * * * shall be deposited into the Rural Fire
64 Truck Fund or Supplementary Rural Fire Truck Fund.

65 (7) This section shall stand repealed from and after July
66 1, * * * 2021.

67 **SECTION 2.** Section 83-34-35, Mississippi Code of 1972, is
68 amended as follows:

69 83-34-35. (1) In order to avoid or lessen the possibility
70 and amount of surcharges authorized by this chapter, the
71 commissioner shall approve rates for policies issued by the
72 association at least adequate to fund annual reinsurance above a
73 self-insured retention of One Hundred Million Dollars
74 (\$100,000,000.00) that, combined with any readily available



75 reserves of the association, is sufficient to cover at least the
76 probable maximum losses from a storm expected to occur once every
77 one hundred (100) years as predicted by a model or method approved
78 by the commissioner for the properties insured by the association
79 at the time the reinsurance was negotiated. The amount of
80 reinsurance in the foregoing rate adequacy requirement shall
81 increase every two (2) years by increasing the probable maximum
82 loss by five (5) years, until such time as the probable maximum
83 loss insured is for a storm expected to occur every one hundred
84 fifty (150) years. The commissioner may approve rates in excess
85 of the minimums required by this section as consistent with his
86 duties and the insurance laws of the State of Mississippi.

87 (2) The association must receive approval from the
88 commissioner before purchasing reinsurance in excess of the amount
89 to cover the probable maximum loss for a storm expected to occur
90 every one hundred fifty (150) years.

91 (3) Any purchase of reinsurance by the association shall
92 include at a minimum a self-insured retention of One Hundred
93 Million Dollars (\$100,000,000.00).

94 (4) All contracts for personal and professional services
95 entered into by the Mississippi Windstorm Underwriting Association
96 that exceed Seventy-five Thousand Dollars (\$75,000.00) in annual
97 payments shall be submitted to the Commissioner of Insurance and
98 the Public Procurement Review Board for review and approval. This
99 subsection (4) shall not apply to the reinsurance policy itself.



100 **SECTION 3.** Not later than September 1, 2019, the
101 Commissioner of Insurance shall submit to the Legislature a report
102 on the Windstorm Underwriting Association which shall include an
103 organizational analysis of the association. This report shall at
104 a minimum include an analysis of any problems identified, and any
105 recommendations for any legislative action necessary to address
106 those problems and to foster stability, availability, and
107 competition within the windstorm insurance industry. The
108 commissioner, at his discretion, may retain professionals or
109 specialists to assist with the report, and the costs thereof shall
110 be borne by the association.

111 **SECTION 4.** Section 83-21-21, Mississippi Code of 1972, is
112 amended as follows:

113 83-21-21. (1) The Commissioner of Insurance may establish a
114 stamping procedure for all eligible nonadmitted/surplus lines
115 insurance policies sold on risks subject to the payment of premium
116 taxes to the State of Mississippi.

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

121 (a) A copy of the association's constitution and
122 articles of agreement of association or the association's
123 certificate of incorporation and bylaws and any rules and
124 regulations governing the association's activities;



125 (b) A list of the association's members; and
126 (c) The name and address of a resident of this state
127 upon whom notices or orders of the commissioner or process issued
128 by the commissioner may be served.

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

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

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

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

141 (b) The association does not maintain and enforce rules
142 and regulations which will ensure that members of the association
143 and persons associated with those members will comply with this
144 chapter, other applicable state law or rules or regulations
145 promulgated under either;

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



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

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

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

156 (6) A surplus lines insurance producer shall cooperate with
157 the association and the Commissioner of Insurance in fulfilling
158 the surplus lines agent's statutory responsibility under this
159 chapter and Section 83-34-4.

160 (7) Upon request from the association, the Commissioner of
161 Insurance may approve the levy of an examination fee of not more
162 than one percent (1%) of premiums charged under this chapter for
163 the operation of the association to the extent that such operation
164 relieves the commissioner of duties otherwise required of the
165 Commissioner of Insurance under this chapter and Section 83-34-4.

166 (8) The association may revoke the membership of, and the
167 Commissioner of Insurance may revoke the license in this state of,
168 any licensee who fails to pay the examination fee when due, if the
169 examination fee has been approved by the Commissioner of
170 Insurance.

171 (9) The fees levied and collected by the association
172 pursuant to this section shall be subject to transfer to the
173 Department of Insurance Special Fund by act of the Legislature.



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

178 (11) In the alternative, the Commissioner of Insurance may
179 contract with a third party to assist the commissioner with
180 carrying out the purposes of this chapter and Section 83-34-4.
181 The third party may collect an examination fee in an amount
182 determined by the commissioner but not more than one percent (1%)
183 of premiums charged under this chapter. The fees shall be
184 collected and deposited into the Department of Insurance Special
185 Fund, and from this fund the department may pay the third party a
186 reasonable fee for its services.

187 (12) Notwithstanding the provisions of Section 83-21-18(3),
188 any stamping procedure established under this section may apply to
189 the reporting, payment, collection and allocation of premium taxes
190 and fees for nonadmitted insurance consistent with any agreement,
191 compact or procedures entered into by the commissioner under
192 Section 83-21-18(1).

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

195 **SECTION 5.** Section 17-23-1, Mississippi Code of 1972, is
196 amended as follows:

197 17-23-1. (1) There is established the Rural Fire Truck
198 Acquisition Assistance Program to be administered by the



199 Department of Insurance for the purpose of assisting counties and
200 municipalities in the acquisition of fire trucks, firefighting
201 equipment and/or personal protective equipment and related gear.

202 (2) There is created in the State Treasury a special fund to
203 be designated as the "Rural Fire Truck Fund." The Legislature may
204 appropriate that amount necessary to fulfill the obligations
205 created under this section by the Department of Insurance, from
206 the State General Fund to such special fund, which sum shall be
207 added to the remainder of the money transferred on July 1, 1995,
208 and during the 1996 Regular Session to the Rural Fire Truck Fund.
209 Unexpended amounts remaining in the fund at the end of a fiscal
210 year shall not lapse into the State General Fund, and any interest
211 earned on amounts in the fund shall be deposited to the credit of
212 the fund. Unobligated amounts remaining in the Rural Fire Truck
213 Fund, Fund No. 3507, or in Fund No. 3508, or in Fund No. 3504, or
214 in any fund created for funds appropriated or otherwise made
215 available for this program, may be used as matching funds by any
216 county with remaining eligibility as provided herein. It is the
217 intent of the Legislature that the Department of Insurance
218 continue to accept applications from the counties for fire trucks
219 as provided in subsection (3) of this section.

220 (3) (a) A county that meets the requirements provided
221 herein may receive an amount not to exceed * * * Seven Hundred
222 Twenty Thousand Dollars (\$720,000.00) as provided in subparagraphs
223 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) * * *,



224 (xi) and (xii) of this paragraph, and such amount shall be divided
225 as follows: an amount of not more than Fifty Thousand Dollars
226 (\$50,000.00) per fire truck for the first six (6) trucks and not
227 more than Seventy Thousand Dollars (\$70,000.00) per fire truck for
228 the seventh, eighth, ninth, tenth * * *, eleventh and twelfth
229 trucks. Monies distributed under this chapter shall be expended
230 only for the purchase of new fire trucks and such trucks must meet
231 the National Fire Protection Association (NFPA) standards in the
232 1900 series.

233 (i) Any county that has not applied for a fire
234 truck under this section is eligible to submit applications
235 for * * * twelve (12) fire trucks as follows: six (6) fire trucks
236 at not more than Fifty Thousand Dollars (\$50,000.00) per truck
237 and * * * six (6) fire trucks at not more than Seventy Thousand
238 Dollars (\$70,000.00) per truck or a total of * * * Seven Hundred
239 Twenty Thousand Dollars (\$720,000.00).

240 (ii) Any county that has received one (1) fire
241 truck under this section is eligible to submit applications
242 for * * * eleven (11) fire trucks as follows: six (6) fire trucks
243 at not more than Fifty Thousand Dollars (\$50,000.00) per truck
244 and * * * six (6) fire trucks at not more than Seventy Thousand
245 Dollars (\$70,000.00) per truck or a total of * * * Six Hundred
246 Seventy Thousand Dollars (\$670,000.00).

247 (iii) Any county that has received two (2) fire
248 trucks under this section is eligible to submit an application



249 for * * * ten (10) fire trucks as follows: four (4) fire trucks
250 at not more than Fifty Thousand Dollars (\$50,000.00) per truck
251 and * * * six (6) fire trucks at not more than Seventy Thousand
252 Dollars (\$70,000.00) per truck or a total of not more than * * *
253 Six Hundred Twenty Thousand Dollars (\$620,000.00).

254 (iv) Any county that has received three (3) fire
255 trucks under this section is eligible to submit an application
256 for * * * nine (9) fire trucks as follows: three (3) fire trucks
257 at not more than Fifty Thousand Dollars (\$50,000.00) per truck
258 and * * * six (6) fire trucks at not more than Seventy Thousand
259 Dollars (\$70,000.00) per truck or a total of not more than * * *
260 Five Hundred Seventy Thousand Dollars (\$570,000.00).

261 (v) Any county that has received four (4) fire
262 trucks under this section is eligible to submit an application
263 for * * * eight (8) fire trucks as follows: two (2) fire trucks
264 at not more than Fifty Thousand Dollars (\$50,000.00) per truck
265 and * * * six (6) fire trucks at not more than Seventy Thousand
266 Dollars (\$70,000.00) per truck or a total of not more than * * *
267 Five Hundred Twenty Thousand Dollars (\$520,000.00).

268 (vi) Any county that has received five (5) fire
269 trucks under this section is eligible to submit an application
270 for * * * seven (7) fire trucks as follows: one (1) fire truck at
271 not more than Fifty Thousand Dollars (\$50,000.00) per truck
272 and * * * six (6) fire trucks at not more than Seventy Thousand



273 Dollars (\$70,000.00) per truck or a total of not more than * * *
274 Four Hundred Seventy Thousand Dollars (\$470,000.00).

275 (vii) Any county that has received six (6) fire
276 trucks under this section is eligible to submit an application
277 for * * * six (6) fire trucks at not more than Seventy Thousand
278 Dollars (\$70,000.00) per truck or a total of not more than * * *
279 Four Hundred Twenty Thousand Dollars (\$420,000.00).

280 (viii) Any county that has received seven (7) fire
281 trucks under this section is eligible to submit an application
282 for * * * five (5) fire trucks at not more than * * * Three
283 Hundred Fifty Thousand Dollars (\$350,000.00).

284 (ix) Any county that has received eight (8) fire
285 trucks under this section is eligible to submit an application
286 for * * * four (4) fire trucks at not more than * * * Two Hundred
287 Eighty Thousand Dollars (\$280,000.00).

288 (x) Any county that has received nine (9) fire
289 trucks under this section is eligible to submit an application
290 for * * * three (3) fire trucks at not more than * * * Two Hundred
291 Ten Thousand Dollars (\$210,000.00).

292 (xi) Any county that has received ten (10) fire
293 trucks under this section is eligible to submit an application
294 for * * * two (2) fire trucks at not more than * * * One Hundred
295 Forty Thousand Dollars (\$140,000.00).

296 (xi) Any county that has received eleven (11) fire
297 trucks under this section is eligible to submit an application for



298 one (1) fire truck at not more than Seventy Thousand Dollars
299 (\$70,000.00).

300 (b) The board of supervisors of the county shall submit
301 its request for the receipt of monies to the Department of
302 Insurance. A committee composed of the Commissioner of Insurance,
303 the State Fire Coordinator, the Director of the Rating Bureau and
304 the Director of the State Fire Academy shall review the requests
305 by the boards of supervisors and shall determine whether the
306 county or municipality for which the board of supervisors has
307 requested a truck meets the requirements of eligibility under this
308 chapter.

309 (c) To be eligible to receive monies under this
310 chapter:

311 (i) A county or municipality must pledge to set
312 aside or dedicate each year as matching funds, for a period not to
313 extend over ten (10) years, local funds in an amount equal to or
314 not less than one-tenth (1/10) of the amount of monies for which
315 it is requesting distribution from the Rural Fire Truck Fund,
316 which pledged monies may be derived from local ad valorem tax
317 authorized by law or from any other funds available to the county
318 or municipality, except for those funds received by municipalities
319 or counties from the Municipal Fire Protection Fund or the County
320 Volunteer Fire Department Fund, as defined in Sections 83-1-37 and
321 83-1-39.



322 (ii) A municipality must provide adequate
323 documentation of its contract with the county that requires the
324 municipality to provide fire protection in rural areas. The term
325 "rural areas" means any area within the county located outside the
326 boundaries of an incorporated municipality or any incorporated
327 municipality with a population of two thousand five hundred
328 (2,500) or less.

329 (d) The Department of Insurance shall maintain an
330 accurate record of all monies distributed to counties and
331 municipalities and the number of fire trucks purchased and the
332 cost for each fire truck, such records to be kept separate from
333 other records of the Department of Insurance; notify counties and
334 municipalities of the Rural Fire Truck Acquisition Assistance
335 Program and the requirements for them to become eligible to
336 participate; adopt and promulgate such rules and regulations as
337 may be necessary and desirable to implement the provisions of this
338 chapter; and file with the Legislature a report detailing how
339 monies made available under this chapter were distributed and
340 spent during the preceding portion of the fiscal year in each
341 county and municipality, the number of fire trucks purchased, the
342 counties and municipalities making such purchases, * * * the cost
343 of each fire truck purchased and the equipment/gear purchased
344 under paragraph (e) of this subsection.

345 (e) Any county participating in any round under this
346 section may request and receive an amount up to Twenty-five



347 Thousand Dollars (\$25,000.00) for firefighting equipment and/or
348 personal protective equipment and related gear.

349 **SECTION 6.** This act shall take effect and be in force from
350 and after its passage.

