

By: Representative Turner

To: Insurance

HOUSE BILL NO. 1137

1 AN ACT TO AMEND SECTIONS 83-11-1, 83-11-7, 83-5-28, 71-3-77
 2 AND 83-11-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A NOTICE
 3 OF NONRENEWAL IS NOT REQUIRED WHEN A REPLACEMENT POLICY FORM IS
 4 ISSUED BY THE SAME INSURER OR WHEN AN INSURED IS TRANSFERRED TO A
 5 LICENSED AFFILIATE OF THE INSURER, SO LONG AS THE TRANSFER OR
 6 REPLACEMENT RESULTS IN THE SAME OR SUBSTANTIALLY SIMILAR COVERAGE;
 7 TO PROVIDE THAT DOCUMENTS SIGNED BY THE INSURED ARE APPLICABLE TO
 8 THE REPLACEMENT POLICY FORM, THE COVERAGE TRANSFERRED TO A
 9 LICENSED AFFILIATE INSURER, OR BOTH, AND REMAIN VALID AND
 10 ENFORCEABLE; TO REQUIRE A TRANSFERRING INSURER TO PROVIDE NOTICE
 11 OF THE POLICY TRANSFER TO THE MISSISSIPPI INSURANCE DEPARTMENT AND
 12 TO THE POLICYHOLDER; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 83-11-1, Mississippi Code of 1972, is
 15 amended as follows:

16 83-11-1. As used in this article:

17 (a) "Policy" means an automobile liability, automobile
 18 physical damage, or automobile collision policy, or any
 19 combination thereof, delivered or issued for delivery in this
 20 state, insuring a single individual, or husband and wife resident
 21 of the same household, as named insured and under which the
 22 insured vehicles therein designated are of the following types
 23 only:



24 (* * *i) A motor vehicle of the private passenger
25 or station wagon type that is not used as a public or livery
26 conveyance for passengers, nor rented to others; or

27 (* * *ii) Any other four-wheel motor vehicle with
28 a load capacity of fifteen hundred (1500) pounds or less which is
29 not used in the occupation, profession, or business of the
30 insured; provided, however, that this article shall not
31 apply * * * 1. to any policy issued under an automobile assigned
32 risk plan, * * * 2. to any policy insuring more than four (4)
33 automobiles, or * * * 3. to any policy covering garage, automobile
34 sales agency, repair shop, service station, or public parking
35 place operation hazards.

36 (b) "Automobile liability coverage" includes only
37 coverage of bodily injury and property damage liability, medical
38 payments, and uninsured motorist coverage.

39 (c) "Automobile physical damage coverage" includes all
40 coverage of loss or damage to an automobile insured under the
41 policy except loss or damage resulting from collision or upset.

42 (d) "Automobile collision coverage" includes all
43 coverage of loss or damage to an automobile insured under the
44 policy resulting from collision or upset.

45 (e) "Renewal" or "to renew" means the issuance and
46 delivery by an insurer of a policy providing the same or
47 substantially similar coverage replacing at the end of the policy
48 period a policy previously issued and delivered by the same



49 insurer or a licensed affiliate, or the issuance and delivery of a
50 certificate of notice extending the term of a policy beyond its
51 policy period or term; provided, however, that any policy with a
52 policy period or term of less than six (6) months shall for the
53 purpose of this article be considered as if written for a policy
54 period or term of six (6) months. Any policy written for a term
55 longer than one (1) year or any policy with no fixed expiration
56 date shall, for the purpose of this article, be considered as if
57 written for successive policy periods or terms of one (1) year;
58 and such policy may be terminated at the expiration of any annual
59 period upon giving thirty (30) days' notice of cancellation prior
60 to such anniversary date. Such cancellation shall not be subject
61 to any other provisions of this article.

62 (f) "Nonpayment of premium" means failure of the named
63 insured to discharge when due any of his obligations in connection
64 with the payment of premiums on a policy, or any installment of
65 such premium, whether the premium is payable directly to the
66 insurer or its agents or indirectly under any premium finance plan
67 or extension of credit.

68 (g) "Affiliate transfer" is when an insurer transfers,
69 at renewal or policy expiration, its personal or commercial lines
70 insurance policies to an affiliated licensed insurer that is a
71 member of the same insurance group or same holding company as the
72 transferring insurer. The issuance of a replacement policy form
73 providing the same or substantially similar coverage issued by the



74 same insurer, or the transfer of personal or commercial insurance
75 policies to a licensed affiliate insurer that will issue the same
76 or substantially similar policy, are considered a renewal and will
77 not be treated as a cancellation or nonrenewal. The affiliate
78 transfer must be to a licensed affiliate insurer that has been
79 determined by the commissioner to have the same or better
80 financial strength as the transferring insurer. The policy
81 transfer must be selected on a nondiscriminatory basis.

82 (h) "Substantially similar" means a policy that
83 provides the same basic coverages but may add, alter or eliminate
84 incidental coverages and may provide coverages using different
85 textual language.

86 **SECTION 2.** Section 83-11-7, Mississippi Code of 1972, is
87 amended as follows:

88 83-11-7. No insurer shall fail to renew a policy unless it
89 shall mail or deliver to the named insured, at the address shown
90 in the policy and to the named creditor loss payee, at least
91 thirty (30) days' advance notice of its intention not to renew.
92 This section shall not apply if there is no named creditor loss
93 payee and:

94 (a) If the insurer has manifested its willingness to
95 renew, subject to certain specified conditions which are not met
96 by the insured; nor

97 (b) If the insured has manifested its unwillingness to
98 renew; nor



99 (c) In case of nonpayment of premium; nor

100 (d) In case of failure to make timely payment of dues
101 to, or to maintain membership in good standing with, a designated
102 association, corporation or other organization where the original
103 issue of such policy or renewal was dependent upon such
104 membership; provided that, notwithstanding the failure of an
105 insurer to comply with this section, the policy shall terminate on
106 the effective date of any other insurance policy with respect to
107 any automobile designated in both policies.

108 A notice of nonrenewal is not required when a replacement
109 policy form is issued by the same insurer or when an insured is
110 transferred to a licensed affiliate of the insurer, so long as the
111 transfer or replacement results in the same or substantially
112 similar coverage. Whenever a replacement policy form is issued by
113 the same insurer or when transfer of an insured to a licensed
114 affiliate occurs, documents signed by the insured are applicable
115 to the replacement policy form, the coverage transferred to a
116 licensed affiliate insurer, or both, and remain valid and
117 enforceable.

118 Whenever a replacement policy form providing the same or
119 substantially similar coverage is issued by the same insurer, or
120 by a licensed affiliate insurer, such insurer shall mail or
121 deliver to the policyholder, at least thirty (30) days in advance
122 of the effective date of renewal, written notice of any terms or
123 conditions that are less favorable to the policyholder.



124 A transferring insurer shall notify the Mississippi Insurance
125 Department at least forty-five (45) days in advance of notifying a
126 policyholder that its personal or commercial lines insurance
127 policies will be transferred to another licensed insurer within
128 the same insurance group or same holding company. The notice
129 shall include the name of insurer transferring the personal or
130 commercial lines policies and the name and financial rating of the
131 insurer receiving the transferred personal or commercial lines
132 policies.

133 A transferring insurer shall provide the policyholder written
134 notice of the policy transfer at least thirty (30) days prior to
135 expiration of the policy term and shall include the financial
136 rating of the insurer receiving the transferred policy. Such
137 notice must be provided to the policyholder with the notice of
138 renewal premium at least thirty (30) days before the effective
139 date of the transfer.

140 Renewal of a policy shall not constitute a waiver or estoppel
141 with respect to grounds for cancellation which existed before the
142 effective date of such renewal, and if a policy shall be cancelled
143 as authorized by this article prior to such policy's renewal, such
144 cancellation shall terminate any right of renewal conferred by
145 this article.

146 **SECTION 3.** Section 83-5-28, Mississippi Code of 1972, is
147 amended as follows:



148 83-5-28. (1) A cancellation, reduction in coverage or
149 nonrenewal of liability insurance coverage, fire insurance
150 coverage or single premium multiperil insurance coverage is not
151 effective as to any coverage issued or renewed after June 30,
152 1989, unless notice is mailed or delivered to the insured and to
153 any named creditor loss payee by the insurer not less than thirty
154 (30) days prior to the effective date of such cancellation,
155 reduction or nonrenewal. This section shall not apply to
156 nonpayment of premium unless there is a named creditor loss payee,
157 in which case at least ten (10) days' notice is required. The
158 cancellation and nonrenewal notice requirements of this section
159 shall not apply when a replacement policy form is issued by the
160 same insurer or when a transfer of an insured to a licensed
161 affiliate of the insurer occurs, so long as the replacement of
162 policy forms or transfer results in the same or substantially
163 similar coverage and the insurer mails or delivers to the insured
164 at least thirty (30) days prior to the renewal effective date
165 notice of any term or condition that is less favorable to the
166 policyholder.

167 (2) The provisions of subsection (1) shall be incorporated
168 into each liability, fire and multiperil policy issued or renewed
169 after June 30, 1989; and if such provisions are not expressly
170 stated in the policy, such provisions shall be deemed to be
171 incorporated in the policy.



172 (3) Whenever a replacement policy form is issued by the same
173 insurer or when transfer of an insured to a licensed affiliate
174 occurs, documents signed by the insured are applicable to the
175 replacement policy form, the coverage transferred to a licensed
176 affiliate insurer, or both, and remain valid and enforceable.

177 (4) A transferring insurer shall notify the Mississippi
178 Insurance Department at least forty-five (45) days in advance of
179 notifying a policyholder that its personal or commercial lines
180 insurance policies will be transferred to another licensed insurer
181 within the same insurance group or same holding company. The
182 notice shall include the name of insurer transferring the personal
183 or commercial lines policies and the name and financial rating of
184 the insurer receiving the transferred personal or commercial lines
185 policies.

186 (5) A transferring insurer shall provide the policyholder
187 written notice of the policy transfer at least thirty (30) days
188 prior to expiration of the policy term and shall include the
189 financial rating of the insurer receiving the transferred policy.
190 Such notice must be provided to the policyholder with the notice
191 of renewal premium at least thirty (30) days before the effective
192 date of the transfer.

193 (6) As used in this section:

194 (a) "Affiliate transfer" is when an insurer transfers,
195 at renewal or policy expiration, its personal or commercial lines
196 insurance policies to an affiliated licensed insurer that is a



197 member of the same insurance group or same holding company as the
198 transferring insurer. The issuance of a replacement policy form
199 providing the same or substantially similar coverage issued by the
200 same insurer, or the transfer of personal or commercial insurance
201 policies to a licensed affiliate insurer that will issue the same
202 or substantially similar policy, are considered a renewal and will
203 not be treated as a cancellation or nonrenewal. The affiliate
204 transfer must be to a licensed affiliate insurer that has been
205 determined by the commissioner to have the same or better
206 financial strength as the transferring insurer. The policy
207 transfer must be selected on a nondiscriminatory basis.

208 (b) "Substantially similar" means a policy that
209 provides the same basic coverages but may add, alter or eliminate
210 incidental coverages and may provide coverages using different
211 textual language.

212 **SECTION 4.** Section 71-3-77, Mississippi Code of 1972, is
213 amended as follows:

214 71-3-77. (1) Every contract for the insurance of the
215 compensation herein provided, or against liability therefor, shall
216 be deemed to be made subject to the provisions of this chapter,
217 and provisions thereof inconsistent with this chapter shall be
218 void. Such contract shall be allowed to offer deductibles on all
219 liability of the assured under and according to the provisions of
220 this chapter, notwithstanding any agreement of the parties to the
221 contrary. However, the payments of the claims, including the



222 deductible amounts, shall be made directly from the insurance
223 company to the employee, except for medical benefits which shall
224 be paid to the medical provider. A copy of such payments shall be
225 forwarded to the employer. The insurance company shall collect
226 the deductible from the employer as shall be provided in the
227 contract between the employer and the insurer. No such policy
228 shall be subject to nonrenewal, or cancelled by the insurer within
229 the policy period, until a notice in writing shall be given to the
230 commission and to the insured, fixing the date on which it is
231 proposed to cancel it or declaring that the company does not
232 intend to renew the policy upon expiration date. Notice to the
233 insured shall be served personally or by registered or certified
234 mail. Notice to the commission shall be provided in such manner
235 and on such form as the commission may prescribe or direct. No
236 such cancellation or nonrenewal shall be effective until thirty
237 (30) days after the service of such notice on the insured and the
238 provision of notice to the commission, unless the employer has
239 obtained other insurance coverage, in which case such policy shall
240 be deemed cancelled as of the effective date of such other
241 insurance, whether or not such notice has been given. The notice
242 requirements of this section shall not apply when a replacement
243 policy form providing the same or substantially similar coverage
244 is issued by the same insurer, or when transfer of an insured to a
245 licensed affiliate providing the same or substantially similar
246 coverage occurs. Whenever a replacement policy form providing the



247 same or substantially similar coverage is issued by the same
248 insurer or when a transfer of an insured to a licensed affiliate
249 of the insurer providing the same or substantially similar
250 coverage occurs, documents signed by the insured are applicable to
251 the replacement policy and to coverage being transferred, and
252 remain valid and enforceable.

253 The insured may also cancel such a policy on the day that the
254 insured either (a) returns the policy to the agent, or (b) signs
255 and delivers to the agent a "lost policy release." If the insured
256 desires to cancel a policy before the policy has become effective,
257 he may cancel the policy by written notice of cancellation to the
258 agent or company without return of the policy or a release.

259 Whenever a replacement policy form providing the same or
260 substantially similar coverage is issued by the same insurer, or
261 by a licensed affiliate insurer, such insurer shall mail or
262 deliver to the policyholder, at least thirty (30) days in advance
263 of the effective date of renewal, written notice of any terms or
264 conditions that are less favorable to the policyholder.

265 A transferring insurer shall notify the Mississippi Insurance
266 Department and the Mississippi Workers' Compensation Commission at
267 least forty-five (45) days in advance of notifying a policyholder
268 that its personal or commercial lines insurance policies will be
269 transferred to another licensed insurer within the same insurance
270 group or same holding company. The notice shall include the name
271 of insurer transferring the personal or commercial lines policies



272 and the name and financial rating of the insurer receiving the
273 transferred personal or commercial lines policies.

274 A transferring insurer shall provide the policyholder written
275 notice of the policy transfer at least thirty (30) days prior to
276 expiration of the policy term and shall include the financial
277 rating of the insurer receiving the transferred policy. Such
278 notice must be provided to the policyholder with the notice of
279 renewal premium at least thirty (30) days before the effective
280 date of the transfer.

281 (2) In any case where the employer is not a self-insurer, in
282 order that the liability for compensation imposed by this chapter
283 may be most effectively discharged by the employer and in order
284 that the administration of this chapter in respect of such
285 liability may be facilitated, the commission shall by regulation
286 provide for the discharge, by the carrier or carriers for such
287 employer, of such obligations and duties of the employer in
288 respect of such liability imposed by this chapter upon the
289 employer as it considers proper in order to effectuate the
290 provisions of this chapter. For such purpose (a) notice to or
291 knowledge of an employer of the occurrence of the injury shall be
292 notice to or knowledge of the carrier or carriers; (b)
293 jurisdiction of the employer by the commission or any court under
294 this chapter shall be jurisdiction of the carrier or carriers; and
295 (c) any requirement by the commission or any court under any
296 compensation order, finding, or decision shall be binding upon the



297 carrier or carriers in the same manner and to the same extent as
298 upon the employer.

299 (3) As used in this section:

300 (a) "Affiliate transfer" is when an insurer transfers,
301 at renewal or policy expiration, its personal or commercial lines
302 insurance policies to an affiliated licensed insurer that is a
303 member of the same insurance group or same holding company as the
304 transferring insurer. The issuance of a replacement policy form
305 providing the same or substantially similar coverage issued by the
306 same insurer, or the transfer of personal or commercial insurance
307 policies to a licensed affiliate insurer that will issue the same
308 or substantially similar policy, are considered a renewal and will
309 not be treated as a cancellation or nonrenewal. The affiliate
310 transfer must be to a licensed affiliate insurer that has been
311 determined by the commissioner to have the same or better
312 financial strength as the transferring insurer. The policy
313 transfer must be selected on a nondiscriminatory basis.

314 (b) "Substantially similar" means a policy that
315 provides the same basic coverages but may add, alter or eliminate
316 incidental coverages and may provide coverages using different
317 textual language.

318 **SECTION 5.** Section 83-11-101, Mississippi Code of 1972, is
319 amended as follows:

320 83-11-101. (1) No automobile liability insurance policy or
321 contract shall be issued or delivered after January 1, 1967,



322 unless it contains an endorsement or provisions undertaking to pay
323 the insured all sums which he shall be legally entitled to recover
324 as damages for bodily injury or death from the owner or operator
325 of an uninsured motor vehicle, within limits which shall be no
326 less than those set forth in the Mississippi Motor Vehicle Safety
327 Responsibility Law, as amended, under provisions approved by the
328 Commissioner of Insurance; however, at the option of the insured,
329 the uninsured motorist limits may be increased to limits not to
330 exceed those provided in the policy of bodily injury liability
331 insurance of the insured or such lesser limits as the insured
332 elects to carry over the minimum requirement set forth by this
333 section. The coverage herein required shall not be applicable
334 where any insured named in the policy shall reject the coverage in
335 writing and provided further, that unless the named insured
336 requests such coverage in writing, such coverage need not be
337 provided in any renewal policy, any replacement policy with the
338 same or substantially similar terms and conditions issued by the
339 same insurer, and any transferred policy with the same or
340 substantially similar terms and conditions issued by a licensed
341 affiliate of the original insurer where the named insured had
342 rejected the coverage in connection with a policy previously
343 issued to him by the same insurer or a licensed affiliate of the
344 original insurer in the same holding company.

345 (2) No automobile liability insurance policy or contract
346 shall be issued or delivered after January 1, 1980, unless it



347 contains an endorsement or provisions undertaking to pay the
348 insured all sums which he shall be legally entitled to recover as
349 damages for property damage from the owner or operator of an
350 uninsured motor vehicle, within limits which shall be no less than
351 those set forth in the Mississippi Motor Vehicle Safety
352 Responsibility Law, as amended, under provisions approved by the
353 Commissioner of Insurance; however, at the option of the insured,
354 the uninsured motorist limits may be increased to limits not to
355 exceed those provided in the policy of property damage liability
356 insurance of the insured or such lesser limits as the insured
357 elects to carry over the minimum requirement set forth by this
358 section. The coverage herein required shall not be applicable
359 where any insured named in the policy shall reject the coverage in
360 writing and provided further, that unless the named insured
361 requests such coverage in writing, such coverage need not be
362 provided in any renewal policy, any replacement policy with the
363 same or substantially similar terms and conditions issued by the
364 same insurer, and any transferred policy with the same or
365 substantially similar terms and conditions issued by a licensed
366 affiliate of the original insurer where the named insured had
367 rejected the coverage in connection with a policy previously
368 issued to him by the same insurer or a licensed affiliate of the
369 original insurer in the same holding company.

370 The property damage provision may provide an exclusion for
371 the first Two Hundred Dollars (\$200.00) of such property damage;



372 however, the uninsured motorist provision need not insure any
373 liability for property damage, for which loss the policyholder has
374 been compensated by insurance or otherwise.

375 (3) The insured may reject the property damage liability
376 insurance coverage required by subsection (2) and retain the
377 bodily injury liability insurance coverage required by subsection
378 (1), but if the insured rejects the bodily injury liability
379 coverage he may not retain the property damage liability coverage.
380 No insured may have property damage liability insurance coverage
381 under this section unless he also has bodily injury liability
382 insurance coverage under this section.

383 (4) In the course of the sale or issuance of any automobile
384 liability insurance policy, insurers shall inform the named
385 insured or applicant, on a form approved by the Department of
386 Insurance, of the benefits of and reasons for electing to purchase
387 uninsured motorist coverage. If the insured named in the policy
388 wishes to reject uninsured motorist coverage, such form shall be
389 signed by or on behalf of the named insured. If this form is
390 signed by or on behalf of the named insured, it is binding upon
391 all persons insured by the automobile liability insurance policy
392 and it shall be presumed that there was an informed, knowing
393 rejection and waiver of uninsured motorist coverage.

394 **SECTION 6.** This act shall take effect and be in force from
395 and after July 1, 2018.

