

By: Representatives Chism, Miles

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 982

1 AN ACT TO AMEND SECTIONS 25-15-405, 25-15-407 AND 25-15-409,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PAYMENTS FOR BENEFITS AND
3 INSURANCE PREMIUMS UNDER THE MISSISSIPPI FIRST RESPONDERS HEALTH
4 AND SAFETY ACT; TO CREATE THE MISSISSIPPI FIRST RESPONDERS HEALTH
5 AND SAFETY TRUST FUND; TO AMEND SECTION 83-34-4, MISSISSIPPI CODE
6 OF 1972, TO ANNUALLY DIVERT FORTY PERCENT OF THE NONADMITTED
7 POLICY FEE TO FUND THE RURAL FIRE TRUCK AND SUPPLEMENTAL FUND, THE
8 MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY FUND, THE
9 COMPREHENSIVE HURRICANE MITIGATION FUND AND TO PROVIDE FUNDS TO
10 THE FIRE MARSHAL'S OFFICE FOR FIRE PREVENTION AND EDUCATION, FOR
11 FIRE APPARATUS GRANTS AND FIRE PROTECTION GRANTS; TO DELETE THE
12 REPEALER ON THE SECTION OF LAW; TO AMEND SECTION 83-34-7,
13 MISSISSIPPI CODE OF 1972, TO REVISE THE BOARD OF DIRECTORS OF THE
14 MISSISSIPPI INSURANCE UNDERWRITING ASSOCIATION; TO MAKE THE STATE
15 TREASURER A NONVOTING MEMBER; TO ADD THE SECRETARY OF STATE AS A
16 MEMBER OF THE BOARD; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 25-15-405, Mississippi Code of 1972, is
19 amended as follows:

20 25-15-405. (1) As an alternative to pursuing workers'
21 compensation benefits, upon a diagnosis of cancer, a first
22 responder is entitled to the following benefits:

23 (a) Provided the diagnosis occurs on or after the first
24 responder's effective date of coverage, a lump-sum benefit of
25 Thirty-five Thousand Dollars (\$35,000.00) of coverage for each



26 diagnosis payable to the first responder upon acceptable proof to
27 the insurance carrier or other payor of a diagnosis by a
28 board-certified physician in the medical specialty appropriate for
29 the type of cancer diagnosed that the cancer was caused by an
30 occupational hazard and that there are one or more malignant
31 tumors characterized by the uncontrollable and abnormal growth and
32 spread of malignant cells with invasion of normal tissue and that
33 either:

34 (i) There is metastasis, and surgery, radiotherapy
35 or chemotherapy is medically necessary;

36 (ii) There is a tumor of the prostate, provided
37 that it is treated with radical prostatectomy or external beam
38 therapy; or

39 (iii) The first responder has terminal cancer, his
40 or her life expectancy is twenty-four (24) months or less from the
41 date of diagnosis, and will not benefit from, or has exhausted,
42 curative therapy.

43 (b) Provided the diagnosis occurs on or after the first
44 responder's effective date of coverage, a lump-sum benefit of Six
45 Thousand Two Hundred Fifty Dollars (\$6,250.00) for each diagnosis
46 payable to the first responder upon acceptable proof to the
47 insurance carrier or other payor of a diagnosis by a
48 board-certified physician in the medical specialty appropriate for
49 the type of cancer involved that:



50 (i) There is carcinoma in situ such that surgery,
51 radiotherapy or chemotherapy has been determined to be medically
52 necessary;

53 (ii) There are malignant tumors which are treated
54 by endoscopic procedures alone; or

55 (iii) There are malignant melanomas.

56 (c) The combined total of benefits received by any
57 first responder under paragraphs (a) and (b) of this subsection
58 (1) during his or her lifetime shall not exceed Fifty Thousand
59 Dollars (\$50,000.00).

60 (d) Provided the date of disability occurs on or after
61 the first responder's effective date of coverage, a disability
62 benefit payable as a result of a specific cancer to begin six (6)
63 months after the date of disability and submission to the
64 insurance carrier or other payor of acceptable proof of disability
65 caused by the specified disease or events such that the illness
66 precludes the first responder from serving as a first responder:

67 (i) For nonvolunteer first responders, a monthly
68 benefit equal to sixty percent (60%) of the first responder's
69 monthly salary as an employed first responder with a fire or
70 police department or a monthly benefit of Five Thousand Dollars
71 (\$5,000.00), whichever is less, of which the first payment shall
72 be made six (6) months after the total disability and shall
73 continue for thirty-six (36) consecutive monthly payments unless
74 the first responder regains the ability to perform his or her



75 duties as determined by reevaluation under subparagraph (iv) of
76 this paragraph, at which time the payments shall cease the last
77 day of the month of reevaluation;

78 (ii) For volunteer firefighters, a monthly benefit
79 of One Thousand Five Hundred Dollars (\$1,500.00) of which the
80 first payment shall be made six (6) months after the total
81 disability and shall continue for thirty-six (36) consecutive
82 monthly payments unless the first responder regains the ability to
83 perform his or her duties as determined by reevaluation under
84 subparagraph (iv) of this paragraph, at which time the payments
85 shall cease the last day of the month of reevaluation;

86 (iii) Such monthly benefit shall be subordinate to
87 any other benefit actually paid to the first responder solely for
88 such disability from any other source, not including private
89 insurance purchased solely by the first responder;

90 (iv) Any first responder receiving the monthly
91 benefits may be required to have his or her condition reevaluated.
92 In the event any such reevaluation reveals that such person has
93 regained the ability to perform duties as a first responder, then
94 his or her monthly benefits shall cease the last day of the month
95 of reevaluation; and

96 (v) In the event that there is a subsequent
97 recurrence of a disability caused by a specified cancer, which
98 precludes the first responder from serving as a first responder,



99 he or she shall be entitled to receive any remaining monthly
100 payments.

101 (e) An eligible first responder who dies as a result of
102 a compensable type of cancer, or circumstances arising out of the
103 treatment of a compensable type of cancer, but does not submit
104 sufficient proof of claim prior to the first responder's death, is
105 entitled to receive benefits specified in paragraphs (a) and (b)
106 of this subsection (1) and made available to the deceased first
107 responder's beneficiary or beneficiaries.

108 (f) Any first responder who was simultaneously a member
109 of more than one (1) fire or police department at the time of
110 diagnosis shall not be entitled to receive benefits from or on
111 behalf of more than one (1) fire or police department. The first
112 responder's primary place of employment shall maintain coverage
113 for the eligible first responder; and

114 (g) An otherwise eligible first responder shall be
115 precluded from the benefits listed under this section if he or she
116 has filed for workers' compensation for the same diagnosis of
117 cancer.

118 (2) Benefits under this section may be paid from the
119 Mississippi First Responders Health and Safety Trust Fund.

120 **SECTION 2.** Section 25-15-407, Mississippi Code of 1972, is
121 amended as follows:

122 25-15-407. (1) The costs of purchasing an insurance policy
123 that provides for cancer coverage in compliance with this article,



124 or the costs of providing such benefits through a self-funded
125 system in compliance with this article, must be borne solely by
126 the employer that employs the eligible first responder and may not
127 be funded partially or wholly by individual first responders. In
128 addition to any other purpose authorized, county governing
129 authorities and municipal governing authorities may use proceeds
130 from county and municipal taxes for the purposes of providing
131 insurance in compliance with this article. The computation of
132 premium amounts by an insurer for the coverage under this article
133 shall be subject to generally accepted adjustments from insurance
134 underwriting.

135 (2) Benefits under this section may be paid from the
136 Mississippi First Responders Health and Safety Trust Fund.

137 **SECTION 3.** Section 25-15-409, Mississippi Code of 1972, is
138 amended as follows:

139 25-15-409. (1) The state, municipality, county or fire
140 protection district shall, no later than January 1, 2022, show
141 proof of insurance coverage that meets the requirements of this
142 article to the * * * Commissioner of Insurance, or shall show
143 satisfactory proof of the ability to pay such compensation to
144 ensure adequate coverage for all eligible first responders.

145 (2) The * * * Commissioner of Insurance shall adopt such
146 rules and regulations as are reasonable and necessary to implement
147 the provisions of this article. Such regulations shall include
148 the process by which a first responder files a claim for



149 cancer * * *, the process by which claimants can appeal a denial
150 of benefits and the process by which the state, municipality,
151 county or fire protection district may request funds from the
152 Mississippi First Responders Health and Safety Trust Fund to pay
153 insurance premiums or benefits as provided under this chapter.

154 (3) The * * * Commissioner of Insurance shall adopt rules to
155 establish firefighter cancer prevention best practices as it
156 relates to personal protective equipment, decontamination, fire
157 suppression, apparatus and fire stations.

158 **SECTION 4.** (1) There is created in the State Treasury a
159 special fund to be designated as the "Mississippi First Responders
160 Health and Safety Trust Fund." This fund shall be funded through
161 funds provided to it through the provisions of Section 83-34-4(3),
162 and any monies which may be appropriated to it by the Legislature.
163 Unexpended amounts remaining in the fund at the end of a fiscal
164 year shall not lapse into the State General Fund, and any interest
165 earned on amounts in the fund shall be deposited to the credit of
166 the fund.

167 **SECTION 5.** Section 83-34-4, Mississippi Code of 1972, is
168 amended as follows:

169 83-34-4. (1) Nonadmitted insurers shall not be assessable
170 insurers of the association. All surplus lines insurance
171 producers placing insurance through nonadmitted insurers shall
172 collect from the insured and remit * * *, as directed in
173 subsection (3) below, a nonadmitted policy fee on all premiums for



174 all insurance written by such surplus lines insurance producer for
175 a policy from a nonadmitted insurer for any and all risks in this
176 state, except that policies or portions thereof that cover
177 residential earthquake risks or residential flood risks that are
178 not written through the National Flood Insurance Program shall be
179 exempt from the nonadmitted policy fee. By procuring or selling
180 insurance on property in this state from a nonadmitted insurer,
181 each surplus lines insurance producer placing insurance through a
182 nonadmitted insurer agrees to be bound by the provisions of this
183 chapter and to collect and remit the nonadmitted policy fee
184 provided for herein.

185 (2) The nonadmitted policy fee shall be a percentage of the
186 total policy premium but the nonadmitted policy fee shall not be
187 considered premium and is not subject to premium taxes or
188 commissions. However, failure to pay the nonadmitted policy fee
189 shall be treated the same as failure to pay premium. "Total
190 policy premium" includes taxes and commissions.

191 (3) The nonadmitted policy fee percentage shall be three
192 percent (3%). The monies derived under this section shall be paid
193 to a fund administered by the commissioner. Sixty percent (60%)
194 of such funds shall be paid quarterly by the commissioner to the
195 association for use in the manner prescribed in subsection (6) of
196 this section and shall not be considered public funds; and forty
197 percent (40%) of such funds shall be expended by the commissioner
198 in the following manner:



199 (a) Sixty percent (60%) of the forty percent (40%)
200 shall be paid to the Rural Fire Truck Fund or Supplementary Rural
201 Fire Truck Fund;

202 (b) Twenty percent (20%) of the forty percent (40%)
203 shall be paid to the State Fire Marshal's Office to be used for
204 fire prevention and education, fire apparatus grants and fire
205 protection grants;

206 (c) Ten percent (10%) of the forty percent (40%) shall
207 be paid to the Mississippi First Responders Health and Safety
208 Trust Fund; and

209 (d) Ten percent (10%) of the forty percent (40%) shall
210 be paid to the Comprehensive Hurricane Damage Mitigation Program.

211 Any monies provided under paragraphs (a), (b) and (d) that
212 are not expended by the commissioner by the end of the fiscal year
213 may be reappropriated by the Legislature.

214 In the event of a covered event that produces losses in
215 excess of available surplus and available reinsurance, the monies
216 provided under paragraphs (a), (b) and (d) shall immediately be
217 diverted to the association and shall not be considered public
218 funds.

219 (4) Within twenty (20) days of the end of the quarter,
220 surplus lines insurance producers placing insurance through
221 nonadmitted insurers shall remit directly to the * * *
222 commissioner all nonadmitted policy fees collected in the
223 preceding quarter. In addition to the nonadmitted policy fee



224 provided for herein, surplus lines insurance producers placing
225 insurance through nonadmitted insurers shall collect and remit
226 excess deficit surcharges as provided by this chapter. Surplus
227 lines insurance producers placing insurance through nonadmitted
228 insurers may designate another surplus lines insurance producer
229 that actually procured the insurance from the nonadmitted carrier
230 to collect and remit the nonadmitted policy fees.

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

238 (6) Monies derived from the nonadmitted policy fee collected
239 under this section may be used by the association, in addition to
240 any uses provided for in Section 83-34-3(4), for education, public
241 outreach, training of building officials and other programs
242 targeted to reduce the number of policies within the
243 association * * *.

244 (7) * * * The commissioner may establish rules and
245 regulations to implement the provisions of paragraphs (3)(a)
246 through (3)(d) of this section.

247 **SECTION 6.** Section 83-34-7, Mississippi Code of 1972, is
248 amended as follows:



249 83-34-7. (1) The Board of Directors of the Mississippi
250 Insurance Underwriting Association as presently constituted shall
251 serve as the temporary board of directors of the association.
252 Such temporary board of directors shall prepare and submit a plan
253 of operation in accordance with Section 83-34-13 and shall serve
254 until the permanent board of directors shall take office in
255 accordance with the plan of operation. The permanent board shall
256 consist of five (5) representatives of the members to be appointed
257 by the temporary board of directors subject to the approval of the
258 commissioner and three (3) agents from the coast area to be
259 appointed by the commissioner. The terms of the members of the
260 board of directors in place before March 22, 2007, shall expire on
261 March 22, 2007, and such persons shall cease to serve on the board
262 and shall relinquish all power and control of the association.

263 (2) (a) From and after March 22, 2007, the board of
264 directors of the association shall consist of the following:

265 (i) The State Treasurer, as a nonvoting member;

266 (ii) The Secretary of State;

267 (* * *iii) Five (5) of the assessable insurer
268 companies, three (3) to be appointed by the commissioner, one (1)
269 to be appointed by the Governor, and one (1) to be appointed by
270 the Lieutenant Governor; each such assessable insurer appointed
271 shall designate a representative knowledgeable in the matters of
272 the association and authorize such representative to act and vote
273 on its behalf;



274 (* * *iv) Three (3) agents with no less than ten
275 (10) years' experience in the property and casualty industry, two
276 (2) of whom are residents in the coast area, and one (1) of whom
277 is not a resident of the coast area; one (1) such coast area agent
278 to be appointed by the Governor, one (1) such coast area agent to
279 be appointed by the Lieutenant Governor, and the noncoast area
280 agent to be appointed by the commissioner; and

281 (* * *y) Two (2) business leaders who have been
282 residents of the coast area for no less than ten (10) years and
283 who have no less than ten (10) years' experience in management of
284 a business, one (1) to be appointed by the Governor, and one (1)
285 to be appointed by the Lieutenant Governor.

286 (b) Except for the State Treasurer and the Secretary of
287 State, the board members shall serve three-year terms with each
288 term beginning on January 1, and the initial terms shall be
289 staggered in the following manner:

290 (i) The initial term for three (3) of the
291 assessable insurers shall begin on March 22, 2007, and expire on
292 December 31, 2010, thereafter to be appointed for three-year
293 terms;

294 (ii) The initial term for one (1) of the
295 assessable insurers shall begin on March 22, 2007, and expire on
296 December 31, 2009, thereafter to be appointed for three-year
297 terms;



298 (iii) The initial term for one (1) of the
299 assessable insurers shall begin on March 22, 2007, and expire on
300 December 31, 2008, thereafter to be appointed for three-year
301 terms;

302 (iv) The initial term for one (1) of the agents
303 shall begin on March 22, 2007, and expire on December 31, 2010,
304 thereafter to be appointed for three-year terms;

305 (v) The initial term for one (1) of the agents
306 shall begin on March 22, 2007, and expire on December 31, 2009,
307 thereafter to be appointed for three-year terms;

308 (vi) The initial term for one (1) of the agents
309 shall begin on March 22, 2007, and expire on December 31, 2008,
310 thereafter to be appointed for three-year terms;

311 (vii) The initial term for one (1) of the business
312 leaders shall begin on March 22, 2007, and expire on December 31,
313 2010, thereafter to be appointed for three-year terms;

314 (viii) The initial term for one (1) of the
315 business leaders shall begin on March 22, 2007, and expire on
316 December 31, 2008, thereafter to be appointed for three-year
317 terms.

318 (3) On or before March 22, 2007, the appropriate public
319 official shall make such appointments and request such
320 resignations from the existing board as are appropriate to comply
321 with this section.



322 (4) The board shall be staffed by as many employees as it
323 deems necessary.

324 (5) The board of directors has the power to act and make
325 binding decisions on behalf of the association on all issues.

326 **SECTION 7.** This act shall take effect and be in force from
327 and after July 1, 2020.

