

By: Representatives Zuber, Miles, Stamps,
Arnold

To: Insurance

HOUSE BILL NO. 451
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-34-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT MONIES DERIVED FROM THE NONADMITTED POLICY FEE SHALL
3 NOT BE CONSIDERED PUBLIC FUNDS; TO PROVIDE, AS LONG AS THE
4 ASSOCIATION WILL RECEIVE AT LEAST SIXTY PERCENT OF THE FEES, AN
5 ANNUAL DIVERSION OF \$500,000.00 FROM THE NONADMITTED POLICY FEE TO
6 THE FIRST RESPONDER HEALTH AND SAFETY TRUST FUND; TO PROVIDE, AS
7 LONG AS THE ASSOCIATION WILL RECEIVE AT LEAST SIXTY PERCENT OF THE
8 FEES, AN ANNUAL DIVERSION OF \$3,500,000.00 FROM THE NONADMITTED
9 POLICY FEE TO THE ANNUAL FIRE FUND; TO REMIT TO THE ASSOCIATION
10 FIFTY PERCENT OF ANY AMOUNT REMAINING AFTER ANY DIVERSIONS OF THE
11 NONADMITTED POLICY FEE AND FIFTY PERCENT TO THE ANNUAL FIRE FUND;
12 TO PROVIDE THAT IN THE EVENT THE VALUE OF THE ASSOCIATION'S TOTAL
13 ADMITTED ASSETS, AS DEFINED BY THE AUDITED FINANCIAL STATEMENT, IS
14 LESS THAN \$250,000,000.00, THE MONIES DIVERTED AND NOT REMITTED TO
15 THE ASSOCIATION DURING THAT FISCAL YEAR AND SUBSEQUENT FISCAL
16 YEARS SHALL IMMEDIATELY BE DIVERTED TO THE ASSOCIATION AND SHALL
17 NOT BE CONSIDERED PUBLIC FUNDS; TO AUTHORIZE THE ASSOCIATION TO
18 USE EXCESS FUNDS TO PURCHASE REINSURANCE IN AN AMOUNT THAT MAY
19 EXCEED THE TOTAL PREMIUMS COLLECTED FROM POLICYHOLDERS; TO DELETE
20 THE REPEALER ON THE NONADMITTED POLICY FEE; TO CREATE A NEW
21 SECTION OF LAW TO CREATE A SPECIAL FUND TO BE DESIGNATED AS THE
22 "MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY TRUST FUND" TO BE
23 ADMINISTERED BY THE COMMISSIONER OF INSURANCE TO ASSIST THE STATE,
24 MUNICIPALITIES, COUNTIES AND FIRE PROTECTION DISTRICTS WITH
25 PROVIDING BENEFITS REQUIRED BY THE MISSISSIPPI FIRST RESPONDERS
26 HEALTH AND SAFETY ACT; TO CREATE A NEW SECTION OF LAW TO CREATE A
27 SPECIAL FUND TO BE DESIGNATED AS THE "ANNUAL FIRE FUND" TO BE
28 ADMINISTERED BY THE COMMISSIONER OF INSURANCE TO REQUEST THE STATE
29 FISCAL OFFICER TO TRANSFER FUNDS FROM THIS FUND TO THE RURAL FIRE
30 TRUCK FUND, THE SUPPLEMENTARY RURAL FIRE TRUCK FUND, THE MUNICIPAL
31 FIRE PROTECTION FUND AND/OR THE COUNTY VOLUNTEER FIRE DEPARTMENT
32 FUND; AND FOR RELATED PURPOSES.

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



34 **SECTION 1.** Section 83-34-4, Mississippi Code of 1972, is
35 amended as follows:

36 83-34-4. (1) Nonadmitted insurers shall not be assessable
37 insurers of the association. All surplus lines insurance
38 producers placing insurance through nonadmitted insurers shall
39 collect from the insured and remit to the association a
40 nonadmitted policy fee on all premiums for all insurance written
41 by such surplus lines insurance producer for a policy from a
42 nonadmitted insurer for any and all risks in this state, except
43 that policies or portions thereof that cover residential
44 earthquake risks or residential flood risks that are not written
45 through the National Flood Insurance Program shall be exempt from
46 the nonadmitted policy fee. By procuring or selling insurance on
47 property in this state from a nonadmitted insurer, each surplus
48 lines insurance producer placing insurance through a nonadmitted
49 insurer agrees to be bound by the provisions of this chapter and
50 to collect and remit the nonadmitted policy fee provided for
51 herein.

52 (2) The nonadmitted policy fee shall be a percentage of the
53 total policy premium but the nonadmitted policy fee shall not be
54 considered premium and is not subject to premium taxes or
55 commissions. However, failure to pay the nonadmitted policy fee
56 shall be treated the same as failure to pay premium. "Total
57 policy premium" includes taxes and commissions.



58 (3) The nonadmitted policy fee percentage shall be three
59 percent (3%).

60 (4) Within twenty (20) days of the end of the quarter,
61 surplus lines insurance producers placing insurance through
62 nonadmitted insurers shall remit directly to the association all
63 nonadmitted policy fees collected in the preceding quarter. In
64 addition to the nonadmitted policy fee provided for herein,
65 surplus lines insurance producers placing insurance through
66 nonadmitted insurers shall collect and remit excess deficit
67 surcharges as provided by this chapter. Surplus lines insurance
68 producers placing insurance through nonadmitted insurers may
69 designate another surplus lines insurance producer that actually
70 procured the insurance from the nonadmitted carrier to collect and
71 remit the nonadmitted policy fees.

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

79 (6) Monies derived from the nonadmitted policy fee collected
80 under this section shall not be considered public funds and may be
81 used by the association, in addition to any uses provided for in
82 Section 83-34-3(4), for education, public outreach, training of



83 building officials and other programs targeted to reduce the
84 number of policies within the association; however, beginning on
85 July 1, 2018, and ending on June 30, 2019, before any fees are
86 remitted to the association, One Million Five Hundred Thousand
87 Dollars (\$1,500,000.00) shall be diverted and deposited into the
88 Capital Expense Fund, and Four Million Five Hundred Thousand
89 Dollars (\$4,500,000.00) shall be diverted and deposited into the
90 Rural Fire Truck Fund or Supplementary Rural Fire Truck Fund.
91 Further, beginning July 1, 2019, and ending on June 30, 2020,
92 before any fees are remitted to the association, Three Million
93 Five Hundred Thousand Dollars (\$3,500,000.00) shall be diverted
94 and deposited into the Rural Fire Truck Fund or Supplementary
95 Rural Fire Truck Fund. Further, beginning July 1, 2022, before
96 any fees are remitted to the association but only if the
97 association will receive at least sixty percent (60%) of the fees,
98 Five Hundred Thousand Dollars (\$500,000.00) shall be diverted and
99 deposited annually into the Mississippi First Responders Health
100 and Safety Trust Fund created in Section 2 of this act. Further,
101 beginning July 1, 2022, but only if the association will receive
102 at least sixty percent (60%) of the fees and the Mississippi First
103 Responders Health and Safety Trust Fund has received the diversion
104 of Five Hundred Thousand Dollars (\$500,000.00), Three Million Five
105 Hundred Thousand Dollars (\$3,500,000.00) shall be diverted and
106 deposited annually into the Annual Fire Fund created in Section 3
107 of this act. Further, beginning July 1, 2022, after the



108 association has received sixty percent (60%) of the fees and after
109 all other diversions are made, fifty percent (50%) of any excess
110 amount shall be remitted to the association and fifty percent
111 (50%) of any excess amount shall be diverted and deposited
112 annually into the Annual Fire Fund.

113 In the event the value of the association's Total Admitted
114 Assets, as defined by the audited financial statement, is less
115 than Two Hundred Fifty Million Dollars (\$250,000,000.00), the
116 monies diverted and not remitted to the association under this
117 subsection (6) during that fiscal year and subsequent fiscal years
118 shall immediately be diverted to the association and shall not be
119 considered public funds.

120 (7) * * * The association may use excess funds to purchase
121 reinsurance in an amount that may exceed the total premiums
122 collected from policyholders.

123 **SECTION 2.** There is created in the State Treasury a special
124 fund to be designated as the "Mississippi First Responders Health
125 and Safety Trust Fund" to be administered by the Commissioner of
126 Insurance, upon appropriation by the Legislature, to assist the
127 state, municipalities, counties and fire protection districts with
128 providing benefits required by the Mississippi First Responders
129 Health and Safety Act. The commissioner shall notify the Chairmen
130 of the House and Senate Insurance Committees in advance of any
131 distributions made from this fund. This fund shall consist of
132 monies provided to it through the provisions of Section



133 83-34-4(6), and any monies which may be appropriated to it by the
134 Legislature. Unexpended amounts remaining in the fund at the end
135 of a fiscal year shall not lapse into the State General Fund, and
136 any interest earned on amounts in the fund shall be deposited to
137 the credit of the fund.

138 **SECTION 3.** There is created in the State Treasury a special
139 fund to be designated as the "Annual Fire Fund" to be administered
140 by the Commissioner of Insurance. Monies in the fund, upon
141 appropriation by the Legislature, may be used by the commissioner
142 only for the purpose of his or her discretion in requesting the
143 State Fiscal Officer, and notifying the Legislative Budget Office
144 of such, to transfer funds from this fund to the Rural Fire Truck
145 Fund, the Supplementary Rural Fire Truck Fund, the Municipal Fire
146 Protection Fund and/or the County Volunteer Fire Department Fund;
147 however, the commissioner shall request the State Fiscal Officer
148 to transfer at least One Million Five Hundred Thousand Dollars
149 (\$1,500,000.00) annually to the Rural and Supplementary Rural Fire
150 Truck Funds. This fund shall consist of monies provided to it
151 through the provisions of Section 83-34-4(6), and any monies which
152 may be appropriated to it by the Legislature. Unexpended amounts
153 remaining in the fund at the end of a fiscal year shall not lapse
154 into the State General Fund, and any interest earned on amounts in
155 the fund shall be deposited to the credit of the fund.

156 **SECTION 4.** This act shall take effect and be in force from
157 and after July 1, 2022.

