

By: Representative Bounds

To: Appropriations

HOUSE BILL NO. 940

1 AN ACT TO AMEND SECTION 27-104-205, MISSISSIPPI CODE OF 1972,
 2 TO REMOVE THE REQUIREMENT THAT THE DEPARTMENT OF INSURANCE BE
 3 FUNDED BY APPROPRIATIONS FROM THE GENERAL FUND; TO AMEND SECTIONS
 4 83-1-27, 83-2-33, 83-2-35, 83-5-17, 83-5-41, 83-5-45, 83-5-69,
 5 83-5-72, 83-5-73, 83-5-77, 83-9-3, 83-17-71, 83-17-519, 83-19-21,
 6 83-21-1, 83-37-29, 83-39-3 AND 83-73-9, MISSISSIPPI CODE OF 1972,
 7 TO DELETE THE PROVISIONS OF LAW REQUIRING CERTAIN EXPENSES OF THE
 8 DEPARTMENT OF INSURANCE TO BE DEFRAYED BY APPROPRIATION FROM THE
 9 STATE GENERAL FUND; TO PROVIDE THAT ALL UNEXPENDED AMOUNTS
 10 REMAINING IN THE INSURANCE DEPARTMENT FUND ABOVE THE SUM OF
 11 \$500,000.00 AT THE END OF EACH FISCAL YEAR SHALL LAPSE INTO THE
 12 STATE GENERAL FUND; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-104-205, Mississippi Code of 1972, is
 15 amended as follows:

16 27-104-205. (1) From and after July 1, 2016, the expenses
 17 of the following enumerated state agencies shall be defrayed by
 18 appropriation of the Legislature from the State General Fund: the
 19 State Fire Marshal, the State Fire Academy (not including the
 20 State Fire Academy Workforce Program Fund), the Office of
 21 Secretary of State (not including the Preneed Contracts Loss
 22 Recovery Fund), the Mississippi Public Service Commission, the
 23 Mississippi Department of Information Technology Services, (not



24 including the Mississippi Department of Information Technology
25 Services Revolving Fund), the State Personnel Board, * * * the
26 Mississippi Law Enforcement Officers' Minimum Standards Board, the
27 Mississippi Gaming Commission, the Office of the State Public
28 Defender, the Mississippi Workers' Compensation Commission (not
29 including the Second Injury Trust Fund) and the Office of Attorney
30 General. Beginning July 1, 2016, any fees, assessments or other
31 revenues charged for the support of the above-named state agencies
32 shall be deposited into the State General Fund, and any special
33 fund or depository established within the State Treasury for the
34 deposit of such fees, assessments or revenues shall be abolished
35 and the balance transferred to the State General Fund. Expenses
36 heretofore drawn from such special funds or other depositories
37 shall be drawn from the agencies' General Fund Account.

38 (2) Beginning with the fiscal year ending June 30, 2016, the
39 amount to be appropriated annually from the State General Fund for
40 the support of each of the above-named state agencies shall not
41 exceed the amount appropriated for such purpose in the preceding
42 fiscal year, plus any increases in or additional fees, assessments
43 or other charges authorized by act of the Legislature for the
44 succeeding fiscal year.

45 (3) The provisions of this section shall not apply to any
46 trust fund account that is maintained by any above-named agency.



47 (4) The provisions of this section shall not prohibit any of
48 the above-named agencies from maintaining clearing accounts in
49 approved depositories.

50 (5) The provisions of this section shall not apply to any
51 trust fund accounts maintained by the Public Employees' Retirement
52 System and protected under Section 272A of the Mississippi
53 Constitution of 1890.

54 **SECTION 2.** Section 83-1-27, Mississippi Code of 1972, is
55 amended as follows:

56 83-1-27. Whenever the Commissioner of Insurance deems it
57 prudent for the protection of the policyholders in this state, he
58 shall in like manner visit and examine, or cause to be visited and
59 examined by some competent person or persons he may appoint for
60 that purpose, any foreign insurance company applying for admission
61 or already admitted to do business by agencies in this state, and
62 such companies shall pay the proper charges incurred in such
63 examination, including the expense of the commissioner or his
64 deputy and the expenses and compensation of his assistants
65 employed therein. For the purpose aforesaid, the commissioner or
66 his deputy or persons making examination shall have free access to
67 all the books and papers of the insurance company that relate to
68 its business and to the books and papers kept by any of its
69 agents, and may summon and qualify as witnesses, under oath, and
70 examine the directors, officers, agents and trustees of any such
71 company, and any other persons in relation to its affairs,



72 transactions and conditions. Such examination shall be made by
73 the commissioner, or by his accredited representatives, and such
74 companies shall pay the proper charges incurred in such
75 examination, including the expense of the commissioner or
76 financial examiners, actuaries, market conduct examiners,
77 accountants, attorneys or other professional service organizations
78 necessary to administer this section. The Department of Insurance
79 may contract with professional service organizations to examine
80 all companies under its jurisdiction, and the professional service
81 organization may directly bill the company under examination. The
82 commissioner shall monitor the charges for these professional
83 services and verify that all costs are reasonable. If a company
84 fails to pay these fees within thirty (30) days of billing, the
85 commissioner, after notice and a hearing, is authorized to impose
86 an administrative fine not to exceed One Thousand Dollars
87 (\$1,000.00) per day to be deposited into the special fund in the
88 State Treasury designated as the "Insurance Department Fund." The
89 compensation and expense of the commissioner or such examiner for
90 the commissioner shall not exceed that approved by the National
91 Association of Insurance Commissioners for all financial and
92 market conduct examiners on such examinations, itemized account of
93 such charges being rendered to and approved by the Commissioner of
94 Insurance.

95 The results of audits performed hereunder by the Commissioner
96 of Insurance may be furnished to the * * * Department of Revenue.



97 Nothing herein shall be construed to prohibit the * * * Department
98 of Revenue from performing such additional audits or verifications
99 as it may deem necessary to insure the proper payment of taxes.

100 * * *

101 **SECTION 3.** Section 83-2-33, Mississippi Code of 1972, is
102 amended as follows:

103 83-2-33. All property and casualty insurance companies doing
104 business in this state shall contribute annually, at such times as
105 the Insurance Commissioner shall determine, in proportion to their
106 gross premiums collected within the State of Mississippi during
107 the preceding year, to a special fund in the State Treasury to be
108 known as the "Insurance Department Fund" to be expended by the
109 Insurance Commissioner in the payment of the expenses of the
110 Department of Insurance as the commissioner may deem necessary.
111 The commissioner is hereby authorized to employ such actuarial and
112 other assistance as shall be necessary to carry out the duties of
113 the department; and such employees shall be under the authority
114 and direction of the Insurance Commissioner. The amount to be
115 contributed annually to the fund shall be fixed each year by the
116 Insurance Commissioner at a percentage of the gross premiums so
117 collected during the preceding year. However, a minimum
118 assessment of One Hundred Dollars (\$100.00) shall be charged to
119 each licensed property and casualty insurance company regardless
120 of the gross premium amount collected during the preceding year.



121 The total contributions collected for the Insurance
122 Department Fund shall not exceed the sum of Seven Hundred Fifty
123 Thousand Dollars (\$750,000.00) in each fiscal year.

124 * * *

125 At the end of fiscal year 2022 and each fiscal year
126 thereafter, all unexpended amounts remaining in the Insurance
127 Department Fund above the sum of Five Hundred Thousand Dollars
128 (\$500,000.00) shall lapse into the State General Fund.

129 **SECTION 4.** Section 83-2-35, Mississippi Code of 1972, is
130 amended as follows:

131 83-2-35. (1) This section applies to all forms of property
132 and casualty insurance on risks or operations in this state by any
133 insurer authorized to do business in this state, except:

- 134 (a) Accident and health;
- 135 (b) Ocean marine insurance;
- 136 (c) Reinsurance;
- 137 (d) Aircraft liability and aircraft hull insurance;
- 138 (e) Title insurance;
- 139 (f) Credit accident and health insurance.

140 (2) All such insurers shall pay to the Commissioner of
141 Insurance a fee of Fifteen Dollars (\$15.00) for each form or rate
142 filing filed with the commissioner. The commissioner shall pay
143 such fees into the special fund in the State Treasury designated
144 as the "Insurance Department Fund."

145 * * *



146 **SECTION 5.** Section 83-5-17, Mississippi Code of 1972, is
147 amended as follows:

148 83-5-17. The Commissioner of Insurance may, after notice and
149 a hearing, revoke the authority of a domestic or foreign insurance
150 company or impose an administrative fine, or both, if it violates
151 or neglects to comply with any provision of law obligatory on it,
152 and whenever in the opinion of the commissioner its condition is
153 unsound, or its assets above its liabilities, exclusive of capital
154 and inclusive of unearned premiums, are less than the amount of
155 its original capital or required unimpaired funds. Such
156 administrative fine shall not exceed Five Thousand Dollars
157 (\$5,000.00) per violation and shall be deposited into the special
158 fund in the State Treasury designated as the "Insurance Department
159 Fund."

160 * * *

161 **SECTION 6.** Section 83-5-41, Mississippi Code of 1972, is
162 amended as follows:

163 83-5-41. (1) If, after such hearing, the commissioner shall
164 determine that the method of competition or the act or practice in
165 question is defined in Section 83-5-35, and that the person
166 complained of has engaged in such method of competition, act or
167 practice in violation of Sections 83-5-29 through 83-5-51, he
168 shall reduce his findings to writing and shall issue and cause to
169 be served upon the person charged with the violation an order
170 requiring such person to cease and desist from engaging in such



171 method of competition, act or practice. In addition to, or in
172 lieu of, the cease and desist order, the commissioner may, after
173 such hearing, impose an administrative fine not to exceed Five
174 Thousand Dollars (\$5,000.00) per violation, which shall be
175 deposited into the special fund in the State Treasury designated
176 as the "Insurance Department Fund."

177 (2) Until the expiration of the time allowed under Section
178 83-5-43(1) for filing a petition for review (by appeal), if no
179 such petition has been duly filed within such time or, if the
180 petition for review has been filed within such time, then until
181 the transcript of the record in the proceeding has been filed in
182 the circuit court, as hereinafter provided, the commissioner may
183 at any time, upon such notice and in such manner as he shall deem
184 proper, modify or set aside in whole or in part any order issued
185 by him under this section.

186 (3) After the expiration of the time allowed for filing such
187 a petition for review, if no such petition has been duly filed
188 within such time, the commissioner may, at any time after notice
189 and opportunity for hearing, reopen and alter, modify, or set
190 aside, in whole or in part, any order issued by him under this
191 section whenever in his opinion conditions of fact or of law have
192 so changed as to require such action, or if the public interest
193 shall so require.

194 * * *



195 **SECTION 7.** Section 83-5-45, Mississippi Code of 1972, is
196 amended as follows:

197 83-5-45. (1) Whenever the commissioner shall have reason to
198 believe that any person engaged in the business of insurance is
199 engaging in this state in any method of competition or in any act
200 or practice in the conduct of such business which is not defined
201 in Section 83-5-35, that such method of competition is unfair or
202 that such act or practice is unfair or deceptive, and that a
203 proceeding by him in respect thereto would be to the interest of
204 the public, he may issue and serve upon such person a statement of
205 the charges in that respect and a notice of a hearing thereon to
206 be held at a time and place fixed in the notice, which shall not
207 be less than ten (10) days after the date of the service thereof.
208 Each such hearing shall be conducted in the same manner as the
209 hearings provided in Section 83-5-39. The commissioner shall,
210 after such hearing, make a report in writing in which he shall
211 state his findings as to the facts, and he shall serve a copy
212 thereof upon such person.

213 (2) If such report charges a violation of Sections 83-5-29
214 through 83-5-51, and if such method of competition, act or
215 practice has not been discontinued, the commissioner may, through
216 the Attorney General of this state, at any time after thirty (30)
217 days after the service of such report, cause a petition to be
218 filed in the circuit court of this state within the district
219 wherein the person resides, or has his principal place of



220 business, to enjoin and restrain such person from engaging in such
221 method, act or practice. The court shall have jurisdiction of the
222 proceeding and shall have power to make and enter appropriate
223 orders in connection therewith and to issue such writs as are
224 ancillary to its jurisdiction or are necessary in its judgment to
225 prevent injury to the public pendente lite.

226 (3) A transcript of the proceedings before the commissioner,
227 including all evidence taken and the report and findings, shall be
228 filed with such petition. If either party shall apply to the
229 court for leave to adduce additional evidence and shall show, to
230 the satisfaction of the court, that such additional evidence is
231 material and there were reasonable grounds for the failure to
232 adduce such evidence in the proceeding before the commissioner,
233 the court may order such additional evidence to be taken before
234 the commissioner and to be adduced upon the hearing in such manner
235 and upon such terms and conditions as to the court may seem
236 proper. The commissioner may modify his findings of fact or make
237 new findings by reason of the additional evidence so taken, and he
238 shall file such modified or new findings with the return of such
239 additional evidence.

240 (4) If the court finds that the method of competition
241 complained of is unfair or that the act or practice complained of
242 is unfair or deceptive, that the proceeding by the commissioner
243 with respect thereto is to the interest of the public, and that
244 the findings of the commissioner are supported by substantial



245 evidence, it shall issue its order enjoining and restraining the
246 continuance of such method of competition, act or practice.

247 (5) In addition to, or in lieu of, filing, through the
248 Attorney General, a petition for a cease and desist order, the
249 commissioner may, after a hearing in accordance with subsection
250 (1), impose an administrative fine not to exceed Five Thousand
251 Dollars (\$5,000.00) per violation, which shall be deposited into
252 the special fund in the State Treasury designated as the
253 "Insurance Department Fund."

254 * * *

255 **SECTION 8.** Section 83-5-69, Mississippi Code of 1972, is
256 amended as follows:

257 83-5-69. Any company that neglects to make and file its
258 quarterly and annual statement within the time provided in this
259 chapter shall pay to the Commissioner of Insurance One Hundred
260 Dollars (\$100.00) for each day's neglect, which penalty shall be
261 deposited into the special fund in the State Treasury designated
262 as the "Insurance Department Fund"; and upon notice by the
263 commissioner to that effect, its authority to do new business
264 shall cease while such default continues. For willfully making a
265 false annual, quarterly or other statement it is required by law
266 to make, any insurance company, association or order, and the
267 person making oath to or subscribing the same, shall severally be
268 guilty of a misdemeanor; and, upon conviction, be punished by a
269 fine of not less than Five Hundred Dollars (\$500.00) nor more than



270 One Thousand Dollars (\$1,000.00). Any person making oath to such
271 false statement shall be guilty of the crime of perjury.

272 * * *

273 **SECTION 9.** Section 83-5-72, Mississippi Code of 1972, is
274 amended as follows:

275 83-5-72. All life, health and accident insurance companies
276 and health maintenance organizations doing business in this state
277 shall contribute annually, at such times as the Insurance
278 Commissioner shall determine, in proportion to their gross
279 premiums collected within the State of Mississippi during the
280 preceding year, to a special fund in the State Treasury to be
281 known as the "Insurance Department Fund" to be expended by the
282 Insurance Commissioner in the payment of the expenses of the
283 Department of Insurance as the commissioner may deem necessary.
284 The commissioner is hereby authorized to employ such actuarial and
285 other assistance as shall be necessary to carry out the duties of
286 the department; and the employees shall be under the authority and
287 direction of the Insurance Commissioner. The amount to be
288 contributed annually to the fund shall be fixed each year by the
289 Insurance Commissioner at a percentage of the gross premiums so
290 collected during the preceding year. However, a minimum
291 assessment of One Hundred Dollars (\$100.00) shall be charged each
292 licensed life, health and accident insurance company regardless of
293 the gross premium amount collected during the preceding year.



294 The total contributions collected for the Insurance
295 Department Fund shall not exceed the sum of Seven Hundred Fifty
296 Thousand Dollars (\$750,000.00) in each fiscal year.

297 * * *

298 **SECTION 10.** Section 83-5-73, Mississippi Code of 1972, is
299 amended as follows:

300 83-5-73. The commissioner shall collect and pay into the
301 special fund in the State Treasury designated as the "Insurance
302 Department Fund" the following fees: for certificate of authority
303 to each general or district agent or manager, Twenty-five Dollars
304 (\$25.00); for filing and processing an agent's certificate of
305 authority, Twenty-five Dollars (\$25.00); for filing and examining
306 statement preliminary to admission, One Thousand Dollars
307 (\$1,000.00); for filing and processing a Form A application, Two
308 Thousand Dollars (\$2,000.00); for filing and auditing annual
309 statement, Five Hundred Dollars (\$500.00); for filing any other
310 paper required by law, Fifty Dollars (\$50.00); for continuing
311 education courses or programs filed by the providers for approval,
312 Fifty Dollars (\$50.00); for each certification company licensed
313 status, Forty Dollars (\$40.00); for each seal when required,
314 Twenty Dollars (\$20.00); for service of process on the
315 commissioner as attorney, Twenty-five Dollars (\$25.00).

316 * * *

317 **SECTION 11.** Section 83-5-77, Mississippi Code of 1972, is
318 amended as follows:



319 83-5-77. For publication of annual statement, there shall be
320 a fee of Eighty Dollars (\$80.00), Forty Dollars (\$40.00) of which
321 shall be paid to the publishers and Forty Dollars (\$40.00) paid to
322 the special fund in the State Treasury known as the "Insurance
323 Department Fund". The commissioner shall receive for copy of any
324 record or paper in his office, Fifty Cents (50¢) per page, and
325 Twenty Dollars (\$20.00) for certifying same, or any fact or data
326 from the records of the office.

327 * * *

328 **SECTION 12.** Section 83-9-3, Mississippi Code of 1972, is
329 amended as follows:

330 83-9-3. (1) No policy of accident and sickness insurance
331 shall be delivered or issued for delivery to any person in this
332 state unless:

333 (a) The entire money and other considerations therefor
334 are expressed therein; and

335 (b) The time at which the insurance takes effect and
336 terminates is expressed therein; and

337 (c) It purports to insure only one (1) person, except
338 that a policy may insure, originally or by subsequent amendment,
339 upon the application of an adult member of a family who shall be
340 deemed the policyholder, any two (2) or more eligible members of
341 that family, including husband, wife, dependent children or any
342 children under a specified age which shall not exceed nineteen



343 (19) years, and any other person dependent upon the policyholder;
344 and

345 (d) The style, arrangement and overall appearance of
346 the policy give no undue prominence to any portion of the text,
347 and unless every printed portion of the text of the policy and of
348 any endorsements or attached papers is plainly printed in
349 lightfaced type of a style in general use, the size of which shall
350 be uniform and not less than ten-point with a lowercase unspaced
351 alphabet length not less than one-hundred-twenty-point (the "text"
352 shall include all printed matter except the name and address of
353 the insurer, name or title of the policy, the brief description if
354 any, and captions and subcaptions); and

355 (e) The exceptions and reductions of indemnity are set
356 forth in the policy and, except those which are set forth in
357 Section 83-9-5, are printed, at the insurer's option, either with
358 the benefit provision to which they apply, or under an appropriate
359 caption such as "Exceptions" or "Exceptions and Reductions,"
360 provided that if an exception or reduction specifically applies
361 only to a particular benefit of the policy, a statement of such
362 exception or reduction shall be included with the benefit
363 provision to which it applies; and

364 (f) Each such form, including riders and endorsements,
365 shall be identified by a form number in the lower left-hand corner
366 of the first page thereof; and



367 (g) It contains no provision purporting to make any
368 portion of the charter, rules, constitution or bylaws of the
369 insurer a part of the policy unless such portion is set forth in
370 full in the policy, except in the case of the incorporation of, or
371 reference to, a statement of rates or classification of risks, or
372 short-rate table filed with the commissioner.

373 (2) No individual or group policy covering health and
374 accident insurance (including experience-rated insurance
375 contracts, indemnity contracts, self-insured plans and self-funded
376 plans), or any group combinations of these coverages, shall be
377 issued by any commercial insurer doing business in this state
378 which, by the terms of such policy, limits or excludes payment
379 because the individual or group insured is eligible for or is
380 being provided medical assistance under the Mississippi Medicaid
381 Law. Any such policy provision in violation of this section shall
382 be invalid.

383 (3) No individual or group policy covering health and
384 accident insurance (including experience-rated insurance
385 contracts, indemnity contracts, self-insured plans and self-funded
386 plans) or any group combinations of these coverages, shall be
387 issued by any commercial insurer doing business in this state,
388 which, by the terms of such policy, limits or restricts the
389 insured's ability to assign the insured's benefits under the
390 policy to a licensed health care provider that provides health
391 care services to the insured. Commercial insurers doing business



392 in this state shall honor an assignment for a period of one (1)
393 year starting from the initial date of an assignment. Any such
394 policy provision in violation of this subsection shall be invalid.

395 (4) If any policy is issued by an insurer domiciled in this
396 state for delivery to a person residing in another state, and if
397 the official having responsibility for the administration of the
398 insurance laws of such other state shall have advised the
399 commissioner that any such policy is not subject to approval or
400 disapproval by such official, the commissioner may, by ruling,
401 require that such policy meet the standards set forth in
402 subsection (1) of this section and in Section 83-9-5.

403 (5) The commissioner shall collect and pay into the special
404 fund in the State Treasury designated as the "Insurance Department
405 Fund" the following fees for services provided under this section:

FORM	FEE
Each individual policy contract, including	
revisions.....	\$15.00
Each group master policy or contract, including	
revisions.....	15.00
Each rider, endorsement or amendment, etc.....	10.00
Each insurance application where written application is required and is to be made a part of the policy or contract.....	10.00
Each questionnaire.....	7.00
Charge for resubmission where payment is not included	



417 with original submission..... 5.00

418 Additional charge for tentative approval same as above.

419 (6) In order to expedite and become more efficient in
420 reviewing and approving accident and health form and rate filings,
421 the commissioner may establish an expedited form and rate review
422 procedure whereby insurers may elect to pay reasonable actuarial
423 fees directly to a department-approved actuarial service in
424 exchange for an expedited review of form and rate filings by the
425 actuarial service. The commissioner may make such reasonable
426 rules and regulations concerning the expedited procedure, and may
427 set reasonable fees for the actuarial services provided. This
428 provision shall not abridge any other authority granted to the
429 commissioner by law, including the authority to collect the filing
430 fees prescribed by this section.

431 * * *

432 **SECTION 13.** Section 83-17-71, Mississippi Code of 1972, is
433 amended as follows:

434 83-17-71. (1) The commissioner may place on probation,
435 suspend, revoke or refuse to issue or renew an insurance
436 producer's license or may levy a civil penalty in an amount not to
437 exceed One Thousand Dollars (\$1,000.00) per violation and such
438 penalty shall be deposited into the special fund of the State
439 Treasury designated as the "Insurance Department Fund" for any one
440 or more of the following causes:



- 441 (a) Providing incorrect, misleading, incomplete or
442 materially untrue information in the license application;
- 443 (b) Violating any insurance laws, or violating any
444 regulation, subpoena or order of the commissioner or of another
445 state's commissioner;
- 446 (c) Obtaining or attempting to obtain a license through
447 misrepresentation or fraud;
- 448 (d) Improperly withholding, misappropriating or
449 converting any monies or properties received in the course of
450 doing insurance business;
- 451 (e) Intentionally misrepresenting the terms of an
452 actual or proposed insurance contract or application for
453 insurance;
- 454 (f) Having been convicted of a felony;
- 455 (g) Having admitted or been found to have committed any
456 insurance unfair trade practice or fraud;
- 457 (h) Using fraudulent, coercive or dishonest practices
458 or demonstrating incompetence, untrustworthiness or financial
459 irresponsibility in the conduct of business in this state or
460 elsewhere;
- 461 (i) Having an insurance producer license, or its
462 equivalent, denied, suspended or revoked in any other state,
463 province, district or territory;
- 464 (j) Forging another's name to an application for
465 insurance or to any document related to an insurance transaction;



466 (k) Improperly using notes or any other reference
467 material to complete an examination for an insurance license;

468 (l) Knowingly accepting insurance business from an
469 individual who is not licensed;

470 (m) Failing to comply with an administrative or court
471 order imposing a child support obligation; or

472 (n) Failing to pay state income tax or comply with any
473 administrative or court order directing payment of state income
474 tax.

475 (2) If the action by the commissioner is to nonrenew or to
476 deny an application for a license, the commissioner shall notify
477 the applicant or licensee and advise, in writing, the applicant or
478 licensee of the reason for the denial or nonrenewal of the
479 applicant's or licensee's license. The applicant or licensee may
480 make written demand upon the commissioner within ten (10) days for
481 a hearing before the commissioner to determine the reasonableness
482 of the commissioner's action. The hearing shall be held within
483 thirty (30) days.

484 (3) The license of a business entity may be suspended,
485 revoked or refused if the commissioner finds, after hearing, that
486 an individual licensee's violation was known or should have been
487 known by one or more of the partners, officers or managers acting
488 on behalf of the partnership or corporation and the violation was
489 neither reported to the commissioner nor corrective action taken.



490 (4) In addition to, or in lieu of, any applicable denial,
491 suspension or revocation of a license, a person may, after
492 hearing, be subject to a civil fine not to exceed One Thousand
493 Dollars (\$1,000.00) per violation and such fine shall be deposited
494 into the special fund in the State Treasury designated as the
495 "Insurance Department Fund."

496 (5) The commissioner shall retain the authority to enforce
497 the provisions of and impose any penalty or remedy authorized by
498 this article and Title 83, Mississippi Code of 1972, against any
499 person who is under investigation for or charged with a violation
500 of this article or Title 83, Mississippi Code of 1972, even if the
501 person's license or registration has been surrendered or has
502 lapsed by operation of law.

503 (6) No licensee whose license has been revoked hereunder
504 shall be entitled to file another application for a license as a
505 producer within one (1) year from the effective date of such
506 revocation or, if judicial review of such revocation is sought,
507 within one (1) year from the date of final court order or decree
508 affirming such revocation. Such application, when filed, may be
509 refused by the commissioner unless the applicant shows good cause
510 why the revocation of his license shall not be deemed a bar to the
511 issuance of a new license.

512 (7) Notwithstanding any other provision of this article to
513 the contrary, a person licensed in this state as a nonresident
514 producer whose license is denied, suspended or revoked in his or



515 her home state shall also have his or her nonresident license
516 denied, suspended or revoked in this state without prior notice or
517 hearing.

518 * * *

519 **SECTION 14.** Section 83-17-519, Mississippi Code of 1972, is
520 amended as follows:

521 83-17-519. (1) A license may be refused, or a license duly
522 issued may be suspended or revoked or the renewal thereof refused
523 by the commissioner, or the commissioner may levy a civil penalty
524 in an amount not to exceed Five Thousand Dollars (\$5,000.00) per
525 violation, or both, and any such penalty shall be deposited into
526 the special fund of the State Treasury designated as the
527 "Insurance Department Fund," if, after notice and hearing as
528 hereinafter provided, he finds that the applicant for, or holder
529 of, such license:

530 (a) Has intentionally made a material misstatement in
531 the application for such license; or

532 (b) Has obtained, or attempted to obtain, such license
533 by fraud or misrepresentation; or

534 (c) Has misappropriated or converted to his own use or
535 illegally withheld money belonging to another person or entity; or

536 (d) Has otherwise demonstrated lack of trustworthiness
537 or competence to act as a public adjuster; or

538 (e) Has been guilty of fraudulent or dishonest
539 practices or has been convicted of a felony; or



540 (f) Has materially misrepresented the terms and
541 conditions of insurance policies or contracts or failed to
542 identify himself as a public adjuster; or

543 (g) Has obtained or attempted to obtain such license
544 for a purpose other than holding himself out to the general public
545 as a public adjuster; or

546 (h) Has violated any insurance laws, or any regulation,
547 subpoena or order of the commissioner or of another state's
548 commissioner of insurance.

549 (2) Before any license shall be refused (except for failure
550 to pass a required written examination) or suspended or revoked or
551 the renewal thereof refused hereunder, the commissioner shall give
552 notice of his intention so to do, by certified mail, return
553 receipt requested, to the applicant for or holder of such license,
554 and shall set a date not less than twenty (20) days from the date
555 of mailing such notice when the applicant or licensee may appear
556 to be heard and produce evidence in opposition to such refusal,
557 suspension or revocation. Such notice shall constitute automatic
558 suspension of license if the person involved is a licensed public
559 adjuster. In the conduct of such hearing, the commissioner or any
560 regular salaried employee of the department specially designated
561 by him for such purpose shall have the power to administer oaths,
562 to require the appearance of and examine any person under oath,
563 and to require the production of books, records or papers relevant
564 to the inquiry upon his own initiative or upon the request of the



565 applicant or licensee. Upon the termination of such hearing,
566 findings shall be reduced to writing and, upon approval by the
567 commissioner, shall be filed in his office; and notice of the
568 findings shall be sent by certified mail, return receipt
569 requested, to the applicant or licensee.

570 (3) Where the grounds set out in subsection (1)(c) or (1)(f)
571 of this section are the grounds for any hearing, the commissioner
572 may, in his discretion in lieu of the hearing provided for in
573 subsection (2) of this section, file a petition requesting the
574 court to suspend or revoke any license authorized hereunder in a
575 court of competent jurisdiction of the county or district in which
576 the alleged offense occurred. In such cases, subpoenas may be
577 issued for witnesses, and mileage and witness fees paid as in
578 other cases. All costs of such cause shall be paid by the
579 defendant, if the finding of the court be against him.

580 (4) No licensee whose license has been revoked hereunder
581 shall be entitled to file another application for a license as a
582 public adjuster within one (1) year from the effective date of
583 such revocation or, if judicial review of such revocation is
584 sought, within one (1) year from the date of final court order or
585 decree affirming such revocation. An application filed after such
586 one-year period shall be refused by the commissioner unless the
587 applicant shows good cause why the revocation of his license shall
588 not be deemed a bar to the issuance of a new license.

589 * * *



590 **SECTION 15.** Section 83-19-21, Mississippi Code of 1972, is
591 amended as follows:

592 83-19-21. If it appears that the requirements of the law
593 herein have been complied with, the commissioner shall collect a
594 fee of Two Hundred Dollars (\$200.00), to be paid into the special
595 fund in the State Treasury designated as the "Insurance Department
596 Fund" and shall certify the fact and his approval of the articles
597 of association, by endorsement thereon. The commissioner shall
598 also collect a fee of Fifty Dollars (\$50.00) for any amendment
599 filed thereon and such fee shall be deposited into the "Insurance
600 Department Fund."

601 * * *

602 **SECTION 16.** Section 83-21-1, Mississippi Code of 1972, is
603 amended as follows:

604 83-21-1. No foreign insurance, indemnity or guaranty company
605 or other insurer shall be admitted and authorized to do business
606 in this state until:

607 (a) It shall deposit with the Commissioner of Insurance
608 a certified copy of its charter, articles of incorporation, bylaws
609 or deed of settlement, and shall pay for the filing of such
610 document the sum of One Thousand Dollars (\$1,000.00) and a
611 statement of its financial condition and business in such form and
612 detail as he may require, signed and sworn to by its president and
613 secretary or other proper officer.



614 (b) It shall satisfy the commissioner that it is fully
615 and legally organized under the laws of its state or government to
616 do the business it proposes to transact; and such capital or net
617 assets are well invested and immediately available for the payment
618 of losses in this state, and that it insures on any single hazard
619 a sum no larger than one-tenth (1/10) of its net assets.

620 (c) It shall, by a duly executed instrument filed in
621 his office, constitute and appoint the Commissioner of Insurance,
622 and his successor, its true and lawful attorney, upon whom all
623 process in any action or legal proceeding against it may be
624 served, and therein shall agree that any process against it which
625 may be served upon its attorney shall be of the same force and
626 validity as if served on the company, and the authority thereof
627 shall continue in force irrevocable so long as any liability of
628 the company remains outstanding in this state. The service of
629 such process shall be made by leaving a copy of the same in the
630 hands or office of the commissioner. Copies of such instrument
631 certified by the commissioner shall be deemed sufficient evidence
632 thereof, and service upon such attorney shall be deemed sufficient
633 service upon the principal.

634 (d) It shall appoint as its agent or agents in this
635 state some resident or residents thereof, other than the
636 commissioner; such appointment to be made in writing, signed by
637 the president and secretary or manager or general agent, and filed
638 in the office of the commissioner, authorizing the agent to



639 acknowledge service of process for and on behalf of the company,
640 consenting that service of process on the agent shall be as valid
641 as if served upon the company, according to the laws of this
642 state, and waiving all claims of error by reason of such service.

643 (e) It shall obtain from the commissioner a certificate
644 that it has complied with the laws of the state and is authorized
645 to make contracts of insurance.

646 (f) Such fees collected by the commissioner shall be
647 deposited in the special fund in the State Treasury designated as
648 the "Insurance Department Fund."

649 * * *

650 **SECTION 17.** Section 83-37-29, Mississippi Code of 1972, is
651 amended as follows:

652 83-37-29. Any person, firm, association, or corporation
653 engaging in the business herein described without first having
654 complied with the provisions hereof, or any person who shall
655 knowingly make any false statement in the reports required by this
656 chapter as determined by the Commissioner of Insurance after
657 written notice and hearing, shall be assessed a penalty for each
658 violation of not less than Two Hundred Fifty Dollars (\$250.00) nor
659 more than Five Hundred Dollars (\$500.00), and in addition thereto
660 shall forfeit the license to do business in this state. Funds
661 from such penalties shall be deposited with the State Treasurer to
662 be placed in a fund designated as the "Insurance Department Fund."

663 * * *



664 **SECTION 18.** Section 83-39-3, Mississippi Code of 1972, is
665 amended as follows:

666 83-39-3. (1) No person shall act in the capacity of
667 professional bail agent, soliciting bail agent or bail enforcement
668 agent, as defined in Section 83-39-1, or perform any of the
669 functions, duties or powers of the same unless that person shall
670 be qualified and licensed as provided in this chapter. The terms
671 of this chapter shall not apply to any automobile club or
672 association, financial institution, insurance company or other
673 organization or association or their employees who execute bail
674 bonds on violations arising out of the use of a motor vehicle by
675 their members, policyholders or borrowers when bail bond is not
676 the principal benefit of membership, the policy of insurance or of
677 a loan to such member, policyholder or borrower.

678 (2) (a) No license shall be issued or renewed except in
679 compliance with this chapter, and none shall be issued except to
680 an individual. No firm, partnership, association or corporation,
681 as such, shall be so licensed. No professional bail agent shall
682 operate under more than one (1) trade name. A soliciting bail
683 agent and bail enforcement agent shall operate only under the
684 professional bail agent's name. No license shall be issued to or
685 renewed for any person who has ever been convicted of a crime that
686 the commissioner finds directly relates to the duties and
687 responsibilities of the business of a professional bail agent,
688 soliciting bail agent, or bail enforcement agent, including, but



689 not limited to, any felony that involves an act of fraud,
690 dishonesty, or a breach of trust, or money laundering. No license
691 shall be issued to any person who is under twenty-one (21) years
692 of age. No person engaged as a law enforcement or judicial
693 official or attorney shall be licensed hereunder. A person who is
694 employed in any capacity at any jail or corrections facility that
695 houses state, county or municipal inmates who are or may be
696 eligible for bail, whether the person is a public employee,
697 independent contractor, or the employee of an independent
698 contractor, may not be licensed under this section.

699 (b) (i) No person who is a relative of either a sworn
700 state, county or municipal law enforcement official or judicial
701 official, or an employee, independent contractor or the
702 contractor's employee of any police department, sheriff's
703 department, jail or corrections facility that houses or holds
704 federal, state, county or municipal inmates who are or may be
705 eligible for bail, shall write a bond in the county where the law
706 enforcement entity or court in which the person's relative serves
707 is located. "Relative" means a spouse, parent, grandparent,
708 child, sister, brother, or a consanguineous aunt, uncle, niece or
709 nephew. Violation of this prohibition shall result in license
710 revocation.

711 (ii) No person licensed under this chapter shall
712 act as a personal surety agent in the writing of bail during a



713 period he or she is licensed as a limited surety agent, as defined
714 herein.

715 (iii) No person licensed under this chapter shall
716 give legal advice or a legal opinion in any form.

717 (3) The department is vested with the authority to enforce
718 this chapter. The department may conduct investigations or
719 request other state, county or local officials to conduct
720 investigations and promulgate such rules and regulations as may be
721 necessary for the enforcement of this chapter. The department may
722 establish monetary fines and collect such fines as necessary for
723 the enforcement of such rules and regulations. All fines
724 collected shall be deposited in the Special Insurance Department
725 Fund for the operation of that agency.

726 (4) (a) Each license issued hereunder shall expire
727 biennially on the last day of September of each odd-numbered year,
728 unless revoked or suspended prior thereto by the department, or
729 upon notice served upon the commissioner by the insurer that the
730 authority of a limited surety agent to act for or on behalf of
731 such insurer had been terminated, or upon notice served upon the
732 commissioner that the authority of a soliciting bail agent or bail
733 enforcement agent had been terminated by such professional bail
734 agent.

735 (b) A soliciting bail agent or bail enforcement agent
736 may, upon termination by a professional bail agent or upon his
737 cessation of employment with a professional bail agent, be



738 relicensed without having to comply with the provisions of
739 subsection (7) (a) and (b) of this section, if he has held a
740 license in his respective license category within ninety (90) days
741 of the new application, meets all other requirements set forth in
742 Section 83-39-5 and subsection (7) (b) of this section, and
743 notifies the previous professional bail agent in writing that he
744 is submitting an application for a new license.

745 (5) The department shall prepare and deliver to each
746 licensee a license showing the name, address and classification of
747 the licensee, and shall certify that the person is a licensed
748 professional bail agent, being designated as a personal surety
749 agent or a limited surety agent, a soliciting bail agent or a bail
750 enforcement agent. In addition, the license of a soliciting bail
751 agent or bail enforcement agent, shall show the name of the
752 professional bail agent and any other information as the
753 commissioner deems proper.

754 (6) The commissioner, after a hearing under Section
755 83-39-17, may refuse to issue a privilege license for a soliciting
756 bail agent to change from one (1) professional bail agent to
757 another if he owes any premium or debt to the professional bail
758 agent with whom he is currently licensed. The commissioner, after
759 a hearing under Section 83-39-17, shall refuse to issue a license
760 for a limited surety agent if he owes any premium or debt to an
761 insurer to which he has been appointed. If a license has been
762 granted to a limited surety agent or a soliciting bail agent who



763 owed any premium or debt to an insurer or professional bail agent,
764 the commissioner, after a hearing under Section 83-39-17, shall
765 revoke the license.

766 (7) (a) Before the issuance of any initial professional
767 bail agent, soliciting bail agent or bail enforcement agent
768 license, the applicant shall submit proof of successful completion
769 of forty (40) hours of prelicensing education approved by the
770 Mississippi Insurance Department unless the applicant is currently
771 licensed under this chapter on July 1, 2014, and has maintained
772 that license in compliance with the continuing education
773 requirements of subsection (8) of this section. Any applicant who
774 has met all continuing education requirements as set forth in
775 subsection (8) (a) of this section and has been properly licensed
776 under this chapter within ninety (90) days of submitting an
777 application for a license shall not be subject to the prelicensing
778 education requirement.

779 (b) All applicants for a professional bail agent,
780 soliciting bail agent or bail enforcement agent license applying
781 for an original license after July 1, 2014, shall successfully
782 complete a limited examination by the department for the
783 restricted lines of business before the license can be issued;
784 however, this examination requirement shall not apply to any
785 licensed bail soliciting agent and bail enforcement agent
786 transferring to another professional bail agent license, any
787 licensed bail soliciting agent applying for a bail enforcement



788 agent license, and any licensed bail enforcement agent applying
789 for a bail soliciting agent license. An applicant shall only be
790 required to successfully complete the limited examination once.

791 (c) Beginning on July 1, 2011, in order to assist the
792 department in determining an applicant's suitability for a license
793 under this chapter, the applicant shall submit a set of
794 fingerprints with the submission of an application for license.
795 The department shall forward the fingerprints to the Department of
796 Public Safety for the purpose of conducting a criminal history
797 record check. If no disqualifying record is identified at the
798 state level, the Department of Public Safety shall forward the
799 fingerprints to the Federal Bureau of Investigation for a national
800 criminal history record check. Fees related to the criminal
801 history record check shall be paid by the applicant to the
802 commissioner and the monies from such fees shall be deposited in
803 the special fund in the State Treasury designated as the
804 "Insurance Department Fund."

805 (8) (a) Before the renewal of the license of any
806 professional bail agent, soliciting bail agent or bail enforcement
807 agent, the applicant shall submit proof of successful completion
808 of continuing education hours as follows:

809 (i) There shall be no continuing education
810 required for the first licensure year;

811 (ii) Except as provided in subparagraph (i), eight
812 (8) hours of continuing education for each year or part of a year



813 of the two-year license period, for a total of sixteen (16) hours
814 per license period.

815 (b) If an applicant for renewal failed to obtain the
816 required eight (8) hours for each year of the license period
817 during the actual license year in which the education was required
818 to be obtained, the applicant shall not be eligible for a renewal
819 license but shall be required to obtain an original license and be
820 subject to the education requirements set forth in subsection (7).
821 The commissioner shall not be required to comply with Section
822 83-39-17 in denying an application for a renewal license under
823 this paragraph (b).

824 (c) The education hours required under this subsection
825 (8) shall be approved by the Mississippi Insurance Department.

826 (d) The continuing education requirements under this
827 subsection (8) shall not be required for renewal of a bail agent
828 license for any applicant who is sixty-five (65) years of age and
829 who has been licensed as a bail agent for a continuous period of
830 twenty (20) years immediately preceding the submission of the
831 application as evidenced by submission of an affidavit, under
832 oath, on a form prescribed by the department, signed by the
833 licensee attesting to satisfaction of the age, licensing, and
834 experience requirements of this paragraph (d).

835 (9) No license as a professional bail agent shall be issued
836 unless the applicant has been duly licensed by the department as a
837 soliciting bail agent for a period of three (3) consecutive years



838 immediately preceding the submission of the application. However,
839 this subsection (9) shall not apply to any person who was licensed
840 as a professional bail agent before July 1, 2011.

841 (10) A nonresident person may be licensed as a professional
842 bail agent, bail soliciting agent or bail enforcement agent if:

843 (a) The person's home state awards licenses to
844 residents of this state on the same basis; and

845 (b) The person has satisfied all requirements set forth
846 in this chapter.

847 (11) On or before October 1, 2016, the Insurance Department
848 shall establish a statewide Electronic Bondsmen Registry for all
849 licenses, powers of appointment and powers of attorney requiring
850 registration under this section. Once established, each
851 professional bail agent, limited surety agent, bail soliciting
852 agent, bail enforcement agent or insurance company writing bail
853 bonds shall be required under this subsection (11) to register and
854 maintain a record of each required license, power of appointment
855 and power of attorney in the registry. Failure to comply with
856 this provision will subject the agent to the penalties provided in
857 Section 83-39-29.

858 * * *

859 **SECTION 19.** Section 83-73-9, Mississippi Code of 1972, is
860 amended as follows:

861 83-73-9. * * * If a vendor of portable electronics or its
862 employee, subsidiary corporation or authorized representative



863 violates any provision of this section, the commissioner may do
864 any of the following:

865 (a) After notice and hearing, impose fines not to
866 exceed One Thousand Dollars (\$1,000.00) per violation or Thirty
867 Thousand Dollars (\$30,000.00) in the aggregate for such violations
868 and such penalty shall be deposited into the special fund of the
869 State Treasury designated as the "Insurance Department Fund."

870 (b) After notice and hearing, impose other penalties
871 that the commissioner deems necessary and reasonable to carry out
872 the purpose of this chapter, including, but not limited to:

873 (i) Suspending the privilege of transacting
874 portable electronics insurance pursuant to this section at
875 specific business locations where violations have occurred;

876 (ii) Suspending or revoking the ability of
877 individual employees, subsidiary corporations or authorized
878 representatives to act under the license; and

879 (iii) Placing on probation, suspending or revoking
880 the license of the portable electronics insurance producer.

881 * * *

882 **SECTION 20.** This act shall take effect and be in force from
883 and after July 1, 2022.

