

By: Senator(s) Robinson

To: Finance

SENATE BILL NO. 2802
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-34-4, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DISTRIBUTION OF MONIES DERIVED FROM THE NONADMITTED
3 POLICY FEE REMITTED TO THE MISSISSIPPI WINDSTORM UNDERWRITING
4 ASSOCIATION, TO PROVIDE THAT A PORTION OF SUCH MONIES SHALL BE
5 DEPOSITED INTO THE RURAL FIRE TRUCK FUND, THE MUNICIPAL FIRE
6 PROTECTION FUND AND THE COUNTY VOLUNTEER FIRE DEPARTMENT FUND; TO
7 AMEND SECTIONS 83-1-37 AND 83-1-39, MISSISSIPPI CODE OF 1972, IN
8 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
9 PURPOSES.

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

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

13 83-34-4. (1) Nonadmitted insurers shall not be assessable
14 insurers of the association. All surplus lines insurance
15 producers placing insurance through nonadmitted insurers shall
16 collect from the insured and remit to the association a
17 nonadmitted policy fee on all premiums for all insurance written
18 by such surplus lines insurance producer for a policy from a
19 nonadmitted insurer for any and all risks in this state, except
20 that policies or portions thereof that cover residential
21 earthquake risks or residential flood risks that are not written



22 through the National Flood Insurance Program shall be exempt from
23 the nonadmitted policy fee. By procuring or selling insurance on
24 property in this state from a nonadmitted insurer, each surplus
25 lines insurance producer placing insurance through a nonadmitted
26 insurer agrees to be bound by the provisions of this chapter and
27 to collect and remit the nonadmitted policy fee provided for
28 herein.

29 (2) The nonadmitted policy fee shall be a percentage of the
30 total policy premium but the nonadmitted policy fee shall not be
31 considered premium and is not subject to premium taxes or
32 commissions. However, failure to pay the nonadmitted policy fee
33 shall be treated the same as failure to pay premium. "Total
34 policy premium" includes taxes and commissions.

35 (3) The nonadmitted policy fee percentage shall be three
36 percent (3%).

37 (4) Within twenty (20) days of the end of the quarter,
38 surplus lines insurance producers placing insurance through
39 nonadmitted insurers shall remit directly to the association all
40 nonadmitted policy fees collected in the preceding quarter. In
41 addition to the nonadmitted policy fee provided for herein,
42 surplus lines insurance producers placing insurance through
43 nonadmitted insurers shall collect and remit excess deficit
44 surcharges as provided by this chapter. Surplus lines insurance
45 producers placing insurance through nonadmitted insurers may
46 designate another surplus lines insurance producer that actually



procured the insurance from the nonadmitted carrier to collect and remit the nonadmitted policy fees.

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

(6) Monies derived from the nonadmitted policy fee collected under this section shall not be considered public funds and may be used by the association, in addition to any uses provided for in Section 83-34-3(4), for education, public outreach, training of building officials and other programs targeted to reduce the number of policies within the association; however, beginning on July 1, 2018, and ending on June 30, 2019, before any fees are remitted to the association, One Million Five Hundred Thousand Dollars (\$1,500,000.00) shall be diverted and deposited into the Capital Expense Fund, and Four Million Five Hundred Thousand Dollars (\$4,500,000.00) shall be diverted and deposited into the Rural Fire Truck Fund or Supplementary Rural Fire Truck Fund. Further, beginning July 1, 2019, and ending on June 30, 2020, before any fees are remitted to the association, Three Million Five Hundred Thousand Dollars (\$3,500,000.00) shall be diverted and deposited into the Rural Fire Truck Fund or Supplementary



Rural Fire Truck Fund. Further, beginning July 1, 2022, and
ending on June 30, 2025, before any fees are remitted to the
association but only if the association will receive at least
sixty percent (60%) of the fees, Five Hundred Thousand Dollars
(\$500,000.00) shall be diverted and deposited annually into the
Mississippi First Responders Health and Safety Trust Fund created
in Section 25-15-411. Further, beginning July 1, 2022, and ending
on June 30, 2025, but only if the association will receive at
least sixty percent (60%) of the fees and the Mississippi First
Responders Health and Safety Trust Fund has received the diversion
of Five Hundred Thousand Dollars (\$500,000.00), Three Million Five
Hundred Thousand Dollars (\$3,500,000.00) shall be diverted and
deposited annually into the Annual Fire Fund created in Section
17-23-21. Further, beginning July 1, 2022, and ending on June 30,
2025, after the association has received sixty percent (60%) of
the fees and after all other diversions are made, fifty percent
(50%) of any excess amount shall be remitted to the association
and fifty percent (50%) of any excess amount shall be diverted and
deposited annually into the Annual Fire Fund. Beginning July 1,
2025, (a) Five Hundred Thousand Dollars (\$500,000.00) shall be
diverted and deposited annually into the Mississippi First
Responders Health and Safety Trust Fund created in Section
25-15-41; (b) Twelve Million Dollars (\$12,000,000.00) shall be
remitted annually to the association; and (c) any remaining excess
amount shall be diverted and deposited annually as follows: forty



percent (40%) into the Rural Fire Truck Fund created in Section 17-23-1; thirty percent (30%) into the Municipal Fire Protection Fund created in Section 83-1-37 and thirty percent (30%) into the County Volunteer Fire Department Fund created in Section 83-1-39.

* * *

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

SECTION 2. Section 83-1-37, Mississippi Code of 1972, is amended as follows:

83-1-37. (1) The Department of Revenue shall pay for credit to a fund known as the "Municipal Fire Protection Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax collected annually from the taxes levied on the gross premiums on fire insurance policies written on properties in this state, under Sections 27-15-103 through 27-15-127. In addition, a portion of the monies derived from the nonadmitted policy fee collected under Section 83-34-4 shall be deposited into the Municipal Fire Protection Fund as provided in Section 83-34-4(6). The State Treasurer shall credit * * * these amounts to the Municipal Fire Protection Fund. This fund shall be set aside and earmarked for payment to municipalities in this state, as hereinafter provided.

(2) Using 1990 as a base year, the Department of Revenue shall pay over annually to the State Treasurer, for credit to the



"Municipal Fire Protection Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, under Sections 27-15-103 through 27-15-127.

(3) The fund hereby created and denominated "Municipal Fire Protection Fund" shall be apportioned and paid over by the Department of Insurance to the incorporated municipalities certified as eligible to participate in the fund by the Commissioner of Insurance, and shall be distributed in the following manner annually: each municipality shall be paid Six Thousand Dollars (\$6,000.00), * * * and the remainder of the monies * * * in the fund shall be paid annually on a population basis, to be determined by the most recent federal census. Municipalities receiving these funds shall earmark such monies for fire protection services.

(4) The amount paid under subsections (1) and (2) of this section to a municipality shall be used and expended in accordance with the guidelines established by the Commissioner of Insurance authorized by Section 45-11-7, for the training of municipal personnel as needed for the adoption of and compliance with the minimum building codes as established and promulgated by the Mississippi Building Codes Council, for windstorm mitigation programs as approved by the Commissioner of Insurance, and for emergency medical service training and equipment as provided by



municipal fire protection services. A municipality may provide reasonable remuneration to municipal volunteer firefighters in accordance with the guidelines established by the Commissioner of Insurance authorized by Section 45-11-7.

(5) Each municipality shall levy a tax of not less than one-fourth (1/4) mill on all property of the municipality or appropriate the avails of not less than one-fourth (1/4) mill from the municipality's general fund for fire protection purposes. Municipalities may allow such millage to be collected by the county. Each municipality shall annually provide the Commissioner of Insurance and the State Fire Coordinator on a form provided by the State Fire Coordinator a report stating whether the municipality is levied the one-fourth (1/4) mill hereby required or in lieu thereof is allowing such millage to be collected by the county.

(6) The Commissioner of Insurance may promulgate rules and regulations to establish guidelines for the use of fire rebate funds and nonadmitted policy fee monies.

SECTION 3. Section 83-1-39, Mississippi Code of 1972, is amended as follows:

83-1-39. (1) The Department of Revenue shall pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax in addition to the amount collected by it



under the provisions of Section 27-15-103 et seq. In addition, a portion of the monies derived from the nonadmitted policy fee collected under Section 83-34-4 shall be deposited into the County Volunteer Fire Department Fund as provided in Section 83-34-4(6). Such funds, hereinafter referred to as insurance rebate monies and nonadmitted policy fee monies, are hereby earmarked for payment to the various counties of the state and shall be paid over to the counties by the Department of Insurance in the following manner: each county shall be paid Thirty Thousand Dollars (\$30,000.00), * * * and the remainder of the monies * * * in the fund shall be paid annually on the basis of the population of each county as it compares to the population of participating counties, not counting residents of any municipality. Such insurance rebate monies and nonadmitted policy fee monies shall only be distributed to those counties which are in compliance with subsections (5) and (6) of this section.

(2) Using 1990 as a base year, the Department of Revenue shall pay to the State Treasurer, to be credited to the "County Volunteer Fire Department Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, in addition to the amount collected by it under Section 27-15-103 et seq.



196 (3) Insurance rebate monies and nonadmitted policy fee
197 monies shall be expended by the board of supervisors for fire
198 protection purposes of each county for the following categories:

199 (a) For training expenses, including emergency medical
200 services training;

201 (b) Purchase of equipment, purchase of fire trucks,
202 repair and refurbishing of fire trucks and firefighting equipment,
203 for emergency medical services equipment, and capital construction
204 anywhere in the county or pledging as security for a period of not
205 more than ten (10) years for such purchases;

206 (c) Purchase of insurance on county-owned firefighting
207 or emergency medical services equipment;

208 (d) Fire protection service contracts, including, but
209 not limited to, municipalities, legal fire protection districts,
210 and nonprofit corporations providing or coordinating fire service
211 or emergency medical services in or out of the county;

212 (e) Appropriations to legal fire protection districts
213 located in counties subject to all restrictions applicable to the
214 use of insurance rebate monies and nonadmitted policy fee monies;

215 (f) Training of any county personnel as needed for the
216 adoption of and compliance with the codes established and
217 promulgated by the Mississippi Building Codes Council or for
218 windstorm mitigation programs as approved by the Commissioner of
219 Insurance;



(g) Any county-owned equipment or other property, at the option of the board of supervisors, may be used by any legally created fire department;

(h) At the option of the board of supervisors, a county may provide reasonable remuneration to volunteer firefighters in accordance with the guidelines established by the Commissioner of Insurance authorized by Section 45-11-7; or

(i) For any use allowed in accordance with the guidelines as established by the Commissioner of Insurance.

(4) Insurance rebate monies and nonadmitted policy fee monies not expended in a given fiscal year for fire protection purposes shall be placed in a special fund with a written plan approved by the Commissioner of Insurance for disposition and expenditure of such monies. After the contracts for fire protection services have been approved and accepted by the board of supervisors, the monies shall be released to be expended in such manner as provided by this section.

(5) No county shall receive payments pursuant to this section after July 1, 1988, unless such county:

(a) Designates a county fire service coordinator who is responsible for seeing that standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9), Mississippi Code of 1972, are followed. The county fire coordinator must demonstrate that he possesses fire-related knowledge and experience;



(b) Designates one (1) member of the sheriff's department to be the county fire investigator and, from and after July 1, 2008, requires the designated member of the sheriff's department to attend the State Fire Academy to be trained in arson investigation; however, in the event of a loss of the county fire investigator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the Commissioner of Insurance and the county may continue to receive payments on an interim basis for a period not to exceed one (1) year;

(c) Adheres to the standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9); and

(d) Counties shall levy a tax of not less than one-fourth (1/4) mill on all property of the county or appropriate avails of not less than one-fourth (1/4) mill from the county's general fund for fire protection purposes. Municipalities making a written declaration to the county that they fund and provide their own fire services shall be exempted from this levy. This levy shall be used for fire protection purposes which include, but are not limited to, contracting with any provider of fire protection services.

(6) (a) No funds shall be paid by the county to any provider of fire protection services except in accordance with a written contract entered into in accordance with guidelines established by the Commissioner of Insurance and properly approved



by the board of supervisors and Commissioner of Insurance. No county shall distribute funds to any fire service provider which has not met the reporting requirements required by the Commissioner of Insurance. At such time that a fire protection services provider, particularly a county volunteer fire department, a municipality or a fire protection district, has fulfilled the obligations of the written contract and has met the reporting requirements provided for in this subsection and the board of supervisors has received the insurance rebate monies and nonadmitted policy fee monies, the board of supervisors shall disburse the appropriate amount to the fire protection services provider within a reasonable time, not to exceed six (6) weeks, from the time such requirements are met. Insurance rebate monies and nonadmitted policy fee monies used for the purposes of contracting shall be expended by the fire service provider for capital construction, training expenses, purchase of firefighting equipment, including payments on any loans made for the purpose of purchasing firefighting equipment, purchase of insurance for any fire equipment owned or operated by the provider, and for training and equipment of emergency medical services as provided by fire protection services.

(b) If the Commissioner of Insurance believes that a county is using the funds in a manner not consistent with subsections (5) and (6) of this section, the commissioner shall



request the State Auditor to conduct an investigation pursuant to
Section 7-7-211(e).

(7) The board of supervisors of any county may contribute funds directly to any provider of fire protection services serving such county. Such contributions must be used for fire protection purposes as may be reasonably established by the Commissioner of Insurance.

(8) Any municipal, county or local water association or other utility district supplying water may, upon adoption of a resolution authorizing such action, contribute free of charge to a volunteer fire department or fire protection district serving such local government, political subdivision or utility district such water as is necessary for firefighting or training activities of such volunteer fire department or fire protection district.

(9) The board of supervisors of any county may, in its discretion, grade, gravel, shell and/or maintain real property of a county volunteer fire department, including roads or driveways thereof, as necessary for the effective and safe operation of such county volunteer fire department. Any action taken by the board of supervisors under the authority of this subsection shall be spread upon the minutes of the board of supervisors when the work is authorized.

(10) For the purpose of this section, "fire protection district" means a district organized under Section 19-5-151 et seq., or pursuant to any other code section or by any local and



319 private act authorizing the establishment of a fire protection
320 district, unless the context clearly requires otherwise.

321 (11) The Commissioner of Insurance may promulgate rules and
322 regulations to establish guidelines for the use of fire rebate
323 funds and nonadmitted policy fee monies.

324 **SECTION 4.** This act shall take effect and be in force from
325 and after July 1, 2025.

