

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 649
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-17-123, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE AUTOMATIC SUSPENSION OF AN INSURANCE AGENT'S LICENSE
3 BEFORE A HEARING IS HELD ON THE MATTER; TO AMEND SECTION 83-39-17,
4 MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTOMATIC SUSPENSION OF A
5 BAIL AGENT'S LICENSE BEFORE A HEARING IS HELD ON THE MATTER; AND
6 FOR RELATED PURPOSES.

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

8 SECTION 1. Section 83-17-123, Mississippi Code of 1972, is
9 amended as follows:

10 83-17-123. (1) A license may be refused, or a license duly
11 issued may be suspended or revoked or the renewal thereof refused
12 by the commissioner if, after notice and hearing as hereinafter
13 provided, he finds that the applicant for, or holder of, such
14 license:

15 (a) Has willfully violated any provision of the
16 insurance laws of this state; or

17 (b) Has intentionally made a material misstatement in
18 the application for such license; or

19 (c) Has obtained, or attempted to obtain, such license
20 by fraud or misrepresentation; or

21 (d) Has misappropriated or converted to his own use or
22 illegally withheld money belonging to an insurer or beneficiary;
23 or

24 (e) Has otherwise demonstrated lack of trustworthiness
25 or competence to act as an agent; or

26 (f) Has been guilty of fraudulent or dishonest
27 practices or has been convicted of a felony; or

28 (g) Has materially misrepresented the terms and
29 conditions of insurance policies or contracts; or willfully
30 exaggerated prospective returns on investment features of
31 policies, or fails to identify himself as an agent and as
32 receiving a compensation for his participation in the sale of
33 insurance; or

34 (h) Has made or issued, or caused to be made or issued,
35 any statement misrepresenting or making incomplete comparisons
36 regarding the terms or conditions of any insurance or annuity
37 contract legally issued by any insurer, for the purpose of
38 inducing or attempting to induce the owner of such contract to
39 forfeit or surrender such contract or allow it to lapse for the
40 purpose of replacing such contract with another; or

41 (i) Has obtained or attempted to obtain such license,
42 not for the purpose of holding himself out to the general public
43 as an agent, but primarily for the purpose of soliciting,
44 negotiating or procuring insurance or annuity contracts covering
45 himself or members of his family; or

46 (j) Has solicited insurance prior to having personally
47 received a license and a certificate of authority to represent the
48 particular insurer for which he solicited business, even though
49 application for same has been made.

50 (2) Before any license is refused (except for failure to
51 pass a required written examination) or suspended or revoked or
52 the renewal thereof refused hereunder, the commissioner shall give
53 notice of his intention so to do, by certified mail, to the
54 applicant for or holder of such license and the insurer whom he
55 represents or who desires that he be licensed, and shall set a
56 date not less than ten (10) days from the date of mailing such
57 notice when the applicant or licensee and a duly authorized
58 representative of the insurer may appear to be heard and produce
59 evidence. * * * In the conduct of such hearing, the commissioner
60 or any regular salaried employee specially designated by him for

61 such purpose shall have power to administer oaths, to require the
62 appearance of and examine any person under oath, and to require
63 the production of books, records or papers relevant to the inquiry
64 upon his own initiative or upon the request of the applicant or
65 licensee. Upon the termination of such hearing, findings shall be
66 reduced to writing and, upon approval by the commissioner, shall
67 be filed in his office; and notice of the findings shall be sent
68 by certified mail to the applicant or licensee and the insurer
69 concerned.

70 (3) Where the grounds set out in paragraph (1)(d) or (1)(g)
71 are the grounds for any hearing, the commissioner may, in his
72 discretion in lieu of the hearing provided for in subsection (2)
73 above, file a petition to suspend or revoke any license authorized
74 hereunder in a court of competent jurisdiction of the county or
75 district in which the alleged offense occurred. In such cases,
76 subpoenas may be issued for witnesses, and mileage and witness
77 fees paid as in other cases. All costs of the cause shall be paid
78 by the defendant, if found guilty, and if costs cannot be made and
79 collected from the defendant, such costs shall be assessed against
80 the company issuing the contract involved in the cause.

81 (4) No licensee whose license has been revoked hereunder
82 shall be entitled to file another application for a license as an
83 agent within one (1) year from the effective date of such
84 revocation or, if judicial review of such revocation is sought,
85 within one (1) year from the date of final court order or decree
86 affirming such revocation. Such application, when filed, may be
87 refused by the commissioner unless the applicant shows good cause
88 why the revocation of his license shall not be deemed a bar to the
89 issuance of a new license.

90 (5) In addition to, or in lieu of, the remedies provided in
91 this section, the commissioner may, after a hearing in accordance
92 with subsection (2), impose an administrative fine for violations
93 of paragraphs (a) through (j) of subsection (1). Such

94 administrative fine shall not exceed One Thousand Dollars
95 (\$1,000.00) per violation and shall be deposited into the special
96 fund in the State Treasury designated as the "Insurance Department
97 Fund."

98 (6) In addition to the reasons specified in subsection (1)
99 of this section, the commissioner shall be authorized to suspend
100 the license of any licensee for being out of compliance with an
101 order for support, as defined in Section 93-11-153. The procedure
102 for suspension of a license for being out of compliance with an
103 order for support, and the procedure for the reissuance or
104 reinstatement of a license suspended for that purpose, and the
105 payment of any fees for the reissuance or reinstatement of a
106 license suspended for that purpose, shall be governed by Section
107 93-11-157 or 93-11-163, as the case may be. Actions taken by the
108 commissioner in suspending a license when required by Section
109 93-11-157 or 93-11-163 are not actions from which an appeal may be
110 taken under this section. Any appeal of a license suspension that
111 is required by Section 93-11-157 or 93-11-163 shall be taken in
112 accordance with the appeal procedure specified in Section
113 93-11-157 or 93-11-163, as the case may be, rather than the
114 procedure specified in this section. If there is any conflict
115 between any provision of Section 93-11-157 or 93-11-163 and any
116 provision of this chapter, the provisions of Section 93-11-157 or
117 93-11-163, as the case may be, shall control.

118 SECTION 2. Section 83-39-17, Mississippi Code of 1972, is
119 amended as follows:

120 83-39-17. Before any license shall be refused or suspended
121 or revoked, or the renewal thereof refused hereunder, the
122 commissioner shall give notice of his intention to do so, by
123 registered mail, to the applicant or licensee and to the insurer
124 or professional bail agent appointing or employing the applicant
125 or licensee, as the case may be, and shall set a date, not less
126 than twenty (20) days from the date of mailing the notice, when

127 the applicant or licensee and a duly authorized representative of
128 the insurer or professional bail agent may appear to be heard and
129 produce evidence. * * * In the conduct of the hearing, the
130 commissioner or any regular salaried employee specially designated
131 by him for this purpose shall have power to administer oaths, to
132 require the appearance of and examine any person under oath, and
133 to require the production of books, records, or papers relevant to
134 the inquiry upon his own initiative or upon the request of the
135 applicant or licensee. Upon the termination of the hearing,
136 findings shall be reduced to writing and, upon approval by the
137 commissioner, shall be filed in his office and notice of the
138 findings sent by registered mail to the applicant or licensee and
139 the insurer or professional bail agent concerned.

140 SECTION 3. This act shall take effect and be in force from
141 and after July 1, 2001.