

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 654

1 AN ACT TO AMEND SECTION 75-49-13, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE APPEAL PROCEDURES FOR PERSONS AGGRIEVED BY ANY  
3 DECISION OF THE COMMISSIONER OF INSURANCE REGARDING MANUFACTURED  
4 HOUSING LICENSES; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 75-49-13, Mississippi Code of 1972, is  
7 amended as follows:

8 75-49-13. (1) The commissioner shall not:

9 (a) Deny an application for a license without first  
10 giving the applicant a hearing, or an opportunity to be heard, on  
11 the question of whether he is qualified under the provisions of  
12 this chapter to receive the license applied for.

13 (b) Revoke or suspend a license without first giving  
14 the licensee a hearing, or an opportunity to be heard, on the  
15 question of whether there are sufficient grounds under the  
16 provisions of this chapter upon which to base such revocation or  
17 suspension.

18 (2) Any interested party shall have the right to have the  
19 commissioner call a hearing for the purpose of taking action in  
20 respect to any matter within the commissioner's jurisdiction by  
21 filing with the commissioner a verified complaint setting forth  
22 the grounds upon which the complaint is based.

23 (3) The commissioner may on his own motion call a hearing  
24 for the purpose of taking action in respect to any matter within  
25 his jurisdiction.

26 (4) When a hearing is to be held before the commissioner,  
27 the commissioner shall give written notice thereof to all parties  
28 whose rights may be affected thereby. The notice shall set forth



29 the reason for the hearing and the questions or issues to be  
30 decided by the commissioner at such hearing and the time when and  
31 the place where the hearing will be held. All such notices shall  
32 be mailed to all parties, whose rights may be affected by such  
33 hearing by registered or certified mail, and addressed to their  
34 last known address.

35 (5) All parties whose rights may be affected at any hearing  
36 before the commissioner shall have the right to appear personally  
37 and by counsel, to cross-examine witnesses appearing against them,  
38 and to produce evidence and witnesses in their own behalf. The  
39 commissioner shall make and keep a record of each such hearing and  
40 shall provide a transcript thereof to any interested party upon  
41 his request and at his expense. Testimony taken at all such  
42 hearings shall be taken either stenographically or by machine.

43 (6) If any party who is notified of a hearing in accordance  
44 with the requirements of this chapter fails to appear at such  
45 hearing, either in person or by counsel, then and in that event  
46 the commissioner may make any decision and take any action he may  
47 deem necessary or appropriate with respect to any issue or  
48 question scheduled for hearing and decision by him at such hearing  
49 which affects or may affect the rights of such defaulting party,  
50 and such defaulting party shall have no right of appeal under the  
51 provisions of this chapter.

52 (7) All decisions of the commissioner with respect to the  
53 hearings provided for in this section shall be incorporated into  
54 orders of the commissioner. All such orders shall be made  
55 available during normal office hours for inspection by interested  
56 persons.

57 (8) It shall be the duty of the sheriffs and constables of  
58 the counties of this state and of any employee of the  
59 commissioner, when so directed by the commissioner, to execute any  
60 summons, citation or subpoena which the commissioner may cause to  
61 be issued and to make his return thereof to the commissioner. The



62 sheriffs and constables so serving and returning same shall be  
63 paid for so doing fees provided for such services in the circuit  
64 court. Any person who appears before the commissioner or a duly  
65 designated employee of his department in response to a summons,  
66 citation or subpoena shall be paid the same witness fee and  
67 mileage allowance as witnesses in the circuit court. In case of  
68 failure or refusal on the part of any person to comply with any  
69 summons, citation or subpoena issued and served as above  
70 authorized or in the case of the refusal of any person to testify  
71 or answer to any matter regarding which he may be lawfully  
72 interrogated or the refusal of any person to produce his record  
73 books and accounts relating to any matter regarding which he may  
74 be lawfully interrogated, the chancery court of any county of the  
75 State of Mississippi, or any chancellor of any such court in  
76 vacation, may, on application of the commissioner, issue an  
77 attachment for such person and compel him to comply with such  
78 summons, citation or subpoena and to attend before the  
79 commissioner or his designated employee and to produce the  
80 documents specified in any subpoena duces tecum and give his  
81 testimony upon such matters as he may be lawfully required. Any  
82 such chancery court, or any chancellor of any such court in  
83 vacation, shall have the power to punish for contempt as in case  
84 of disobedience of like process issued from or by any such  
85 chancery court, or by refusal to testify therein in response to  
86 such process, and such person shall be taxed with the costs of  
87 such proceedings.

88 (9) The following procedure shall govern in taking and  
89 perfecting appeals:

90 (a) Any person who is a party to any hearing before the  
91 commissioner and who is aggrieved by any decision of the  
92 commissioner with respect to any hearing before him, unless  
93 prevented by the provisions of subsection (6) of this section,  
94 shall have the right of appeal \* \* \* to the chancery court of the



95 First Judicial District of Hinds County, Mississippi. All such  
96 appeals shall be taken and perfected within sixty (60) days from  
97 the date of the decision of the commissioner which is the subject  
98 of the appeal, and the chancery court to which such appeal is  
99 taken may affirm such decision or reverse and remand the same to  
100 the commissioner for further proceedings as justice may require or  
101 dismiss such decision. All such appeals shall be taken and  
102 perfected, heard and determined, either in term time or in  
103 vacation, on the record, including a transcript of pleadings and  
104 evidence, both oral and documentary, heard and filed before the  
105 commissioner. In perfecting any appeal provided by this chapter,  
106 the provisions of law respecting notice to the reporter and  
107 allowance of bills of exceptions, now or hereafter in force,  
108 respecting appeals from the chancery court to the Supreme Court  
109 shall be applicable, provided, however, that the reporter shall  
110 transcribe his notes, taken stenographically or by machine, and  
111 file the record with the commissioner within thirty (30) days  
112 after approval of the appeal bond, unless, on application of the  
113 reporter, or of the appellant, an additional fifteen (15) days  
114 shall have been allowed by the commissioner to the reporter within  
115 which to transcribe his notes and file the transcript of the  
116 record with the commission.

117 (b) Upon the filing with the commissioner of a petition  
118 of appeal to the proper chancery court, it shall be the duty of  
119 the commissioner, as promptly as possible, and in any event within  
120 sixty (60) days after approval of the appeal bond, to file with  
121 the clerk of the chancery court to which the appeal is taken, a  
122 copy of the petition for appeal and of the decision appealed from,  
123 and the original and one (1) copy of the transcript of the record  
124 of the proceedings and evidence before the commission. After the  
125 filing of the petition, the appeal shall be perfected by the  
126 filing of a bond in the penal sum of Five Hundred Dollars  
127 (\$500.00) with two (2) sureties or with a surety company qualified



128 to do business in Mississippi as surety, conditioned to pay the  
129 costs of such appeal, the bond to be approved by the commissioner  
130 or by the clerk of the chancery court to which such appeal is  
131 taken.

132 (10) No decision of the commissioner made as a result of a  
133 hearing under the provisions of this section shall become final  
134 with respect to any party affected and aggrieved by such decision  
135 until such party shall have exhausted or shall have had an  
136 opportunity to exhaust all of his remedies provided for by this  
137 section; provided, however, any such decision may be made final if  
138 the commissioner finds that failure to do so would be detrimental  
139 to the public interest or public welfare, but the finality of any  
140 such decision shall not prevent any party or parties affected and  
141 aggrieved thereby to appeal the same in accordance with the  
142 appellate procedure set forth in this section.

143 (11) The commissioner shall prescribe his rules of order or  
144 procedure in hearings or other proceedings before it under this  
145 chapter; provided, however, that such rules of order or procedure  
146 shall not be in conflict or contrary to the provisions of this  
147 section.

148 SECTION 2. This act shall take effect and be in force from  
149 and after July 1, 2001.

