

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2162

1 AN ACT TO AUTHORIZE THE USE OF CLEARING CORPORATIONS AND THE
2 FEDERAL RESERVE BOOK-ENTRY SYSTEM BY INSURANCE COMPANIES FOR THE
3 DEPOSIT OF SECURITIES; TO DEFINE CERTAIN TERMS; TO AUTHORIZE THE
4 COMMISSIONER OF INSURANCE TO PROMULGATE RULES AND REGULATIONS
5 GOVERNING SUCH DEPOSITS; TO AMEND SECTIONS 83-7-21, 83-19-31 AND
6 83-21-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
7 RELATED PURPOSES.

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

9 SECTION 1. The purpose of Sections 1 through 3 of this act
10 is to authorize domestic insurance companies to utilize modern
11 systems for holding and transferring securities without physical
12 delivery of securities certificates, subject to appropriate
13 regulations of the Commissioner of Insurance.

14 SECTION 2. As used in Sections 1 through 3 of this act, the
15 term:

16 (a) "Clearing corporation" means a corporation as
17 defined in Section 75-8-102, except that with respect to
18 securities issued by institutions organized or existing under the
19 laws of any foreign country or securities used to meet the deposit
20 requirements pursuant to the laws of a foreign country as a
21 condition of doing business therein, clearing corporation may
22 include a corporation which is organized or existing under the
23 laws of any foreign country and is legally qualified under such
24 laws to effect transactions in securities by computerized
25 book-entry.

26 (b) "Direct participant" means a bank or trust company
27 or other institution which maintains an account in its name in a
28 clearing corporation and through which an insurance company
29 participates in a clearing corporation.



30 (c) "Federal Reserve book-entry system" means the
31 computerized systems sponsored by the United States Department of
32 the Treasury and certain agencies and instrumentalities of the
33 United States for holding and transferring securities of the
34 United States government and such agencies and instrumentalities,
35 respectively, in Federal Reserve Banks through banks which are
36 members of the Federal Reserve System or which otherwise have
37 access to such computerized systems.

38 (d) "Member bank" means a national bank, state bank or
39 trust company which is a member of the Federal Reserve System and
40 through which an insurance company participates in the Federal
41 Reserve book-entry system.

42 (e) "Securities" means instruments as defined in
43 Section 75-8-102 or as permitted by the insurance laws of the
44 State of Mississippi.

45 SECTION 3. (1) Notwithstanding any other provision of law,
46 a domestic insurance company may deposit or arrange for the
47 deposit of securities held in or purchased for its general account
48 and its separate accounts in a clearing corporation or the Federal
49 Reserve book-entry system. When securities are deposited with a
50 clearing corporation, certificates representing securities of the
51 same class of the same issuer may be merged and held in bulk in
52 the name of the nominee of such clearing corporation with any
53 other securities deposited with such clearing corporation by any
54 person, regardless of the ownership of such securities, and
55 certificates representing securities of small denominations may be
56 merged into one or more certificates of larger denominations. The
57 records of any member bank through which an insurance company
58 holds securities in the Federal Reserve book-entry system, and the
59 records of any custodian banks through which an insurance company
60 holds securities in shall at all times show that such securities
61 are held for such insurance company and for which accounts
62 thereof. Ownership of, and other interests in, such securities



63 may be transferred by bookkeeping entry on the books of such
64 clearing corporation or in the Federal Reserve book-entry system
65 without, in either case, physical delivery of certificates
66 representing such securities.

67 (2) The Commissioner of Insurance is authorized to
68 promulgate rules and regulations governing the deposit by
69 insurance companies of securities with clearing corporations and
70 in the Federal Reserve book-entry system.

71 SECTION 4. Section 83-7-21, Mississippi Code of 1972, is
72 amended as follows:

73 83-7-21. The reserve liabilities for all policies in force
74 in any domestic company being ascertained in the manner provided
75 in Section 83-7-23, the Insurance Commissioner shall notify it of
76 the amount. The officers of such company shall deposit with the
77 State Treasurer for the security and benefit of all the
78 policyholders the sum of One Hundred Thousand Dollars
79 (\$100,000.00). Provided, this sum may be increased to the amount
80 necessary for a domestic company to be qualified to do business in
81 another state, so long as such state will accept a certificate
82 verified by the State Treasurer of Mississippi showing that such
83 company has on deposit in Mississippi the required sum.

84 So long as the company continues solvent and complies with
85 the laws of the state, it may collect the income on such
86 securities. The company may substitute therefor other securities
87 recognized by law as lawful investments of the company; provided,
88 however, it shall be the duty of the State Treasurer to accept
89 from such insurance companies securities tendered to him for
90 deposit upon the representation of such companies by their
91 officers or agents that such securities comply with the laws of
92 the State of Mississippi, as provided in this chapter. Once a
93 year the Insurance Commissioner shall examine all of the
94 securities so deposited and all of the securities held as reserves
95 by each company and either approve or disapprove such securities.



96 Should he disapprove any such securities, then such securities
97 shall be replaced by such companies with other securities approved
98 by the Insurance Commissioner, sufficient in amount to comply with
99 the requirement of deposit with the State Treasurer and sufficient
100 in amount under the law. Any fraud on the part of any officer or
101 agent of a company in making any substitution of securities shall
102 be a violation of law and subject any such person to the penalties
103 provided in this chapter.

104 It is also provided that all bonds or other evidences of debt
105 having a fixed term and rate held by any life insurance company
106 authorized to do business in this state may, if amply secured and
107 not in default as to principal and interest, be valued as follows:
108 if purchased at par, at the par value; if purchased above or below
109 par, on the basis of the purchase price adjusted so as to bring
110 the value to par at maturity and so as to yield in the meantime
111 the effective rate of interest at which the purchase was made;
112 provided that the purchase price shall in no case be taken at a
113 higher figure than the actual market value at the time of
114 purchase; and, provided further that the Insurance Commissioner
115 shall have full discretion in determining the method of
116 calculating values according to the foregoing rule.

117 When in the opinion of the State Treasurer there is
118 insufficient space in vaults and safes in the Treasury Department
119 in which to keep the securities as provided in this chapter, then
120 the State Treasurer is authorized, empowered, and directed to:

121 (a) Deposit for safekeeping in the vaults of any of the
122 state or national banks located within this state which are
123 members of the Federal Deposit Insurance Corporation and which
124 have appropriate safekeeping facilities which have been approved
125 by the State Depository Commission, any Federal Reserve bank, any
126 Federal Reserve branch bank, or any bank which is a member of the
127 Federal Reserve system and is located in a city where there is a



128 Federal Reserve branch bank, the securities placed with him by
129 insurance companies; or

130 (b) Accept, in lieu of the securities themselves,
131 safekeeping trust receipts issued to the State Treasurer by the
132 authorized safekeeping banks located within this state which are
133 members of the Federal Deposit Insurance Corporation and which
134 have appropriate safekeeping facilities which have been approved
135 by the State Depository Commission, such safekeeping trust
136 receipts to describe the securities and show that such securities
137 are held for safekeeping for the account of the State Treasurer.
138 The securities so deposited shall not be commingled in any manner
139 with the assets of the safekeeping bank.

140 The State Treasurer shall be responsible to such
141 insurance companies for any loss of securities deposited with and
142 actually held by the State Treasurer under the provisions of this
143 chapter.

144 Notwithstanding any other provision of law, the securities
145 qualified for deposit under this section may be deposited with a
146 clearing corporation or held in the Federal Reserve book-entry
147 system. Securities deposited with a clearing corporation or held
148 in the Federal Reserve book-entry system and used to meet the
149 deposit requirements set forth in this section shall be under the
150 control of the Insurance Commissioner and shall not be withdrawn
151 by the insurance company without the approval of the Insurance
152 Commissioner. Any insurance company holding securities in such
153 manner shall provide to the Insurance Commissioner evidence issued
154 by its custodian or member bank through which such insurance
155 company has deposited such securities in a clearing corporation or
156 through which such securities are held in the Federal Reserve
157 book-entry system, respectively, in order to establish that the
158 securities are actually recorded in an account in the name of the
159 custodian or other direct participant or member bank, and that the
160 records of the custodian, other participant or member bank reflect



161 that such securities are held subject to the order of the
162 Insurance Commissioner.

163 SECTION 5. Section 83-19-31, Mississippi Code of 1972, is
164 amended as follows:

165 83-19-31. (1) No corporation so formed shall transact any
166 other business than that specified in its charter and articles of
167 association. Companies so formed must meet the following capital
168 and surplus requirements:

169 (a) Single-line companies so formed to write a
170 classification listed in paragraphs (a) through (n) in Section
171 27-15-83, the minimum capital requirement shall be Four Hundred
172 Thousand Dollars (\$400,000.00) and the surplus shall be a minimum
173 of Six Hundred Thousand Dollars (\$600,000.00).

174 (b) Multi-line companies so formed to write a
175 combination of the classifications listed in paragraphs (a)
176 through (n) in Section 27-15-83, the minimum capital requirement
177 shall be Six Hundred Thousand Dollars (\$600,000.00) and the
178 surplus shall be a minimum of Nine Hundred Thousand Dollars
179 (\$900,000.00).

180 (c) Companies so formed for the purpose of transacting
181 the business of life insurance on the industrial plan may organize
182 with a minimum capital of One Hundred Thousand Dollars
183 (\$100,000.00) and a minimum surplus of Fifty Thousand Dollars
184 (\$50,000.00).

185 An industrial life insurer shall be limited to the
186 following:

187 1. A life insurance policy, in the aggregate value
188 of Five Thousand Dollars (\$5,000.00) in death benefits, exclusive
189 of multiple indemnity benefits.

190 2. A disability policy in the aggregate benefits
191 of Sixty Dollars (\$60.00) per week.



192 3. A policy providing benefits for dismembered and
193 broken limbs and/or loss of eyesight in the aggregate of Five
194 Thousand Dollars (\$5,000.00) per policy year.

195 4. A policy which provides benefits for the
196 payment for or furnishing of hospitalization, drugs, attending
197 physicians and surgical costs in the aggregate of Three Thousand
198 Five Hundred Dollars (\$3,500.00) per policy year.

199 (d) All mutual and reciprocal companies shall possess
200 at the time of initial license and maintain thereafter a surplus,
201 after deductions for services, in an amount equal to the capital
202 and surplus requirements of a stock company writing similar lines
203 of insurance.

204 (e) If at any time the surplus of such domestic company
205 or association shall be less than the minimum surplus noted above,
206 such company or association shall be considered impaired; and it
207 shall be the duty of the officers of such company or association
208 to report any such impairment of surplus to the State Commissioner
209 of Insurance in writing within ten (10) days after such impairment
210 occurs. When any such impairment is reported, or if the
211 Commissioner of Insurance should determine that the company is
212 operating in an impaired condition, the commissioner may suspend
213 the certificate of authority and license of such domestic
214 insurance company or association to do business in this state
215 until such company shall raise or increase its surplus to the
216 minimum amount required herein.

217 (2) Any domestic company qualifying under the foregoing
218 sections shall deposit with the State Treasurer fifty percent
219 (50%) of its capital stock, either in cash or in such bonds or
220 securities in which such company is authorized by law to invest
221 its funds. Upon such deposit and evidence, by affidavit or
222 otherwise, satisfactory to the Insurance Commissioner that the
223 capital and surplus is all paid in and that the company is the
224 actual and unqualified owner of the securities representing the



225 paid-up capital and surplus, he shall issue to such company his
226 certificate authorizing it to transact business in this state.

227 The provisions of this section as to the minimum requirements
228 as to paid-up capital stock and cash surplus shall not become
229 effective until January 1, 1988, concerning any domestic company
230 which was authorized to do business and was writing business in
231 this state on July 1, 1985.

232 Notwithstanding any other provision of law, the securities
233 qualified for deposit under this section may be deposited with a
234 clearing corporation or held in the Federal Reserve book-entry
235 system. Securities deposited with a clearing corporation or held
236 in the Federal Reserve book-entry system and used to meet the
237 deposit requirements set forth in this section shall be under the
238 control of the Insurance Commissioner and shall not be withdrawn
239 by the insurance company without the approval of the Insurance
240 Commissioner. Any insurance company holding securities in such
241 manner shall provide to the Insurance Commissioner evidence issued
242 by its custodian or member bank through which such insurance
243 company has deposited such securities in a clearing corporation or
244 through which such securities are held in the Federal Reserve
245 book-entry system, respectively, in order to establish that the
246 securities are actually recorded in an account in the name of the
247 custodian or other direct participant or member bank, and that the
248 records of the custodian, other participant or member bank reflect
249 that such securities are held subject to the order of the
250 Insurance Commissioner.

251 (3) No insurance company, including any mutual insurance
252 company, organized under the laws of this state and transacting
253 business in this state shall expose itself to loss on any one (1)
254 risk or hazard to an amount exceeding ten percent (10%) of its
255 paid-up capital and surplus unless the excess is reinsured in some
256 other company duly authorized to transact similar business in this
257 state or as otherwise provided in the insurance code. For



258 purposes of this subsection, the terms "risk" and "hazard" apply
259 to the subject matter of any one (1) insurance policy and not to
260 any one (1) peril.

261 (4) The Commissioner of Insurance may require additional
262 capital and surplus based on the type, nature or volume of
263 business transacted.

264 SECTION 6. Section 83-21-3, Mississippi Code of 1972, is
265 amended as follows:

266 83-21-3. (1) No foreign insurance company, association, or
267 other insurance entity, either stock, mutual, or reciprocal, shall
268 be admitted to do business or granted a certificate of authority
269 or license to do business in this state unless and until such
270 company or association shall have done business for a period of at
271 least two (2) years in the state of its domicile, or unless such
272 company seeking admission is the subsidiary or affiliate of a
273 company already licensed in Mississippi.

274 (2) No foreign stock insurance company shall be admitted or
275 granted a certificate of authority or license to do business in
276 this state unless its paid-up capital stock and its surplus at the
277 time of licensing or renewal of license shall be equal to that
278 required for the organization or incorporation of a like domestic
279 company under the laws of this state.

280 (3) No foreign mutual or reciprocal insurance company or
281 association shall be admitted or granted a certificate of
282 authority or license to do business in this state unless, at the
283 time of licensing or renewal of license, its surplus shall be
284 equal to that required by the laws of this state for the
285 organization or formation of a like domestic insurance company or
286 association.

287 (4) No foreign stock, mutual, or reciprocal insurance
288 company or association, incorporated or organized under the laws
289 of any state of the United States, shall be admitted to do
290 business, or granted a certificate of authority, or have license



291 therefor renewed until such company shall have deposited with the
292 State Treasurer of this state securities in an amount not less
293 than Fifty Thousand Dollars (\$50,000.00). Securities deposited in
294 accordance with this section shall be classified as admitted
295 assets for the purpose of determining eligibility of such
296 securities. Provided, however, any company maintaining a deposit
297 with the insurance regulatory authority or any other designated
298 public official of its state of domicile, or of any other state,
299 in trust for the benefit of all its policyholders, or
300 policyholders and creditors, may be exempt from the deposit herein
301 provided upon such company delivering to the Insurance
302 Commissioner a certificate to such effect, duly authenticated by
303 the appropriate state official holding such deposit. The
304 commissioner may require in addition to the certification of
305 deposit by the public official of its state of domicile an amount
306 not less than Fifty Thousand Dollars (\$50,000.00) be deposited
307 with the State Treasurer of this state. Any deposit made in this
308 state under the provisions of this section shall be for the
309 exclusive use and benefit of policyholders, or policyholders and
310 creditors, in this state; and such deposit shall not bar claim to
311 other assets of the company by policyholders, or policyholders and
312 creditors, in this state in the event of insolvency, receivership,
313 or liquidation of the company.

314 Notwithstanding any other provision of law, the securities
315 eligible for deposit under the insurance law of this state
316 relating to deposit of securities by an insurance company as a
317 condition of commencing or continuing to do an insurance business
318 in this state may be deposited with a clearing corporation or held
319 in the Federal Reserve book-entry system. Securities deposited
320 with a clearing corporation or held in the Federal Reserve
321 book-entry system and used to meet the deposit requirements under
322 the insurance laws of this state shall be under the control of the
323 Insurance Commissioner and shall not be withdrawn by the insurance



324 company without the approval of the Insurance Commissioner. Any
325 insurance company holding securities in such manner shall provide
326 to the Insurance Commissioner evidence issued by its custodian or
327 member bank through which such insurance company has deposited
328 such securities in a clearing corporation or through which such
329 securities are held in the Federal Reserve book-entry system,
330 respectively, in order to establish that the securities are
331 actually recorded in an account in the name of the custodian or
332 other direct participant or member bank, and that the records of
333 the custodian, other participant or member bank reflect that such
334 securities are held subject to the order of the Insurance
335 Commissioner.

336 (5) In case any insurer which has made a deposit with the
337 Commissioner of Insurance, or other designated official or
338 custodian in this state, of cash or securities in trust for the
339 protection of its policyholders or creditors or both in this
340 state, or of its policyholders or creditors or both in the United
341 States, thereafter becomes merged or consolidated in accordance
342 with the laws of this state if a domestic insurer, or in
343 accordance with the laws of its domiciliary state or nation if a
344 foreign or alien insurer, and upon the effectuation of the merger
345 or consolidation, the resulting corporation is or becomes
346 authorized to do business in this state, the commissioner, or
347 other designated official or custodian, as the case may be, upon
348 the resulting corporation's being so authorized, shall release and
349 transfer the cash or securities so deposited by the merged or
350 consolidated insurer to the resulting corporation, or to such
351 person as it may designate to take and receive the same.

352 If any insurer which has made such a deposit with the
353 Commissioner of Insurance or other designated official or
354 custodian in the state hereafter withdraws from and ceases to do
355 business in this state, and has paid or provided for the payment
356 of all its obligations and liabilities to its policyholders and



357 creditors in this state by the assumption or reinsurance of the
358 same by an insurer which is or becomes authorized to transact
359 business in this state, the Commissioner of Insurance or other
360 designated official or custodian, as the case may be, shall
361 release and transfer the cash or securities constituting its
362 deposit to such withdrawing insurer, or to such person as it may
363 designate to take and receive the same.

364 Any release or transfer pursuant hereto shall be made upon
365 application to and the written order of the Commissioner of
366 Insurance. Neither the Commissioner of Insurance, nor other
367 designated official or custodian, as the case may be, shall have
368 any liability for the release or transfer of any such deposit made
369 or authorized in good faith.

370 SECTION 7. This act shall take effect and be in force from
371 and after July 1, 2001.

