

By: Representative Ellington

To: Insurance

HOUSE BILL NO. 947

1 AN ACT TO AMEND SECTION 83-5-35, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT BASING INSURANCE RATES OR ELIGIBILITY FOR INSURANCE  
3 ON THE INDIVIDUAL'S CREDIT HISTORY SHALL BE PROHIBITED AS AN  
4 UNFAIR PRACTICE IN THE BUSINESS OF INSURANCE; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 83-5-35, Mississippi Code of 1972, is  
8 amended as follows:

9 83-5-35. The following are hereby defined as unfair methods  
10 of competition and unfair and deceptive acts or practices in the  
11 business of insurance.

12 (a) **Misrepresentations and false advertising of policy**  
13 **contracts.** Making, issuing, circulating, or causing to be made,  
14 issued, or circulated, any estimate, illustration, circular, or  
15 statement misrepresenting the terms of any policy issued or to be  
16 issued, or the benefits or advantages promised thereby, or the  
17 dividends or share of the surplus to be received thereon; or  
18 making any false or misleading statement as to the dividends or  
19 share of surplus previously paid on similar policies; or making  
20 any misleading representation or any misrepresentation as to the  
21 financial condition of any insurer, or as to the legal reserve  
22 system upon which any life insurer operates; or using any name or  
23 title of any policy or class of policies misrepresenting the true  
24 nature thereof; or making any misrepresentation to any  
25 policyholder insured in any company for the purpose of inducing or  
26 tending to induce such policyholder to lapse, forfeit, or  
27 surrender his insurance.

28           (b) **False information and advertising generally.**  
29 Making, publishing, disseminating, circulating, or placing before  
30 the public, or causing, directly or indirectly, to be made,  
31 published, disseminated, circulated, or placed before the public,  
32 in a newspaper, magazine, or other publication, or in the form of  
33 a notice, circular, pamphlet, letter, or poster, or over any radio  
34 or television station, or in any other way, an advertisement,  
35 announcement, or statement containing any assertion,  
36 representation, or statement with respect to the business of  
37 insurance, or with respect to any person in the conduct of his  
38 insurance business, which is untrue, deceptive, or misleading.

39           (c) **Defamation.** Making, publishing, disseminating, or  
40 circulating, directly or indirectly, or aiding, abetting, or  
41 encouraging the making, publishing, disseminating, or circulating  
42 of any oral or written statement or any pamphlet, circular,  
43 article, or literature which is false and maliciously critical of  
44 or derogatory to the financial condition of an insurer, and which  
45 is calculated to injure any person engaged in the business of  
46 insurance.

47           (d) **Boycott, coercion and intimidation.** Entering into  
48 any agreement to commit, or by any concerted action committing,  
49 any act of boycott, coercion, or intimidation resulting in or  
50 tending to result in unreasonable restraint of, or monopoly in,  
51 the business of insurance.

52           (e) **False financial statements.** Filing with any  
53 supervisory or other public official, or making, publishing,  
54 disseminating, circulating, or delivering to any person, or  
55 placing before the public, or causing directly or indirectly to be  
56 made, published, disseminated, circulated, delivered to any  
57 person, or placed before the public, any false statement of  
58 financial condition of an insurer, with intent to deceive.

59           Making any false entry in any book, report, or statement of  
60 any insurer with intent to deceive any agent or examiner lawfully

61 appointed to examine into its condition or into any of its  
62 affairs, or any public official to whom such insurer is required  
63 by law to report or file, or who has authority by law to examine  
64 into its condition or into any of its affairs, or, with like  
65 intent, willfully omitting to make a true entry of any material  
66 fact pertaining to the business of such insurer in any book,  
67 report, or statement of such insurer.

68 (f) **Stock operations and insurance company advisory**  
69 **board contracts.** Issuing or delivering, or permitting agents,  
70 officers, or employees to issue or deliver, agency company stock  
71 or other capital stock, or benefit certificates or shares in any  
72 corporation, or securities, or any special or any insurance  
73 company advisory board contracts or other contracts of any kind  
74 promising returns and profit as an inducement to insurance.

75 (g) **Unfair discrimination.** (i) Making or permitting  
76 any unfair discrimination between individuals of the same class  
77 and equal expectation of life in the rates charged for any  
78 contract of life insurance or of life annuity or in the dividends  
79 or other benefits payable thereon, or in any other of the terms  
80 and conditions of such contract.

81 (ii) Making or permitting any unfair  
82 discrimination between individuals of the same class and of  
83 essentially the same hazard in the amount of premium, policy fees,  
84 or rates charged for any policy or contract of accident or health  
85 insurance or in the benefits payable thereunder, or in any of the  
86 terms or conditions of such contract, or in any other manner  
87 whatever.

88 (iii) Making or permitting any unfair  
89 discrimination between individuals of the same class in the rates  
90 charged or eligibility for any type of insurance based solely on  
91 the credit rating of the individual being insured.

92 (h) **Designation of agent, solicitor, or insurer.**  
93 Requiring as a condition precedent to the purchase or the lending

94 of money upon the security of real or personal property that any  
95 insurance covering such property or liability arising from the  
96 ownership, maintenance, or use thereof, to be procured by or on  
97 behalf of the vendee or by borrower in connection with such  
98 purchase or loan, be so procured through any particular person,  
99 agent, solicitor, or in any particular insurer.

100 This section shall not prevent the reasonable exercise by any  
101 such vendor or lender of his right to approve or disapprove the  
102 insurer selected to underwrite the insurance, and to determine the  
103 adequacy of the insurance offered.

104 (i) Any violation of Sections 83-3-33 and 83-3-121.

105 **SECTION 2.** This act shall take effect and be in force from  
106 and after July 1, 2005.