MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representative Formby To: Insurance

HOUSE BILL NO. 1313

AN ACT TO AMEND SECTION 83-5-55, MISSISSIPPI CODE OF 1972, TO MAKE A TECHNICAL CORRECTION WHEN REFERRING TO THE NAIC QUARTERLY AND ANNUAL STATEMENT BLANK AND INSTRUCTIONS; TO AMEND SECTION 83-5-102, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "INDEMNIFICATION" AND "INSURER" AS THEY RELATE TO THE AUDITING OF INSURANCE COMPANIES; TO AMEND SECTION 83-5-103, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIRED CONTENTS OF ANNUAL AUDITED FINANCIAL REPORTS FILED WITH THE COMMISSIONER OF INSURANCE; TO AMEND SECTION 83-5-107, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS RECOGNIZED BY THE COMMISSIONER OF INSURANCE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 83-5-55, Mississippi Code of 1972, is amended as follows:

83-5-55. (1) Every insurance company shall file with the Commissioner of Insurance, on or before the first day of March of each year, a statement showing the business standing and financial condition of the company and sworn to by the president or vice president and secretary or treasurer or chief managing agent or officer of such company. The annual statement to be filed shall be in accordance with the NAIC Quarterly and Annual Statement Blank and Instructions thereto and the NAIC Accounting Practices and Procedures Manual.

(2) Every insurance company shall file with the Commissioner of Insurance a quarterly statement showing the business standing and financial condition of the company for that quarter and sworn to by the president or vice president and secretary or treasurer or chief managing agent or officer of such company. Each quarterly statement shall be filed within forty-five (45) days of the last day of the quarter. The quarterly statement to be filed shall be in accordance with the NAIC Quarterly and Annual

Statement Blank and Instructions thereto and the NAIC Accounting Practices and Procedures Manual. However, the Commissioner of Insurance may grant an exemption to any domestic company transacting business in Mississippi only. No exemption shall be granted to any domestic company transacting business across state lines.

SECTION 2. Section 83-5-102, Mississippi Code of 1972, is amended as follows:

83-5-102. As used in Sections 83-5-102 through 83-5-113, the following terms have the respective meanings herein set forth unless the context shall require otherwise:

(a) "Audited financial report" means and includes those items specified in Section 83-5-103.

(b) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice.

(c) "Commissioner" means the Commissioner of Insurance.

(d) "Department" means the Department of Insurance.

(e) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives.

(f) "Insurer" means a licensed insurer as defined in Section 83-5-1.

SECTION 3. Section 83-5-103, Mississippi Code of 1972, is amended as follows:

83-5-103. The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance <u>of the state of domicile</u>.

The annual audited financial report shall include the following:

(a) Report of independent certified public accountant.

(b) Balance sheet reporting admitted assets, liabilities, capital and surplus.

(c) Statement of operations.

(d) Statement of cash flows.

(e) Statement of changes in capital and surplus.

(f) Notes <u>to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Section 83-5-55 with a written description of the nature of these differences.</u>

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(g) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner, and the financial statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

SECTION 4. Section 83-5-107, Mississippi Code of 1972, is amended as follows:

83-5-107. (1) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant if the person or firm:

(a) Is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian company, that is not a chartered account; or

(b) Has either directly or indirectly entered into an agreement of indemnity or release from liability, collectively referred to as indemnification, with respect to the audit of the insurer.

(2) Except as otherwise provided herein, the commissioner shall recognize an independent certified public accountant * * * as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the appropriate state board of public accountancy, or similar code.

(3) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Sections 83-23-1 through 83-23-9, the mediation or arbitration provisions shall operate at the option of the statutory successor.

(4) No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the commissioner for relief from the above rotation requirement on

the basis of unusual circumstances. The commissioner may consider the following factors in determining if the relief should be granted: (a) number of partners, expertise of the partners or the number of insurance clients in the currently registered firm; (b) premium volume of the insurer; or (c) number of jurisdictions in which the insurer transacts business.

(5) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report, prepared in whole or in part by, any natural person who (a) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 USCS Sections 1961-1968, or any dishonest conduct or practices under federal or state law; (b) has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or (c) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of Sections 83-5-101 through 83-5-113.

(6) The commissioner may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his opinion on the financial statements in the annual audited financial report made pursuant to Sections 83-5-101 through 83-5-113 and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this section.

SECTION 5. This act shall take effect and be in force from and after July 1, 2007.

ST: Insurance companies; revise financial reporting requirements with the Commissioner of Insurance.