MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Read To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 211

AN ACT TO AMEND SECTION 27-104-205, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT THE DEPARTMENT OF INSURANCE BE FUNDED BY APPROPRIATIONS FROM THE GENERAL FUND; TO AMEND SECTIONS 83-1-27, 83-2-33, 83-2-35, 83-5-17, 83-5-41, 83-5-45, 83-5-69, 83-5-72, 83-5-73, 83-5-77, 83-9-3, 83-17-71, 83-17-519, 83-19-21, 83-21-1, 83-37-29, 83-39-3 AND 83-73-9, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISIONS OF LAW REQUIRING CERTAIN EXPENSES OF THE DEPARTMENT OF INSURANCE TO BE DEFRAYED BY APPROPRIATION FROM THE STATE GENERAL FUND; TO PROVIDE THAT ALL UNEXPENDED AMOUNTS REMAINING IN THE INSURANCE DEPARTMENT FUND ABOVE THE SUM OF $500,000.00 AT THE END OF EACH FISCAL YEAR SHALL LAPSE INTO THE STATE GENERAL FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-104-205, Mississippi Code of 1972, is amended as follows:

27-104-205. (1) From and after July 1, 2016, the expenses of the following enumerated state agencies shall be defrayed by appropriation of the Legislature from the State General Fund: the State Fire Marshal, the State Fire Academy, the Office of Secretary of State (not including the Preneed Contracts Loss Recovery Fund), the Mississippi Public Service Commission, the Mississippi Department of Information Technology Services, (not including the Mississippi Department of Information Technology

Services Revolving Fund), the State Personnel Board, *** * *** the Mississippi Law Enforcement Officers' Minimum Standards Board, the Mississippi Gaming Commission, the Mississippi Department of Revenue - License Tag, the Office of the State Public Defender, the Mississippi Workers' Compensation Commission (not including the Second Injury Trust Fund) and the Office of Attorney General. Beginning July 1, 2016, any fees, assessments or other revenues charged for the support of the above-named state agencies shall be deposited into the State General Fund, and any special fund or depository established within the State Treasury for the deposit of such fees, assessments or revenues shall be abolished and the balance transferred to the State General Fund. Expenses heretofore drawn from such special funds or other depositories shall be drawn from the agencies General Fund Account.

(2) Beginning with the fiscal year ending June 30, 2016, the amount to be appropriated annually from the State General Fund for the support of each of the above-named state agencies shall not exceed the amount appropriated for such purpose in the preceding fiscal year, plus any increases in or additional fees, assessments or other charges authorized by act of the Legislature for the succeeding fiscal year.

(3) The provisions of this section shall not apply to any trust fund account that is maintained by any above-named agency.

(4) The provisions of this section shall not prohibit any of the above-named agencies from maintaining clearing accounts in approved depositories.

(5) The provisions of this section shall not apply to any trust fund accounts maintained by the Public Employees' Retirement System and protected under Section 272A of the Mississippi Constitution of 1890.

SECTION 2. Section 83-1-27, Mississippi Code of 1972, is amended as follows:

83-1-27. Whenever the Commissioner of Insurance deems it prudent for the protection of the policyholders in this state, he shall in like manner visit and examine, or cause to be visited and examined by some competent person or persons he may appoint for that purpose, any foreign insurance company applying for admission or already admitted to do business by agencies in this state, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or his deputy and the expenses and compensation of his assistants employed therein. For the purpose aforesaid, the commissioner or his deputy or persons making examination shall have free access to all the books and papers of the insurance company that relate to its business and to the books and papers kept by any of its agents, and may summon and qualify as witnesses, under oath, and examine the directors, officers, agents and trustees of any such company, and any other persons in relation to its affairs,

transactions and conditions. Such examination shall be made by the commissioner, or by his accredited representatives, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or financial examiners, actuaries, market conduct examiners, accountants, attorneys or other professional service organizations necessary to administer this section. The Department of Insurance may contract with professional service organizations to examine all companies under its jurisdiction, and the professional service organization may directly bill the company under examination. The commissioner shall monitor the charges for these professional services and verify that all costs are reasonable. If a company fails to pay these fees within thirty (30) days of billing, the commissioner, after notice and a hearing, is authorized to impose an administrative fine not to exceed One Thousand Dollars ($1,000.00) per day to be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund." The compensation and expense of the commissioner or such examiner for the commissioner shall not exceed that approved by the National Association of Insurance Commissioners for all financial and market conduct examiners on such examinations, itemized account of such charges being rendered to and approved by the Commissioner of Insurance.

The results of audits performed hereunder by the Commissioner of Insurance may be furnished to the * * * Department of Revenue.

Nothing herein shall be construed to prohibit the * * * Department of Revenue from performing such additional audits or verifications as it may deem necessary to insure the proper payment of taxes.

* * *

SECTION 3. Section 83-2-33, Mississippi Code of 1972, is amended as follows:

83-2-33. All property and casualty insurance companies doing business in this state shall contribute annually, at such times as the Insurance Commissioner shall determine, in proportion to their gross premiums collected within the State of Mississippi during the preceding year, to a special fund in the State Treasury to be known as the "Insurance Department Fund" to be expended by the Insurance Commissioner in the payment of the expenses of the Department of Insurance as the commissioner may deem necessary. The commissioner is hereby authorized to employ such actuarial and other assistance as shall be necessary to carry out the duties of the department; and such employees shall be under the authority and direction of the Insurance Commissioner. The amount to be contributed annually to the fund shall be fixed each year by the Insurance Commissioner at a percentage of the gross premiums so collected during the preceding year. However, a minimum assessment of One Hundred Dollars ($100.00) shall be charged to each licensed property and casualty insurance company regardless of the gross premium amount collected during the preceding year.

The total contributions collected for the Insurance Department Fund shall not exceed the sum of Seven Hundred Fifty Thousand Dollars ($750,000.00) in each fiscal year.

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At the end of fiscal year 2022 and each fiscal year thereafter, all unexpended amounts remaining in the Insurance Department Fund above the sum of Five Hundred Thousand Dollars ($500,000.00) shall lapse into the State General Fund.

SECTION 4. Section 83-2-35, Mississippi Code of 1972, is amended as follows:

83-2-35. (1) This section applies to all forms of property and casualty insurance on risks or operations in this state by any insurer authorized to do business in this state, except:

(a) Accident and health;

(b) Ocean marine insurance;

(c) Reinsurance;

(d) Aircraft liability and aircraft hull insurance;

(e) Title insurance;

(f) Credit accident and health insurance.

(2) All such insurers shall pay to the Commissioner of Insurance a fee of Fifteen Dollars ($15.00) for each form or rate filing filed with the commissioner. The commissioner shall pay such fees into the special fund in the State Treasury designated as the "Insurance Department Fund."

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SECTION 5. Section 83-5-17, Mississippi Code of 1972, is amended as follows:

83-5-17. The Commissioner of Insurance may, after notice and a hearing, revoke the authority of a domestic or foreign insurance company or impose an administrative fine, or both, if it violates or neglects to comply with any provision of law obligatory on it, and whenever in the opinion of the commissioner its condition is unsound, or its assets above its liabilities, exclusive of capital and inclusive of unearned premiums, are less than the amount of its original capital or required unimpaired funds. Such administrative fine shall not exceed Five Thousand Dollars ($5,000.00) per violation and shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

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SECTION 6. Section 83-5-41, Mississippi Code of 1972, is amended as follows:

83-5-41. (1) If, after such hearing, the commissioner shall determine that the method of competition or the act or practice in question is defined in Section 83-5-35, and that the person complained of has engaged in such method of competition, act or practice in violation of Sections 83-5-29 through 83-5-51, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such

method of competition, act or practice. In addition to, or in lieu of, the cease and desist order, the commissioner may, after such hearing, impose an administrative fine not to exceed Five Thousand Dollars ($5,000.00) per violation, which shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

(2) Until the expiration of the time allowed under Section 83-5-43(1) for filing a petition for review (by appeal), if no such petition has been duly filed within such time or, if the petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the circuit court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(3) After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the commissioner may, at any time after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by him under this section whenever in his opinion conditions of fact or of law have so changed as to require such action, or if the public interest shall so require.

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SECTION 7. Section 83-5-45, Mississippi Code of 1972, is amended as follows:

83-5-45. (1) Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in Section 83-5-35, that such method of competition is unfair or that such act or practice is unfair or deceptive, and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten (10) days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided in Section 83-5-39. The commissioner shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(2) If such report charges a violation of Sections 83-5-29 through 83-5-51, and if such method of competition, act or practice has not been discontinued, the commissioner may, through the Attorney General of this state, at any time after thirty (30) days after the service of such report, cause a petition to be filed in the circuit court of this state within the district wherein the person resides, or has his principal place of

business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(3) A transcript of the proceedings before the commissioner, including all evidence taken and the report and findings, shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(4) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is to the interest of the public, and that the findings of the commissioner are supported by substantial

evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

(5) In addition to, or in lieu of, filing, through the Attorney General, a petition for a cease and desist order, the commissioner may, after a hearing in accordance with subsection (1), impose an administrative fine not to exceed Five Thousand Dollars ($5,000.00) per violation, which shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

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SECTION 8. Section 83-5-69, Mississippi Code of 1972, is amended as follows:

83-5-69. Any company that neglects to make and file its quarterly and annual statement within the time provided in this chapter shall pay to the Commissioner of Insurance One Hundred Dollars ($100.00) for each day's neglect, which penalty shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund"; and upon notice by the commissioner to that effect, its authority to do new business shall cease while such default continues. For willfully making a false annual, quarterly or other statement it is required by law to make, any insurance company, association or order, and the person making oath to or subscribing the same, shall severally be guilty of a misdemeanor; and, upon conviction, be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than

One Thousand Dollars ($1,000.00). Any person making oath to such false statement shall be guilty of the crime of perjury.

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SECTION 9. Section 83-5-72, Mississippi Code of 1972, is amended as follows:

83-5-72. All life, health and accident insurance companies and health maintenance organizations doing business in this state shall contribute annually, at such times as the Insurance Commissioner shall determine, in proportion to their gross premiums collected within the State of Mississippi during the preceding year, to a special fund in the State Treasury to be known as the "Insurance Department Fund" to be expended by the Insurance Commissioner in the payment of the expenses of the Department of Insurance as the commissioner may deem necessary. The commissioner is hereby authorized to employ such actuarial and other assistance as shall be necessary to carry out the duties of the department; and the employees shall be under the authority and direction of the Insurance Commissioner. The amount to be contributed annually to the fund shall be fixed each year by the Insurance Commissioner at a percentage of the gross premiums so collected during the preceding year. However, a minimum assessment of One Hundred Dollars ($100.00) shall be charged each licensed life, health and accident insurance company regardless of the gross premium amount collected during the preceding year.

The total contributions collected for the Insurance Department Fund shall not exceed the sum of Seven Hundred Fifty Thousand Dollars ($750,000.00) in each fiscal year.

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SECTION 10. Section 83-5-73, Mississippi Code of 1972, is amended as follows:

83-5-73. The commissioner shall collect and pay into the special fund in the State Treasury designated as the "Insurance Department Fund" the following fees: for certificate of authority to each general or district agent or manager, Twenty-five Dollars ($25.00); for filing and processing an agent's certificate of authority, Twenty-five Dollars ($25.00); for filing and examining statement preliminary to admission, One Thousand Dollars ($1,000.00); for filing and processing a Form A application, Two Thousand Dollars ($2,000.00); for filing and auditing annual statement, Five Hundred Dollars ($500.00); for filing any other paper required by law, Fifty Dollars ($50.00); for continuing education courses or programs filed by the providers for approval, Fifty Dollars ($50.00); for each certification company licensed status, Forty Dollars ($40.00); for each seal when required, Twenty Dollars ($20.00); for service of process on the commissioner as attorney, Twenty-five Dollars ($25.00).

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SECTION 11. Section 83-5-77, Mississippi Code of 1972, is amended as follows:

83-5-77. For publication of annual statement, there shall be a fee of Eighty Dollars ($80.00), Forty Dollars ($40.00) of which shall be paid to the publishers and Forty Dollars ($40.00) paid to the special fund in the State Treasury known as the "Insurance Department Fund". The commissioner shall receive for copy of any record or paper in his office, Fifty Cents (50¢) per page, and Twenty Dollars ($20.00) for certifying same, or any fact or data from the records of the office.

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SECTION 12. Section 83-9-3, Mississippi Code of 1972, is amended as follows:

83-9-3. (1) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(a) The entire money and other considerations therefor are expressed therein; and

(b) The time at which the insurance takes effect and terminates is expressed therein; and

(c) It purports to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen

(19) years, and any other person dependent upon the policyholder; and

(d) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lowercase unspaced alphabet length not less than one-hundred-twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

(e) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 83-9-5, are printed, at the insurer's option, either with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(f) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(g) It contains no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(2) No individual or group policy covering health and accident insurance (including experience-rated insurance contracts, indemnity contracts, self-insured plans and self-funded plans), or any group combinations of these coverages, shall be issued by any commercial insurer doing business in this state which, by the terms of such policy, limits or excludes payment because the individual or group insured is eligible for or is being provided medical assistance under the Mississippi Medicaid Law. Any such policy provision in violation of this section shall be invalid.

(3) No individual or group policy covering health and accident insurance (including experience-rated insurance contracts, indemnity contracts, self-insured plans and self-funded plans) or any group combinations of these coverages, shall be issued by any commercial insurer doing business in this state, which, by the terms of such policy, limits or restricts the insured's ability to assign the insured's benefits under the policy to a licensed health care provider that provides health care services to the insured. Commercial insurers doing business

in this state shall honor an assignment for a period of one (1) year starting from the initial date of an assignment. Any such policy provision in violation of this subsection shall be invalid.

(4) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may, by ruling, require that such policy meet the standards set forth in subsection (1) of this section and in Section 83-9-5.

(5) The commissioner shall collect and pay into the special fund in the State Treasury designated as the "Insurance Department Fund" the following fees for services provided under this section:

FORM	FEE
Each individual policy contract, including revisions	$15.00
Each group master policy or contract, including revisions	15.00
Each rider, endorsement or amendment, etc.	10.00
Each insurance application where written application is required and is to be made a part of the policy or contract	10.00
Each questionnaire	7.00
Charge for resubmission where payment is not included	

with original submission..... 5.00

Additional charge for tentative approval same as above.

(6) In order to expedite and become more efficient in reviewing and approving accident and health form and rate filings, the commissioner may establish an expedited form and rate review procedure whereby insurers may elect to pay reasonable actuarial fees directly to a department-approved actuarial service in exchange for an expedited review of form and rate filings by the actuarial service. The commissioner may make such reasonable rules and regulations concerning the expedited procedure, and may set reasonable fees for the actuarial services provided. This provision shall not abridge any other authority granted to the commissioner by law, including the authority to collect the filing fees prescribed by this section.

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SECTION 13. Section 83-17-71, Mississippi Code of 1972, is amended as follows:

83-17-71. (1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars ($1,000.00) per violation and such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund" for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony;

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(i) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from an individual who is not licensed;

(m) Failing to comply with an administrative or court order imposing a child support obligation; or

(n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(2) If the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within ten (10) days for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within thirty (30) days.

(3) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

(4) In addition to, or in lieu of, any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine not to exceed One Thousand Dollars ($1,000.00) per violation and such fine shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this article and Title 83, Mississippi Code of 1972, against any person who is under investigation for or charged with a violation of this article or Title 83, Mississippi Code of 1972, even if the person's license or registration has been surrendered or has lapsed by operation of law.

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

(7) Notwithstanding any other provision of this article to the contrary, a person licensed in this state as a nonresident producer whose license is denied, suspended or revoked in his or

her home state shall also have his or her nonresident license denied, suspended or revoked in this state without prior notice or hearing.

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SECTION 14. Section 83-17-519, Mississippi Code of 1972, is amended as follows:

83-17-519. (1) A license may be refused, or a license duly issued may be suspended or revoked or the renewal thereof refused by the commissioner, or the commissioner may levy a civil penalty in an amount not to exceed Five Thousand Dollars ($5,000.00) per violation, or both, and any such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund," if, after notice and hearing as hereinafter provided, he finds that the applicant for, or holder of, such license:

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

(b) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(c) Has misappropriated or converted to his own use or illegally withheld money belonging to another person or entity; or

(d) Has otherwise demonstrated lack of trustworthiness or competence to act as a public adjuster; or

(e) Has been guilty of fraudulent or dishonest practices or has been convicted of a felony; or

(f) Has materially misrepresented the terms and conditions of insurance policies or contracts or failed to identify himself as a public adjuster; or

(g) Has obtained or attempted to obtain such license for a purpose other than holding himself out to the general public as a public adjuster; or

(h) Has violated any insurance laws, or any regulation, subpoena or order of the commissioner or of another state's commissioner of insurance.

(2) Before any license shall be refused (except for failure to pass a required written examination) or suspended or revoked or the renewal thereof refused hereunder, the commissioner shall give notice of his intention so to do, by certified mail, return receipt requested, to the applicant for or holder of such license, and shall set a date not less than twenty (20) days from the date of mailing such notice when the applicant or licensee may appear to be heard and produce evidence in opposition to such refusal, suspension or revocation. Such notice shall constitute automatic suspension of license if the person involved is a licensed public adjuster. In the conduct of such hearing, the commissioner or any regular salaried employee of the department specially designated by him for such purpose shall have the power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the

applicant or licensee. Upon the termination of such hearing, findings shall be reduced to writing and, upon approval by the commissioner, shall be filed in his office; and notice of the findings shall be sent by certified mail, return receipt requested, to the applicant or licensee.

(3) Where the grounds set out in subsection (1)(c) or (1)(f) of this section are the grounds for any hearing, the commissioner may, in his discretion in lieu of the hearing provided for in subsection (2) of this section, file a petition requesting the court to suspend or revoke any license authorized hereunder in a court of competent jurisdiction of the county or district in which the alleged offense occurred. In such cases, subpoenas may be issued for witnesses, and mileage and witness fees paid as in other cases. All costs of such cause shall be paid by the defendant, if the finding of the court be against him.

(4) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a public adjuster within one (1) year from the effective date of such revocation or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming such revocation. An application filed after such one-year period shall be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

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SECTION 15. Section 83-19-21, Mississippi Code of 1972, is amended as follows:

83-19-21. If it appears that the requirements of the law herein have been complied with, the commissioner shall collect a fee of Two Hundred Dollars ($200.00), to be paid into the special fund in the State Treasury designated as the "Insurance Department Fund" and shall certify the fact and his approval of the articles of association, by endorsement thereon. The commissioner shall also collect a fee of Fifty Dollars ($50.00) for any amendment filed thereon and such fee shall be deposited into the "Insurance Department Fund."

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SECTION 16. Section 83-21-1, Mississippi Code of 1972, is amended as follows:

83-21-1. No foreign insurance, indemnity or guaranty company or other insurer shall be admitted and authorized to do business in this state until:

(a) It shall deposit with the Commissioner of Insurance a certified copy of its charter, articles of incorporation, bylaws or deed of settlement, and shall pay for the filing of such document the sum of One Thousand Dollars ($1,000.00) and a statement of its financial condition and business in such form and detail as he may require, signed and sworn to by its president and secretary or other proper officer.

(b) It shall satisfy the commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; and such capital or net assets are well invested and immediately available for the payment of losses in this state, and that it insures on any single hazard a sum no larger than one-tenth (1/10) of its net assets.

(c) It shall, by a duly executed instrument filed in his office, constitute and appoint the Commissioner of Insurance, and his successor, its true and lawful attorney, upon whom all process in any action or legal proceeding against it may be served, and therein shall agree that any process against it which may be served upon its attorney shall be of the same force and validity as if served on the company, and the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this state. The service of such process shall be made by leaving a copy of the same in the hands or office of the commissioner. Copies of such instrument certified by the commissioner shall be deemed sufficient evidence thereof, and service upon such attorney shall be deemed sufficient service upon the principal.

(d) It shall appoint as its agent or agents in this state some resident or residents thereof, other than the commissioner; such appointment to be made in writing, signed by the president and secretary or manager or general agent, and filed in the office of the commissioner, authorizing the agent to

acknowledge service of process for and on behalf of the company, consenting that service of process on the agent shall be as valid as if served upon the company, according to the laws of this state, and waiving all claims of error by reason of such service.

(e) It shall obtain from the commissioner a certificate that it has complied with the laws of the state and is authorized to make contracts of insurance.

(f) Such fees collected by the commissioner shall be deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

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SECTION 17. Section 83-37-29, Mississippi Code of 1972, is amended as follows:

83-37-29. Any person, firm, association, or corporation engaging in the business herein described without first having complied with the provisions hereof, or any person who shall knowingly make any false statement in the reports required by this chapter as determined by the Commissioner of Insurance after written notice and hearing, shall be assessed a penalty for each violation of not less than Two Hundred Fifty Dollars ($250.00) nor more than Five Hundred Dollars ($500.00), and in addition thereto shall forfeit the license to do business in this state. Funds from such penalties shall be deposited with the State Treasurer to be placed in a fund designated as the "Insurance Department Fund."

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SECTION 18. Section 83-39-3, Mississippi Code of 1972, is amended as follows:

83-39-3. (1) No person shall act in the capacity of professional bail agent, soliciting bail agent or bail enforcement agent, as defined in Section 83-39-1, or perform any of the functions, duties or powers of the same unless that person shall be qualified and licensed as provided in this chapter. The terms of this chapter shall not apply to any automobile club or association, financial institution, insurance company or other organization or association or their employees who execute bail bonds on violations arising out of the use of a motor vehicle by their members, policyholders or borrowers when bail bond is not the principal benefit of membership, the policy of insurance or of a loan to such member, policyholder or borrower.

(2) (a) No license shall be issued or renewed except in compliance with this chapter, and none shall be issued except to an individual. No firm, partnership, association or corporation, as such, shall be so licensed. No professional bail agent shall operate under more than one (1) trade name. A soliciting bail agent and bail enforcement agent shall operate only under the professional bail agent's name. No license shall be issued to or renewed for any person who has ever been convicted of a crime that the commissioner finds directly relates to the duties and responsibilities of the business of a professional bail agent, soliciting bail agent, or bail enforcement agent, including, but

not limited to, any felony that involves an act of fraud, dishonesty, or a breach of trust, or money laundering. No license shall be issued to any person who is under twenty-one (21) years of age. No person engaged as a law enforcement or judicial official or attorney shall be licensed hereunder. A person who is employed in any capacity at any jail or corrections facility that houses state, county or municipal inmates who are or may be eligible for bail, whether the person is a public employee, independent contractor, or the employee of an independent contractor, may not be licensed under this section.

(b) (i) No person who is a relative of either a sworn state, county or municipal law enforcement official or judicial official, or an employee, independent contractor or the contractor's employee of any police department, sheriff's department, jail or corrections facility that houses or holds federal, state, county or municipal inmates who are or may be eligible for bail, shall write a bond in the county where the law enforcement entity or court in which the person's relative serves is located. "Relative" means a spouse, parent, grandparent, child, sister, brother, or a consanguineous aunt, uncle, niece or nephew. Violation of this prohibition shall result in license revocation.

(ii) No person licensed under this chapter shall act as a personal surety agent in the writing of bail during a

period he or she is licensed as a limited surety agent, as defined herein.

(iii) No person licensed under this chapter shall give legal advice or a legal opinion in any form.

(3) The department is vested with the authority to enforce this chapter. The department may conduct investigations or request other state, county or local officials to conduct investigations and promulgate such rules and regulations as may be necessary for the enforcement of this chapter. The department may establish monetary fines and collect such fines as necessary for the enforcement of such rules and regulations. All fines collected shall be deposited in the Special Insurance Department Fund for the operation of that agency.

(4) (a) Each license issued hereunder shall expire biennially on the last day of September of each odd-numbered year, unless revoked or suspended prior thereto by the department, or upon notice served upon the commissioner by the insurer that the authority of a limited surety agent to act for or on behalf of such insurer had been terminated, or upon notice served upon the commissioner that the authority of a soliciting bail agent or bail enforcement agent had been terminated by such professional bail agent.

(b) A soliciting bail agent or bail enforcement agent may, upon termination by a professional bail agent or upon his cessation of employment with a professional bail agent, be

relicensed without having to comply with the provisions of subsection (7)(a) and (b) of this section, if he has held a license in his respective license category within ninety (90) days of the new application, meets all other requirements set forth in Section 83-39-5 and subsection (7)(b) of this section, and notifies the previous professional bail agent in writing that he is submitting an application for a new license.

(5) The department shall prepare and deliver to each licensee a license showing the name, address and classification of the licensee, and shall certify that the person is a licensed professional bail agent, being designated as a personal surety agent or a limited surety agent, a soliciting bail agent or a bail enforcement agent. In addition, the license of a soliciting bail agent or bail enforcement agent, shall show the name of the professional bail agent and any other information as the commissioner deems proper.

(6) The commissioner, after a hearing under Section 83-39-17, may refuse to issue a privilege license for a soliciting bail agent to change from one (1) professional bail agent to another if he owes any premium or debt to the professional bail agent with whom he is currently licensed. The commissioner, after a hearing under Section 83-39-17, shall refuse to issue a license for a limited surety agent if he owes any premium or debt to an insurer to which he has been appointed. If a license has been granted to a limited surety agent or a soliciting bail agent who

owed any premium or debt to an insurer or professional bail agent, the commissioner, after a hearing under Section 83-39-17, shall revoke the license.

(7) (a) Before the issuance of any initial professional bail agent, soliciting bail agent or bail enforcement agent license, the applicant shall submit proof of successful completion of forty (40) hours of prelicensing education approved by the Mississippi Insurance Department unless the applicant is currently licensed under this chapter on July 1, 2014, and has maintained that license in compliance with the continuing education requirements of subsection (8) of this section. Any applicant who has met all continuing education requirements as set forth in subsection (8)(a) of this section and has been properly licensed under this chapter within ninety (90) days of submitting an application for a license shall not be subject to the prelicensing education requirement.

(b) All applicants for a professional bail agent, soliciting bail agent or bail enforcement agent license applying for an original license after July 1, 2014, shall successfully complete a limited examination by the department for the restricted lines of business before the license can be issued; however, this examination requirement shall not apply to any licensed bail soliciting agent and bail enforcement agent transferring to another professional bail agent license, any licensed bail soliciting agent applying for a bail enforcement

agent license, and any licensed bail enforcement agent applying for a bail soliciting agent license. An applicant shall only be required to successfully complete the limited examination once.

(c) Beginning on July 1, 2011, in order to assist the department in determining an applicant's suitability for a license under this chapter, the applicant shall submit a set of fingerprints with the submission of an application for license. The department shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the commissioner and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

(8) (a) Before the renewal of the license of any professional bail agent, soliciting bail agent or bail enforcement agent, the applicant shall submit proof of successful completion of continuing education hours as follows:

(i) There shall be no continuing education required for the first licensure year;

(ii) Except as provided in subparagraph (i), eight (8) hours of continuing education for each year or part of a year

of the two-year license period, for a total of sixteen (16) hours per license period.

(b) If an applicant for renewal failed to obtain the required eight (8) hours for each year of the license period during the actual license year in which the education was required to be obtained, the applicant shall not be eligible for a renewal license but shall be required to obtain an original license and be subject to the education requirements set forth in subsection (7). The commissioner shall not be required to comply with Section 83-39-17 in denying an application for a renewal license under this paragraph (b).

(c) The education hours required under this subsection (8) shall be approved by the Mississippi Insurance Department.

(d) The continuing education requirements under this subsection (8) shall not be required for renewal of a bail agent license for any applicant who is sixty-five (65) years of age and who has been licensed as a bail agent for a continuous period of twenty (20) years immediately preceding the submission of the application as evidenced by submission of an affidavit, under oath, on a form prescribed by the department, signed by the licensee attesting to satisfaction of the age, licensing, and experience requirements of this paragraph (d).

(9) No license as a professional bail agent shall be issued unless the applicant has been duly licensed by the department as a soliciting bail agent for a period of three (3) consecutive years

immediately preceding the submission of the application. However, this subsection (9) shall not apply to any person who was licensed as a professional bail agent before July 1, 2011.

(10) A nonresident person may be licensed as a professional bail agent, bail soliciting agent or bail enforcement agent if:

(a) The person's home state awards licenses to residents of this state on the same basis; and

(b) The person has satisfied all requirements set forth in this chapter.

(11) On or before October 1, 2016, the Insurance Department shall establish a statewide Electronic Bondsmen Registry for all licenses, powers of appointment and powers of attorney requiring registration under this section. Once established, each professional bail agent, limited surety agent, bail soliciting agent, bail enforcement agent or insurance company writing bail bonds shall be required under this subsection (11) to register and maintain a record of each required license, power of appointment and power of attorney in the registry. Failure to comply with this provision will subject the agent to the penalties provided in Section 83-39-29.

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SECTION 19. Section 83-73-9, Mississippi Code of 1972, is amended as follows:

83-73-9. *** * *** If a vendor of portable electronics or its employee, subsidiary corporation or authorized representative

violates any provision of this section, the commissioner may do any of the following:

(a) After notice and hearing, impose fines not to exceed One Thousand Dollars ($1,000.00) per violation or Thirty Thousand Dollars ($30,000.00) in the aggregate for such violations and such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund."

(b) After notice and hearing, impose other penalties that the commissioner deems necessary and reasonable to carry out the purpose of this chapter, including, but not limited to:

(i) Suspending the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred;

(ii) Suspending or revoking the ability of individual employees, subsidiary corporations or authorized representatives to act under the license; and

(iii) Placing on probation, suspending or revoking the license of the portable electronics insurance producer.

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SECTION 20. This act shall take effect and be in force from and after July 1, 2021.