MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Ford (54th)

To: Insurance;
Appropriations

HOUSE BILL NO. 326

AN ACT TO AMEND SECTION 83-21-21, MISSISSIPPI CODE OF 1972, TO ESTABLISH PROCESS TO TRANSFER EXCESS FUNDS FROM THE MISSISSIPPI SURPLUS LINES ASSOCIATION TO THE STATE GENERAL FUND BY WRITTEN REQUEST OF THE COMMISSIONER OF INSURANCE; AND FOR RELATED PURPOSES.

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

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

83-21-21. (1) The Commissioner of Insurance may establish a stamping procedure for all eligible nonadmitted/surplus lines insurance policies sold on risks subject to the payment of premium taxes to the State of Mississippi.

(2) The Commissioner of Insurance may rely upon the advice and assistance of a duly constituted association of surplus lines insurance producers in carrying out the purposes of this chapter, if the association files with the commissioner:

(a) A copy of the association's constitution and articles of agreement of association or the association's

certificate of incorporation and bylaws and any rules and regulations governing the association's activities;

(b) A list of the association's members; and

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued by the commissioner may be served.

(3) The Commissioner of Insurance may examine the association's records concerning the functions or duties performed on behalf of the commissioner by the association.

(4) The association shall provide a means for the examination of all surplus lines coverages written to determine whether such coverages comply with the law and such rules or regulations as may be issued by the Commissioner of Insurance.

(5) The Commissioner of Insurance may refuse to accept, or may suspend or revoke the acceptance of, an association for any of the following reasons:

(a) It reasonably appears that the association will not be able to carry out the purposes of this chapter;

(b) The association does not maintain and enforce rules and regulations which will ensure that members of the association and persons associated with those members will comply with this chapter, other applicable state law or rules or regulations promulgated under either;

(c) The rules or regulations of the association do not ensure a fair representation of its members in the selection of directors and in the administration of its affairs;

(d) The rules or regulations of the association do not provide for an equitable allocation of reasonable dues, fees and other charges among members;

(e) The rules or regulations of the association impose an undue burden on competition; or

(f) The association fails to meet other applicable requirements prescribed in this chapter.

(6) A surplus lines insurance producer shall cooperate with the association and the Commissioner of Insurance in fulfilling the surplus lines agent's statutory responsibility under this chapter.

(7) Upon request from the association, the Commissioner of Insurance may approve the levy of an examination fee of not more than one percent (1%) of premiums charged under this chapter for the operation of the association to the extent that such operation relieves the commissioner of duties otherwise required of the Commissioner of Insurance under this chapter.

(8) The association may revoke the membership of, and the Commissioner of Insurance may revoke the license in this state of, any licensee who fails to pay the examination fee when due, if the examination fee has been approved by the Commissioner of Insurance.

(9) Upon written request by the Commissioner of Insurance, the fees levied and collected by the association pursuant to this section shall be subject to transfer to the Insurance Department * * * for deposit by the Commissioner of Insurance in the State General Fund or any fund as directed by act of the Legislature. Any such transfer shall leave the association with enough funds to meet its operational costs, including funding for necessary software and systems updates.

(10) The association, the association's board members and employees shall not be subject to liability for any functions or duties performed in good faith, from and after May 9, 2008, by the association pursuant to this chapter.

(11) In the alternative, the Commissioner of Insurance may contract with a third party to assist the commissioner with carrying out the purposes of this chapter. The third party may collect an examination fee in an amount determined by the commissioner but not more than one percent (1%) of premiums charged under this chapter. The fees shall be collected and deposited into the Department of Insurance Special Fund, and from this fund the department may pay the third party a reasonable fee for its services.

(12) Notwithstanding the provisions of Section 83-21-18(3), any stamping procedure established under this section may apply to the reporting, payment, collection and allocation of premium taxes for nonadmitted insurance consistent with any agreement, compact

or procedures entered into by the commissioner under Section 83-21-18(1).

(13) The commissioner may promulgate rules and regulations necessary for the implementation of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.