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To: Insurance

HOUSE BILL NO. 221  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-2-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT CERTAIN PROPERTY INSURANCE PLANS SHALL OFFER BUY-BACK  
3 PROVISIONS FOR DEDUCTIBLES WHICH ARE ACTUARIALLY SOUND; TO PROVIDE  
4 THAT THE COMMISSIONER OF INSURANCE MAY GRANT A WAIVER FROM THE  
5 MANDATORY BUY-BACK PROVISION; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 83-2-3, Mississippi Code of 1972, is  
8 amended as follows:

9 83-2-3. (1) Rates shall comply with the following  
10 standards:

11 (a) Rates shall not be excessive, inadequate or  
12 unfairly discriminatory.

13 (b) A rate is excessive if it is likely to produce a  
14 profit that is unreasonably high for the insurance provided or if  
15 the expense provision included therein is unreasonably high in  
16 relation to the services rendered.

17 (c) A rate is inadequate if it threatens the solvency  
18 of the insurance company or tends to create a monopoly.

19 (d) Unfair discrimination exists if, after allowing for  
20 practical limitations, price differentials fail to reflect  
21 equitably the differences in expected losses and expenses. A rate  
22 is not unfairly discriminatory because different premiums result  
23 for policyholders with like loss exposures with different  
24 expenses, or like expenses but different loss exposures, so long  
25 as the rate reflects the differences with reasonable accuracy.

26 (2) In determining whether rates comply with the standards  
27 set forth in subsection (1), the following criteria shall apply:

28 (a) Due consideration shall be given to past and

29 prospective loss and expense experience within and outside this  
30 state; to catastrophe hazards; to any residual market loss  
31 redistributions and other similar obligations; to a reasonable  
32 provision for profit and contingencies; to trends within and  
33 outside this state; to loadings for leveling premium rates over a  
34 reasonable period of time or for dividends or savings to be  
35 allowed or returned by insurers to their policyholders, members or  
36 subscribers; and to all other relevant factors, including the  
37 judgment of the filer.

38 (b) Risks may be classified in any reasonable way for  
39 the establishment of rates except that no risks may be grouped by  
40 classifications based in whole or in part on race, color, creed,  
41 or national origin of the risk. Rates may be modified for  
42 individual risks in accordance with rating plans or schedules  
43 which provide for recognition of probable variations in hazards,  
44 expenses or both.

45 (c) The systems of expense provisions included in rates  
46 for use by an insurer or group of insurers may differ from those  
47 of other insurers or group of insurers to reflect the operating  
48 methods of such insurer or group with respect to any kind of  
49 insurance, or with respect to any subdivision or combination  
50 thereof.

51 (d) Any homeowners' insurance policy filed with the  
52 Commissioner of Insurance that offers a percentage deductible for  
53 the peril of windstorm from a named storm shall offer a buy-back  
54 provision for that deductible which is actuarially sound; however,  
55 the Commissioner of Insurance may grant a waiver from the  
56 mandatory buy-back provision in accordance with the following  
57 procedure and criteria:

58 (i) An insurance company shall make a formal  
59 filing requesting a waiver from the buy-back provision requirement  
60 with the Commissioner of Insurance.

61 (ii) An insurance company shall submit written  
62 proof in its formal filing as to why it is in the best interest of

63 Mississippi policyholders to receive a waiver from the buy-back  
64 provision requirement and shall provide any supporting  
65 documentation requested by the commissioner deemed appropriate to  
66 make his decision.

67 (iii) All expenses incurred by the Commissioner of  
68 Insurance or his designee in determining the validity of the  
69 waiver request shall be borne by the petitioning insurer. Such  
70 expenses may include, but not be limited to, the cost of reviewing  
71 the filing by actuaries, and if the commissioner deems a public  
72 hearing appropriate, the cost of a facility, the cost of publicity  
73 and the cost of a court reporter for the hearing.

74 SECTION 2. This act shall take effect and be in force from  
75 and after January 1, 2000.