By: Simpson

To: Insurance

HOUSE BILL NO. 1459

1 AN ACT TO AMEND SECTIONS 83-9-3 AND 83-9-5, MISSISSIPPI CODE 2 OF 1972, TO PROVIDE FOR THE ASSIGNMENT OF INSURANCE BENEFITS BY 3 THE INSURED TO A LICENSED HEALTH CARE PROVIDER; AND FOR RELATED PURPOSES. 4 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI: 6 SECTION 1. Section 83-9-3, Mississippi Code of 1972, is 7 amended as follows: 83-9-3. (1) No policy of accident and sickness insurance 8 shall be delivered or issued for delivery to any person in this 9 10 state unless: The entire money and other considerations therefor 11 (a) 12 are expressed therein; and 13 (b) The time at which the insurance takes effect and 14 terminates is expressed therein; and 15 It purports to insure only one (1) person, except (C) that a policy may insure, originally or by subsequent amendment, 16 17 upon the application of an adult member of a family who shall be deemed the policyholder, any two (2) or more eligible members of 18 that family, including husband, wife, dependent children or any 19 20 children under a specified age which shall not exceed nineteen (19) years, and any other person dependent upon the policyholder; 21 22 and 23 (d) The style, arrangement and overall appearance of 24 the policy give no undue prominence to any portion of the text, 25 and unless every printed portion of the text of the policy and of 26 any endorsements or attached papers is plainly printed in lightfaced type of a style in general use, the size of which shall 27

28 be uniform and not less than ten-point with a lowercase unspaced 29 alphabet length not less than one hundred and twenty-point (the 30 "text" shall include all printed matter except the name and 31 address of the insurer, name or title of the policy, the brief 32 description if any, and captions and subcaptions); and

33 The exceptions and reductions of indemnity are set (e) forth in the policy and, except those which are set forth in 34 35 Section 83-9-5, are printed, at the insurer's option, either with the benefit provision to which they apply, or under an appropriate 36 37 caption such as "Exceptions," or "Exceptions and Reductions," 38 provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such 39 40 exception or reduction shall be included with the benefit provision to which it applies; and 41

42 (f) Each such form, including riders and endorsements,
43 shall be identified by a form number in the lower left-hand corner
44 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 51 52 accident insurance (including experience-rated insurance contracts, indemnity contracts, self-insured plans and self-funded 53 54 plans), or any group combinations of these coverages, shall be 55 issued by any commercial insurer doing business in this state 56 which, by the terms of such policy, limits or excludes payment 57 because the individual or group insured is eligible for or is being provided medical assistance under the Mississippi Medicaid 58 59 Law. Any such policy provision in violation of this section shall 60 be invalid.

61 (3) <u>No individual or group policy covering health and</u>
62 <u>accident insurance (including experience-rated insurance</u>
63 <u>contracts, indemnity contracts, self-insured plans and self-funded</u>
64 <u>plans), or any group combinations of these coverages, shall be</u>

65 <u>issued by any commercial insurer doing business in this state</u>
66 which, by the terms of such policy, limits or restricts the
67 <u>insured's ability to assign the insured's benefits under the</u>
68 policy to a licensed health care provider that provides health
69 <u>care services to the insured. Any such policy provision in</u>
70 <u>violation of this section shall be invalid.</u>

71 If any policy is issued by an insurer domiciled in this (4) 72 state for delivery to a person residing in another state, and if 73 the official having responsibility for the administration of the 74 insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or 75 76 disapproval by such official, the commissioner may, by ruling, require that such policy meet the standards set forth in 77 78 subsection (1) of this section and in Section 83-9-5.

(5) The commissioner shall collect and pay into the Special 79 80 Fund in the State Treasury designated as the "Insurance Department 81 Fund" the following fees for services provided under this section: FORM 82 FEE 83 Each individual policy contract, including 84 revisions.....\$15.00 85 Each group master policy or contract including 86 revisions......15.00 87 88 Each insurance application where written application is required and is to be 89 90 made a part of the policy or contract..... 10.00 91 Each questionnaire..... 7.00 92 Charge for resubmission where payment is not included with original submission..... 5.00 93 94 Additional charge for tentative approval same as above. 95 SECTION 2. Section 83-9-5, Mississippi Code of 1972, is amended as follows: 96 97 83-9-5. (1) Required provisions. Except as provided in

98 subsection (3) of this section, each such policy delivered or 99 issued for delivery to any person in this state shall contain the 100 provisions specified in this subsection in the words in which the 101 same appear in this section. However, the insurer may, at its 102 option, substitute for one or more of such provisions, 103 corresponding provisions of different wording approved by the 104 commissioner which are in each instance not less favorable in any 105 respect to the insured or the beneficiary. Such provisions shall 106 be preceded individually by the caption appearing in this 107 subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner 108 109 may approve.

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(a) A provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

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(b) A provision as follows:

Time limit on certain defenses: 1. After two (2) years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(The foregoing policy provision shall not be so construed as to effect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of subparagraphs (2)(a) and (2)(b) of this section in the event of misstatement with respect to age or occupation.)

131 (A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) 132 133 until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from 134 135 its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be 136 137 omitted at the insurer's option) under the caption 138 "INCONTESTABLE":

After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements in the application.)

143 2. No claim for loss incurred or disability (as defined in 144 the policy) commencing after two (2) years from the date of issue 145 of this policy shall be reduced or denied on the ground that a 146 disease or physical condition not excluded from coverage by name 147 or specific description effective on the date of loss had existed 148 prior to the effective date of coverage of this policy.

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(c) A provision as follows:

Grace period: A grace period of seven (7) days for weekly premium policies, ten (10) days for monthly premium policies and thirty-one (31) days for all other policies will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

155 (A policy which contains a cancellation provision may add, at 156 the end of the above provision, "subject to the right of the 157 insurer to cancel in accordance with the cancellation provision 158 hereof."

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, "unless not less than five (5) days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of

164 its intention not to renew this policy beyond the period for which 165 the premium has been accepted.")

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(d) A provision as follows:

Reinstatement: If any renewal premium be not paid within the 167 168 time granted the insured for payment, a subsequent acceptance of 169 premium by the insurer or by any agent duly authorized by the 170 insurer to accept such premium, without requiring in connection 171 therewith an application for reinstatement, shall reinstate the 172 policy. However, if the insurer or such agent requires an 173 application for reinstatement and issues a conditional receipt for 174 the premium tendered, the policy will be reinstated upon approval 175 of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt 176 177 unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy 178 179 shall cover only loss resulting from such accidental injury as may 180 be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. 181 In 182 all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before 183 184 the due date of the defaulted premium, subject to any provisions 185 endorsed hereon or attached hereto in connection with the 186 reinstatement. Any premium accepted in connection with a 187 reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty 188 189 (60) days prior to the date of reinstatement. (The last sentence of the above provision may be omitted from any policy which the 190 insured has the right to continue in force subject to its terms by 191 192 the timely payment of premiums (1) until at least age fifty (50) 193 or, (2) in the case of a policy issued after age forty-four (44), 194 for at least five (5) years from its date of issue.)

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(e) A provision as follows:

196 Notice of claim: Written notice of claim must be given to

197 the insurer within thirty (30) days after the occurrence or commencement of any loss covered by the policy, or as soon 198 199 thereafter as is reasonably possible. Notice given by or on 200 behalf of the insured or the beneficiary to the insurer at 201 _____, (insert the location of such office as the insurer may 202 designate for the purpose) or to any authorized agent of the 203 insurer, with information sufficient to identify the insured, 204 shall be deemed notice to the insurer.

205 (In a policy providing a loss-of-time benefit which may be 206 payable for at least two (2) years, an insurer may, at its option, 207 insert the following between the first and second sentences of the 208 above provision: "Subject to the qualifications set forth below, 209 if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, he 210 211 shall, at least once in every six (6) months after having given 212 notice of claim, give to the insurer notice of continuance of said 213 disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or 214 215 any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded 216 217 in applying this provision. Delay in the giving of such notice 218 shall not impair the insured's right to any indemnity which would 219 otherwise have accrued during the period of six (6) months 220 preceding the date on which such notice is actually given.") 221 (f) A provision as follows:

222 Claim forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished 223 by it for filing proofs of loss. If such forms are not furnished 224 225 within fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of 226 227 this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof 228 229 covering the occurrence, the character and the extent of the loss

230 for which claim is made.

231 (q) A provision as follows: 232 Proofs of loss: Written proof of loss must be furnished to the insurer at its said office, in case of claim for loss for 233 234 which this policy provides any periodic payment contingent upon continuing loss, within ninety (90) days after the termination of 235 236 the period for which the insurer is liable, and in case of claim 237 for any other loss, within ninety (90) days after the date of such 238 loss. Failure to furnish such proof within the time required 239 shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is 240 241 furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the 242 time proof is otherwise required. 243

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(h) A provision as follows:

245 Time of payment of claims: 1. All benefits payable under 246 this policy for any loss, other than loss for which this policy provides any periodic payment, will be paid within forty-five (45) 247 248 days after receipt of due written proof of such loss. Benefits due under the policies and claims are overdue if not paid within 249 250 forty-five (45) days after the insurer receives proof of loss, 251 necessary medical information and other information essential for the insurer to administer coordination of benefits and subrogation 252 253 provisions. If such information is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not 254 255 paid within forty-five (45) days after such proof is received by the insurer. Any part or all of the remainder of the claim that 256 257 is later supported by such proof is overdue if not paid within 258 forty-five (45) days after such proof is received by the insurer. 259 To calculate the extent to which any benefits are overdue, payment 260 shall be treated as made on the date a draft or other valid instrument was placed in the United States mail to the last known 261 262 address of the claimant or beneficiary in a properly addressed,

postpaid envelope, or, if not so posted, on the date of delivery.
Subject to due written proof of loss, all accrued
benefits for loss for which this policy provides periodic payment
will be paid ______ (insert period for payment which must not
be less frequently than monthly) and any balance remaining unpaid
upon the termination of liability will be paid within forty-five
(45) days after receipt of due written proof.

3. If the claim is not denied for valid and proper reasons by the end of such period of forty-five (45) days, the insurer must pay the insured interest on accrued benefits at the rate of one and one-half percent (1-1/2%) per month on the amount of such claim until it is finally settled or adjudicated.

4. In the event the insurer fails to pay benefits when due, the person entitled to such benefits may bring action to recover such benefits, any interest which may accrue as provided in subsection (1)(h)3. of this section and any other damages as may be allowable by law.

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(i) A provision as follows:

281 Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the 282 283 provisions respecting such payment which may be prescribed herein 284 and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to 285 286 the estate of the insured. Any other accrued indemnities unpaid 287 at the insured's death may, at the option of the insurer, be paid 288 either to such beneficiary or to such estate. All other indemnities will be payable to the insured. When payments of 289 290 benefits are made to an insured directly for medical care or 291 services rendered by a health care provider, the health care provider shall be notified of such payment. The notification 292 293 requirement shall not apply to a fixed-indemnity policy, a limited benefit health insurance policy, medical payment coverage or 294 295 personal injury protection coverage in a motor vehicle policy,

coverage issued as a supplement to liability insurance or workers' compensation. <u>If the insured provides the insurer with written</u> direction that all or a portion of any indemnities or benefits provided by this policy shall be paid to a licensed health care provider rendering hospital, nursing, medical or surgical services, then the insurer shall pay directly the licensed health care provider rendering such services.

303 (The following provisions, or either of them, may be included 304 with the foregoing provision at the option of the insurer: "Tf 305 any indemnity of this policy shall be payable to the estate of the 306 insured, or to an insured or beneficiary who is a minor or 307 otherwise not competent to give a valid release, the insurer may 308 pay such indemnity, up to an amount not exceeding \$___ 309 (insert an amount which must not exceed One Thousand Dollars 310 (\$1,000.00)) to any relative by blood or connection by marriage of 311 the insured or beneficiary who is deemed by the insurer to be 312 equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the 313 314 insurer to the extent of such payment.

"Subject to any written direction of the insured in the 315 316 application or otherwise, all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical 317 318 or surgical services may, at the insurer's option and unless the 319 insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or 320 321 person rendering such services; but it is not required that the 322 service be rendered by a particular hospital or person.")

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(j) A provision as follows:

Physical examinations: The insurer at his own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder.

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(k) A provision as follows:

Legal actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

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(1) A provision as follows:

Change of beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change the beneficiary is reserved to the insured, and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy, or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

342 (The first clause of this provision, relating to the 343 irrevocable designation of beneficiary, may be omitted at the 344 insurer's option.)

345 (2) Other provisions. Except as provided in subsection (3) of this section, no such policy delivered or issued for delivery 346 347 to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the 348 349 words in which the same appear in this section. However, the 350 insurer may, at its option, use in lieu of any such provision a 351 corresponding provision of different wording approved by the 352 commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the 353 354 policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by 355 356 such appropriate individual or group captions or subcaptions as 357 the commissioner may approve.

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(a) A provision as follows:

359 Change of occupation: If the insured be injured or contract 360 sickness after having changed his occupation to one classified by 361 the insurer as more hazardous than that stated in this policy or

362 while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the 363 364 indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer 365 366 for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than 367 that stated in this policy, the insurer, upon receipt of proof of 368 369 such change of occupation, will reduce the premium rate 370 accordingly, and will return the excess pro rata unearned premium 371 from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, 372 373 whichever is the most recent. In applying this provision, the 374 classification of occupational risk and the premium rates shall be 375 such as have been last filed by the insurer prior to the 376 occurrence of the loss for which the insurer is liable, or prior 377 to date of proof of change in occupation, with the state official 378 having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was 379 380 not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in 381 382 such state prior to the occurrence of the loss or prior to the 383 date of proof of change in occupation.

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(b) A provision as follows:

Misstatement of age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

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(c) A provision as follows:

Relation of earnings to issuance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two (2) years immediately

395 preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate 396 397 amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured 398 399 bears to the total amount of monthly benefits for the same loss 400 under all such coverage upon the insured at the time such 401 disability commences and for the return of such part of the 402 premiums paid during such two (2) years as shall exceed the pro 403 rata amount of the premiums for the benefits actually paid 404 hereunder; but this shall not operate to reduce the total monthly 405 amount of benefits payable under all such coverage upon the 406 insured below the sum of Two Hundred Dollars (\$200.00) or the sum of the monthly benefits specified in such coverages, whichever is 407 408 the lesser, nor shall it operate to reduce benefits other than 409 those payable for loss of time.

410 (The foregoing policy provision may be inserted only in a 411 policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until 412 413 at least age fifty (50) or, (2) in the case of a policy issued 414 after age forty-four (44), for at least five (5) years from its 415 date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved 416 417 as to form by the commissioner, which definition shall be limited 418 in subject matter to coverage provided by governmental agencies or 419 by organizations subject to regulations by insurance law or by 420 insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the 421 422 inclusion of which may be approved by the commissioner, or any 423 combination of such coverages. In the absence of such definition, 424 such term shall not include any coverage provided for such insured 425 pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or 426 427 benefits provided by union welfare plans or by employer or

428 employee benefit organizations.)

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(d) A provision as follows:

Unpaid premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

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(e) A provision as follows:

434 Cancellation: The insurer may cancel this policy at any time 435 by written notice delivered to the insured, or mailed to his last 436 address as shown by the records of the insurer, stating when, not 437 less than five (5) days thereafter, such cancellation shall be 438 effective; and after the policy has been continued beyond its 439 original term, the insured may cancel this policy at any time by 440 written notice delivered or mailed to the insurer, effective upon 441 receipt or on such later date as may be specified in such notice. 442 In the event of cancellation, the insurer will return promptly the 443 unearned portion of any premium paid. If the insured cancels, the 444 earned premium shall be computed by the use of the short-rate 445 table last filed with the state official having supervision of 446 insurance in the state where the insured resided when the policy 447 was issued. If the insurer cancels, the earned premium shall be 448 computed pro rata. Cancellation shall be without prejudice to any 449 claim originating prior to the effective date of cancellation.

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(f) A provision as follows:

Conformity with state statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(g) A provision as follows:

456 Illegal occupation: The insurer shall not be liable for any 457 loss to which a contributing cause was the insured's commission of 458 or attempt to commit a felony or to which a contributing cause was 459 the insured's being engaged in an illegal occupation.

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(h) A provision as follows:

Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

465 Inapplicable or inconsistent provisions. (3) If any 466 provision of this section is in whole or in part inapplicable to 467 or inconsistent with the coverage provided by a particular form of 468 policy, the insurer, with the approval of the commissioner, shall 469 omit from such policy any inapplicable provision or part of a 470 provision, and shall modify any inconsistent provision or part of 471 the provision in such manner as to make the provision as contained 472 in the policy consistent with the coverage provided by the policy.

(4) Order of certain policy provisions. The provisions 473 474 which are the subject of subsections (1) and (2) of this section, 475 or any corresponding provisions which are used in lieu thereof in 476 accordance with such subsections, shall be printed in the 477 consecutive order of the provisions in such subsections or, at the 478 option of the insurer, any such provision may appear as a unit in 479 any part of the policy, with other provisions to which it may be 480 logically related, provided the resulting policy shall not be in 481 whole or in part unintelligible, uncertain, ambiguous, abstruse or 482 likely to mislead a person to whom the policy is offered, delivered or issued. 483

(5) Third-party ownership. The word "insured," as used in Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured, or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

491 (6) Requirements of other jurisdictions.

492 (a) Any policy of a foreign or alien insurer, when493 delivered or issued for delivery to any person in this state, may

494 contain any provision which is not less favorable to the insured 495 or the beneficiary than the provisions of Sections 83-9-1 through 496 83-9-21, Mississippi Code of 1972, and which is prescribed or 497 required by the law of the state under which the insurer is 498 organized.

499 (b) Any policy of a domestic insurer may, when issued
500 for delivery in any other state or country, contain any provision
501 permitted or required by the laws of such other state or country.

502 (7) Filing procedure. The commissioner may make such 503 reasonable rules and regulations concerning the procedure for the 504 filing or submission of policies subject to the cited sections as 505 are necessary, proper or advisable to the administration of said 506 sections. This provision shall not abridge any other authority 507 granted the commissioner by law.

508 SECTION 3. This act shall take effect and be in force from 509 and after July 1, 2000.