

By: Kirby

To: Insurance

SENATE BILL NO. 2122  
(As Passed the Senate)

1 AN ACT TO CREATE THE MISSISSIPPI CREDITOR-PLACED INSURANCE  
2 ACT; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE TIME WHEN  
3 CREDITOR-PLACED INSURANCE SHALL BECOME EFFECTIVE OR IS TERMINATED;  
4 TO PROVIDE FOR THE METHOD BY WHICH PREMIUMS FOR CREDITOR-PLACED  
5 INSURANCE COVERAGE MAY BE CALCULATED; TO PROVIDE THAT  
6 CREDITOR-PLACED INSURANCE SHALL BE SET FORTH IN AN INDIVIDUAL  
7 POLICY OR CERTIFICATE OF INSURANCE; TO REQUIRE ALL POLICY FORMS  
8 AND CERTIFICATES OF CREDITOR-PLACED INSURANCE DELIVERED IN THIS  
9 STATE TO BE FILED WITH THE COMMISSIONER OF INSURANCE; TO PROVIDE  
10 THAT THE ENTIRE AMOUNT OF THE PREMIUM DUE FROM A CREDITOR SHALL BE  
11 REMITTED TO THE INSURER OR ITS PRODUCER IN ACCORDANCE WITH THE  
12 INSURER'S REQUIREMENTS; TO PROVIDE THAT A CREDITOR SHALL NOT  
13 IMPOSE CHARGES ON A DEBTOR FOR CREDITOR-PLACED INSURANCE COVERAGE  
14 UNLESS ADEQUATE DISCLOSURE OF THE REQUIREMENT TO MAINTAIN  
15 INSURANCE HAS BEEN MADE TO THE DEBTOR; TO AUTHORIZE THE  
16 COMMISSIONER OF INSURANCE TO CONDUCT INVESTIGATIONS OF INSURERS  
17 AND PRODUCERS; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO  
18 PROMULGATE RULES AND REGULATIONS; AND FOR RELATED PURPOSES.

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

20 SECTION 1. The purposes of this act are to:

21 (a) Promote the public welfare by regulating  
22 creditor-placed insurance;

23 (b) Create a legal framework within which  
24 creditor-placed insurance may be written in this state;

25 (c) Help maintain the separation between creditors and  
26 insurers; and

27 (d) Minimize the possibilities of unfair competitive  
28 practices in the sale of creditor-placed insurance.

29 SECTION 2. (1) This act applies to an insurer or producer  
30 transacting creditor-placed insurance as defined in this act.

31 (2) All creditor-placed insurance written in connection with  
32 credit transactions for personal, family or household purposes is  
33 subject to the provisions of this act, except:

34 (a) Transactions involving extensions of credit

35 primarily for business or commercial purposes;

36           (b) Insurance offered by the creditor and elected by  
37 the debtor at the debtor's option;

38           (c) Insurance for which no specific charge is made to  
39 the debtor or the debtor's account; or

40           (d) Blanket insurance, whether paid for by the debtor  
41 or the creditor.

42           (3) Nothing in this act shall be construed to create or  
43 imply a private cause of action for violation of this act, and the  
44 commissioner shall have authority to bring administrative or  
45 judicial proceedings to enforce this act.

46           SECTION 3. As used in this act, unless the context otherwise  
47 requires:

48           (a) "Actual cash value (ACV)" means the cost of  
49 replacing damaged or destroyed property with comparable new  
50 property, minus depreciation and obsolescence.

51           (b) "Blanket insurance" means insurance that provides  
52 coverage on collateral as defined in a policy issued to a  
53 creditor, without specifically listing the collateral covered.

54           (c) "Collateral" means personal property that is  
55 pledged as security for the satisfaction of a debt.

56           (d) "Credit agreement" means the written document that  
57 sets forth the terms of the credit transaction and includes the  
58 security agreement.

59           (e) "Credit transaction" means a transaction by the  
60 terms of which the repayment of money loaned or credit commitment  
61 made, or payment of goods, services or properties sold or leased,  
62 is to be made at a future date or dates.

63           (f) "Creditor" means the lender of money or vendor or  
64 lessor of goods, services, property, rights or privileges for  
65 which payment is arranged through a credit transaction, or any  
66 successor to the right, title or interest of a lender, vendor or  
67 lessor.

68           (g) "Creditor-placed insurance" means insurance that is  
69 purchased unilaterally by the creditor, who is the named insured,  
70 subsequent to the date of the credit transaction, providing  
71 coverage against loss, expense or damage to collateralized  
72 personal property as a result of fire, theft, collision or other  
73 risks of loss that would either impair a creditor's interest or  
74 adversely affect the value of collateral covered by limited dual  
75 interest insurance. It is purchased according to the terms of the  
76 credit agreement as a result of the debtor's failure to provide  
77 required physical damage insurance, with the cost of the coverage  
78 being charged to the debtor. It shall be either single interest  
79 insurance or limited dual interest insurance.

80           (h) "Debtor" means the borrower of money or a purchaser  
81 or lessee of goods, services, property, rights or privileges, for  
82 which payment is arranged through a credit transaction.

83           (i) "Insurance tracking" means monitoring evidence of  
84 insurance on collateralized credit transactions to determine  
85 whether insurance required by the credit agreement has lapsed, and  
86 communicating with debtors concerning the status of insurance  
87 coverage.

88           (j) "Insurer" means an insurance company, association  
89 or exchange authorized to issue insurance policies in the State of  
90 Mississippi.

91           (k) "Lapse" means that the insurance coverage required  
92 by the credit agreement is not in force.

93           (l) "Limited dual interest insurance" means insurance  
94 purchased by the creditor to insure its interest in the collateral  
95 securing the debtor's credit transaction. This insurance waives  
96 the three (3) conditions for loss payment under single interest  
97 insurance and extends coverage on the collateral while in the  
98 possession of the debtor.

99           (m) "Loss ratio" means the ratio of incurred losses to  
100 earned premium.

101           (n) "Net debt" means the amount necessary to liquidate  
102 the remaining debt in a single lump-sum payment, excluding all  
103 unearned interest and other unearned charges.

104           (o) "Producer" means a person who receives a commission  
105 for insurance placed or written or who, on behalf of an insurer or  
106 creditor, solicits, negotiates, effects, procures, delivers,  
107 renews, continues or binds policies of insurance to which this act  
108 applies, except a regular salaried officer, employee or other  
109 representative of an insurer who devotes substantially all working  
110 time to activities other than those specified here and who  
111 receives no compensation that is directly dependent on the amount  
112 of insurance business written, and except a regular salaried  
113 officer or employee of a creditor who receives no compensation  
114 that is directly dependent on the amount of insurance effected or  
115 procured.

116           (p) "Single interest insurance" means insurance  
117 purchased by the creditor to insure its interest in the collateral  
118 securing a debtor's credit transaction. Three (3) conditions must  
119 be met for payment of loss under the policy:

120                   (i) The debtor has defaulted in payment;

121                   (ii) The creditor has legally repossessed the  
122 collateral, unless collateral has been stolen from the debtor; and

123                   (iii) The creditor has suffered an impairment of  
124 interest.

125           (q) "Commissioner" means the Commissioner of Insurance.

126           SECTION 4. (1) Creditor-placed insurance shall become  
127 effective on the latest of the following dates:

128                   (a) The date of the credit transaction;

129                   (b) The date prior coverage, including prior  
130 creditor-placed insurance coverage lapsed;

131                   (c) One (1) year before the date on which the related  
132 insurance charge is made to the debtor's account; or

133                   (d) A later date provided for in the agreement between

134 the creditor and insurer.

135 (2) Creditor-placed insurance shall terminate on the  
136 earliest of the following dates:

137 (a) The date other acceptable insurance becomes  
138 effective, subject to the debtor providing acceptable evidence of  
139 the other insurance to the creditor;

140 (b) The date the collateralized personal property is  
141 repossessed, unless the property is returned to the debtor within  
142 ten (10) days of the repossession. The creditor placed insurance  
143 may be kept in force, but the lender must pay the premium that is  
144 earned after repossession;

145 (c) The date the collateralized personal property is  
146 determined by the insurer to be a total loss;

147 (d) The date the debt is completely extinguished; or

148 (e) An earlier date specified in the individual policy  
149 or certificate of insurance.

150 (3) An insurance charge shall not be made to a debtor for a  
151 term longer than the scheduled term of the creditor-placed  
152 insurance when it becomes effective, nor may an insurance charge  
153 be made to the debtor for creditor-placed insurance before the  
154 effective date of the insurance.

155 (4) If a charge is made to a debtor for creditor-placed  
156 insurance coverage that exceeds a term of one year, the debtor  
157 shall be notified at least annually that the insurance will be  
158 canceled and a refund or credit of unearned charges made if  
159 evidence of acceptable insurance secured by the debtor is  
160 provided.

161 SECTION 5. (1) Premiums for creditor-placed insurance  
162 coverage may be calculated based on:

163 (a) An amount not exceeding the net debt even though  
164 the coverage may limit the insurer's liability to the net debt,  
165 actual cash value or cost of repair; or

166 (b) Other premium calculation methods that more closely

167 reflect the exposure of each item insured and approximate the  
168 premium calculation method of the coverage required by the credit  
169 agreement.

170 (2) An insurer shall not write creditor-placed insurance for  
171 which the premium rate differs from that determined by the  
172 schedules of the insurer on file and approved by the commissioner.

173 The premium or amount charged to the debtor for creditor-placed  
174 insurance shall not exceed the premiums charged by the insurer,  
175 computed at the time the charge to the debtor is determined.

176 (3) A method of billing insurance charges to the debtor on  
177 closed-end credit transactions that creates a balloon payment at  
178 the end of the credit transaction or extends the credit  
179 transaction's maturity date is prohibited, unless specifically  
180 disclosed at the time of the origination of the credit agreement.

181 SECTION 6. (1) Creditor-placed insurance coverage shall not  
182 include:

183 (a) Coverage for the cost of repossession;

184 (b) Skip, confiscation and conversion coverage;

185 (c) Coverage for payment of mechanics' or other liens  
186 that do not arise from a covered loss occurrence;

187 (d) Coverage that requires a debtor's insurance  
188 deductible to be less than Two Hundred Dollars (\$200.00); or

189 (e) Coverage that is broader than the insurance  
190 coverages that meet the minimum insurance requirements of the  
191 credit agreement.

192 (2) Nothing in this section shall be deemed to prohibit the  
193 issuance of a separate policy or endorsement providing the  
194 coverages listed in subsection (1) of this section. However, no  
195 charge shall be passed along to the debtor for the coverages.

196 SECTION 7. Creditor-placed insurance shall be set forth in  
197 an individual policy or certificate of insurance. A copy of the  
198 individual policy, certificate of insurance coverage, or other  
199 evidence of insurance coverage shall be mailed, first class mail,

200 or delivered in person to the last known address of the debtor.

201       SECTION 8. (1) All policy forms and certificates of  
202 creditor-placed insurance to be delivered or issued for delivery  
203 in this state and the schedules of premium rates pertaining  
204 thereto shall be filed with the Commissioner of Insurance.

205       (2) The commissioner shall within thirty (30) days after the  
206 filing of the policy forms and certificates of insurance  
207 disapprove a form that does not conform to this act or to other  
208 applicable provisions of the insurance statutes and regulations  
209 and shall, within thirty (30) days of filing, disapprove a  
210 schedule of premium rates pertaining to the form if it does not  
211 conform to the standard set forth in subsection (5).

212       (3) If the commissioner disapproves a form or schedule of  
213 premium rates in accordance with subsection (2), the commissioner  
214 shall promptly notify the insurer in writing of the disapproval,  
215 and it shall be unlawful for the insurer to issue or use the form  
216 or schedule. In the notice, the commissioner shall specify the  
217 reasons for disapproval and state that a hearing will be granted  
218 within sixty (60) days after receipt of request in writing by the  
219 insurer.

220       (4) Unless the commissioner disapproves the form or schedule  
221 of premium rates in accordance with subsections (2) and (3) or  
222 gives written approval of the form or schedule within thirty (30)  
223 days after the filing, the form or schedule shall be deemed  
224 approved on the thirty-first day after the filing. However,  
225 within thirty (30) days after receiving a filing, the commissioner  
226 may issue a notice which delays the effective date of a filing for  
227 not more than thirty (30) days after the notice is issued if the  
228 commissioner determines that additional information or  
229 clarification concerning the rate or policy form is required.

230       (5) The schedules of premium rates shall not be excessive,  
231 inadequate or unfairly discriminatory. In determining whether a  
232 schedule of premium rates are excessive, inadequate or unfairly

233 discriminatory, the commissioner shall take into account past and  
234 prospective loss experience, general and administrative expenses,  
235 loss settlement and adjustment expenses, reasonable creditor  
236 compensation and other acquisition costs including insurance  
237 tracking costs, reserves, taxes, licenses, fees and assessments,  
238 reasonable insurer profit and other relevant data. Rates are not  
239 unfairly discriminatory because different premiums result for  
240 different policyholders, including group policyholders, with  
241 similar loss exposures but different expense factors or similar  
242 expense factors but different loss exposures, nor are rates  
243 unfairly discriminatory if they are averaged broadly among all  
244 persons insured in this state or all persons insured under a group  
245 insurance policy.

246 (6) The commissioner may withdraw approval of an approved  
247 form or schedule of premium rates when the commissioner would be  
248 required to disapprove the form or schedule of premium rates if it  
249 were filed at the time of the withdrawal. The withdrawal shall be  
250 in writing and shall specify the reasons for withdrawal and the  
251 effective date of the withdrawal. An insurer adversely affected  
252 by a withdrawal may, within thirty (30) days after receiving the  
253 written notification of the withdrawal, request in writing a  
254 hearing, to determine whether the withdrawal should be annulled,  
255 modified or confirmed. Unless the commissioner grants an  
256 extension in writing in the withdrawal or subsequently grants an  
257 extension, the withdrawal shall, in the absence of a request for  
258 hearing, become effective, prospectively and not retroactively, on  
259 the ninety-first day following delivery of the notice of  
260 withdrawal and, if the request for hearing is filed, on the  
261 ninety-first day following delivery of written notice of the  
262 commissioner's determination.

263 (7) Forms and rates filed and approved in accordance with  
264 this section shall be deemed to be in compliance in all respects  
265 with the laws of this state.

266        SECTION 9. (1) Within sixty (60) calendar days after the  
267 termination of creditor-placed insurance coverage, and in  
268 accordance with the formulas approved by the commissioner, an  
269 insurer shall refund any unearned premium or other identifiable  
270 charges.

271        (2) Within sixty (60) calendar days after the termination  
272 date of creditor-placed insurance coverage, the insurer or  
273 creditor shall provide to the debtor a statement of refund  
274 disclosing the effective date, the termination date, the amount of  
275 premium being refunded and the amount of premium charged for the  
276 coverage provided. No statement shall be required in the event  
277 that the policy terminates pursuant to subsection (2) (d) of  
278 Section 4 of this act.

279        (3) The entire amount of premiums, minimum premiums, fees or  
280 charges of any kind shall be refunded if no coverage was provided.

281        SECTION 10. (1) In the event of a loss under the  
282 creditor-placed insurance policy, the insurer shall pay, at a  
283 minimum, the least of the following, the value of which shall be  
284 determined as of the date of loss:

285            (a) The cost to repair the collateral less any  
286 applicable deductible;

287            (b) The actual cash value of the collateral less any  
288 applicable deductible;

289            (c) The net debt, less any applicable deductible; or

290            (d) If single interest insurance is provided, the  
291 amount by which the creditor's interest is impaired.

292        (2) The net debt or actual cash value amounts in subsection  
293 (1) may be reduced by the value of salvage if the insurer does not  
294 take possession of the insured property. This does not preclude  
295 the borrower's right to retain possession of the damaged  
296 collateral, if desired.

297        (3) In the event of a loss, no subrogation shall run against  
298 the debtor from the insurer.

299           (4) Whenever a claim is made on a creditor-placed insurance  
300 policy, the insurer shall furnish to the creditor a written  
301 statement of the loss explaining the settlement amount and the  
302 method of settlement, and the creditor shall furnish this  
303 information to the debtor.

304           (5) A creditor or insurer may not abandon salvage to a  
305 towing or storage facility in lieu of payment of storage fees  
306 without the consent of the facility and the claimant. The insurer  
307 shall be responsible for the payment of towing and storage charges  
308 for a covered loss occurrence from the time the claim is reported  
309 to the insurer in accordance with the terms of the policy to the  
310 time the claim is paid. After the claim is paid, the debtor shall  
311 be responsible for the payment of any towing or storage charges.

312           SECTION 11. (1) In order for the creditor to place  
313 insurance on the collateral pledged by the debtor and pass the  
314 cost of the insurance on to the debtor:

315                   (a) The creditor must have a security interest in the  
316 personal property;

317                   (b) The credit agreement must require the debtor to  
318 maintain insurance on the collateral to protect the creditor's  
319 interest;

320                   (c) The credit agreement must authorize the creditor to  
321 place the insurance if the debtor fails to provide evidence of the  
322 insurance; and

323                   (d) The information set forth in (a) through (c) of  
324 this subsection (1) must be clearly disclosed to the debtor at the  
325 inception of the credit transaction.

326           (2) The debtor shall always have the right to provide  
327 required insurance through existing policies of insurance owned or  
328 controlled by the debtor or of procuring and furnishing the  
329 required coverage through an insurer authorized to transact  
330 insurance within this state. However, a creditor may establish  
331 maximum acceptable deductibles, insurer solidity standards and

332 other reasonable conditions with respect to the required  
333 insurance.

334 SECTION 12. (1) The entire amount of the premium due from a  
335 creditor shall be remitted to the insurer or its producer in  
336 accordance with the insurer's requirements. No commissions may be  
337 paid to, or retained by, a person or entity except a licensed and  
338 appointed insurance producer.

339 (2) The retention by the creditor of unearned premiums upon  
340 cancellation of the insurance without crediting to the debtor's  
341 account the amount of unearned insurance charges is prohibited.

342 (3) Rebates to the creditor of a portion of the premium  
343 charged to the debtor are prohibited as are other inducements  
344 provided to the creditor by an insurer or producer. The listing  
345 of the following activities as prohibited rebates or inducements  
346 is not intended to be restrictive, and the commissioner may  
347 identify an activity as prohibited by rule, regulation or order:

348 (a) Allowing insurers or producers to purchase  
349 certificates of deposit from the creditor or to maintain accounts  
350 with the creditor at less than the market interest rates and  
351 charges that the creditor applies to other customers for deposit  
352 accounts of similar amounts and duration; and

353 (b) Paying a commission to a person, including a  
354 creditor, who is not appropriately licensed as a producer in this  
355 state.

356 (4) Prohibited rebates or inducements do not include:

357 (a) The providing of insurance tracking and other  
358 services incidental to the creditor-placed insurance program;

359 (b) The paying of commissions and other compensation to  
360 a duly licensed and appointed insurance producer, whether or not  
361 affiliated with the creditor;

362 (c) The paying to the creditor policyholder of group  
363 experience rated refunds or policy dividends; and

364 (d) The paying to the creditor of amounts intended to

365 reimburse the creditor for its expenses incurred incidental to the  
366 creditor-placed insurance program (such as costs of data  
367 processing, mail processing, telephone service, insurance  
368 tracking, billing, collections and related activities); provided  
369 that these payments are calculated in a manner that does not  
370 exceed an amount reasonably estimated to equal the expenses  
371 incurred by the creditor.

372 (5) Nothing contained in this section shall prohibit or  
373 restrict an insurer or producer from maintaining a demand, premium  
374 deposit or other account or accounts with a creditor for which the  
375 insurer or agent provides insurance if the accounts pay the market  
376 interest rate and charges that the creditor applies to other  
377 customers for deposit accounts of similar amounts and duration.

378 SECTION 13. (1) A creditor shall not impose charges,  
379 including premium costs and related interest and finance charges,  
380 on a debtor for creditor-placed insurance coverage unless adequate  
381 disclosure of the requirement to maintain insurance has been made  
382 to the debtor. Adequate disclosure is accomplished if the  
383 following occurs:

384 (a) The credit agreement sets forth the requirement  
385 that the debtor must maintain insurance on the collateral as  
386 provided for in Section 11 of this act;

387 (b) The creditor makes reasonable efforts to notify the  
388 debtor of the requirement to maintain insurance and allows a  
389 reasonable time for compliance with this requirement;

390 (c) A final notice as required by this act is sent to  
391 the debtor; and

392 (d) If creditor-placed insurance coverage is issued, a  
393 copy of the policy or certificate, with disclosure of premium  
394 charged, is sent to the debtor as provided for in Section 7 of  
395 this act.

396 (2) After adequate disclosure of the request to maintain  
397 insurance has been made to the debtor as required by this section,

398 a creditor may proceed to impose charges for creditor-placed  
399 insurance if the debtor fails to provide evidence of insurance. A  
400 creditor may impose charges no earlier than ten (10) calendar days  
401 after sending the final notice. However, the charges can be  
402 retroactive to the date of exposure to loss.

403 (3) Reasonable efforts to notify the debtor are accomplished  
404 if:

405 (a) The creditor mails a notice by first-class mail to  
406 the debtor's last known address as contained in the creditor's  
407 records, stating that the creditor intends to charge the debtor  
408 for creditor-placed insurance coverage on the collateral if the  
409 debtor fails to provide evidence of the property insurance to the  
410 creditor;

411 (b) The creditor allows the debtor at least twenty (20)  
412 calendar days to respond to the notice and provide evidence of  
413 acceptable insurance coverage before sending a final notice; and

414 (c) The creditor sends a final notice in compliance  
415 with this section by first-class mail to the debtor's last known  
416 address as contained in the creditor's records at least ten (10)  
417 calendar days before the cost of insurance is charged to the  
418 debtor by the creditor. Proof of the mailing of the final notice  
419 shall be retained for at least three (3) years following the  
420 expiration or termination of the coverage or as otherwise required  
421 by law. A register of letters shall be deemed sufficient proof to  
422 satisfy this requirement.

423 (4) The initial notice shall be in a form determined by the  
424 creditor to remind the debtor of the requirement to maintain  
425 insurance on the collateral. The final notice shall be as  
426 complete as the following notice, printed in not less than twelve  
427 (12) point type, and modified where necessary to fit the nature of  
428 the credit transaction:

429 "FINAL NOTICE

430 Your credit agreement with us requires you to have

431 property insurance on the collateral until you pay off  
432 your loan. You have not given us proof you have  
433 insurance on the property. You can ask your insurance  
434 company or agent to give us proof of insurance or you  
435 can send us proof you have property insurance within ten  
436 (10) calendar days after the date this letter was  
437 postmarked. If you do not, we will charge you for the  
438 insurance we buy.

439 You must pay for the property insurance we buy. It  
440 may cost more than insurance you can buy on your own.  
441 The premium of the insurance we buy may be added to your  
442 loan balance and we may charge you interest on it. You  
443 will be charged interest on the premium at the rate of  
444 \_\_\_\_\_ per annum.

445 The insurance we buy will pay claims to us (the  
446 creditor) for physical damage to your property. It will  
447 not pay any claims made against you and it may not pay  
448 you for any claims you make. The insurance we buy will  
449 not give you any liability insurance coverage and will  
450 not meet any other requirements of state law.

451 We may receive compensation for placing this  
452 insurance, which is included in the cost of coverage  
453 charged to you.

454 The property coverage we buy will start on the date  
455 shown in the policy or certificate, which may go back to  
456 the date of the loan or the date your prior coverage  
457 stopped. We will cancel the insurance we bought for you  
458 and give you a refund or credit of unearned charges if  
459 you give us proof you have bought property insurance  
460 somewhere else or if you have paid off the loan."

461 (5) All creditor-placed insurance shall be set forth in an  
462 individual policy or certificate of insurance. Not earlier than  
463 the sending of the final notice nor fifteen (15) days after a

464 charge is made to the debtor for creditor-placed insurance  
465 coverage, the creditor shall cause a copy of the individual  
466 policy, certificate or other evidence of insurance coverage  
467 evidencing the creditor-placed insurance coverage to be sent,  
468 first-class mail, to the debtor's last known address.

469 (6) A creditor's compliance with or failure to comply with  
470 this act shall not be construed to require the creditor to  
471 purchase insurance coverage on the collateral, and the creditor  
472 shall not be liable to the debtor or a third party as a result of  
473 its failure to purchase the insurance.

474 SECTION 14. (1) The commissioner may conduct investigations  
475 and/or examinations of insurers and producers to ensure compliance  
476 with the provisions of the act or any rule, regulation or order  
477 hereunder, as well as under any other applicable statutes or  
478 regulations.

479 (2) The commissioner may by order, deny, suspend or revoke  
480 an insurer's certificate of authority or a producer's license if  
481 the commissioner finds that such insurer or producer has violated  
482 any provision of the act.

483 (3) If the commissioner has reason to believe that any  
484 person or entity is engaging in any activity that would be a  
485 violation of this part or any rule promulgated under this part,  
486 the commissioner may issue an order directing that person or  
487 entity to cease and desist from committing the violations, impose  
488 a civil penalty for the violations, provide an equitable remedy  
489 for past violations, or any combination of these. Such order may  
490 be issued without prior notice if the commissioner makes a finding  
491 that such order is necessary for the protection of policyholders  
492 and that the public health, safety, and welfare require the order  
493 to be issued without prior notice to affected parties. At any  
494 hearing or other proceeding conducted as a result of an order to  
495 cease and desist, pursuant to this part, the person or entity  
496 subject to the order shall be required to show cause why such

497 order should be annulled, modified or confirmed.

498 (4) Whenever it appears to the commissioner that any person  
499 or entity has engaged or is about to engage in an act of practice  
500 constituting a violation of any provision of this act or any rule,  
501 regulation or order hereunder, the commissioner may, in the  
502 commissioner's discretion, bring an action in chancery court of  
503 any county in this state to enjoin the acts or practices and to  
504 enforce compliance with this act or any rule, regulation or order  
505 hereunder. Upon a proper showing, a permanent or temporary  
506 injunction, restraining order, writ of mandamus, disgorgement, or  
507 other proper equitable relief shall be granted.

508 (5) Additionally, upon a finding that any person or entity  
509 has violated a provision of this act, the commissioner may impose  
510 a civil penalty of not more than One Thousand Dollars (\$1,000.00)  
511 for each violation, and may revoke, suspend or decline to renew  
512 any license of such person or entity to sell or issue insurance.

513 (6) Any person aggrieved by a final order of the  
514 commissioner under this act may obtain judicial review of the  
515 order in the Circuit Court of Hinds County by filing, within  
516 thirty (30) days of the issuance and service of such order, a  
517 written petition or complaint praying that said order be modified  
518 or set aside. A copy of such petition shall be served upon the  
519 commissioner, and the commissioner shall file a complete record of  
520 the proceedings with said court, which shall then have  
521 jurisdiction of the proceedings and questions determined therein.

522 SECTION 15. The commissioner is authorized after notice and  
523 hearing to promulgate rules and regulations to effectuate the  
524 purposes of this act. The commissioner may require such  
525 information as is reasonably necessary for the enforcement of this  
526 act. All rules and regulations adopted and promulgated pursuant  
527 to this act shall be subject to the Mississippi Administrative  
528 Procedures Law, Section 25-43-1, et seq.

529 SECTION 16. If any provision of this act or the application

530 thereof to any person or circumstance is held invalid, such  
531 invalidity shall not affect other provisions or applications of  
532 the act which can be given effect without the invalid provision or  
533 application, and to that end the provisions of this act are  
534 declared to be severable.

535 SECTION 17. This act shall take effect and be in force from  
536 and after July 1, 2000.