

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 1491

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;

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

42 (e) Insurance on collateralized real property.

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

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

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

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

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

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

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

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

67 successor to the right, title or interest of a lender, vendor or  
68 lessor.

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

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

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

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

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

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

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

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

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

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

121 (i) The debtor has defaulted in payment;

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

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

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

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

129 (a) The date of the credit transaction;

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

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

134 (d) A later date provided for in the agreement between  
135 the creditor and insurer.

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

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

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

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

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

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

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

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

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

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

167 (b) Other premium calculation methods that more closely  
168 reflect the exposure of each item insured and approximate the  
169 premium calculation method of the coverage required by the credit  
170 agreement.

171 (2) An insurer shall not write creditor-placed insurance for  
172 which the premium rate differs from that determined by the  
173 schedules of the insurer on file and approved by the commissioner.  
174 The premium or amount charged to the debtor for creditor-placed  
175 insurance shall not exceed the premiums charged by the insurer,  
176 computed at the time the charge to the debtor is determined.

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

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

184 (a) Coverage for the cost of repossession;

185 (b) Skip, confiscation and conversion coverage;

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

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

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

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

197           SECTION 7. Creditor-placed insurance shall be set forth in  
198 an individual policy or certificate of insurance. A copy of the  
199 individual policy, certificate of insurance coverage, or other  
200 evidence of insurance coverage shall be mailed, first class mail,  
201 or delivered in person to the last known address of the debtor.

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

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

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

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

230 issued if the commissioner determines that additional information  
231 or clarification concerning the rate or policy form is required.

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

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



263 ninety-first day following delivery of written notice of the  
264 commissioner's determination.

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

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

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

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

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

287 (a) The cost to repair the collateral less any  
288 applicable deductible;

289 (b) The actual cash value of the collateral less any  
290 applicable deductible;

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

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

294 (2) The net debt or actual cash value amounts in subsection  
295 (1) of this section may be reduced by the value of salvage if the

296 insurer does not take possession of the insured property. This  
297 does not preclude the borrower's right to retain possession of the  
298 damaged collateral, if desired.

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

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

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

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

317 (a) The creditor must have a security interest in the  
318 personal property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

398 (2) After adequate disclosure of the request to maintain  
399 insurance has been made to the debtor as required by this section,  
400 a creditor may proceed to impose charges for creditor-placed  
401 insurance if the debtor fails to provide evidence of insurance. A  
402 creditor may impose charges no earlier than ten (10) calendar days  
403 after sending the final notice. However, the charges can be  
404 retroactive to the date of exposure to loss.

405 (3) Reasonable efforts to notify the debtor are accomplished  
406 if:

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

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

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

425 (4) The initial notice shall be in a form determined by the  
426 creditor to remind the debtor of the requirement to maintain

427 insurance on the collateral. The final notice shall be as  
428 complete as the following notice, printed in not less than twelve  
429 (12) point type, and modified where necessary to fit the nature of  
430 the credit transaction:

431 "FINAL NOTICE

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

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

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

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

456 The property coverage we buy will start on the date  
457 shown in the policy or certificate, which may go back to  
458 the date of the loan or the date your prior coverage  
459 stopped. We will cancel the insurance we bought for you

460 and give you a refund or credit of unearned charges if  
461 you give us proof you have bought property insurance  
462 somewhere else or if you have paid off the loan."

463 (5) All creditor-placed insurance shall be set forth in an  
464 individual policy or certificate of insurance. Not earlier than  
465 the sending of the final notice nor fifteen (15) days after a  
466 charge is made to the debtor for creditor-placed insurance  
467 coverage, the creditor shall cause a copy of the individual  
468 policy, certificate or other evidence of insurance coverage  
469 evidencing the creditor-placed insurance coverage to be sent,  
470 first-class mail, to the debtor's last known address.

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

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

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

485 (3) If the commissioner has reason to believe that any  
486 person or entity is engaging in any activity that would be a  
487 violation of this part or any rule promulgated under this part,  
488 the commissioner may issue an order directing that person or  
489 entity to cease and desist from committing the violations, impose  
490 a civil penalty for the violations, provide an equitable remedy  
491 for past violations, or any combination of these. Such order may  
492 be issued without prior notice if the commissioner makes a finding

493 that such order is necessary for the protection of policyholders  
494 and that the public health, safety, and welfare require the order  
495 to be issued without prior notice to affected parties. At any  
496 hearing or other proceeding conducted as a result of an order to  
497 cease and desist, pursuant to this part, the person or entity  
498 subject to the order shall be required to show cause why such  
499 order should be annulled, modified or confirmed.

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

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

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

524 SECTION 15. The commissioner is authorized after notice and  
525 hearing to promulgate rules and regulations to effectuate the



526 purposes of this act. The commissioner may require such  
527 information as is reasonably necessary for the enforcement of this  
528 act. All rules and regulations adopted and promulgated pursuant  
529 to this act shall be subject to the Mississippi Administrative  
530 Procedures Law, Section 25-43-1, et seq.

531 SECTION 16. If any provision of this act or the application  
532 thereof to any person or circumstance is held invalid, such  
533 invalidity shall not affect other provisions or applications of  
534 the act which can be given effect without the invalid provision or  
535 application, and to that end the provisions of this act are  
536 declared to be severable.

537 SECTION 17. This act shall take effect and be in force from  
538 and after July 1, 2001.