

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 1492

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,  
33 including creditor-placed insurance written for mobile homes or

34 manufactured homes, is subject to the provisions of this act,  
35 except:

36 (a) Transactions involving extensions of credit  
37 primarily for business or commercial purposes;

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

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

42 (d) Blanket insurance, whether paid for by the debtor  
43 or the creditor.

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

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

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

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

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

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

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

65 (f) "Creditor" means the lender of money or vendor or  
66 lessor of goods, services, property, rights or privileges for

67 which payment is arranged through a credit transaction, or any  
68 successor to the right, title or interest of a lender, vendor or  
69 lessor.

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

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

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

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

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

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

99 insurance and extends coverage on the collateral while in the  
100 possession of the debtor.

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

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

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

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

122 (i) The debtor has defaulted in payment;

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

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

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

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

130 (a) The date of the credit transaction;

131           (b) The date prior coverage, including prior  
132 creditor-placed insurance coverage lapsed;  
133           (c) One (1) year before the date on which the related  
134 insurance charge is made to the debtor's account; or  
135           (d) A later date provided for in the agreement between  
136 the creditor and insurer.

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

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

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

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

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

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

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

157           (4) If a charge is made to a debtor for creditor-placed  
158 insurance coverage that exceeds a term of one (1) year, the debtor  
159 shall be notified at least annually that the insurance will be  
160 canceled and a refund or credit of unearned charges made if  
161 evidence of acceptable insurance secured by the debtor is  
162 provided.

163           SECTION 5. (1) Premiums for creditor-placed insurance

164 coverage may be calculated based on:

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

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

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

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

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

185           (a) Coverage for the cost of repossession;

186           (b) Skip, confiscation and conversion coverage;

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

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

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

194           (2) Nothing in this section shall be deemed to prohibit the  
195 issuance of a separate policy or endorsement providing the

196 coverages listed in subsection (1) of this section. However, no  
197 charge shall be passed along to the debtor for the coverages.

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

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

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

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

223 (4) Unless the commissioner disapproves the form or schedule  
224 of premium rates in accordance with subsections (2) and (3) of  
225 this section or gives written approval of the form or schedule  
226 within thirty (30) days after the filing, the form or schedule  
227 shall be deemed approved on the thirty-first day after the filing.  
228 However, within thirty (30) days after receiving a filing, the

229 commissioner may issue a notice which delays the effective date of  
230 a filing for not more than thirty (30) days after the notice is  
231 issued if the commissioner determines that additional information  
232 or clarification concerning the rate or policy form is required.

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

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



262 the ninety-first day following delivery of the notice of  
263 withdrawal and, if the request for hearing is filed, on the  
264 ninety-first day following delivery of written notice of the  
265 commissioner's determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

417           (c) The creditor sends a final notice in compliance  
418 with this section by first-class mail to the debtor's last known  
419 address as contained in the creditor's records at least ten (10)  
420 calendar days before the cost of insurance is charged to the  
421 debtor by the creditor. Proof of the mailing of the final notice  
422 shall be retained for at least three (3) years following the

423 expiration or termination of the coverage or as otherwise required  
424 by law. A register of letters shall be deemed sufficient proof to  
425 satisfy this requirement.

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

432 "FINAL NOTICE

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

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

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

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

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

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

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

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

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

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

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

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

516           (6) Any person aggrieved by a final order of the  
517 commissioner under this act may obtain judicial review of the  
518 order in the Circuit Court of Hinds County by filing, within



519 thirty (30) days of the issuance and service of such order, a  
520 written petition or complaint praying that the order be modified  
521 or set aside. A copy of such petition shall be served upon the  
522 commissioner, and the commissioner shall file a complete record of  
523 the proceedings with the court, which shall then have jurisdiction  
524 of the proceedings and questions determined therein.

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

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

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