

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2741

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 on collateralized real property;  
37 provided, however, that creditor-placed insurance written for  
38 mobile homes or manufactured housing shall be subject to the  
39 provisions of this act;

40 (c) Insurance offered by the creditor and elected by  
41 the debtor at the debtor's option;

42 (d) Insurance for which no specific charge is made to  
43 the debtor or the debtor's account; or

44 (e) Blanket insurance, whether paid for by the debtor  
45 or the creditor.

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

50 SECTION 3. As used in this act, unless the context otherwise  
51 requires:

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

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

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

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

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

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

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

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

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

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

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

97 (l) "Limited dual interest insurance" means insurance  
98 purchased by the creditor to insure its interest in the collateral  
99 securing the debtor's credit transaction. This insurance waives

100 the three (3) conditions for loss payment under single interest  
101 insurance and extends coverage on the collateral while in the  
102 possession of the debtor.

103 (m) "Loss ratio" means the ratio of incurred losses to  
104 earned premium.

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

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

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

124 (i) The debtor has defaulted in payment;

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

127 (iii) The creditor has suffered an impairment of  
128 interest.

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

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

132 (a) The date of the credit transaction;

133           (b) The date prior coverage, including prior  
134 creditor-placed insurance coverage lapsed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

185           SECTION 6. (1) Creditor-placed insurance coverage shall not  
186 include:

187           (a) Coverage for the cost of repossession;

188           (b) Skip, confiscation and conversion coverage;

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

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

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

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

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

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

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

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

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

224 (4) Unless the commissioner disapproves the form or schedule  
225 of premium rates in accordance with subsections (2) and (3) or  
226 gives written approval of the form or schedule within thirty (30)  
227 days after the filing, the form or schedule shall be deemed  
228 approved on the thirty-first day after the filing. However,  
229 within thirty (30) days after receiving a filing, the commissioner  
230 may issue a notice which delays the effective date of a filing for

231 not more than thirty (30) days after the notice is issued if the  
232 commissioner determines that additional information or  
233 clarification concerning the rate or policy form is required.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

433 "FINAL NOTICE

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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