

By: Representatives Stevens, Peranich,
Guice, Broomfield, Ishee, Dedeaux, Ryals,
Eads, Fredericks, Barnett (116th), Creel,
Janus, Simpson

To: Insurance

HOUSE BILL NO. 1113
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 83-38-1 AND 83-38-5, MISSISSIPPI
2 CODE OF 1972, TO CREATE THE MISSISSIPPI RESIDENTIAL PROPERTY
3 INSURANCE UNDERWRITING ASSOCIATION AS THE REPLACEMENT FOR THE
4 MISSISSIPPI RURAL RISK UNDERWRITING ASSOCIATION TO PROVIDE A
5 RESIDUAL MARKET FOR RESIDENTIAL PROPERTY INSURANCE IN BOTH RURAL
6 AREAS AND OTHER AREAS OF THE STATE; TO PROVIDE THAT THE
7 ASSOCIATION SHALL CONSIST OF ALL INSURERS AUTHORIZED TO WRITE
8 PROPERTY INSURANCE IN THIS STATE ON A DIRECT BASIS; TO AMEND
9 SECTION 83-38-3, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS;
10 TO AMEND SECTION 83-38-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
11 THE APPOINTMENTS TO THE BOARD OF DIRECTORS OF THE ASSOCIATION; TO
12 AMEND SECTION 83-38-11, MISSISSIPPI CODE OF 1972, TO REVISE THE
13 BENEFITS AND OBLIGATIONS OF THE MEMBERS OF THE ASSOCIATION; TO
14 AMEND SECTION 83-38-13, MISSISSIPPI CODE OF 1972, TO REVISE THE
15 PLAN OF OPERATION OF THE ASSOCIATION; TO AMEND SECTION 83-38-15,
16 MISSISSIPPI CODE OF 1972, TO PROVIDE REQUIREMENTS FOR ANNUAL
17 RENEWAL OF POLICIES ISSUED BY THE ASSOCIATION; TO AMEND SECTION
18 83-38-17, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT FORMS
19 APPLICABLE TO THE INSURANCE WRITTEN BY THE ASSOCIATION SHALL BE
20 APPROVED FOR USE OF THE ASSOCIATION BY THE COMMISSIONER OF
21 INSURANCE; TO AMEND SECTION 83-38-21, MISSISSIPPI CODE OF 1972, TO
22 PROVIDE TECHNICAL AMENDMENTS; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 83-38-1, Mississippi Code of 1972, is
25 amended as follows:

26 83-38-1. The Legislature finds that an adequate market for
27 fire and extended coverage insurance is necessary to the economic
28 welfare of the State of Mississippi and that without adequate and
29 affordable insurance the orderly growth and development of the
30 State of Mississippi is severely impeded; that * * * insurance
31 upon residential property in * * * Mississippi is necessary; * * *
32 that while the need for such insurance is increasing, the market
33 for such insurance is not adequate; and that the existing
34 Mississippi Rural Risk Underwriting Association Law that provides
35 a residual market for residential property insurance in rural
36 areas of the state should be expanded to provide a residual market
37 for residential property insurance in both rural areas and other



38 areas of the state. It is the purpose of this chapter to provide
39 a mandatory program to assure an adequate market for residential
40 fire and extended coverage insurance in both the rural and other
41 areas of Mississippi.

42 **SECTION 2.** Section 83-38-3, Mississippi Code of 1972, is
43 amended as follows:

44 83-38-3. In this chapter, unless the context otherwise
45 requires:

46 (a) "Essential property insurance," in all counties of
47 the state except the coastal area as defined by Section
48 83-34-1(f), means insurance against direct loss to residential
49 property as provided by a standard fire policy and extended
50 coverage endorsement thereon, with terms, limits, deductibles,
51 endorsements and exclusions as approved by the Mississippi
52 Insurance Commissioner.

53 "Essential property insurance" in the coastal area as defined
54 by Section 83-34-1(f) means insurance against direct loss to
55 residential property as provided by a standard fire policy and
56 extended coverage endorsement thereon, with terms, limits,
57 deductibles, endorsements and exclusions as approved by the
58 Mississippi Insurance Commissioner, except for the risks of wind
59 and hail storm, which shall be excepted from coverage.

60 The Mississippi Residential Property Underwriting Association
61 is not required to insure the risks of wind and hail storm in the
62 coastal area as defined by Section 83-34-1(f).

63 For the purposes of this chapter, essential property
64 insurance coverage shall be limited to ninety-five percent (95%)
65 of the market value of real and personal property that is insured
66 by the association, excluding the value of land.

67 (b) "Association" means the Mississippi Residential
68 Property Insurance Underwriting Association established pursuant
69 to the provisions of this chapter as the successor for the
70 Mississippi Rural Risk Underwriting Association.



71 (c) "Plan of operation" means the plan of operation of
72 the association approved or promulgated by the Mississippi
73 Insurance Commissioner pursuant to the provisions of this chapter.

74 (d) "Insurable interest" means any lawful and
75 substantial economic interest in the safety or preservation of
76 property from loss, destruction or pecuniary damage.

77 (e) "Insurable property" means residential builder's
78 risk and residential real property * * * or the contents located
79 therein, but shall not include insurance on motor vehicles, which
80 property is determined by the association after inspection and
81 pursuant to the criteria specified in the plan of operation, to be
82 in an insurable condition; provided, however, any one- and
83 two-family dwelling including, but not limited to, permanently
84 installed manufactured housing built in substantial accordance
85 with the local building code if applicable, which is not otherwise
86 rendered uninsurable by reason of use, occupancy or state of
87 repair, shall be an insurable risk within the meaning of this
88 chapter, but neighborhood, area, location, environmental hazards
89 beyond the control of the applicant or owner of the property shall
90 not be considered in determining insurable condition. * * *

91 (f) "Commissioner" means the Mississippi Insurance
92 Commissioner as provided in Section 83-1-3.

93 (g) "Net direct premiums" means gross direct premiums,
94 excluding reinsurance assumed and ceded, written on property in
95 this state for residential fire and extended coverage insurance,
96 including the fire and extended coverage components of
97 comprehensive dwelling policies and homeowner policies but not
98 including premiums on farm property, less return premiums upon
99 cancelled contracts, dividends paid or credited to the
100 policyholders or the unused or unabsorbed portion of premium
101 deposits * * *.



102 (h) "Rural areas" means all areas in the State of
103 Mississippi designated as fire protection Class 9 or 10 by the
104 Mississippi State Rating Bureau.

105 (i) "Coastal areas" means Hancock, Harrison, Jackson,
106 Pearl River, Stone and George Counties.

107 **SECTION 3.** Section 83-38-5, Mississippi Code of 1972, is
108 amended as follows:

109 83-38-5. * * * The Mississippi Rural Risk Insurance
110 Association is modified and expanded as provided in this chapter
111 and shall hereafter be known as the Mississippi Residential
112 Property Insurance Underwriting Association. The Mississippi
113 Residential Property Insurance Underwriting Association shall
114 consist of all insurers authorized to write and engaged in writing
115 property insurance within this state on a direct basis. Every
116 such insurer shall be a member of the association and shall remain
117 a member of the association so long as the association is in
118 existence, as a condition of its authority to continue to transact
119 the business of insurance in this state.

120 **SECTION 4.** Section 83-38-9, Mississippi Code of 1972, is
121 amended as follows:

122 83-38-9. (1) The Board of Directors of the Mississippi
123 Rural Risk Underwriting Association serving on the effective date
124 of House Bill No. 1113, 2003 Regular Session, shall serve as the
125 Board of Directors of the Mississippi Residential Property
126 Insurance Underwriting Association until such time as new
127 directors are elected or appointed as provided in the plan of
128 operation. The permanent board shall consist of five (5)
129 representatives of members of the association and two (2) agents
130 from the state. The agent board members shall be appointed
131 annually by the Commissioner of Insurance.

132 (2) Members of the board shall serve without salary, but
133 shall receive per diem compensation under Section 25-3-69 while
134 attending to business of the association; members shall be



135 reimbursed for travel expenses incurred in the discharge of their
136 duties; all per diem compensation and travel reimbursement shall
137 be approved by the board prior to being incurred.

138 **SECTION 5.** Section 83-38-11, Mississippi Code of 1972, is
139 amended as follows:

140 83-38-11. All members of the association shall participate
141 in its writings, expenses, profits, and losses in the proportion
142 that the net direct premium of such member written in this state
143 during the preceding calendar year bears to the aggregate net
144 direct premiums written in this state by all members of the
145 association, as certified to the association by the commissioner
146 after review of annual statements, other reports, and any other
147 statistics the commissioner shall deem necessary to provide the
148 information herein required and which the commissioner is hereby
149 authorized and empowered to obtain from any member of the
150 association.

151 A member shall receive credit annually for essential property
152 insurance voluntarily written in rural and coastal areas, and its
153 participation in the writings of the association shall be reduced
154 in accordance with the provisions of the plan of operation.

155 The participation of each member in the association shall be
156 determined annually * * *.

157 * * *

158 **SECTION 6.** Section 83-38-13, Mississippi Code of 1972, is
159 amended as follows:

160 83-38-13. (1) * * * The directors of the association shall
161 maintain a plan of operation to carry out the purposes of this
162 chapter. Such * * * plan shall grant proper credit annually to
163 each member of the association for essential property insurance
164 voluntarily written in the rural and coastal areas of the state,
165 shall provide for a method of computing rates that is actuarially
166 sound and shall provide for the efficient, economical, fair and
167 nondiscriminatory administration of the association. The * * *



168 plan may include a method for assessment of all members for * * *
169 expenses necessary to operate the association, selection of
170 directors from the members of the association, assessment of
171 members to defray losses and expenses, underwriting standards,
172 procedures for the acceptance and cession of reinsurance,
173 procedures for determining the amount of insurance to be provided
174 to specific risks, time limits and procedures for processing
175 applications for insurance, and * * * other provisions as may be
176 deemed necessary by the commissioner to carry out the purposes of
177 this chapter.

178 (2) The * * * plan of operation and any proposed amendments
179 thereto are subject to review and approval by the commissioner to
180 fulfill the purposes provided by Section 83-38-1. In the review
181 of the * * * plan, the commissioner may consult with the directors
182 of the association and may seek any further information which is
183 necessary for a decision. If the commissioner approves the * * *
184 plan, the commissioner shall certify such approval to the
185 directors, and the plan shall become effective * * * after such
186 certification. If the commissioner disapproves all or any part of
187 the * * * plan of operation, the commissioner shall return the
188 same to the directors with a written statement of the reasons for
189 disapproval and any recommendations. The directors may alter the
190 plan in accordance with the commissioner's recommendation or,
191 within thirty (30) days from the date of disapproval, may return a
192 new plan to the commissioner. Should the directors fail to submit
193 a proposed plan of operation * * * which is acceptable to the
194 commissioner, or accept the recommendation of the commissioner
195 within thirty (30) days after disapproval of the plan, the
196 commissioner shall promulgate and place into effect a plan of
197 operation certifying the same to the directors of the association.
198 A plan promulgated by the commissioner shall take effect thirty
199 (30) days after certification to the directors.



200 (3) The directors of the association, subject to the
201 approval of the commissioner, may amend the plan of operation at
202 any time. The commissioner may review the plan of operation at
203 any time deemed expedient or prudent, but not less than once in
204 each calendar year.

205 **SECTION 7.** Section 83-38-15, Mississippi Code of 1972, is
206 amended as follows:

207 83-38-15. (1) Any person having an insurable interest in
208 insurable property * * * is entitled to apply to the association
209 for such coverage and for an inspection of the property. Such
210 application may be made on behalf of the applicant by a * * *
211 broker or agent licensed in Mississippi authorized by him. Every
212 such application shall be submitted on forms prescribed by the
213 association after consultation with the commissioner. The
214 application shall contain an inquiry as to whether there are
215 unpaid premiums due from the applicant for fire insurance on the
216 property.

217 The commission paid to the submitting broker or agent shall
218 be equal to ten percent (10%) of the premium collected.

219 (2) If the association determines that the property is
220 insurable and that there is no unpaid premium due from the
221 applicant for prior insurance on the property, the association,
222 upon receipt of the premium or such portion thereof as is
223 prescribed in the plan of operation, shall cause to be issued a
224 policy of essential property insurance for a term of one (1) year.
225 Any policy issued pursuant to the provisions of this section shall
226 be renewed annually * * * so long as:

227 (a) The property continues to meet the definition of
228 "insurable property" set forth in Section 83-38-3(e);

229 (b) A properly completed application for renewal shall
230 have been received by the association on or before the date of
231 renewal; and



232 (c) Property premiums have been received by the
233 association on or before the date of renewal.

234 (3) If the association for any reason denies an application
235 and refuses to cause to be issued an insurance policy on insurable
236 property to any applicant, or takes no action on an application
237 within the time prescribed in the plan of operation, the applicant
238 may appeal to the commissioner. The commissioner or a member of
239 the staff of the Insurance Department designated by the
240 commissioner, after reviewing the facts, may determine if the
241 association acted in accordance with the law and the plan of
242 operation. In carrying out the duties pursuant to this section,
243 the commissioner may request, and the association shall provide,
244 any information deemed necessary to a determination concerning the
245 reasons for the denial or delay of the application.

246 **SECTION 8.** Section 83-38-17, Mississippi Code of 1972, is
247 amended as follows:

248 83-38-17. The forms, rates, rating plans, and rating rules
249 applicable to the insurance written by the association shall be
250 those approved for use of the association by the commissioner.
251 Surcharges may be used as approved by the commissioner. Rates
252 shall be actuarially sound and nondiscretionary as to the same
253 class of risk.

254 **SECTION 9.** Section 83-38-21, Mississippi Code of 1972, is
255 amended as follows:

256 83-38-21. All reports of inspection performed by or on
257 behalf of the association are available to the members of the
258 association, applicants, agents, brokers and the commissioner.

259 **SECTION 10.** This act shall take effect and be in force from
260 and after July 1, 2003.

