HOUSE BILL NO. 1113
(As Sent to Governor)

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

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

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

83-38-1. The Legislature finds that an adequate market for
fire and extended coverage insurance is necessary to the economic
welfare of the State of Mississippi and that without adequate and
affordable insurance the orderly growth and development of the
State of Mississippi is severely impeded; that ** insurance
upon residential property in ** Mississippi is necessary; **
that while the need for such insurance is increasing, the market
for such insurance is not adequate; and that the existing
Mississippi Rural Risk Underwriting Association Law that provides
a residual market for residential property insurance in rural
areas of the state should be expanded to provide a residual market
for residential property insurance in both rural areas and other
areas of the state. It is the purpose of this chapter to provide
a mandatory program to assure an adequate market for residential
fire and extended coverage insurance in both the rural and other
areas of Mississippi.

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

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

(a) "Essential property insurance," in all counties of
the state except the coastal area as defined in paragraph (i),
means insurance against direct loss to residential property as
provided by a standard fire policy and extended coverage
endorsement thereon, with terms, limits, deductibles, endorsements
and exclusions as approved by the Mississippi Insurance
Commissioner.

"Essential property insurance" in the coastal area as defined
in paragraph (i) means insurance against direct loss to
residential property as provided by a standard fire policy and
extended coverage endorsement thereon, with terms, limits,
deductibles, endorsements and exclusions as approved by the
Mississippi Insurance Commissioner, except for the risks of wind
and hail storm, which shall be excepted from coverage.

The Mississippi Residential Property Underwriting Association
is not required to insure the risks of wind and hail storm in the
coastal area as defined in paragraph (i).

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

(b) "Association" means the Mississippi Residential
Property Insurance Underwriting Association established pursuant
to the provisions of this chapter as the successor for the
Mississippi Rural Risk Underwriting Association.
(c) "Plan of operation" means the plan of operation of the association approved or promulgated by the Mississippi Insurance Commissioner pursuant to the provisions of this chapter.

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

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

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

(g) "Net direct premiums" means gross direct premiums, excluding reinsurance assumed and ceded, written on property in this state for residential fire and extended coverage insurance, including the fire and extended coverage components of comprehensive dwelling policies and homeowner policies but not including premiums on farm property, less return premiums upon cancelled contracts, dividends paid or credited to the policyholders or the unused or unabsorbed portion of premium deposits **.
(h) "Rural areas" means all areas in the State of Mississippi designated as fire protection Class 9 or 10 by the Mississippi State Rating Bureau.

(i) "Coastal areas" means Hancock, Harrison and Jackson Counties.

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

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

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

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

(2) Members of the board shall serve without salary, but shall receive per diem compensation under Section 25-3-69 while attending to business of the association; members shall be
reimbursed for travel expenses incurred in the discharge of their
duties; all per diem compensation and travel reimbursement shall
be approved by the board prior to being incurred.

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

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

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

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

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

83-38-13. (1) The directors of the association shall
maintain a plan of operation to carry out the purposes of this
chapter. Such plan shall grant proper credit annually to
each member of the association for essential property insurance
voluntarily written in the rural and coastal areas of the state,
shall provide for a method of computing rates that is actuarially
sound and shall provide for the efficient, economical, fair and
nondiscriminatory administration of the association. The
plan may include a method for assessment of all members for *** expenses necessary to operate the association, selection of directors from the members of the association, assessment of members to defray losses and expenses, underwriting standards, procedures for the acceptance and cession of reinsurance, procedures for determining the amount of insurance to be provided to specific risks, time limits and procedures for processing applications for insurance, and *** other provisions as may be deemed necessary by the commissioner to carry out the purposes of this chapter.

(2) The *** plan of operation and any proposed amendments thereto are subject to review and approval by the commissioner to fulfill the purposes provided by Section 83-38-1. In the review of the *** plan, the commissioner may consult with the directors of the association and may seek any further information which is necessary for a decision. If the commissioner approves the *** plan, the commissioner shall certify such approval to the directors, and the plan shall become effective *** after such certification. If the commissioner disapproves all or any part of the *** plan of operation, the commissioner shall return the same to the directors with a written statement of the reasons for disapproval and any recommendations. The directors may alter the plan in accordance with the commissioner's recommendation or, within thirty (30) days from the date of disapproval, may return a new plan to the commissioner. Should the directors fail to submit a proposed plan of operation *** which is acceptable to the commissioner, or accept the recommendation of the commissioner within thirty (30) days after disapproval of the plan, the commissioner shall promulgate and place into effect a plan of operation certifying the same to the directors of the association. A plan promulgated by the commissioner shall take effect thirty (30) days after certification to the directors.
(3) The directors of the association, subject to the approval of the commissioner, may amend the plan of operation at any time. The commissioner may review the plan of operation at any time deemed expedient or prudent, but not less than once in each calendar year.

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

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

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

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

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

(b) A properly completed application for renewal shall have been received by the association on or before the date of renewal; and
(c) Property premiums have been received by the association on or before the date of renewal.

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

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

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

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

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

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