

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2704

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 PROVIDE
 9 THAT THE ASSOCIATION SHALL CONSIST OF ALL INSURERS AUTHORIZED TO
 10 WRITE PROPERTY INSURANCE IN THIS STATE ON A DIRECT BASIS; TO AMEND
 11 SECTION 83-38-3, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS;
 12 TO AMEND SECTION 83-38-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 13 THE APPOINTMENTS TO THE BOARD OF DIRECTORS OF THE ASSOCIATION; TO
 14 AMEND SECTION 83-38-11, MISSISSIPPI CODE OF 1972, TO REVISE THE
 15 BENEFITS AND OBLIGATIONS OF THE MEMBERS OF THE ASSOCIATION; TO
 16 AMEND SECTION 83-38-13, MISSISSIPPI CODE OF 1972, TO REVISE THE
 17 PLAN OF OPERATION OF THE ASSOCIATION; TO AMEND SECTION 83-38-15,
 18 MISSISSIPPI CODE OF 1972, TO PROVIDE REQUIREMENTS FOR ANNUAL
 19 RENEWAL OF POLICIES ISSUED BY THE ASSOCIATION; TO AMEND SECTION
 20 83-38-17, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT FORMS
 21 APPLICABLE TO THE INSURANCE WRITTEN BY THE ASSOCIATION SHALL BE
 22 APPROVED FOR USE OF THE ASSOCIATION BY THE COMMISSIONER OF
 23 INSURANCE; TO AMEND SECTION 83-38-21, MISSISSIPPI CODE OF 1972, TO
 24 PROVIDE TECHNICAL AMENDMENTS; AND FOR RELATED PURPOSES.

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

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

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



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

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

46 83-38-3. In this chapter, unless the context otherwise
47 requires:

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

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

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

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

69 (b) "Association" means the Mississippi Residential
70 Property Insurance Underwriting Association established pursuant



71 to the provisions of this chapter as the successor for the
72 Mississippi Rural Risk Underwriting Association.

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

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

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

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

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



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

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

108 83-38-5. * * * The Mississippi Rural Risk Insurance
109 Association is modified and expanded as provided in this chapter
110 and shall hereafter be known as the Mississippi Residential
111 Property Insurance Underwriting Association. The Mississippi
112 Residential Property Insurance Underwriting Association shall
113 consist of all insurers authorized to write and engaged in writing
114 property insurance within this state on a direct basis. Every
115 such insurer shall be a member of the association and shall remain
116 a member of the association so long as the association is in
117 existence, as a condition of its authority to continue to transact
118 the business of insurance in this state.

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

121 83-38-9. (1) The Board of Directors of the Mississippi
122 Rural Risk Underwriting Association serving on the effective date
123 of Senate Bill No. , 2003 Regular Session, shall serve as the
124 Board of Directors of the Mississippi Residential Property
125 Insurance Underwriting Association until such time as new
126 directors are elected or appointed as provided in the plan of
127 operation. The permanent board shall consist of five (5)
128 representatives of members of the association and two (2) agents
129 from the state. The agent board members shall be appointed
130 annually by the Commissioner of Insurance.

131 (2) Members of the board shall serve without salary, but
132 shall receive per diem compensation under Section 25-3-69 while
133 attending to business of the association; members shall be
134 reimbursed for travel expenses incurred in the discharge of their



135 duties; all per diem compensation and travel reimbursement shall
136 be approved by the board prior to being incurred.

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

139 83-38-11. All members of the association shall participate
140 in its writings, expenses, profits, and losses in the proportion
141 that the net direct premium of such member written in this state
142 during the preceding calendar year bears to the aggregate net
143 direct premiums written in this state by all members of the
144 association, as certified to the association by the commissioner
145 after review of annual statements, other reports, and any other
146 statistics the commissioner shall deem necessary to provide the
147 information herein required and which the commissioner is hereby
148 authorized and empowered to obtain from any member of the
149 association.

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

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

156 * * *

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

159 83-38-13. (1) * * * The directors of the association shall
160 maintain a plan of operation to carry out the purposes of this
161 chapter. Such * * * plan shall grant proper credit annually to
162 each member of the association for essential property insurance
163 voluntarily written in the rural areas of the state, shall provide
164 for a method of computing rates that is actuarially sound and
165 shall provide for the efficient, economical, fair and
166 nondiscriminatory administration of the association. The * * *
167 plan may include a method for assessment of all members for * * *



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

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

199 (3) The directors of the association, subject to the
200 approval of the commissioner, may amend the plan of operation at



201 any time. The commissioner may review the plan of operation at
202 any time deemed expedient or prudent, but not less than once in
203 each calendar year.

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

206 83-38-15. (1) Any person having an insurable interest in
207 insurable property * * * is entitled to apply to the association
208 for such coverage and for an inspection of the property. Such
209 application may be made on behalf of the applicant by a * * *
210 broker or agent licensed in Mississippi authorized by him. Every
211 such application shall be submitted on forms prescribed by the
212 association after consultation with the commissioner. The
213 application shall contain an inquiry as to whether there are
214 unpaid premiums due from the applicant for fire insurance on the
215 property.

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

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

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

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

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



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

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

247 83-38-17. The forms, rates, rating plans, and rating rules
248 applicable to the insurance written by the association shall be
249 those approved for use of the association by the commissioner.
250 Surcharges may be used as approved by the commissioner. Rates
251 shall be actuarially sound and nondiscretionary as to the same
252 class of risk.

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

255 83-38-21. All reports of inspection performed by or on
256 behalf of the association are available to the members of the
257 association, applicants, agents, brokers and the commissioner.

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

