

By: Representative Baker (74th)

To: Insurance

HOUSE BILL NO. 740

1 AN ACT TO AMEND SECTION 83-2-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NO INSURER MAY RAISE THE RATES ON AN AUTOMOBILE
3 INSURANCE POLICY SOLELY BECAUSE ITS INSURED IS IN AN AUTOMOBILE
4 ACCIDENT IF THE INSURED IS ADJUDICATED TO BE NOT AT FAULT IN THE
5 ACCIDENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 83-2-3, Mississippi Code of 1972, is
8 amended as follows:

9 83-2-3. (1) Rates shall comply with the following
10 standards:

11 (a) Rates shall not be excessive, inadequate or
12 unfairly discriminatory.

13 (b) A rate is excessive if it is likely to produce a
14 profit that is unreasonably high for the insurance provided or if
15 the expense provision included therein is unreasonably high in
16 relation to the services rendered.

17 (c) A rate is inadequate if it threatens the solvency
18 of the insurance company or tends to create a monopoly.

19 (d) Unfair discrimination exists if, after allowing for
20 practical limitations, price differentials fail to reflect
21 equitably the differences in expected losses and expenses. A rate
22 is not unfairly discriminatory because different premiums result
23 for policyholders with like loss exposures with different
24 expenses, or like expenses but different loss exposures, so long
25 as the rate reflects the differences with reasonable accuracy.

26 (2) In determining whether rates comply with the standards
27 set forth in subsection (1), the following criteria shall apply:

28 (a) Due consideration shall be given to past and
29 prospective loss and expense experience within and outside this
30 state; to catastrophe hazards; to any residual market loss
31 redistributions and other similar obligations; to a reasonable
32 provision for profit and contingencies; to trends within and
33 outside this state; to loadings for leveling premium rates over a
34 reasonable period of time or for dividends or savings to be
35 allowed or returned by insurers to their policyholders, members or
36 subscribers; and to all other relevant factors, including the
37 judgment of the filer.

38 (b) Risks may be classified in any reasonable way for
39 the establishment of rates except that no risks may be grouped by
40 classifications based in whole or in part on race, color, creed,
41 or national origin of the risk. Rates may be modified for
42 individual risks in accordance with rating plans or schedules
43 which provide for recognition of probable variations in hazards,
44 expenses or both.

45 (c) The systems of expense provisions included in rates
46 for use by an insurer or group of insurers may differ from those
47 of other insurers or group of insurers to reflect the operating
48 methods of such insurer or group with respect to any kind of
49 insurance, or with respect to any subdivision or combination
50 thereof.

51 (d) Any homeowners' insurance policy filed with the
52 Commissioner of Insurance that offers a percentage deductible for
53 the peril of windstorm from a named storm shall offer a buy-back
54 provision for that deductible which is actuarially sound; however,
55 the Commissioner of Insurance may grant a waiver from the
56 mandatory buy-back provision in accordance with the following
57 procedure and criteria:

58 (i) An insurance company shall make a formal
59 filing requesting a waiver from the buy-back provision requirement
60 with the Commissioner of Insurance.

61 (ii) An insurance company shall submit written
62 proof in its formal filing as to why it is in the best interest of
63 Mississippi policyholders to receive a waiver from the buy-back
64 provision requirement and shall provide any supporting
65 documentation requested by the commissioner deemed appropriate to
66 make his decision.

67 (iii) All expenses incurred by the Commissioner of
68 Insurance or his designee in determining the validity of the
69 waiver request shall be borne by the petitioning insurer. Such
70 expenses may include, but not be limited to, the cost of reviewing
71 the filing by actuaries, and if the commissioner deems a public
72 hearing appropriate, the cost of a facility, the cost of publicity
73 and the cost of a court reporter for the hearing.

74 (e) For automobile insurance policies, as defined in
75 Section 83-11-1, no insurer may raise the rates of its insured
76 solely because the insured is in an automobile accident if the
77 insured is adjudicated to be not at fault in the accident.

78 **SECTION 2.** This act shall take effect and be in force from
79 and after July 1, 2006.