

By: Representative Franks

To: Insurance

HOUSE BILL NO. 1183

1 AN ACT TO PROVIDE THAT INSURANCE COMPANIES MUST PAY ON A  
 2 TIMELY BASIS THE BENEFITS PROVIDED UNDER THE TERMS OF AUTOMOBILE,  
 3 HOMEOWNERS, AND FLOOD, HURRICANE OR WINDSTORM INSURANCE POLICIES,  
 4 OR IN THE ALTERNATIVE, PAY INTEREST ON CLAIMS NOT PAID ON A TIMELY  
 5 BASIS; TO PROVIDE CONDITIONS UNDER WHICH THE PAYMENT OF CLAIMS  
 6 SHALL NOT BE CONSIDERED TO BE UNTIMELY; TO PROVIDE FOR THE  
 7 CALCULATION OF INTEREST ON CLAIMS THAT ARE NOT PAID ON A TIMELY  
 8 BASIS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) An insurer must pay on a timely basis to its  
 11 insured, an individual or entity directly entitled to benefits  
 12 under its insured's contract of insurance, or a third party tort  
 13 claimant, the benefits provided under the terms of its automobile,  
 14 homeowners, and any type of flood, hurricane or windstorm  
 15 insurance policies or, in the alternative, the insurer must pay to  
 16 its insured, an individual or entity directly entitled to benefits  
 17 under its insured's contract of insurance, or a third party tort  
 18 claimant, twelve percent (12%) interest as provided in subsection  
 19 (3) of this section on claims not paid on a timely basis.

20 (2) Payment of a claim shall not be untimely during any  
 21 period in which the insurer is unable to pay the claim when there  
 22 is no recipient who is legally able to give a valid release for  
 23 the payment, or where the insurer is unable to determine who is  
 24 entitled to receive the payment, if the insurer has promptly  
 25 notified the claimant of that inability and has offered in good  
 26 faith to promptly pay the claim upon determination of who is  
 27 entitled to receive the payment. Payment shall also not be  
 28 untimely if the insured, individual or entity directly entitled to  
 29 benefits under its insured's contract of insurance, or third party

30 tort claimant, purposefully acts to cause the insurer to delay  
31 payment.

32 (3) If benefits are not paid on a timely basis and there is  
33 later a settlement by the insurer or an award against the insurer  
34 by a court of law, the benefits paid to the insured, an individual  
35 or entity directly entitled to benefits under its insured's  
36 contract of insurance, or third party tort claimant, shall bear  
37 simple interest from a date of thirty (30) days after the insurer  
38 receives actual notice from the insured, individual or entity  
39 directly entitled to benefits under its insured's contract of  
40 insurance, or third party tort claimant, at the rate of twelve  
41 percent (12%) per annum. The interest shall be paid in addition  
42 to and at the time of payment of loss. If the loss exceeds the  
43 limits of insurance coverage available, interest shall be payable  
44 based upon the limits of the insurance coverage rather than the  
45 amount of the loss. If payment is offered by the insurer but is  
46 rejected by the claimant, and the claimant does not subsequently  
47 recover an amount in excess of the amount offered, interest is not  
48 due. Interest paid pursuant to this section shall not act to  
49 preclude an award against the insurer for any punitive damages,  
50 court costs, attorney fees, or any other general and special  
51 damages elsewhere allowed by law.

52 (4) For the purposes of this section, the term "insurer"  
53 means any domestic or foreign insurance corporation or association  
54 engaged in the business of insurance or suretyship which has  
55 qualified to transact surety or casualty business in this state.

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