

By: Representatives Compretta, Bentz,
Fleming

To: Sel Cmte on Hurricane
Recovery

HOUSE BILL NO. 1321
(As Passed the House)

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.

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

28 (3) If benefits are not paid on a timely basis and there is
29 later an award against the insurer by a court of law, the benefits
30 paid to the insured, an individual or entity directly entitled to

31 benefits under its insured's contract of insurance, or third party
32 tort claimant, shall bear simple interest from the date of the
33 judgment when the award was entered at the rate of twelve percent
34 (12%) per annum. The interest shall be paid in addition to and at
35 the time of payment of loss. If the loss exceeds the limits of
36 insurance coverage available, interest shall be payable based upon
37 the limits of the insurance coverage rather than the amount of the
38 loss. If payment is offered by the insurer but is rejected by the
39 claimant, and the claimant does not subsequently recover an amount
40 in excess of the amount offered, interest is not due. Interest
41 paid pursuant to this section shall not act to preclude an award
42 against the insurer for any punitive damages, court costs,
43 attorney fees, or any other general and special damages elsewhere
44 allowed by law.

45 (4) For the purposes of this section:

46 (a) "Insurer" means any domestic or foreign insurance
47 corporation or association engaged in the business of insurance or
48 suretyship which has qualified to transact surety or casualty
49 business in this state.

50 (b) "Timely basis" means payment of a claim within
51 ninety (90) days after the insurer receives actual notice of a
52 claim from the insured, individual or entity directly entitled to
53 benefits under its insured's contract of insurance, or third party
54 tort claimant.

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