

By: Representative Robinson (84th)

To: Insurance

HOUSE BILL NO. 1435

1 AN ACT TO AMEND SECTION 83-2-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT IN DETERMINING THE RATE FOR PRIVATE AUTOMOBILE  
3 INSURANCE FOR A POLICE OFFICER, THE POLICE OFFICER'S DRIVING  
4 HISTORY WHILE ON DUTY SHALL NOT BE CONSIDERED; AND FOR RELATED  
5 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. When determining rates for private automobile  
45 insurance for a police officer, the police officer's driving  
46 history while on duty shall not be considered.

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

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

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

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

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

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