

By: Representatives Formby, Upshaw

To: Insurance

HOUSE BILL NO. 1258

1 AN ACT TO PROVIDE FOR THE "MISSISSIPPI HOMEOWNER INSURANCE
2 POLICYHOLDER BILL OF RIGHTS"; TO SET FORTH THE PURPOSE OF THE ACT
3 AND LEGISLATIVE FINDINGS; TO SET FORTH CERTAIN RIGHTS OF
4 POLICYHOLDERS WITH REGARD TO INSURANCE POLICIES PROVIDED BY
5 INSURANCE COMPANIES WRITING HOMEOWNERS PERSONAL LINES RESIDENTIAL
6 PROPERTY COVERAGE INSURANCE POLICIES IN THE STATE; TO PROVIDE THAT
7 NO HOMEOWNERS PERSONAL LINES RESIDENTIAL PROPERTY COVERAGE
8 INSURANCE POLICY MAY BE ISSUED UNLESS AN "OUTLINE OF COVERAGE"
9 ACCOMPANIES THE POLICY; TO SET FORTH THE SPECIFIC INFORMATION THAT
10 MUST BE INCLUDED IN THE OUTLINE OF COVERAGE, INCLUDING A
11 COMPREHENSIVE CHECKLIST ALLOWING THE INSURER TO CLEARLY KNOW WHAT
12 COVERAGE IS INCLUDED AND EXCLUDED IN THE POLICY; TO PROVIDE THAT
13 NOTHING IN THE ACT SHALL BE CONSTRUED AS CREATING A CIVIL CAUSE OF
14 ACTION BY ANY INDIVIDUAL POLICYHOLDER AGAINST ANY INDIVIDUAL
15 INSURER OR INSURANCE PRODUCER; TO SET FORTH PENALTIES FOR
16 VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** The provisions of this act shall be known as the
19 "Mississippi Homeowner Insurance Policyholder Bill of Rights."

20 **SECTION 2. Purpose and Legislative Findings.** (1) After
21 Hurricane Katrina hit the Mississippi Gulf Coast on August 29,
22 2005, and caused massive destruction within the state, the
23 Mississippi Department of Insurance found that many homeowner
24 insurance policyholders who filed property loss claims were
25 inadequately insured or did not fully understand the insurance
26 they had purchased.

27 (2) The purpose and intent of this act is to address these
28 issues by setting forth procedures and requirements that ensure
29 policyholders understand their rights as policyholders in the
30 State of Mississippi, and by enacting a requirement that property
31 and casualty insurance companies writing homeowners personal lines
32 residential insurance property coverage establish standard
33 checklists of policy contents.

34 (3) To accomplish these goals, this act sets forth the
35 rights Mississippi policyholders have with respect to their
36 insurance policies and insurance companies. This act also
37 requires that property and casualty insurers provide an outline of
38 coverage and a standard checklist of policy contents to
39 policyholders.

40 **SECTION 3. Scope.** This act shall apply to all insurance
41 companies (including surplus lines companies, the Mississippi
42 Windstorm Underwriting Association, and the Mississippi
43 Residential Property Insurance Underwriting Association) writing
44 homeowners personal lines residential property coverage insurance
45 policies in the State of Mississippi. For the purposes of this
46 act, personal lines residential property coverage shall include
47 renters/tenants insurance and mobile home/manufactured housing
48 property coverage, even if said coverage is classified as an
49 automobile property policy.

50 **SECTION 4. Policyholder Bill of Rights.** The rights set
51 forth below shall serve as standards to be followed by all
52 insurance companies described in Section 2 of this act. These
53 rights include, but are not limited to, the following:

54 (a) Policyholders shall have the right to competitive
55 pricing practices and marketing methods that enable them to
56 determine the best value among comparable coverage.

57 (b) Policyholders shall have the right to insurance
58 advertising and other selling approaches that provide accurate and
59 balanced information on the benefits and limitations of a policy.

60 (c) Policyholders shall have the right to an insurance
61 company that is financially stable.

62 (d) Policyholders shall have the right to be serviced
63 by a competent, honest insurance producer.

64 (e) Policyholders shall have the right to a readable
65 policy.

66 (f) Policyholders shall have the right to an insurance
67 company that provides an economic delivery of coverage and that
68 tries to prevent losses.

69 (g) Policyholders shall have the right to balanced and
70 positive regulation by the Mississippi Department of Insurance.

71 (h) Policyholders shall have the right to request from
72 the Mississippi Department of Insurance the license status of an
73 insurance company or producer.

74 (i) Policyholders shall have the right to receive in
75 writing from their insurance company the reason for any denial or
76 nonrenewal of coverage. The written statement from the insurance
77 company must provide an adequate explanation for the denial or
78 nonrenewal of coverage.

79 (j) Policyholders shall have the right to cancel their
80 policy and receive a refund of any unearned premium. If a policy
81 was funded by a premium finance company, the unearned premium will
82 be returned to the premium finance company to pay toward the
83 policyholder's financing loan.

84 (k) Policyholders shall have the right to a written
85 notification detailing any change in coverage at renewal.

86 (l) Policyholders shall have the right to receive a
87 written explanation of why a claim is denied in whole or in part.

88 (m) Policyholders shall have the right to request and
89 receive from the insurance company any adjusters reports, engineer
90 reports, contractor reports, statements or documents which are not
91 privileged documents that the insurance company prepared, had
92 prepared, or used during its adjustment of the policyholder's
93 claim.

94 (n) Policyholders shall have the right to file a
95 written complaint against any insurance company or insurance
96 producer with the Mississippi Department of Insurance, and to have
97 that complaint investigated by the department.

98 **SECTION 5. Outline of Coverage and Checklist.** (1) No

99 homeowners personal lines residential property coverage insurance
100 policy shall be delivered or issued for delivery in this state,
101 unless an appropriate outline of coverage has been delivered prior
102 to issuance of the policy or accompanies the policy when issued.
103 This outline of coverage shall include a comprehensive checklist
104 which contains a list of the standard provisions and elements that
105 may typically be included in these policies, whether or not they
106 are included in the particular policy being issued, in a format
107 that allows the insurer to place a check mark next to the
108 provisions that are included so that the policyholder can see both
109 what is included and what is not included in the policy. The
110 outline of coverage and checklist shall also be furnished at each
111 renewal of the policy.

112 (2) The outline of coverage shall contain, at a minimum, the
113 information set forth below.

114 (a) A brief description of the principal benefits and
115 coverage provided in the policy, broken down by each class or type
116 of coverage provided under the policy for which a premium is
117 charged, and itemization of the applicable premium.

118 (b) A summary statement of the principal exclusions and
119 limitations or reductions contained in the policy by class or
120 type, including, but not limited to, deductibles, coinsurance, and
121 any other limitations or reductions.

122 (c) A summary statement of any renewal or cancellation
123 provisions.

124 (d) A description of the credit or surcharge plan that
125 is being applied. The description may display numerical or
126 alphabetical codes on the declarations page or premium notice to
127 enable the insured to determine the reason or reasons why the
128 policyholder's policy is being surcharged or receiving a credit.

129 (e) A summary of any additional coverage provided
130 through any rider or endorsement that accompanies the policy.

131 (3) An insurer must insert the following language on the
132 outline of coverage:

133 "The following outline of coverage and checklist is for
134 informational purposes only. Mississippi law prohibits this
135 outline and checklist from changing any of the provisions of
136 the insurance contract which is the subject of this Notice.
137 Any endorsement regarding changes in types of coverage,
138 exclusions, limitations, reductions, deductibles,
139 coinsurance, renewal provisions, cancellation provisions,
140 surcharges, or credits will be sent separately.

141 Policyholders should read their policy thoroughly.
142 Policyholders should review their insurance policy annually
143 with their insurance producer to ensure they are adequately
144 covered."

145 (4) As part of the outline of coverage for homeowners
146 personal lines residential property coverage insurance policies,
147 an insurance company shall prepare a policy checklist. This
148 comprehensive checklist shall contain a list of the standard
149 provisions and elements that may typically be included in these
150 policies, whether or not they are included in the particular
151 policy being issued, in a format that allows the insurer to place
152 a check mark next to the provisions that are included so that the
153 policyholder can see both what is included and what is not
154 included in the policy, including, but not limited to:

155 (a) Property coverage for the principal premises shown
156 in the declarations and the location of said coverage in policy.

157 (b) Property coverage for other structures on the
158 residence premises and the location of said coverage in policy.

159 (c) Whether the principal premises and other structures
160 are insured against the following perils and the location of said
161 coverage or exclusion in the policy:

162 (i) Fire;

163 (ii) Lightning;

164 (iii) Explosion;
165 (iv) Named windstorm damage;
166 (v) Flood;
167 (vi) Earthquake;
168 (vii) Collapse;
169 (viii) Mold;
170 (ix) Theft.

171 (d) Personal property/contents coverage and amounts and
172 location of said coverage or exclusion in the policy.

173 (e) Whether personal property/contents are insured
174 against the following perils and location of said coverage or
175 exclusion in the policy:

176 (i) Fire;
177 (ii) Lightning;
178 (iii) Explosion;
179 (iv) Named windstorm damage;
180 (v) Flood;
181 (vi) Earthquake;
182 (vii) Collapse;
183 (viii) Mold;
184 (ix) Theft.

185 (f) Whether the policy provides the following
186 additional coverage and location of said coverage or exclusion in
187 the policy:

188 (i) Debris removal;
189 (ii) Loss assessment;
190 (iii) Additional living expenses;
191 (iv) Personal liability coverage;
192 (v) Medical payments coverage;
193 (vi) Discounts applied to the premium;
194 (vii) Named windstorm deductible;
195 (viii) Building ordinance or law coverage;
196 (ix) Replacement cost coverage;

197 (x) Actual cash value coverage.

198 **SECTION 6. Cause of Action.** No provision contained in this
199 act shall be construed as creating a civil cause of action by any
200 individual policyholder against any individual insurer or
201 insurance producer.

202 **SECTION 7. Violations and Penalties.** The failure of an
203 insurance company writing homeowners personal lines residential
204 property coverage insurance policies in this state to comply with
205 a provision of this act shall be considered a violation of Section
206 83-5-1 and Sections 83-5-29 through 83-5-51. Violations may also
207 subject the insurance company to the suspension or revocation of
208 the insurer's Certificate of Authority and the imposition of an
209 administrative fine, or both, by the Mississippi Department of
210 Insurance.

211 **SECTION 8.** This act shall take effect and be in force from
212 and after its passage.