

By: Representatives Straughter, Franks

To: Insurance

HOUSE BILL NO. 1260

1 AN ACT TO PROVIDE THAT INSURANCE COMPANIES MUST PAY ON A
 2 TIMELY BASIS ALL BENEFITS FOR WHICH IT IS CONTRACTUALLY OBLIGATED
 3 TO PAY UNDER THE TERMS OF AUTOMOBILE, HOMEOWNERS, AND FLOOD,
 4 HURRICANE OR WINDSTORM INSURANCE POLICIES; TO PROVIDE CONDITIONS
 5 UNDER WHICH THE PAYMENT OF CLAIMS SHALL NOT BE CONSIDERED TO BE
 6 UNTIMELY; TO PROVIDE THAT AN INSURER THAT FAILS TIMELY TO PAY ALL
 7 SUCH BENEFITS SHALL BE PRESUMED TO HAVE ACTED IN BAD FAITH AND
 8 SHALL BE LIABLE FOR PUNITIVE DAMAGES IN ADDITION TO BENEFITS DUE
 9 UNDER ITS CONTRACT OF INSURANCE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) An insurer must pay on a timely basis to its
 12 insured, an individual or entity directly entitled to benefits
 13 under its insured's contract of insurance, or a third party tort
 14 claimant, all benefits for which it is contractually obligated to
 15 pay under the terms of its automobile, homeowners, and any type of
 16 flood, hurricane or windstorm insurance policies.

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

29 (3) If benefits are not paid on a timely basis and there is
 30 later an award against the insurer by a court of law, the insurer

31 shall be presumed to have acted in bad faith and, in addition to
32 benefits due under its contract of insurance, shall be liable to
33 the insured, an individual or entity directly entitled to benefits
34 under its insured's contract of insurance, or third party tort
35 claimant for punitive damages in such amount as the court or jury
36 may award.

37 (4) For the purposes of this section:

38 (a) "Insurer" means any domestic or foreign insurance
39 corporation or association engaged in the business of insurance or
40 suretyship which has qualified to transact business in this state.

41 (b) "Timely basis" means payment of a claim within
42 sixty (60) days after the insurer receives actual notice of a
43 claim from the insured, individual or entity directly entitled to
44 benefits under its insured's contract of insurance, or third party
45 tort claimant.

46 **SECTION 2.** This act shall take effect and be in force from
47 and after July 1, 2007.