

By: Representatives Formby, Peranich,
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To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1500

1 AN ACT TO CREATE THE MISSISSIPPI ECONOMIC GROWTH AND
2 REDEVELOPMENT ACT OF 2007, TO STIMULATE THE ECONOMIC GROWTH AND
3 REDEVELOPMENT WITHIN ALL AREAS OF THE STATE BY PROMOTING THE
4 AVAILABILITY OF AFFORDABLE COMMERCIAL AND RESIDENTIAL CASUALTY
5 LOSS INSURANCE; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO
6 BE KNOWN AS THE "MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION
7 REINSURANCE ASSISTANCE FUND"; TO PROVIDE THAT MONIES IN THE
8 SPECIAL FUND MAY BE USED BY THE DEPARTMENT OF INSURANCE, UPON
9 APPROPRIATION BY THE LEGISLATURE, FOR THE PURPOSE OF ASSISTING THE
10 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION IN DEFRAYING
11 EXPENSES AND COSTS FOR REINSURANCE; TO PROVIDE THAT THE
12 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION MAY USE SUCH FUNDS
13 FOR THE PURPOSE OF DEFRAYING EXPENSES AND COSTS FOR REINSURANCE;
14 TO PROVIDE THAT ANY MONIES IN EXCESS OF \$50,000,000.00 REMAINING
15 IN THE SPECIAL FUND AT THE END OF A FISCAL YEAR THAT HAVE NOT BEEN
16 APPROPRIATED WILL LAPSE INTO THE STATE GENERAL FUND; TO REQUIRE
17 THE COMMISSIONER OF INSURANCE TO FILE A REPORT WITH THE JOINT
18 LEGISLATIVE BUDGET COMMITTEE NOT LATER THAN SEPTEMBER 1 OF EACH
19 YEAR, RECOMMENDING THE AMOUNT OF ASSISTANCE, IF ANY, NEEDED BY THE
20 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION FOR REINSURANCE
21 EXPENSES AND COSTS; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF
22 1972, TO PROVIDE THAT A PORTION OF THE STATE SALES TAX REVENUE
23 COLLECTED IN HANCOCK, HARRISON, JACKSON, PEARL RIVER, STONE AND
24 GEORGE COUNTIES SHALL BE DEPOSITED INTO THE MISSISSIPPI WINDSTORM
25 UNDERWRITING ASSOCIATION REINSURANCE ASSISTANCE FUND; TO PROVIDE
26 THAT A PORTION OF THE STATE INSURANCE PREMIUM TAX REVENUE SHALL BE
27 DEPOSITED INTO THE MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION
28 REINSURANCE ASSISTANCE FUND; TO CREATE SECTION 27-7-22.33,
29 MISSISSIPPI CODE OF 1972, TO PROVIDE AN ANNUAL CREDIT AGAINST
30 STATE INCOME TAXES TO CERTAIN TAXPAYERS IN THE AMOUNT OF THE
31 INCREASED PREMIUMS PAID BY SUCH TAXPAYERS FOR ESSENTIAL PROPERTY
32 INSURANCE; TO PROVIDE AN ANNUAL CREDIT AGAINST THE STATE INSURANCE
33 PREMIUM TAXES FOR DOMESTIC AND FOREIGN INSURANCE COMPANIES FOR NEW
34 POLICIES WRITTEN IN THE COAST AREA OF THE STATE; TO AMEND SECTION
35 83-34-1, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO
36 AMEND SECTION 83-34-3, MISSISSIPPI CODE OF 1972, TO REVISE THE
37 ORGANIZATIONAL STRUCTURE OF THE ASSOCIATION; TO CREATE SECTION
38 83-34-4, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL BROKERS FOR
39 NONADMITTED INSURERS TO COLLECT AND REMIT TO THE ASSOCIATION A
40 NONADMITTED INSURER FEE; TO AMEND SECTION 83-34-5, MISSISSIPPI
41 CODE OF 1972, TO REVISE THE POWERS OF THE ASSOCIATION; TO AMEND
42 SECTION 83-34-7, MISSISSIPPI CODE OF 1972, TO REVISE THE
43 MEMBERSHIP OF THE BOARD OF DIRECTORS; TO AMEND SECTION 83-34-9,
44 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL ASSESSABLE INSURERS
45 SHALL PARTICIPATE IN REGULAR ASSESSMENTS BASED UPON THEIR
46 PARTICIPATION, AND TO ALLOW FINANCIAL INCENTIVES OR PENALTIES TO
47 ENCOURAGE ASSESSABLE INSURERS TO WRITE INSURANCE IN THE COAST
48 AREA; TO CREATE SECTION 83-34-10, MISSISSIPPI CODE OF 1972, TO
49 AUTHORIZE THE ASSOCIATION, WITH CONSENT OF THE COMMISSIONER OF
50 INSURANCE, TO LEVY REGULAR ASSESSMENTS AGAINST ASSESSABLE INSURERS
51 UPON CERTAIN EVENTS; TO AMEND SECTION 83-34-11, MISSISSIPPI CODE
52 OF 1972, TO DIRECT THE COMMISSIONER OF INSURANCE TO IMPLEMENT A

53 SURCHARGE ON ALL PROPERTY AND CASUALTY PREMIUMS STATEWIDE, EXCEPT
54 PREMIUMS FOR WORKERS' COMPENSATION COVERAGE PROVIDED BY
55 SELF-INSURED FUNDS OR SELF-INSURED TRUST FUNDS OR PREMIUMS FOR
56 COVERAGE BY OR THROUGH SELF-INSURED PLANS ADMINISTERED BY THE
57 STATE OF MISSISSIPPI, IN ORDER TO RECOVER REGULAR ASSESSMENTS AND
58 REIMBURSE ASSESSABLE INSURERS; TO CREATE SECTION 83-34-12,
59 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DEFERRAL OF A REGULAR
60 ASSESSMENT BY ORDER OF THE COMMISSIONER OF INSURANCE; TO AMEND
61 SECTION 83-34-13, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIRED
62 CONTENTS OF THE ASSOCIATION'S PLAN OF OPERATION; TO AMEND SECTION
63 83-34-15, MISSISSIPPI CODE OF 1972, TO REVISE THE PROCESS FOR
64 APPLICATION FOR COVERAGE; TO AMEND SECTION 83-34-17, MISSISSIPPI
65 CODE OF 1972, TO AMEND IN CONFORMITY WITH OTHER PROVISIONS; TO
66 AMEND SECTION 83-34-19, MISSISSIPPI CODE OF 1972, TO REVISE THE
67 PROCESS FOR APPEAL OF DECISIONS MADE BY THE ASSOCIATION OR
68 COMMISSIONER OF INSURANCE; TO AMEND SECTION 83-34-21, MISSISSIPPI
69 CODE OF 1972, IN CONFORMITY WITH OTHER PROVISIONS; TO AMEND
70 SECTION 83-34-23, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY
71 FROM LIABILITY FOR THE ASSOCIATION AND THE COMMISSIONER OF
72 INSURANCE; TO AMEND SECTION 83-34-27, MISSISSIPPI CODE OF 1972, TO
73 AUTHORIZE THE EXAMINATION OF DATA AND PAYMENTS OF ASSESSABLE
74 INSURERS AND BROKERS FOR NONADMITTED INSURERS; TO CREATE SECTION
75 83-34-31, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ASSOCIATION
76 TO ISSUE BONDS AND ENTER INTO LOANS; TO CREATE SECTION 83-34-33,
77 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SURCHARGE FOR EXCESS
78 HURRICANE LOSSES; TO CREATE SECTION 83-34-35, MISSISSIPPI CODE OF
79 1972, TO DIRECT THE COMMISSIONER OF INSURANCE TO APPROVE
80 ASSOCIATION RATES AT LEAST ADEQUATE TO FUND ANNUAL REINSURANCE
81 ABOVE A CERTAIN RESERVE; AND FOR RELATED PURPOSES.

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

83 **SECTION 1.** This act shall be known and may be cited as the
84 "Mississippi Economic Growth and Redevelopment Act of 2007."

85 **SECTION 2.** (1) (a) There is created in the State Treasury
86 a special fund to be designated as the "Mississippi Windstorm
87 Underwriting Association Reinsurance Assistance Fund." The fund
88 shall consist of monies deposited therein as provided under
89 Section 27-65-75(21), Section 4 of this act and monies from any
90 other source designated for deposit into such fund. Unexpended
91 amounts remaining in the fund at the end of a fiscal year shall
92 not lapse into the State General Fund, and any interest earned or
93 investment earnings on amounts in the fund shall be deposited to
94 the credit of the fund; however, any monies in excess of Fifty
95 Million Dollars (\$50,000,000.00) remaining in the fund at the end
96 of a fiscal year that have not been appropriated shall lapse into
97 the State General Fund.

98 (b) Monies in the special fund may be used by the
99 Department of Insurance, upon appropriation by the Legislature,

100 only for the purpose of assisting the Mississippi Windstorm
101 Underwriting Association in defraying expenses and costs for
102 reinsurance under Section 83-34-1 et seq. The association may use
103 any such funds received from the Department of Insurance for the
104 sole purpose of defraying expenses and costs for reinsurance.
105 Monies in the fund used for the purposes described in this
106 paragraph (b) shall be in addition to other funds available from
107 any other source for such purposes.

108 (c) Monies in the special fund may not be used,
109 expended or transferred for any other purpose except upon
110 amendment to this section by a bill enacted by the Legislature
111 with a vote of not less than two-thirds (2/3) of the members of
112 each house present and voting.

113 (2) (a) The Commissioner of Insurance shall file a report
114 with the Joint Legislative Budget Committee not later than
115 September 1 of each year, recommending the amount of assistance,
116 if any, needed by the Mississippi Windstorm Underwriting
117 Association for reinsurance expenses and costs. The Commissioner
118 of Insurance also shall provide a copy of the report to the
119 Attorney General and the Executive Director of the Mississippi
120 Development Authority.

121 (b) The Mississippi Windstorm Underwriting Association
122 shall prepare and file detailed reports with the Clerk of the
123 House of Representatives, Secretary of the Senate, Commissioner of
124 Insurance, Attorney General and Executive Director of the
125 Mississippi Development Authority regarding the receipt and
126 expenditure of monies by the association under this section.

127 **SECTION 3.** Section 27-65-75, Mississippi Code of 1972, is
128 amended as follows:

129 27-65-75. On or before the fifteenth day of each month, the
130 revenue collected under the provisions of this chapter during the
131 preceding month shall be paid and distributed as follows:

132 (1) (a) On or before August 15, 1992, and each succeeding
133 month thereafter through July 15, 1993, eighteen percent (18%) of
134 the total sales tax revenue collected during the preceding month
135 under the provisions of this chapter, except that collected under
136 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
137 business activities within a municipal corporation shall be
138 allocated for distribution to the municipality and paid to the
139 municipal corporation. On or before August 15, 1993, and each
140 succeeding month thereafter, eighteen and one-half percent
141 (18-1/2%) of the total sales tax revenue collected during the
142 preceding month under the provisions of this chapter, except that
143 collected under the provisions of Sections 27-65-15, 27-65-19(3)
144 and 27-65-21, on business activities within a municipal
145 corporation shall be allocated for distribution to the
146 municipality and paid to the municipal corporation.

147 A municipal corporation, for the purpose of distributing the
148 tax under this subsection, shall mean and include all incorporated
149 cities, towns and villages.

150 Monies allocated for distribution and credited to a municipal
151 corporation under this subsection may be pledged as security for a
152 loan if the distribution received by the municipal corporation is
153 otherwise authorized or required by law to be pledged as security
154 for such a loan.

155 In any county having a county seat that is not an
156 incorporated municipality, the distribution provided under this
157 subsection shall be made as though the county seat was an
158 incorporated municipality; however, the distribution to the
159 municipality shall be paid to the county treasury in which the
160 municipality is located, and those funds shall be used for road,
161 bridge and street construction or maintenance in the county.

162 (b) On or before August 15, 2006, and each succeeding
163 month thereafter, eighteen and one-half percent (18-1/2%) of the
164 total sales tax revenue collected during the preceding month under

165 the provisions of this chapter, except that collected under the
166 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
167 business activities on the campus of a state institution of higher
168 learning or community or junior college whose campus is not
169 located within the corporate limits of a municipality, shall be
170 allocated for distribution to the state institution of higher
171 learning or community or junior college and paid to the state
172 institution of higher learning or community or junior college.

173 (2) On or before September 15, 1987, and each succeeding
174 month thereafter, from the revenue collected under this chapter
175 during the preceding month, One Million One Hundred Twenty-five
176 Thousand Dollars (\$1,125,000.00) shall be allocated for
177 distribution to municipal corporations as defined under subsection
178 (1) of this section in the proportion that the number of gallons
179 of gasoline and diesel fuel sold by distributors to consumers and
180 retailers in each such municipality during the preceding fiscal
181 year bears to the total gallons of gasoline and diesel fuel sold
182 by distributors to consumers and retailers in municipalities
183 statewide during the preceding fiscal year. The State Tax
184 Commission shall require all distributors of gasoline and diesel
185 fuel to report to the commission monthly the total number of
186 gallons of gasoline and diesel fuel sold by them to consumers and
187 retailers in each municipality during the preceding month. The
188 State Tax Commission shall have the authority to promulgate such
189 rules and regulations as is necessary to determine the number of
190 gallons of gasoline and diesel fuel sold by distributors to
191 consumers and retailers in each municipality. In determining the
192 percentage allocation of funds under this subsection for the
193 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
194 State Tax Commission may consider gallons of gasoline and diesel
195 fuel sold for a period of less than one (1) fiscal year. For the
196 purposes of this subsection, the term "fiscal year" means the
197 fiscal year beginning July 1 of a year.

198 (3) On or before September 15, 1987, and on or before the
199 fifteenth day of each succeeding month, until the date specified
200 in Section 65-39-35, the proceeds derived from contractors' taxes
201 levied under Section 27-65-21 on contracts for the construction or
202 reconstruction of highways designated under the highway program
203 created under Section 65-3-97 shall, except as otherwise provided
204 in Section 31-17-127, be deposited into the State Treasury to the
205 credit of the State Highway Fund to be used to fund that highway
206 program. The Mississippi Department of Transportation shall
207 provide to the State Tax Commission such information as is
208 necessary to determine the amount of proceeds to be distributed
209 under this subsection.

210 (4) On or before August 15, 1994, and on or before the
211 fifteenth day of each succeeding month through July 15, 1999, from
212 the proceeds of gasoline, diesel fuel or kerosene taxes as
213 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
214 (\$4,000,000.00) shall be deposited in the State Treasury to the
215 credit of a special fund designated as the "State Aid Road Fund,"
216 created by Section 65-9-17. On or before August 15, 1999, and on
217 or before the fifteenth day of each succeeding month, from the
218 total amount of the proceeds of gasoline, diesel fuel or kerosene
219 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
220 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
221 one-fourth percent (23-1/4%) of those funds, whichever is the
222 greater amount, shall be deposited in the State Treasury to the
223 credit of the "State Aid Road Fund," created by Section 65-9-17.
224 Those funds shall be pledged to pay the principal of and interest
225 on state aid road bonds heretofore issued under Sections 19-9-51
226 through 19-9-77, in lieu of and in substitution for the funds
227 previously allocated to counties under this section. Those funds
228 may not be pledged for the payment of any state aid road bonds
229 issued after April 1, 1981; however, this prohibition against the
230 pledging of any such funds for the payment of bonds shall not

231 apply to any bonds for which intent to issue those bonds has been
232 published, for the first time, as provided by law before March 29,
233 1981. From the amount of taxes paid into the special fund under
234 this subsection and subsection (9) of this section, there shall be
235 first deducted and paid the amount necessary to pay the expenses
236 of the Office of State Aid Road Construction, as authorized by the
237 Legislature for all other general and special fund agencies. The
238 remainder of the fund shall be allocated monthly to the several
239 counties in accordance with the following formula:

240 (a) One-third (1/3) shall be allocated to all counties
241 in equal shares;

242 (b) One-third (1/3) shall be allocated to counties
243 based on the proportion that the total number of rural road miles
244 in a county bears to the total number of rural road miles in all
245 counties of the state; and

246 (c) One-third (1/3) shall be allocated to counties
247 based on the proportion that the rural population of the county
248 bears to the total rural population in all counties of the state,
249 according to the latest federal decennial census.

250 For the purposes of this subsection, the term "gasoline,
251 diesel fuel or kerosene taxes" means such taxes as defined in
252 paragraph (f) of Section 27-5-101.

253 The amount of funds allocated to any county under this
254 subsection for any fiscal year after fiscal year 1994 shall not be
255 less than the amount allocated to the county for fiscal year 1994.

256 Any reference in the general laws of this state or the
257 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
258 construed to refer and apply to subsection (4) of Section
259 27-65-75.

260 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
261 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
262 the special fund known as the "State Public School Building Fund"
263 created and existing under the provisions of Sections 37-47-1

264 through 37-47-67. Those payments into that fund are to be made on
265 the last day of each succeeding month hereafter.

266 (6) An amount each month beginning August 15, 1983, through
267 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
268 of 1983, shall be paid into the special fund known as the
269 Correctional Facilities Construction Fund created in Section 6 of
270 Chapter 542, Laws of 1983.

271 (7) On or before August 15, 1992, and each succeeding month
272 thereafter through July 15, 2000, two and two hundred sixty-six
273 one-thousandths percent (2.266%) of the total sales tax revenue
274 collected during the preceding month under the provisions of this
275 chapter, except that collected under the provisions of Section
276 27-65-17(2) shall be deposited by the commission into the School
277 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
278 or before August 15, 2000, and each succeeding month thereafter,
279 two and two hundred sixty-six one-thousandths percent (2.266%) of
280 the total sales tax revenue collected during the preceding month
281 under the provisions of this chapter, except that collected under
282 the provisions of Section 27-65-17(2), shall be deposited into the
283 School Ad Valorem Tax Reduction Fund created under Section
284 37-61-35 until such time that the total amount deposited into the
285 fund during a fiscal year equals Forty-two Million Dollars
286 (\$42,000,000.00). Thereafter, the amounts diverted under this
287 subsection (7) during the fiscal year in excess of Forty-two
288 Million Dollars (\$42,000,000.00) shall be deposited into the
289 Education Enhancement Fund created under Section 37-61-33 for
290 appropriation by the Legislature as other education needs and
291 shall not be subject to the percentage appropriation requirements
292 set forth in Section 37-61-33.

293 (8) On or before August 15, 1992, and each succeeding month
294 thereafter, nine and seventy-three one-thousandths percent
295 (9.073%) of the total sales tax revenue collected during the
296 preceding month under the provisions of this chapter, except that

297 collected under the provisions of Section 27-65-17(2), shall be
298 deposited into the Education Enhancement Fund created under
299 Section 37-61-33.

300 (9) On or before August 15, 1994, and each succeeding month
301 thereafter, from the revenue collected under this chapter during
302 the preceding month, Two Hundred Fifty Thousand Dollars
303 (\$250,000.00) shall be paid into the State Aid Road Fund.

304 (10) On or before August 15, 1994, and each succeeding month
305 thereafter through August 15, 1995, from the revenue collected
306 under this chapter during the preceding month, Two Million Dollars
307 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
308 Valorem Tax Reduction Fund established in Section 27-51-105.

309 (11) Notwithstanding any other provision of this section to
310 the contrary, on or before February 15, 1995, and each succeeding
311 month thereafter, the sales tax revenue collected during the
312 preceding month under the provisions of Section 27-65-17(2) and
313 the corresponding levy in Section 27-65-23 on the rental or lease
314 of private carriers of passengers and light carriers of property
315 as defined in Section 27-51-101 shall be deposited, without
316 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
317 established in Section 27-51-105.

318 (12) Notwithstanding any other provision of this section to
319 the contrary, on or before August 15, 1995, and each succeeding
320 month thereafter, the sales tax revenue collected during the
321 preceding month under the provisions of Section 27-65-17(1) on
322 retail sales of private carriers of passengers and light carriers
323 of property, as defined in Section 27-51-101 and the corresponding
324 levy in Section 27-65-23 on the rental or lease of these vehicles,
325 shall be deposited, after diversion, into the Motor Vehicle Ad
326 Valorem Tax Reduction Fund established in Section 27-51-105.

327 (13) On or before July 15, 1994, and on or before the
328 fifteenth day of each succeeding month thereafter, that portion of
329 the avails of the tax imposed in Section 27-65-22 that is derived

330 from activities held on the Mississippi State Fairgrounds Complex,
331 shall be paid into a special fund that is created in the State
332 Treasury and shall be expended upon legislative appropriation
333 solely to defray the costs of repairs and renovation at the Trade
334 Mart and Coliseum.

335 (14) On or before August 15, 1998, and each succeeding month
336 thereafter through July 15, 2005, that portion of the avails of
337 the tax imposed in Section 27-65-23 that is derived from sales by
338 cotton compresses or cotton warehouses and that would otherwise be
339 paid into the General Fund, shall be deposited in an amount not to
340 exceed Two Million Dollars (\$2,000,000.00) into the special fund
341 created under Section 69-37-39.

342 (15) Notwithstanding any other provision of this section to
343 the contrary, on or before September 15, 2000, and each succeeding
344 month thereafter, the sales tax revenue collected during the
345 preceding month under the provisions of Section 27-65-19(1)(f) and
346 (g)(i)2, shall be deposited, without diversion, into the
347 Telecommunications Ad Valorem Tax Reduction Fund established in
348 Section 27-38-7.

349 (16) On or before August 15, 2000, and each succeeding month
350 thereafter, the sales tax revenue collected during the preceding
351 month under the provisions of this chapter on the gross proceeds
352 of sales of a project as defined in Section 57-30-1 shall be
353 deposited, after all diversions except the diversion provided for
354 in subsection (1) of this section, into the Sales Tax Incentive
355 Fund created in Section 57-30-3.

356 (17) Notwithstanding any other provision of this section to
357 the contrary, on or before April 15, 2002, and each succeeding
358 month thereafter, the sales tax revenue collected during the
359 preceding month under Section 27-65-23 on sales of parking
360 services of parking garages and lots at airports shall be
361 deposited, without diversion, into the special fund created under
362 Section 27-5-101(d).

363 (18) On or before August 15, 2007, and each succeeding month
364 thereafter through July 15, 2008, from the sales tax revenue
365 collected during the preceding month under the provisions of this
366 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
367 shall be deposited into the Special Funds Transfer Fund created in
368 Section 4 of Chapter 556, Laws of 2003.

369 (19) (a) On or before August 15, 2005, and each succeeding
370 month thereafter, the sales tax revenue collected during the
371 preceding month under the provisions of this chapter on the gross
372 proceeds of sales of a business enterprise located within a
373 redevelopment project area under the provisions of Sections
374 57-91-1 through 57-91-11, and the revenue collected on the gross
375 proceeds of sales from sales made to a business enterprise located
376 in a redevelopment project area under the provisions of Sections
377 57-91-1 through 57-91-11 (provided that such sales made to a
378 business enterprise are made on the premises of the business
379 enterprise), shall, except as otherwise provided in this
380 subsection (19), be deposited, after all diversions, into the
381 Redevelopment Project Incentive Fund as created in Section
382 57-91-9.

383 (b) For a municipality participating in the Economic
384 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
385 the diversion provided for in subsection (1) of this section
386 attributable to the gross proceeds of sales of a business
387 enterprise located within a redevelopment project area under the
388 provisions of Sections 57-91-1 through 57-91-11, and attributable
389 to the gross proceeds of sales from sales made to a business
390 enterprise located in a redevelopment project area under the
391 provisions of Sections 57-91-1 through 57-91-11 (provided that
392 such sales made to a business enterprise are made on the premises
393 of the business enterprise), shall be deposited into the
394 Redevelopment Project Incentive Fund as created in Section
395 57-91-9, as follows:

396 (i) For the first six (6) years in which payments
397 are made to a developer from the Redevelopment Project Incentive
398 Fund, one hundred percent (100%) of the diversion shall be
399 deposited into the fund;

400 (ii) For the seventh year in which such payments
401 are made to a developer from the Redevelopment Project Incentive
402 Fund, eighty percent (80%) of the diversion shall be deposited
403 into the fund;

404 (iii) For the eighth year in which such payments
405 are made to a developer from the Redevelopment Project Incentive
406 Fund, seventy percent (70%) of the diversion shall be deposited
407 into the fund;

408 (iv) For the ninth year in which such payments are
409 made to a developer from the Redevelopment Project Incentive Fund,
410 sixty percent (60%) of the diversion shall be deposited into the
411 fund; and

412 (v) For the tenth year in which such payments are
413 made to a developer from the Redevelopment Project Incentive Fund,
414 fifty percent (50%) of the funds shall be deposited into the fund.

415 (20) On or before January 15, 2007, and each succeeding
416 month thereafter, eighty percent (80%) of the sales tax revenue
417 collected during the preceding month under the provisions of this
418 chapter from the operation of a tourism project under the
419 provisions of Sections 57-28-1 through 57-28-5, shall be
420 deposited, after the diversions required in subsections (7) and
421 (8) of this section, into the Tourism Sales Tax Incentive Fund
422 created in Section 57-28-3.

423 (21) On or before August 15, 2007, and each succeeding month
424 thereafter, from the total sales tax revenue collected during the
425 preceding month under the provisions of this chapter in Hancock,
426 Harrison, Jackson, Pearl River, Stone and George Counties, One
427 Million Five Hundred Thousand Dollars (\$1,500,000.00), in the
428 aggregate, shall be deposited into the Mississippi Windstorm

429 Underwriting Association Reinsurance Assistance Fund created under
430 Section 2 of House Bill No. 1500, 2007 Regular Session.

431 (22) The remainder of the amounts collected under the
432 provisions of this chapter shall be paid into the State Treasury
433 to the credit of the General Fund.

434 (23) It shall be the duty of the municipal officials of any
435 municipality that expands its limits, or of any community that
436 incorporates as a municipality, to notify the commissioner of that
437 action thirty (30) days before the effective date. Failure to so
438 notify the commissioner shall cause the municipality to forfeit
439 the revenue that it would have been entitled to receive during
440 this period of time when the commissioner had no knowledge of the
441 action. If any funds have been erroneously disbursed to any
442 municipality or any overpayment of tax is recovered by the
443 taxpayer, the commissioner may make correction and adjust the
444 error or overpayment with the municipality by withholding the
445 necessary funds from any later payment to be made to the
446 municipality.

447 **SECTION 4.** Using state fiscal year 2005 (the fiscal year
448 ending June 30, 2005) as the base year, the State Tax Commission,
449 no less often than annually, shall pay over to the State Treasurer
450 for deposit into the special fund created in Section 2 of this
451 act, an amount representing any growth after the base year of the
452 portion of the insurance premium tax collected under Section
453 27-15-103 et seq. and allocated for distribution to the General
454 Fund.

455 **SECTION 5.** The following shall be codified as Section
456 27-7-22.33, Mississippi Code of 1972:

457 27-7-22.33. (1) There shall be allowed as a credit against
458 the tax imposed by this chapter an amount equal to the applicable
459 percentage of the excess of the annual premiums paid for policies
460 issued or renewed on or after October 1, 2006, by or on behalf of
461 a taxpayer for "essential property insurance," as defined in

462 Section 83-34-1(a), in any "Coast area," as defined in Section
463 83-34-1(f), to the Mississippi Windstorm Underwriting Association
464 over the amount of annual premiums that would have been paid to
465 the Mississippi Windstorm Underwriting Association if such policy
466 had been issued immediately prior to October 1, 2006. The amount
467 of such increase shall be determined by the Department of
468 Insurance and the State Tax Commission and published annually.
469 The applicable percentage shall be one hundred percent (100%) for
470 2007, and 2008 if no premium was paid between October 1 and
471 December 31, 2006, and shall decrease by twenty percent (20%) for
472 each year thereafter such that no taxpayer may claim a credit for
473 more than five (5) years.

474 (2) Premiums paid after October 1, 2006, and before January
475 1, 2007, shall be claimed and allowed on the first income tax
476 return that is due on or after January 1, 2007.

477 (3) Premiums paid on or after January 1, 2007, shall be
478 claimed and allowed on the first income tax return that is due in
479 the year after the payment.

480 (4) Any tax credit claimed under this section but not used
481 in any taxable year may be carried forward for three (3)
482 consecutive years from the close of the tax year in which the
483 credit was earned. The credit that may be utilized in any one (1)
484 tax year shall be limited to an amount not greater than the total
485 state income tax liability of the taxpayer for that year reduced
486 by the sum of all other income tax credits allowable to the
487 taxpayer, except credit for tax payments made by or on behalf of
488 the taxpayer.

489 **SECTION 6.** There shall be allowed as a credit against the
490 tax imposed under Sections 27-15-103 through 27-15-129, in an
491 amount equal to ten percent (10%) of the gross premium receipts on
492 new policies written, or covering risk, within the Coast area of
493 this state on or after January 1, 2007, for any domestic or
494 foreign insurance company which writes policies within the Coast

495 area; provided, however, the credit allowed hereunder shall not
496 exceed One Hundred Thousand Dollars (\$100,000.00) during any
497 calendar year. The State Tax Commission and the Department of
498 Insurance shall determine what constitutes new policies written,
499 or covering risk, within the Coast area of this state. Any tax
500 credit claimed under this section but not used in any taxable year
501 may be carried forward for the three (3) succeeding tax years.
502 For purposes of this section, "Coast area" shall have the meaning
503 as provided in Section 83-34-1(f).

504 **SECTION 7.** Section 83-34-1, Mississippi Code of 1972, is
505 amended as follows:

506 83-34-1. In this chapter, unless the context otherwise
507 requires:

508 (a) "Essential property insurance" means insurance
509 against direct loss to property from the risk of windstorm and
510 hail in the manner as defined and limited in the standard real
511 property and contents insurance forms approved by the
512 commissioner. Essential property insurance shall not include
513 coverage for any loss other than the actual cash value at the time
514 of loss of the structure and contents. Essential property
515 insurance includes builders risks coverage. The extent of risk
516 covered, the insuring language and the exclusions are all subject
517 to approval by the commissioner. Policies, rules and rates shall
518 be filed with the commissioner in the manner provided for
519 insurance companies.

520 (b) "Association" means the Mississippi Windstorm
521 Underwriting Association established pursuant to the provisions of
522 this chapter.

523 (c) "Plan of operation" means the plan of operation of
524 the association approved or promulgated by the * * * commissioner
525 pursuant to the provisions of this chapter.

526 (d) "Insurable property" means * * * real property, and
527 contents therein when requested, at fixed locations in the Coast

528 area * * *, which property is determined by the association * * *
529 to be in an insurable condition and otherwise meet the
530 underwriting requirements of the association. * * * Any one- or
531 two-family dwelling built, rebuilt, altered or remodeled in
532 compliance with the applicable building codes, including * * *
533 design-wind requirements, that is not otherwise rendered
534 uninsurable by reason of use, occupancy or state of repair, shall
535 be an insurable risk. * * * Neighborhood area, location and
536 environmental hazards beyond the control of the applicant or owner
537 of the property shall not be considered in determining insurable
538 condition. * * * "Insurable property" shall not include insurance
539 on motor vehicles. "Insurable property" includes mobile homes or
540 manufactured housing that are affixed in compliance with
541 applicable codes.

542 (e) "Commissioner" means the Insurance Commissioner of
543 the State of Mississippi.

544 (f) "Coast area" means Hancock, Harrison, Jackson,
545 Pearl River, Stone and George Counties.

546 (g) (i) "Net direct premiums," for purposes of
547 calculating percentages of participation for assessable insurers
548 for the year 2007, means gross direct premiums, excluding
549 reinsurance assumed and ceded, written on property in this state
550 for the risk of windstorm and hail * * * less return premiums upon
551 cancelled contracts, dividends paid or credited to policyholders,
552 or the unused or unabsorbed portion of premium deposits * * *.
553 "Net direct premiums" includes the premium charge component for
554 the risk of windstorm and hail to property in all policies,
555 including multi-peril and other policies that package or combine
556 coverage for other risks. The plan of operation shall prescribe
557 the portion of premium allocated for the risk of windstorm and
558 hail in multi-peril and other policies that package or combine
559 coverage for other risks. "Net direct premiums" shall not include
560 farm property. "Net direct premiums" shall not include the

561 property components of motor vehicles and other mobile property,
562 but includes premiums for the risks of windstorm and hail for
563 mobile homes or manufactured housing.

564 (ii) "Net direct premiums," for purposes of
565 calculating percentages of participation for assessable insurers
566 after the year 2007, means those premiums reported by the
567 assessable insurers in their annual statements to the Department
568 of Insurance that were charged for insurance for any and all risks
569 on real property and contents in the state. The department shall
570 determine which lines of insurance shall be included in the
571 calculation of net direct premiums. The included lines may be
572 changed from time to time in the discretion of the commissioner.
573 "Net direct premiums" shall not include premiums for insuring farm
574 property that are reported timely to the association as provided
575 in the plan of operation.

576 (iii) The commissioner is authorized and directed
577 to provide to the association annual statements, other reports and
578 any statistics necessary to provide the information herein
579 required and which the commissioner is hereby authorized and
580 empowered to obtain from any assessable insurer.

581 (h) "Farm property" means property used for farming
582 purposes; however, it shall not include any property used for
583 dwelling purposes or any outbuildings used in connection
584 therewith.

585 (i) "Losses" includes expenses for the adjustment and
586 resolution of claims and operational and other general expenses.

587 (j) "Bonds, loans, lines of credit and indebtedness"
588 include interest, finance charges, and any and all other costs
589 associated with the financing.

590 (k) "Percentage of participation" for an assessable
591 insurer means the percentage determined by dividing the assessable
592 insurers net direct premiums written in this state in the previous
593 year, less any credits that the association may allow, by the

594 aggregate net direct premiums written in this state by all
595 assessable insurers of the association in the previous year.

596 (l) "Nonadmitted insurers" mean those insurance
597 companies defined in Section 83-21-17, and any other companies and
598 persons selling insurance on risks in Mississippi that are not
599 licensed to do business in the State of Mississippi.

600 (m) "Brokers for nonadmitted insurers" means those
601 agents defined in 83-21-19.

602 **SECTION 8.** Section 83-34-3, Mississippi Code of 1972, is
603 amended as follows:

604 83-34-3. (1) There is hereby created the Mississippi
605 Windstorm Underwriting Association, which shall be a separate and
606 independent entity as provided for herein * * *. At its option,
607 the association may incorporate. All assets of the association
608 shall hereinafter belong to and remain with the association.
609 There shall be no distribution of income or assets other than for
610 the benefit of the association, which shall have the right to
611 invest and reinvest assets.

612 (2) From and after the effective date of House Bill No.
613 1500, 2007 Regular Session, the association shall no longer have
614 members. Former "members" of the association shall be "assessable
615 insurers" and shall have no rights to the assets and profits of
616 the association, but shall have the obligation for regular
617 assessments as provided herein. As a condition of its authority
618 to continue to transact the business of insurance in this state,
619 any licensed insurer shall be an assessable insurer so long as the
620 association is in existence. By transacting business in this
621 state, each such licensed insurer agrees to be bound by the
622 provisions of this statute and the plan of operation as approved
623 by the commissioner, and all amendments and revisions thereto.

624 (3) Any licensed insurer first authorized to write insurance
625 after the effective date of House Bill No. 1500, 2007 Regular
626 Session, shall become an assessable insurer on the first day of

627 January immediately following such authorization. The
628 determination of such insurer's participation in the association
629 shall be made based upon writings in the prior year in the same
630 manner as for all other assessable insurers of the association.

631 (4) The premiums, assessments, fees, investment income and
632 other revenue of the association are funds received for the sole
633 purpose of providing insurance coverage, paying claims for
634 Mississippi citizens insured by the association, securing and
635 repaying debt obligations issued by the association, and
636 conducting all other activities of the association, all as
637 required or permitted by this chapter. Such revenue shall not be
638 considered taxes, fees, licenses or charges for services imposed
639 by the State of Mississippi on individuals, businesses, or
640 agencies, and shall not be used for other purposes.

641 (5) It is the intent of the Legislature that the association
642 be and act as a nonprofit entity. The association shall be free
643 from taxation of every kind by the state and any political
644 subdivision or other instrumentality thereof. It is the intent of
645 the Legislature that the association be tax exempt from all taxes,
646 including federal taxes, and the association is granted the
647 authority to take those steps necessary to obtain federal tax
648 exempt status.

649 (6) Any debt obligations issued by the association, their
650 transfer, and the income therefrom, including any profit made on
651 the sale thereof, shall at all times be free from taxation of
652 every kind by the state and any political subdivision or other
653 instrumentality thereof.

654 (7) In the event of the termination of the association by
655 act of the Legislature, or other means, the assets of the
656 association shall be applied first to pay all debts, liabilities
657 and obligations of the association, including the establishment of
658 reasonable reserves for any contingent liabilities or obligations,

659 and all remaining assets of the association shall become property
660 of the state.

661 (8) The association shall operate as a private enterprise
662 and shall not be subject to the procurement provisions of Section
663 31-7-13, and policies and decisions of the association, including,
664 but not limited to, decisions relating to incurring debt, levying
665 of assessments, the issuance and sale of bonds, claims decisions
666 under association policies, hiring and firing of employees, and
667 all services relating to the operation of the association shall
668 not be subject to the provisions of Section 25-9-101 et seq. The
669 association shall not be required to obtain or to hold a license
670 or certificate of authority issued by the commissioner or any
671 other office. The association shall not be required to
672 participate as a member insurer of the Mississippi Insurance
673 Guaranty Association.

674 **SECTION 9.** The following section shall be codified as
675 Section 83-34-4, Mississippi Code of 1972:

676 83-34-4. (1) Nonadmitted insurers shall not be assessable
677 insurers of the association. In lieu of being an assessable
678 insurer, all brokers for nonadmitted insurers shall collect and
679 remit to the association a nonadmitted insurer fee on all premiums
680 collected after July 1, 2007, for all insurance written by such
681 broker for a policy from a nonadmitted insurer for any and all
682 risks on real property and contents in this state. By procuring
683 or selling insurance on property in this state from a nonadmitted
684 insurer, each broker for a nonadmitted insurer agrees to be bound
685 by the provisions of this chapter and to collect and remit the
686 nonadmitted insurer fee provided for herein.

687 (2) The nonadmitted insurer fee shall be a percentage of the
688 total policy premium but the nonadmitted insurer fee shall not be
689 considered premium and is not subject to premium taxes or
690 commissions. However, failure to pay the nonadmitted insurer fee

691 shall be treated the same as failure to pay premium. "Total
692 policy premium" includes taxes and commissions.

693 (3) The nonadmitted insurer fee percentage shall be set by
694 the commissioner. Such percentage may be changed from time to
695 time in the discretion of the commissioner, but in no event shall
696 the nonadmitted insurer percentage be less than five percent (5%).

697 (4) Brokers for nonadmitted insurers shall remit the
698 nonadmitted insurer fee directly to the association on no less
699 than a monthly basis. In addition to the nonadmitted insurer fee
700 provided for herein, brokers for nonadmitted insurers shall
701 collect and remit surcharges as provided by this chapter.

702 **SECTION 10.** Section 83-34-5, Mississippi Code of 1972, is
703 amended as follows:

704 83-34-5. The association shall, pursuant to the provisions
705 of this chapter and the plan of operation, and with respect to
706 essential property insurance on insurable property, have the power
707 on behalf of its assessable insurers:

708 (a) To issue policies of essential property insurance
709 on insurable property to applicants;

710 (b) At its option, and with consent of the
711 commissioner, to issue policies of related essential property
712 insurance on insurable property to applicants;

713 (c) To purchase reinsurance for all or part of the
714 risks of the association;

715 (d) To levy and collect regular assessments from
716 assessable insurers;

717 (e) To issue bonds or incur other forms of
718 indebtedness, including, but not limited to, loans, lines of
719 credit or letters of credit;

720 (f) To establish underwriting criteria consistent with
721 the provisions of this chapter and as approved by the
722 commissioner;

723 (g) To invest and reinvest income and assets subject to
724 the oversight of the commissioner; and

725 (h) All other powers necessary to carry out the
726 provisions and intent of this chapter.

727 **SECTION 11.** Section 83-34-7, Mississippi Code of 1972, is
728 amended as follows:

729 83-34-7. (1) The Board of Directors of the Mississippi
730 Insurance Underwriting Association as presently constituted shall
731 serve as the temporary board of directors of the association.
732 Such temporary board of directors shall prepare and submit a plan
733 of operation in accordance with Section 83-34-13 and shall serve
734 until the permanent board of directors shall take office in
735 accordance with the plan of operation. The permanent board shall
736 consist of five (5) representatives of the members to be appointed
737 by the temporary board of directors subject to the approval of the
738 commissioner and three (3) agents from the Coast area to be
739 appointed by the commissioner. The terms of the members of the
740 board of directors in place before the effective date of House
741 Bill No. 1500, 2007 Regular Session, shall expire on the effective
742 date of House Bill No. 1500, 2007 Regular Session, and such
743 persons shall cease to serve on the board and shall relinquish all
744 power and control of the association.

745 (2) From and after the effective date of House Bill No.
746 1500, 2007 Regular Session, the board of directors of the
747 association shall consist of the following members appointed by
748 the commissioner:

749 (a) A banking executive from the Coast area, who shall
750 serve for a term of two (2) years;

751 (b) A person who is a member of the Gulf Coast Business
752 Council, who shall serve for a term of two (2) years;

753 (c) An agent with an office in the Coast area, who
754 shall serve for a term of two (2) years;

755 (d) A person who is an executive of an insurance
756 company that has been a member of the association for at least one
757 (1) year prior to the effective date of House Bill No. 1500, 2007
758 Regular Session, who shall serve for a term of two (2) years;

759 (e) A person who is a countywide elected official in
760 the Coast area, who shall serve for a term of two (2) years;

761 (f) A person who is a municipal elected official in the
762 Coast area, who shall serve for a term of two (2) years;

763 (g) A person who is a member of the public at large in
764 the Coast area, who shall serve for a term of three (3) years;

765 (h) A person who is a member of the Gulf Coast Business
766 Council, who shall serve for a term of three (3) years;

767 (i) A person who is an executive of an insurance
768 company with its offices in the Coast area, who shall serve for a
769 term of three (3) years; and

770 (j) Two (2) persons who are not residents of the Coast
771 area, who shall both serve for a term of three (3) years.

772 On or before the effective day of House Bill No. 1500, 2007
773 Regular Session, the commissioner shall make such appointments and
774 request such resignations from the existing board as are
775 appropriate to comply with this section.

776 (3) The board of directors has the power to act and make
777 binding decisions on behalf of the association on all issues.

778 **SECTION 12.** Section 83-34-9, Mississippi Code of 1972, is
779 amended as follows:

780 83-34-9. (1) All assessable insurers of the association
781 shall participate in regular assessments levied by the association
782 based upon their percentage of participation. The association may
783 allow assessable insurers of groups of insurers to combine their
784 annual net direct premiums and other data, including data that
785 supports any incentives that may be allowed by the association, to
786 the extent that such grouping promotes the voluntary writing of
787 essential property insurance in the Coast area. Any provisions

788 for credits and grouping of data shall be prescribed in the plan
789 of operation.

790 (2) All profits of the association shall remain as assets of
791 the association.

792 (3) The plan of operation shall provide financial incentives
793 or financial penalties, or both, to ensure that assessable
794 insurers write essential property insurance in the Coast area.
795 The incentives and penalties may include, but is not limited to, a
796 reduction in recovery of regular assessments, a nonrecoverable
797 participation in losses incurred by the association above the
798 amounts covered by the regular assessments, and other incentives
799 and penalties as provided in the plan of operation. The
800 commissioner shall approve the plan of operation as provided in
801 Section 83-34-13.

802 **SECTION 13.** The following shall be codified as Section
803 83-34-10, Mississippi Code of 1972:

804 83-34-10. In the event of a storm that may produce losses in
805 excess of funds that may be immediately available to the
806 association, or in the event that the association determines that
807 it will otherwise have a claim deficit or any other deficit, then
808 the association, with consent of the commissioner, shall have the
809 power to levy regular assessments against assessable insurers
810 based upon their percentage of participation. In any year, the
811 aggregate total of regular assessments shall not exceed the
812 greater of ten percent (10%) of the deficit or ten percent (10%)
813 of the aggregate statewide direct written premiums for property
814 insurance for the prior calendar year of all association
815 assessable insurers. Regular assessments shall be paid by
816 assessable insurers within sixty (60) days of receipt of the
817 notice of the assessments.

818 **SECTION 14.** Section 83-34-11, Mississippi Code of 1972, is
819 amended as follows:

820 83-34-11. (1) Within one hundred twenty (120) days of the
821 levy of any regular assessments, the commissioner shall implement
822 a surcharge on all property and casualty insurance premiums for
823 insurance for property and operations in this state designed to
824 recover to the association within one (1) year the amount of such
825 regular assessment for reimbursement to assessable insurers who
826 paid the regular assessment. "Premiums" includes premiums for
827 policies issued by or for the association. "Premiums" shall not
828 include premiums for workers' compensation coverage provided by
829 self-insured funds or self-insured trust funds or premiums for
830 coverage by or through self-insured plans administered by the
831 State of Mississippi. Such surcharge shall be specifically
832 identified on either the premium statements or the policy
833 declarations pages or other appropriate policy forms as relating
834 to the specific MWUA regular assessment for which it was
835 implemented. The commissioner shall name each such surcharge so
836 that it can be uniformly identified by insurers and brokers.

837 (2) The surcharge shall be a percentage of the total policy
838 premium, but the surcharge shall not be considered premium and is
839 not subject to premium taxes or commissions. However, failure to
840 pay the surcharge shall be treated the same as failure to pay
841 premium. "Total policy premium" includes taxes and commissions.

842 (3) If at any time, the surcharge to repay regular
843 assessments shall be insufficient, the commissioner shall increase
844 the surcharge as necessary and appropriate. However, in no event
845 may the aggregate total of all regular assessments in a year
846 exceed the maximum amounts specified in Section 83-34-10.

847 (4) The commissioner shall cease regular assessment
848 surcharges as he determines appropriate funds have been collected.

849 (5) Each licensed insurer issuing insurance for property and
850 casualty risks in the state and each broker for nonadmitted
851 insurers, shall collect the regular assessment surcharges
852 established by the commissioner under the authority of this

853 section. Funds collected by such insurers and brokers as regular
854 assessment surcharges shall be collected and held in trust and
855 shall be fully remitted to the association on a quarterly basis
856 with forms providing appropriate information as designed by the
857 association. Insurers and brokers shall remit such funds to the
858 association within twenty (20) days after the end of each quarter.
859 At such time the insurers and brokers shall further remit to the
860 association all interest earned on the surcharge funds. However,
861 assessable insurers of the association who have paid to the
862 association the regular assessment that is the basis of the
863 surcharge shall not be required to remit interest earned on
864 collected surcharges from the lines of business on which their
865 regular assessment was based.

866 (6) The association shall reimburse assessable insurers for
867 regular assessments from the funds collected as regular assessment
868 surcharges. Reimbursements shall be made to assessable insurers
869 in the same percentages as the regular assessments were paid by
870 assessable insurers. The association must endeavor to make
871 reimbursements from the surcharge funds collected within sixty
872 (60) days of the end of each quarter. Any funds collected by the
873 association in excess of the amount necessary to reimburse
874 assessable insurers for regular assessments shall be general funds
875 of the association.

876 (7) The reimbursement to assessable insurers for regular
877 assessments as provided in subsection (6) must be refunded to the
878 association by any insurer that reduces its property writings in
879 the state by more than ten percent (10%) in the five-year period
880 beginning January 1 of the year following the regular assessment,
881 unless such insurer is granted an exception by the commissioner
882 after public hearing on the request for exception. The reasons
883 for an exception by the commissioner shall include, but are not
884 limited to, inadequate solvency to continue writing at the
885 previous level. Refunds shall be proportionate to the point in

886 time during the five-year period the assessable insurer drops its
887 property writings more than ten percent (10%). Prior to receiving
888 any reimbursement by the association, each assessable insurer must
889 execute an agreement provided by the association agreeing to
890 comply with the intent of this subsection.

891 (8) The association and the commissioner are both
892 specifically given the power to audit licensed insurers and
893 brokers for nonadmitted insurers to confirm the accuracy of
894 remittances of surcharges at the expense of the licensed insurers
895 and brokers.

896 (9) The association shall report quarterly to the
897 commissioner providing all financial information for each regular
898 assessment surcharge, including:

- 899 (a) The original amount of the regular assessment and
900 the amount remaining not reimbursed to assessable insurers;
901 (b) Total surcharge funds recovered to date; and
902 (c) Any information requested by the commissioner.

903 **SECTION 15.** The following shall be codified as Section
904 83-34-12, Mississippi Code of 1972:

905 83-34-12. The regular assessment of a assessable insurer
906 may, after hearing, be ordered deferred, in whole or in part, upon
907 application by the insurer if, in the opinion of the commissioner,
908 payment of the assessment would render the insurer insolvent or in
909 danger of insolvency, or would otherwise leave the insurer in such
910 a condition that further transaction of the insurer's business
911 would be hazardous to its policyholders, creditors, assessable
912 insurers, subscribers, stockholders or the public. If that
913 payment of an assessment against an assessable insurer is deferred
914 by order of the commissioner, in whole or in part, the amount by
915 which the assessment is deferred shall be assessed against other
916 assessable insurer in the same manner as provided in Section
917 83-34-9.

918 **SECTION 16.** Section 83-34-13, Mississippi Code of 1972, is
919 amended as follows:

920 83-34-13. (1) Within forty-five (45) days after the
921 effective date of House Bill No. 1500, 2007 Regular Session, the
922 directors of the association shall submit to the commissioner for
923 review and approval a proposed plan of operation revised to be
924 consistent with the provisions of House Bill No. 1500, 2007
925 Regular Session. The association shall maintain a plan of
926 operation. The plan shall provide for the efficient, economical,
927 fair and nondiscriminatory administration of the association. The
928 plan may include methods for the assessment of all assessable
929 insurers for deficits and expenses * * *, the establishment of
930 necessary facilities, management of the association, * * *,
931 underwriting standards, * * *, procedures for determining the
932 amounts of insurance to be provided to specific risks, time limits
933 and procedures for processing applications for insurance, and for
934 such other provisions as may be deemed necessary by the board to
935 carry out the purposes of this chapter.

936 (2) The plan of operation shall provide financial incentives
937 or financial penalties, or both, to ensure that assessable
938 insurers write essential property insurance in the Coast area.
939 The incentives and penalties may include, but is not limited to, a
940 reduction in recovery of regular assessments, a nonrecoverable
941 participation in losses incurred by the association above the
942 amounts covered by the regular assessments, and other incentives
943 and penalties as provided in the plan of operation.

944 (3) The plan of operation shall provide (a) that the
945 association shall offer a two percent (2%) deductible for loss
946 from named storms; and (b) that the association shall also offer
947 options for other deductibles for loss from named storms with
948 appropriate rate reductions that shall include at least a twenty
949 percent (20%) deductible for loss from named storms.

950 (4) The * * * commissioner shall approve the plan of
951 operation and all amendments before they become effective. It is
952 the obligation of the commissioner to confirm that such plan
953 fulfills the purposes of this chapter. * * * If the commissioner
954 approves a proposed plan or amendment, he shall certify the
955 approval to the directors, and the plan, or amendment thereto,
956 shall become effective ten (10) days after such certification. If
957 the commissioner disapproves all or any part of the proposed plan
958 of operation, or amendment thereto, he shall return the same to
959 the directors with a written statement giving the reasons for
960 disapproval and any recommendations the commissioner may wish to
961 make. Within ten (10) days thereafter, the directors may alter
962 the plan or amendment in accordance with the commissioner's
963 recommendation or may * * * return a new plan to the
964 commissioner. * * * The commissioner shall consider the proposals
965 and shall then promulgate and place into effect a plan of
966 operation certifying the same to the directors of the association
967 after approval by the board of directors. Any such plan
968 promulgated by the commissioner shall take effect ten (10) days
969 after certification to the directors.

970 (5) * * * The commissioner may review the plan of operation
971 at any time he deems expedient or prudent. After review of the
972 plan, the commissioner may amend the plan after consultation with
973 the directors of the association and upon certification to the
974 directors of the amendment.

975 **SECTION 17.** Section 83-34-15, Mississippi Code of 1972, is
976 amended as follows:

977 83-34-15. (1) (a) Any person having an insurable interest
978 in insurable property is entitled to apply to the association for
979 such coverage * * *. Applications shall be made on behalf of the
980 owner of the insurable interest by a licensed resident broker or
981 agent authorized by him. Applications shall be submitted on forms
982 prescribed by the association.

983 (b) The association may require an inspection of any
984 properties after application or request for renewal and may charge
985 a fee for such inspection.

986 (c) The term "insurable interest" as used in this
987 subsection shall be deemed to include any lawful and substantial
988 economic interest in the safety or preservation of property from
989 loss, destruction or pecuniary damage.

990 (2) If the association determines that the property is
991 insurable and that there is no unpaid premium due from the
992 applicant for prior insurance on the property, the association,
993 upon receipt of the premium or such portion thereof as is
994 prescribed in the plan of operation, shall cause to be issued, or
995 issue, a policy of essential property insurance * * *. Such
996 coverage shall be dependant upon the timely payment of premiums or
997 premium installments as provided for at the time of application.
998 Coverage limits shall be determined by the value of the insurable
999 property at the time the policy is issued subject to maximum
1000 limits which shall be set forth under the plan of operation * * *.

1001 (3) If the association for any reason denies an application
1002 and refuses to issue or cause to be issued an insurance
1003 policy * * * to any applicant, or takes no action on an
1004 application within the time prescribed in the plan of operation,
1005 such applicant may appeal to the commissioner. The commissioner
1006 or a designated member of his staff, after reviewing the facts,
1007 may direct the association to issue or cause to be issued an
1008 insurance policy to the applicant; however, no coverage shall be
1009 in effect until such time as the premium is paid and the policy
1010 issued. In carrying out his duties pursuant to this section, the
1011 commissioner may request, and the association shall provide, any
1012 information the commissioner deems necessary to a determination
1013 concerning the reasons for the denial or delay of the application.

1014 **SECTION 18.** Section 83-34-17, Mississippi Code of 1972, is
1015 amended as follows:

1016 83-34-17. The rates, rating plans, rating rules, forms and
1017 endorsements applicable to the insurance written by the
1018 association shall be those approved for use of the association by
1019 the commissioner. * * * Rates shall be nondiscriminatory as to
1020 the same class of risk.

1021 **SECTION 19.** Section 83-34-19, Mississippi Code of 1972, is
1022 amended as follows:

1023 83-34-19. (1) Any assessable insurer or other licensed
1024 insurer, or broker for a nonadmitted insurer, who may be aggrieved
1025 by an act, order, ruling or decision of the association may,
1026 within thirty (30) days after such ruling, appeal to the
1027 commissioner. Any hearings held by the commissioner pursuant to
1028 such an appeal shall be in accordance with the procedure set forth
1029 in the insurance laws of Mississippi. The commissioner is
1030 authorized to appoint a member of his staff for the purpose of
1031 hearing such appeals, and a ruling based upon such hearing shall
1032 have the same effect as if heard by the commissioner. All
1033 assessable insurers or other licensed insurers, or brokers for a
1034 nonadmitted insurer, aggrieved by any order or decision of the
1035 commissioner may appeal to the Chancery Court of the First
1036 Judicial District of Hinds County, Mississippi, consistent with
1037 the insurance laws of the State of Mississippi.

1038 (2) The association and any assessable insurer, other
1039 licensed insurer or broker for a nonadmitted insurer that may be
1040 aggrieved by an act, order, ruling or decision of the commissioner
1041 may, within thirty (30) days after such act, order, ruling or
1042 decision, appeal to the Chancery Court of the First Judicial
1043 District of Hinds County, Mississippi, consistent with the
1044 insurance laws of the State of Mississippi.

1045 **SECTION 20.** Section 83-34-21, Mississippi Code of 1972, is
1046 amended as follows:

1047 83-34-21. All reports of inspection performed by or on
1048 behalf of the association shall be made available to the

1049 assessable insurers of the association, applicants, agents,
1050 brokers and the commissioner.

1051 **SECTION 21.** Section 83-34-23, Mississippi Code of 1972, is
1052 amended as follows:

1053 83-34-23. There shall be no liability on the part of * * *
1054 the insurance commissioner or any of his staff and representatives
1055 for any action taken under and pursuant to the provisions of this
1056 chapter. There shall be no liability on the part of the
1057 association, its agents, representatives or employees, the members
1058 of the board, or any assessable insurer of the association, except
1059 for the contractual obligations of any contract of insurance and
1060 the duty to pay assessments as provided in this chapter.

1061 **SECTION 22.** Section 83-34-27, Mississippi Code of 1972, is
1062 amended as follows:

1063 83-34-27. The commissioner may from time to time make an
1064 examination into the affairs of the association when he deems
1065 prudent and, in undertaking such examination, may hold a public
1066 hearing. The expenses of such examination shall be borne and paid
1067 by the association. The association and the commissioner may from
1068 time to time make an examination of the data and payments of
1069 assessable insurers or other licensed insurers or brokers for
1070 nonadmitted insurers as it deems prudent. The expenses of such
1071 examination shall be borne and paid by the examined party or
1072 entity. Any person noticed for such examination may appeal the
1073 examination or the cost thereof, or both, to the commissioner.

1074 **SECTION 23.** The following shall be codified as Section
1075 83-34-31, Mississippi Code of 1972:

1076 83-34-31. (1) The board of directors, subject to the
1077 approval of the commissioner, shall have the power and authority
1078 to issue bonds, and the power and authority to enter into loans,
1079 letters of credit, lines of credit, and other forms of
1080 indebtedness, as needed for operations, the purchase of
1081 reinsurance, claim losses, and incurred but not reported claims.

1082 (2) All such bonds and loans are secured by the power and
1083 duty of the commissioner to implement surcharges against all
1084 property and casualty insurance premiums for insurance for
1085 property and operations in this state sufficient to repay the
1086 bonds or loans, or both.

1087 (3) If any of the bonds remain unsold sixty (60) days after
1088 issuance, the commissioner shall require all assessable insurers
1089 to purchase the bonds, which purchased bonds shall be treated as
1090 admitted assets; each assessable insurer shall be required to
1091 purchase that percentage of the unsold portion of the bond issue
1092 that equals the assessable insurer's current percentage of
1093 participation. An assessable insurer shall not be required to
1094 purchase the bonds to the extent that the commissioner determines
1095 that the purchase would endanger or impair the solvency of the
1096 insurer. The bonds must be in a form approved by the
1097 commissioner. With approval of the commissioner, the association
1098 may issue bonds or incur other indebtedness to retire or
1099 consolidate bonds as appropriate. Bonds and other debt
1100 obligations issued by or on behalf of the association are not to
1101 be considered "state bonds" and shall not be an obligation of the
1102 state.

1103 (4) The state hereby covenants with holders of bonds issued
1104 pursuant to this section that the state will not limit, alter or
1105 deny the duties and obligations of this chapter, and of the
1106 association and the commissioner as established by this chapter,
1107 necessary to fulfill the terms of any agreements with bondholders,
1108 or in any way impair the rights and remedies of such bondholders
1109 as long as any such bonds remain outstanding unless adequate
1110 provision has been made for the payment of such bonds pursuant to
1111 the documents authorizing the issuance of such bonds.

1112 **SECTION 24.** The following shall be codified as Section
1113 83-34-33, Mississippi Code of 1972:

1114 83-34-33. (1) When the association knows or has reason to
1115 believe that (a) it has or will incur losses from a hurricane that
1116 exceed reinsurance and other reasonably available assets of the
1117 association, such that one or more bond issues or other financing,
1118 or both, will be necessary to pay claims losses and other related
1119 expenses, or (b) the association has a deficit that cannot be
1120 reasonably resolved by income available to the association, then
1121 the association shall immediately give notice to the commissioner
1122 and request that the commissioner implement by an excess hurricane
1123 loss surcharge on all property and casualty insurance premiums for
1124 insurance for property and operations in this state designed to
1125 recover to the association the amount of all such bonds and other
1126 indebtedness resulting from the hurricane, or other deficit.

1127 (2) At such time as the commissioner can reasonably estimate
1128 the amount of bonds or indebtedness, or both, necessitated by a
1129 hurricane event, and in no event more than ninety (90) days from
1130 the notice given by the association, the commissioner shall have
1131 the duty and the power to implement an excess hurricane loss
1132 surcharge on all property and casualty insurance premiums for
1133 insurance for property and operations in this state. "Premiums"
1134 shall not include premiums for workers' compensation coverage
1135 provided by self-insured funds or self-insured trust funds or
1136 premiums for coverage by or through self-insured plans
1137 administered by the State of Mississippi.

1138 (3) If the surcharge is designed to repay bonds, it shall be
1139 designated as such and all funds recovered from the surcharge
1140 shall be used for repayment of the bonds for which it was
1141 implemented, until such time as the bonds have been paid or
1142 redeemed.

1143 (4) If the surcharge is designed to repay a specific
1144 indebtedness incurred for losses from a specific hurricane, it
1145 shall be designated as such and all funds recovered from the
1146 surcharge shall be used for repayment of the indebtedness for

1147 which it was implemented, until such time as the indebtedness has
1148 been paid or redeemed.

1149 (5) Such surcharge shall be specifically identified on
1150 either the premium statements or the policy declarations pages or
1151 other appropriate policy forms as relating to the specific
1152 hurricane losses or bonds or indebtedness for which it was
1153 implemented. The commissioner shall name each such surcharge such
1154 that it can be uniformly identified by insurers and brokers.

1155 (6) The surcharge shall be a percentage of the total policy
1156 premium but the surcharge shall not be considered premium and is
1157 not subject to premium taxes or commissions. However, failure to
1158 pay the surcharge shall be treated the same as failure to pay
1159 premium. "Total policy premium" includes taxes and commissions.

1160 (7) The commissioner shall implement an appropriate
1161 surcharge percentage sufficient to recover the amount necessary
1162 for repayment of bonds and indebtedness necessitated by a
1163 hurricane, or the resolution of other deficit, as applicable. If
1164 at any time such surcharge shall be insufficient, the commissioner
1165 shall increase the surcharge as necessary and appropriate. The
1166 commissioner shall cease surcharges as he determines appropriate
1167 funds have been collected.

1168 (8) Each licensed insurer issuing insurance for property and
1169 casualty risks in the state and each broker for nonadmitted
1170 insurers, shall collect the surcharges established by the
1171 commissioner under the authority of this section. Funds collected
1172 by such licensed insurers and brokers for nonadmitted insurers as
1173 surcharges authorized by this section shall be collected and held
1174 in trust and shall be fully remitted to the association on a
1175 quarterly basis with forms providing appropriate information as
1176 designed by the association. Insurers and brokers shall remit
1177 such funds to the association within twenty (20) days after the
1178 end of each quarter. At such time the insurers and brokers shall

1179 further remit to the association all interest earned on the
1180 surcharge funds.

1181 (9) The association and the commissioner are both
1182 specifically given the power to audit licensed insurers and
1183 brokers for nonadmitted insurers to confirm the accuracy of
1184 remittances of surcharges at the expense of the licensed insurers
1185 and brokers.

1186 (10) The commissioner has the duty and power to adjust the
1187 percentage of any surcharge previously established as he finds
1188 appropriate taking into consideration any relevant factors,
1189 including, but not limited to, consolidation or replacement of
1190 bonds, any additional indebtedness resulting from a hurricane, the
1191 rate of recovery, anticipated length of total recovery, and impact
1192 of other hurricanes; however, the commissioner shall not reduce
1193 the amount of assessments implemented and designated to pay or
1194 redeem bonds, or other indebtedness below the amount necessary to
1195 timely pay or redeem such bonds, or other indebtedness.

1196 (11) When the association knows or has reason to believe
1197 that surcharges authorized by this section previously established
1198 by the commissioner will be insufficient to timely pay or redeem
1199 bonds or indebtedness, the association shall immediately give
1200 notice to the commissioner. The commissioner shall alter such
1201 surcharge as necessary to timely pay or redeem bonds or pay other
1202 indebtedness.

1203 (12) The association shall report quarterly to the
1204 commissioner providing all financial information for each
1205 surcharge authorized by this section, including:

1206 (a) The original and current outstanding indebtedness
1207 of all bonds and loans;

1208 (b) Total surcharge funds recovered to date; and

1209 (c) Any information requested by the commissioner.

1210 (13) The commissioner may request, and the association shall
1211 provide, on an immediate basis to the commissioner any financial

1212 information or other information concerning any surcharge. This
1213 section shall not limit the reporting requirements provided by
1214 83-34-25.

1215 **SECTION 25.** The following shall be codified as Section
1216 83-34-35, Mississippi Code of 1972:

1217 83-34-35. In order to avoid or lessen the possibility and
1218 amount of surcharges authorized by this chapter, the commissioner
1219 shall approve rates for policies issued by the association at
1220 least adequate to fund annual reinsurance above a self-insured
1221 retention of One Hundred Million Dollars (\$100,000,000.00) that,
1222 combined with any readily available reserves of the association,
1223 is sufficient to cover at least the probable maximum losses from a
1224 storm expected to occur once every one hundred (100) years as
1225 predicted by a model or method approved by the commissioner for
1226 the properties insured by the association at the time the
1227 reinsurance was negotiated. The amount of reinsurance in the
1228 forgoing rate adequacy requirement shall increase every two (2)
1229 years by increasing the probable maximum loss by five (5) years,
1230 until such time as the probable maximum loss insured is for a
1231 storm expected to occur every one hundred fifty (150) years. The
1232 commissioner may approve rates in excess of the minimums required
1233 by this section as consistent with his duties and the insurance
1234 laws of the State of Mississippi.

1235 **SECTION 26.** This act shall take effect and be in force from
1236 and after its passage.