

By: Representatives Formby, Peranich,  
Upshaw, Guice, Janus, Patterson, Ishee,  
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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.