

By: Representatives Formby, Peranich,
Upshaw, Guice, Janus, Patterson, Ishee,
Zuber, Palazzo, Fredericks, Wells-Smith,
Simpson, Dedeaux, Franks

To: Insurance

HOUSE BILL NO. 1500
(As Sent to Governor)

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 AND RECOMMENDING THE AMOUNT NECESSARY TO BE
22 APPROPRIATED FOR DEPOSIT INTO MISSISSIPPI WINDSTORM UNDERWRITING
23 ASSOCIATION REINSURANCE ASSISTANCE FUND; TO PROVIDE THAT A PORTION
24 OF THE STATE INSURANCE PREMIUM TAX REVENUE SHALL BE DEPOSITED INTO
25 THE MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION REINSURANCE
26 ASSISTANCE FUND; TO PROVIDE AN ANNUAL CREDIT AGAINST THE STATE
27 INSURANCE PREMIUM TAXES FOR DOMESTIC AND FOREIGN INSURANCE
28 COMPANIES FOR CERTAIN NEW POLICIES WRITTEN IN THE COAST AREA OF
29 THE STATE; TO AMEND SECTION 83-34-1, MISSISSIPPI CODE OF 1972, TO
30 REVISE OTHER DEFINITIONS; TO AMEND SECTION 83-34-3, MISSISSIPPI
31 CODE OF 1972, TO REVISE THE ORGANIZATIONAL STRUCTURE OF THE
32 ASSOCIATION; TO CREATE SECTION 83-34-4, MISSISSIPPI CODE OF 1972,
33 TO REQUIRE ALL AGENTS PLACING INSURANCE THROUGH NONADMITTED
34 INSURERS TO COLLECT AND REMIT TO THE ASSOCIATION A NONADMITTED
35 POLICY FEE; TO AMEND SECTION 83-34-5, MISSISSIPPI CODE OF 1972, TO
36 REVISE THE POWERS OF THE ASSOCIATION; TO AMEND SECTION 83-34-7,
37 MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE BOARD OF
38 DIRECTORS; TO AMEND SECTION 83-34-9, MISSISSIPPI CODE OF 1972, TO
39 PROVIDE THAT ALL ASSESSABLE INSURERS SHALL PARTICIPATE IN REGULAR
40 ASSESSMENTS BASED UPON THEIR PARTICIPATION, AND TO ALLOW FINANCIAL
41 INCENTIVES OR PENALTIES TO ENCOURAGE ASSESSABLE INSURERS TO WRITE
42 INSURANCE IN THE COAST AREA; TO CREATE SECTION 83-34-10,
43 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ASSOCIATION, WITH
44 CONSENT OF THE COMMISSIONER OF INSURANCE, TO LEVY REGULAR
45 ASSESSMENTS AGAINST ASSESSABLE INSURERS UPON CERTAIN EVENTS; TO
46 AMEND SECTION 83-34-11, MISSISSIPPI CODE OF 1972, TO DIRECT THE
47 COMMISSIONER OF INSURANCE TO IMPLEMENT A SURCHARGE ON ALL PROPERTY
48 AND CASUALTY PREMIUMS, WITH CERTAIN EXCEPTIONS, IN ORDER TO
49 RECOVER REGULAR ASSESSMENTS AND REIMBURSE ASSESSABLE INSURERS; TO
50 CREATE SECTION 83-34-12, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
51 DEFERRAL OF A REGULAR ASSESSMENT BY ORDER OF THE COMMISSIONER OF
52 INSURANCE; TO AMEND SECTION 83-34-13, MISSISSIPPI CODE OF 1972, TO

53 REVISE THE REQUIRED CONTENTS OF THE ASSOCIATION'S PLAN OF
54 OPERATION; TO AMEND SECTION 83-34-15, MISSISSIPPI CODE OF 1972, TO
55 REVISE THE PROCESS FOR APPLICATION FOR COVERAGE; TO AMEND SECTION
56 83-34-17, MISSISSIPPI CODE OF 1972, TO AMEND IN CONFORMITY WITH
57 OTHER PROVISIONS; TO AMEND SECTION 83-34-19, MISSISSIPPI CODE OF
58 1972, TO REVISE THE PROCESS FOR APPEAL OF DECISIONS MADE BY THE
59 ASSOCIATION OR COMMISSIONER OF INSURANCE; TO AMEND SECTION
60 83-34-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH OTHER
61 PROVISIONS; TO AMEND SECTION 83-34-23, MISSISSIPPI CODE OF 1972,
62 TO PROVIDE IMMUNITY FROM LIABILITY FOR THE ASSOCIATION AND THE
63 COMMISSIONER OF INSURANCE; TO AMEND SECTION 83-34-27, MISSISSIPPI
64 CODE OF 1972, TO AUTHORIZE THE EXAMINATION OF DATA AND PAYMENTS OF
65 ASSESSABLE INSURERS AND AGENTS PLACING INSURANCE THROUGH
66 NONADMITTED INSURERS; TO CREATE SECTION 83-34-31, MISSISSIPPI CODE
67 OF 1972, TO AUTHORIZE THE ASSOCIATION TO ISSUE BONDS AND ENTER
68 INTO LOANS; TO CREATE SECTION 83-34-33, MISSISSIPPI CODE OF 1972,
69 TO AUTHORIZE THE COMMISSION TO IMPLEMENT A SURCHARGE FOR EXCESS
70 HURRICANE LOSSES ON ALL PROPERTY AND CASUALTY PREMIUMS, WITH
71 CERTAIN EXCEPTIONS, TO RECOVER AMOUNT OF BONDS OR OTHER
72 INDEBTEDNESS OF THE ASSOCIATION; TO CREATE SECTION 83-34-35,
73 MISSISSIPPI CODE OF 1972, TO DIRECT THE COMMISSIONER OF INSURANCE
74 TO APPROVE ASSOCIATION RATES AT LEAST ADEQUATE TO FUND ANNUAL
75 REINSURANCE ABOVE A CERTAIN RESERVE; AND FOR RELATED PURPOSES.

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

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

79 **SECTION 2.** (1) (a) There is created in the State Treasury
80 a special fund to be designated as the "Mississippi Windstorm
81 Underwriting Association Reinsurance Assistance Fund." The fund
82 shall consist of monies deposited therein as provided under
83 Section 3 of this act, monies appropriated by act of the
84 Legislature and monies from any other source designated for
85 deposit into such fund. Unexpended amounts remaining in the fund
86 at the end of a fiscal year shall not lapse into the State General
87 Fund, and any interest earned or investment earnings on amounts in
88 the fund shall be deposited to the credit of the fund; however,
89 any monies in excess of Fifty Million Dollars (\$50,000,000.00)
90 remaining in the fund at the end of a fiscal year that have not
91 been appropriated shall lapse into the State General Fund.

92 (b) Monies in the special fund may be used by the
93 Department of Insurance, upon appropriation by the Legislature,
94 only for the purpose of assisting the Mississippi Windstorm
95 Underwriting Association in defraying expenses and costs for
96 reinsurance under Section 83-34-1 et seq. The association may use

97 any such funds received from the Department of Insurance for the
98 sole purpose of defraying expenses and costs for reinsurance.
99 Monies in the fund used for the purposes described in this
100 paragraph (b) shall be in addition to other funds available from
101 any other source for such purposes.

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

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

115 (b) The Mississippi Windstorm Underwriting Association
116 shall prepare and file detailed reports with the Clerk of the
117 House of Representatives, Secretary of the Senate, Commissioner of
118 Insurance, Attorney General and Executive Director of the
119 Mississippi Development Authority regarding the receipt and
120 expenditure of monies by the association under this section.

121 **SECTION 3.** (1) Beginning with fiscal year 2007 through
122 fiscal year 2010, the State Tax Commission shall annually deposit
123 from insurance premium tax revenue collected by it under the
124 provisions of Section 27-15-103 et seq. an amount of Twenty
125 Million Dollars (\$20,000,000.00) for each fiscal year into the
126 special fund created in Section 2 of this act. Each billing
127 statement for essential property insurance written under Section
128 83-34-1 et seq. shall clearly indicate that by action of the
129 Legislature, during the 2007 Regular Session, Twenty Million

130 Dollars (\$20,000,000.00) is deposited annually for four (4) years
131 into the Mississippi Windstorm Underwriting Association
132 Reinsurance Assistance Fund for the purpose of reducing the
133 premium rates charged for insuring property through the
134 association.

135 (2) This section shall stand repealed from and after July 1,
136 2010.

137 **SECTION 4.** There shall be allowed as a credit against the
138 tax imposed under Sections 27-15-103 through 27-15-129, in an
139 amount equal to ten percent (10%) of the gross premium receipts on
140 new policies written for essential property insurance (as defined
141 in Section 83-34-1) within the coast area of this state on or
142 after January 1, 2007, for any domestic or foreign insurance
143 company which writes policies within the coast area; provided,
144 however, the credit allowed hereunder shall not exceed One Hundred
145 Thousand Dollars (\$100,000.00) during any calendar year. The
146 State Tax Commission and the Department of Insurance shall
147 determine what constitutes new policies written, or covering risk,
148 within the coast area of this state. Any tax credit claimed under
149 this section but not used in any taxable year may be carried
150 forward for the three (3) succeeding tax years. For purposes of
151 this section, "coast area" shall have the meaning as provided in
152 Section 83-34-1.

153 **SECTION 5.** Section 83-34-1, Mississippi Code of 1972, is
154 amended as follows:

155 83-34-1. In this chapter, unless the context otherwise
156 requires:

157 (a) "Essential property insurance" means insurance
158 against direct loss to property from the risk of windstorm and
159 hail in the manner as defined and limited in the standard real
160 property and contents insurance forms approved by the
161 commissioner. Essential property insurance shall not include
162 coverage for any loss other than the actual cash value of the

163 structure and contents. Essential property insurance includes
164 builders risks coverage. The extent of risk covered, the insuring
165 language and the exclusions are all subject to approval by the
166 commissioner. Policies, rules and rates shall be filed with the
167 commissioner in the manner provided for insurance companies.

168 (b) "Association" means the Mississippi Windstorm
169 Underwriting Association established pursuant to the provisions of
170 this chapter.

171 (c) "Plan of operation" means the plan of operation of
172 the association approved or promulgated by the * * * commissioner
173 pursuant to the provisions of this chapter.

174 (d) "Insurable property" means * * * real property, and
175 contents therein when requested, at fixed locations in the coast
176 area * * *, which property is determined by the association * * *
177 to be in an insurable condition and otherwise meets the
178 underwriting requirements of the association. Any one- or
179 two-family dwelling built, rebuilt, altered or remodeled in
180 compliance with the applicable building codes, including * * *
181 design-wind requirements, that is not otherwise rendered
182 uninsurable by reason of use, occupancy or state of repair, shall
183 be an insurable risk. * * * Neighborhood area, location and
184 environmental hazards beyond the control of the applicant or owner
185 of the property shall not be considered in determining insurable
186 condition. * * * "Insurable property" shall not include insurance
187 on motor vehicles or creditor placed insurance on mobile homes.
188 "Insurable property" includes mobile homes, modular homes or
189 manufactured housing that are installed in compliance with
190 applicable codes.

191 (e) "Commissioner" means the Insurance Commissioner of
192 the State of Mississippi.

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

195 (g) (i) "Net direct premiums," for purposes of
196 calculating percentages of participation for assessable insurers
197 for the year 2007, means gross direct premiums, excluding
198 reinsurance assumed and ceded, written on property in this state
199 for the risk of windstorm and hail * * * less return premiums upon
200 cancelled contracts, dividends paid or credited to policyholders,
201 or the unused or unabsorbed portion of premium deposits * * *.
202 "Net direct premiums" includes the premium charge component for
203 the risk of windstorm and hail to property in all policies,
204 including multi-peril and other policies that package or combine
205 coverage for other risks. The plan of operation shall prescribe
206 the portion of premium allocated for the risk of windstorm and
207 hail in multi-peril and other policies that package or combine
208 coverage for other risks. "Net direct premiums" shall not include
209 farm property. "Net direct premiums" shall not include the
210 property components of motor vehicles and other mobile property,
211 but includes premiums for the risks of windstorm and hail for
212 mobile homes, modular homes or manufactured housing.

213 (ii) "Net direct premiums," for purposes of
214 calculating percentages of participation for assessable insurers
215 after the year 2007, means those premiums reported by the
216 assessable insurers in their annual statements to the Department
217 of Insurance that were charged for insurance for any and all risks
218 on real property and contents in the state. The department shall
219 determine which lines of real property and contents insurance
220 shall be included in the calculation of net direct premiums. The
221 included real property and contents insurance lines may be changed
222 from time to time in the discretion of the commissioner. "Net
223 direct premiums" shall not include premiums for insuring farm
224 property that are reported timely to the association as provided
225 in the plan of operation.

226 (iii) The commissioner is authorized and directed
227 to provide to the association annual statements, other reports and

228 any statistics necessary to provide the information herein
229 required and which the commissioner is hereby authorized and
230 empowered to obtain from any assessable insurer.

231 (h) "Farm property" means property used for farming
232 purposes; however, it shall not include any property used for
233 dwelling purposes or any outbuildings used in connection
234 therewith.

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

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

240 (k) "Percentage of participation" for an assessable
241 insurer means the percentage determined by dividing the assessable
242 insurers net direct premiums written in this state in the previous
243 year by the aggregate net direct premiums written in this state by
244 all assessable insurers of the association in the previous year.
245 The percentage of participation may be modified as provided in
246 Sections 83-34-9(3) and 83-34-13(2).

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

251 (m) "Agents placing insurance through nonadmitted
252 insurers" means those agents defined in Section 83-21-19 and any
253 other agents placing insurance through a nonadmitted insurer.

254 (n) "Assessable insurer" means each and every insurer
255 authorized to write, and engaged in writing, property insurance
256 within this state on a direct basis.

257 **SECTION 6.** Section 83-34-3, Mississippi Code of 1972, is
258 amended as follows:

259 83-34-3. (1) From and after the effective date of House
260 Bill No. 1500, 2007 Regular Session, the Mississippi Windstorm

261 Underwriting Association, as created by Chapter 459, Laws of 1987,
262 shall be a separate and independent entity as provided for
263 herein * * *. At its option, the association may incorporate.
264 All assets belonging to the association on or before the effective
265 date of House Bill No. 1500, 2007 Regular Session, shall
266 hereinafter belong to and remain with the association. There
267 shall be no distribution of income or assets other than for the
268 benefit of the association, which shall have the right to invest
269 and reinvest assets.

270 (2) From and after the effective date of House Bill No.
271 1500, 2007 Regular Session, the association shall no longer have
272 members. Former "members" of the association shall be "assessable
273 insurers" and shall have no rights to the assets and profits of
274 the association, but shall have the obligation for regular
275 assessments as provided herein. Former members shall continue to
276 have the obligations provided in this chapter before the enactment
277 of House Bill No. 1500, 2007 Regular Session, for all policyholder
278 claims, costs, damages of any kind and expenses in any manner
279 resulting from losses that occurred before the effective date of
280 House Bill No. 1500, 2007 Regular Session, for which the
281 association may assess as needed the former members in the manner
282 provided in this chapter before the enactment of House Bill No.
283 1500, 2007 Regular Session. As a condition of its authority to
284 continue to transact the business of insurance in this state and
285 by transacting business in this state, each licensed insurer
286 agrees to be bound by the provisions of this statute and the plan
287 of operation as approved by the commissioner, and all amendments
288 and revisions thereto.

289 (3) Any licensed insurer first authorized to write insurance
290 after the effective date of House Bill No. 1500, 2007 Regular
291 Session, shall become an assessable insurer on the first day of
292 January immediately following such authorization. The
293 determination of such insurer's participation in the association

294 shall be made based upon writings in the prior year in the same
295 manner as for all other assessable insurers of the association.

296 (4) The premiums, assessments, fees, investment income and
297 other revenue of the association are funds received for the sole
298 purpose of providing insurance coverage, paying claims for
299 Mississippi citizens insured by the association, securing and
300 repaying debt obligations issued by the association, and
301 conducting all other activities of the association, all as
302 required or permitted by this chapter. Such revenue shall not be
303 considered taxes, fees, licenses or charges for services imposed
304 by the State of Mississippi on individuals, businesses, or
305 agencies, and shall not be used for other purposes.

306 (5) It is the intent of the Legislature that the association
307 be and act as a nonprofit entity. The association shall be free
308 from taxation of every kind by the state and any political
309 subdivision or other instrumentality thereof. It is the intent of
310 the Legislature that the association be tax exempt from all taxes,
311 including federal taxes, and the association is granted the
312 authority to take those steps necessary to obtain federal tax
313 exempt status.

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

319 (7) In the event of the termination of the association by
320 act of the Legislature, or other means, the assets of the
321 association shall be applied first to pay all debts, liabilities
322 and obligations of the association, including the establishment of
323 reasonable reserves for any contingent liabilities or obligations,
324 and all remaining assets of the association shall become property
325 of the state.

326 (8) The association shall operate as a private enterprise
327 and shall not be subject to the procurement provisions of Section
328 31-7-13, and policies and decisions of the association, including,
329 but not limited to, decisions relating to incurring debt, levying
330 of assessments, the issuance and sale of bonds, claims decisions
331 under association policies, hiring and firing of employees, and
332 all services relating to the operation of the association shall
333 not be subject to the provisions of Section 25-9-101 et seq. The
334 association shall not be required to obtain or to hold a license
335 or certificate of authority issued by the commissioner or any
336 other office. The association shall not be required to
337 participate as a member insurer of the Mississippi Insurance
338 Guaranty Association.

339 **SECTION 7.** The following section shall be codified as
340 Section 83-34-4, Mississippi Code of 1972:

341 83-34-4. (1) Nonadmitted insurers shall not be assessable
342 insurers of the association. All agents placing insurance through
343 nonadmitted insurers shall collect from the insured and remit to
344 the association a nonadmitted policy fee on all premiums collected
345 after January 1, 2008, for all insurance written by such agent for
346 a policy from a nonadmitted insurer for any and all risks on real
347 property and contents in this state. By procuring or selling
348 insurance on property in this state from a nonadmitted insurer,
349 each agent placing insurance through a nonadmitted insurer agrees
350 to be bound by the provisions of this chapter and to collect and
351 remit the nonadmitted policy fee provided for herein.

352 (2) The nonadmitted policy fee shall be a percentage of the
353 total policy premium but the nonadmitted policy fee shall not be
354 considered premium and is not subject to premium taxes or
355 commissions. However, failure to pay the nonadmitted policy fee
356 shall be treated the same as failure to pay premium. "Total
357 policy premium" includes taxes and commissions.

358 (3) The nonadmitted policy fee percentage shall be set by
359 the commissioner. Such percentage may be changed from time to
360 time in the discretion of the commissioner, but in no event shall
361 the nonadmitted policy fee percentage be less than five percent
362 (5%).

363 (4) Within twenty (20) days of the end of the quarter,
364 agents placing insurance through nonadmitted insurers shall remit
365 directly to the association all nonadmitted policy fees collected
366 in the preceding quarter. In addition to the nonadmitted policy
367 fee provided for herein, agents placing insurance through
368 nonadmitted insurers shall collect and remit surcharges as
369 provided by this chapter. Agents placing insurance through
370 nonadmitted insurers may designate another agent that actually
371 procured the insurance from the nonadmitted carrier to collect and
372 remit the nonadmitted policy fees subject to the procedures and
373 requirements provided for premium taxes in Section 83-21-25.

374 **SECTION 8.** Section 83-34-5, Mississippi Code of 1972, is
375 amended as follows:

376 83-34-5. The association shall, pursuant to the provisions
377 of this chapter and the plan of operation, and with respect to
378 essential property insurance on insurable property, have the
379 power * * *:

380 (a) To issue policies of essential property insurance
381 on insurable property to applicants;

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

385 (c) To purchase reinsurance for all or part of the
386 risks of the association;

387 (d) To levy and collect regular assessments from
388 assessable insurers;

389 (e) To issue bonds or incur other forms of
390 indebtedness, including, but not limited to, loans, lines of
391 credit or letters of credit;

392 (f) To establish underwriting criteria consistent with
393 the provisions of this chapter and as approved by the
394 commissioner;

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

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

399 **SECTION 9.** Section 83-34-7, Mississippi Code of 1972, is
400 amended as follows:

401 83-34-7. (1) The Board of Directors of the Mississippi
402 Insurance Underwriting Association as presently constituted shall
403 serve as the temporary board of directors of the association.
404 Such temporary board of directors shall prepare and submit a plan
405 of operation in accordance with Section 83-34-13 and shall serve
406 until the permanent board of directors shall take office in
407 accordance with the plan of operation. The permanent board shall
408 consist of five (5) representatives of the members to be appointed
409 by the temporary board of directors subject to the approval of the
410 commissioner and three (3) agents from the coast area to be
411 appointed by the commissioner. The terms of the members of the
412 board of directors in place before the effective date of House
413 Bill No. 1500, 2007 Regular Session, shall expire on the effective
414 date of House Bill No. 1500, 2007 Regular Session, and such
415 persons shall cease to serve on the board and shall relinquish all
416 power and control of the association.

417 (2) (a) From and after the effective date of House Bill No.
418 1500, 2007 Regular Session, the board of directors of the
419 association shall consist of the following:

420 (i) The State Treasurer;

421 (ii) Five (5) of the assessable insurer companies,
422 three (3) to be appointed by the commissioner, one (1) to be
423 appointed by the Governor, and one (1) to be appointed by the
424 Lieutenant Governor; each such assessable insurer appointed shall
425 designate a representative knowledgeable in the matters of the
426 association and authorize such representative to act and vote on
427 its behalf;

428 (iii) Three (3) agents with no less than ten (10)
429 years' experience in the property and casualty industry, two (2)
430 of whom are residents in the coast area, and one (1) of whom is
431 not a resident of the coast area; one (1) such coast area agent to
432 be appointed by the Governor, one (1) such coast area agent to be
433 appointed by the Lieutenant Governor, and the noncoast area agent
434 to be appointed by the commissioner; and

435 (iv) Two (2) business leaders who have been
436 residents of the coast area for no less than ten (10) years and
437 who have no less than ten (10) years' experience in management of
438 a business, one (1) to be appointed by the Governor, and one (1)
439 to be appointed by the Lieutenant Governor.

440 (b) Except for the State Treasurer, the board members
441 shall serve three-year terms with each term beginning on January
442 1, and the initial terms shall be staggered in the following
443 manner:

444 (i) The initial term for three (3) of the
445 assessable insurers shall begin on the effective date of House
446 Bill No. 1500, 2007 Regular Session, and expire on December 31,
447 2010, thereafter to be appointed for three-year terms;

448 (ii) The initial term for one (1) of the
449 assessable insurers shall begin on the effective date of House
450 Bill No. 1500, 2007 Regular Session, and expire on December 31,
451 2009, thereafter to be appointed for three-year terms;

452 (iii) The initial term for one (1) of the
453 assessable insurers shall begin on the effective date of House

454 Bill No. 1500, 2007 Regular Session, and expire on December 31,
455 2008, thereafter to be appointed for three-year terms;

456 (iv) The initial term for one (1) of the agents
457 shall begin on the effective date of House Bill No. 1500, 2007
458 Regular Session, and expire on December 31, 2010, thereafter to be
459 appointed for three-year terms;

460 (v) The initial term for one (1) of the agents
461 shall begin on the effective date of House Bill No. 1500, 2007
462 Regular Session, and expire on December 31, 2009, thereafter to be
463 appointed for three-year terms;

464 (vi) The initial term for one (1) of the agents
465 shall begin on the effective date of House Bill No. 1500, 2007
466 Regular Session, and expire on December 31, 2008, thereafter to be
467 appointed for three-year terms;

468 (vii) The initial term for one (1) of the business
469 leaders shall begin on the effective date of House Bill No. 1500,
470 2007 Regular Session, and expire on December 31, 2010, thereafter
471 to be appointed for three-year terms;

472 (viii) The initial term for one (1) of the
473 business leaders shall begin on the effective date of House Bill
474 No. 1500, 2007 Regular Session, and expire on December 31, 2008,
475 thereafter to be appointed for three-year terms.

476 (3) On or before the effective date of House Bill No. 1500,
477 2007 Regular Session, the appropriate public official shall make
478 such appointments and request such resignations from the existing
479 board as are appropriate to comply with this section.

480 (4) The board shall be staffed by as many employees as it
481 deems necessary.

482 (5) The board of directors has the power to act and make
483 binding decisions on behalf of the association on all issues.

484 **SECTION 10.** Section 83-34-9, Mississippi Code of 1972, is
485 amended as follows:

486 83-34-9. (1) All assessable insurers of the association
487 shall participate in regular assessments levied by the association
488 based upon their percentage of participation. The association may
489 allow affiliated insurers to combine their annual net direct
490 premiums and other data, including data that supports any
491 incentives that may be allowed by the association, to the extent
492 that such grouping promotes the voluntary writing of essential
493 property insurance in the coast area. Any provisions for credits
494 and grouping of data shall be prescribed in the plan of operation.

495 (2) All profits of the association shall remain as assets of
496 the association.

497 (3) The plan of operation shall provide financial incentives
498 or financial penalties, or both, to ensure that assessable
499 insurers write essential property insurance in the coast area.
500 The incentives and penalties may include, but are not limited to,
501 a reduction in recovery of regular assessments, a nonrecoverable
502 participation in losses incurred by the association above the
503 amounts covered by the regular assessments, adjustments in the
504 percentage of participation, and other incentives and penalties as
505 provided in the plan of operation. The commissioner shall approve
506 the plan of operation as provided in Section 83-34-13.

507 **SECTION 11.** The following shall be codified as Section
508 83-34-10, Mississippi Code of 1972:

509 83-34-10. In the event of a storm that may produce losses in
510 excess of funds that may be immediately available to the
511 association, or in the event that the association determines that
512 it will otherwise have a claim deficit or any other deficit, then
513 the association, with consent of the commissioner, shall have the
514 power to levy regular assessments against assessable insurers
515 based upon their percentage of participation. In any year, the
516 annual total of regular assessments shall not exceed the greater
517 of ten percent (10%) of the deficit or ten percent (10%) of the
518 aggregate statewide direct written premiums for property insurance

519 for the prior calendar year of all association assessable
520 insurers. Regular assessments shall be paid by assessable
521 insurers within sixty (60) days of receipt of the notice of the
522 assessments.

523 **SECTION 12.** Section 83-34-11, Mississippi Code of 1972, is
524 amended as follows:

525 83-34-11. (1) Within one hundred twenty (120) days of the
526 levy of any regular assessments, the commissioner shall implement
527 a surcharge on all property and casualty insurance premiums for
528 insurance for property and activities in this state designed to
529 recover to the association within one (1) year the amount of such
530 regular assessment for reimbursement to assessable insurers who
531 paid the regular assessment. "Premiums" includes premiums for
532 policies issued by or for the association and by or for the
533 Mississippi Residential Property Insurance Underwriting
534 Association. "Premiums" shall not include premiums for workers'
535 compensation coverage, premiums for medical malpractice liability
536 coverage including medical malpractice liability coverage issued
537 by companies created under Section 83-47-1 et seq., nor any
538 premiums for coverage by insurance pools or plans administered by
539 or through the State of Mississippi. Such surcharge shall be
540 specifically identified on either the premium statements or the
541 policy declarations pages or other appropriate policy forms as
542 relating to the specific Mississippi Windstorm Underwriting
543 Association regular assessment for which it was implemented. The
544 commissioner shall name each such surcharge so that it can be
545 uniformly identified by insurers and agents placing insurance
546 through nonadmitted insurers.

547 (2) The surcharge shall be a percentage of the total policy
548 premium, but the surcharge shall not be considered premium and is
549 not subject to premium taxes or commissions. However, failure to
550 pay the surcharge shall be treated the same as failure to pay
551 premium. "Total policy premium" includes taxes and commissions.

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

557 (4) The commissioner shall cease regular assessment
558 surcharges as he determines appropriate funds have been collected.
559 However, the commissioner shall endeavor to apply surcharges on a
560 one-year basis in order to promote consistency, nondiscrimination
561 and fairness among policyholders purchasing or renewing insurance
562 during that year. Any collections in excess of the amounts needed
563 shall be assets of the association for investment and other uses.

564 (5) Each licensed insurer issuing insurance for property and
565 casualty risks in the state and each agent placing insurance
566 through nonadmitted insurers, shall collect the regular assessment
567 surcharges established by the commissioner under the authority of
568 this section. Funds collected by such insurers and agents as
569 regular assessment surcharges shall be collected and held in trust
570 and shall be fully remitted to the association on a quarterly
571 basis with forms providing appropriate information as designed by
572 the association. Insurers and agents shall remit such funds to
573 the association within twenty (20) days after the end of each
574 quarter. At such time the insurers and agents shall further remit
575 to the association all interest earned on the surcharge funds.
576 However, assessable insurers of the association who have paid to
577 the association the regular assessment that is the basis of the
578 surcharge shall not be required to remit interest earned on
579 collected surcharges from the lines of business on which their
580 regular assessment was based.

581 (6) The association shall reimburse assessable insurers for
582 regular assessments from the funds collected as regular assessment
583 surcharges. Reimbursements shall be made to assessable insurers
584 in the same percentages as the regular assessments were paid by

585 assessable insurers. The association must endeavor to make
586 reimbursements from the surcharge funds collected within sixty
587 (60) days of the end of each quarter. Any funds collected by the
588 association in excess of the amount necessary to reimburse
589 assessable insurers for regular assessments shall be general funds
590 of the association.

591 (7) The reimbursement to assessable insurers for regular
592 assessments as provided in subsection (6) must be refunded to the
593 association by any insurer that reduces its property writings in
594 the state by more than ten percent (10%) in the five-year period
595 beginning January 1 of the year following the regular assessment,
596 unless such insurer is granted an exception by the commissioner
597 after public hearing on the request for exception. The reasons
598 for an exception by the commissioner shall include, but are not
599 limited to, inadequate solvency to continue writing at the
600 previous level. Refunds shall be proportionate to the point in
601 time during the five-year period the assessable insurer drops its
602 property writings more than ten percent (10%). Prior to receiving
603 any reimbursement by the association, each assessable insurer must
604 execute an agreement provided by the association agreeing to
605 comply with the intent of this subsection.

606 (8) The association and the commissioner are both
607 specifically given the power to audit licensed insurers and agents
608 placing insurance through nonadmitted insurers to confirm the
609 accuracy of remittances of surcharges at the expense of the
610 licensed insurers and agents.

611 (9) The association shall report quarterly to the
612 commissioner providing all financial information for each regular
613 assessment surcharge, including:

614 (a) The original amount of the regular assessment and
615 the amount remaining not reimbursed to assessable insurers;

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

617 (c) Any information requested by the commissioner.

618 **SECTION 13.** The following shall be codified as Section
619 83-34-12, Mississippi Code of 1972:

620 83-34-12. The regular assessment of a assessable insurer
621 may, after hearing, be ordered deferred, in whole or in part, upon
622 application by the insurer if, in the opinion of the commissioner,
623 payment of the assessment would render the insurer insolvent or in
624 danger of insolvency, or would otherwise leave the insurer in such
625 a condition that further transaction of the insurer's business
626 would be hazardous to its policyholders, creditors, assessable
627 insurers, subscribers, stockholders or the public. If that
628 payment of an assessment against an assessable insurer is deferred
629 by order of the commissioner, in whole or in part, the amount by
630 which the assessment is deferred shall be assessed against other
631 assessable insurers in the same manner as provided in Section
632 83-34-9.

633 **SECTION 14.** Section 83-34-13, Mississippi Code of 1972, is
634 amended as follows:

635 83-34-13. (1) Within forty-five (45) days after the
636 effective date of House Bill No. 1500, 2007 Regular Session, the
637 directors of the association shall submit to the commissioner for
638 review and approval a proposed plan of operation revised to be
639 consistent with the provisions of House Bill No. 1500, 2007
640 Regular Session. The association shall maintain a plan of
641 operation. The plan shall provide for the efficient, economical,
642 fair and nondiscriminatory administration of the association. The
643 plan may include methods for the assessment of all assessable
644 insurers for deficits and expenses * * *, the establishment of
645 necessary facilities, management of the association, * * *
646 underwriting standards, * * * procedures for determining the
647 amounts of insurance to be provided to specific risks, time limits
648 and procedures for processing applications for insurance, and for
649 such other provisions as may be deemed necessary by the board to
650 carry out the purposes of this chapter.

651 (2) The plan of operation shall provide financial incentives
652 or financial penalties, or both, to ensure that assessable
653 insurers write essential property insurance in the coast area.
654 The incentives and penalties may include, but are not limited to,
655 a reduction in recovery of regular assessments, a nonrecoverable
656 participation in losses incurred by the association above the
657 amounts covered by the regular assessments, adjustments in the
658 percentage of participation, and other incentives and penalties as
659 provided in the plan of operation.

660 (3) The plan of operation shall provide (a) that the
661 association shall offer a two percent (2%) deductible for loss
662 from named storms; and (b) that the association shall also offer
663 options for other deductibles for loss from named storms with
664 appropriate rate reductions that shall include at least a twenty
665 percent (20%) deductible for loss from named storms.

666 (4) The plan of operation shall provide that the association
667 use actuarially appropriate geographical zones for rating and for
668 the use of credits and penalties to encourage voluntary writing in
669 the coast area.

670 (5) The * * * commissioner shall approve the plan of
671 operation and all amendments before they become effective. It is
672 the obligation of the commissioner to confirm that such plan
673 fulfills the purposes of this chapter. * * * If the commissioner
674 approves a proposed plan or amendment, he shall certify the
675 approval to the directors, and the plan, or amendment thereto,
676 shall become effective ten (10) days after such certification. If
677 the commissioner disapproves all or any part of the proposed plan
678 of operation, or amendment thereto, he shall return the same to
679 the directors with a written statement giving the reasons for
680 disapproval and any recommendations the commissioner may wish to
681 make. Within ten (10) days thereafter, the directors may alter
682 the plan or amendment in accordance with the commissioner's
683 recommendation or may * * * return a new plan to the

684 commissioner. * * * The commissioner shall consider the proposals
685 and shall then promulgate and place into effect a plan of
686 operation certifying the same to the directors of the association
687 after approval by the board of directors. Any such plan
688 promulgated by the commissioner shall take effect ten (10) days
689 after certification to the directors.

690 (6) * * * The commissioner may review the plan of operation
691 at any time he deems expedient or prudent. After review of the
692 plan, the commissioner may amend the plan after consultation with
693 the directors of the association and upon certification to the
694 directors of the amendment.

695 **SECTION 15.** Section 83-34-15, Mississippi Code of 1972, is
696 amended as follows:

697 83-34-15. (1) (a) Any person having an insurable interest
698 in insurable property is entitled to apply to the association for
699 such coverage * * *. Applications shall be made on behalf of the
700 owner of the insurable interest by a licensed resident broker or
701 agent authorized by him. Applications shall be submitted on forms
702 prescribed by the association.

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

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

710 (2) If the association determines that the property is
711 insurable and that there is no unpaid premium due from the
712 applicant for prior insurance on the property, the association,
713 upon receipt of the premium or such portion thereof as is
714 prescribed in the plan of operation, shall cause to be issued, or
715 issue, a policy of essential property insurance * * *. Such
716 coverage shall be dependent upon the timely payment and actual

717 receipt by the association of premiums or premium installments as
718 provided for at the time of application. Coverage limits shall be
719 determined by the value of the insurable property at the time the
720 policy is issued subject to maximum limits which shall be set
721 forth under the plan of operation * * *.

722 (3) If the association for any reason denies an application
723 and refuses to issue or cause to be issued an insurance
724 policy * * * to any applicant, or takes no action on an
725 application within the time prescribed in the plan of operation,
726 such applicant may appeal to the commissioner. The commissioner
727 or a designated member of his staff, after reviewing the facts,
728 may direct the association to issue or cause to be issued an
729 insurance policy to the applicant; however, no coverage shall be
730 in effect until such time as the premium is paid and the policy
731 issued. In carrying out his duties pursuant to this section, the
732 commissioner may request, and the association shall provide, any
733 information the commissioner deems necessary to a determination
734 concerning the reasons for the denial or delay of the application.

735 **SECTION 16.** Section 83-34-17, Mississippi Code of 1972, is
736 amended as follows:

737 83-34-17. The rates, rating plans, rating rules, forms and
738 endorsements applicable to the insurance written by the
739 association shall be those approved for use of the association by
740 the commissioner. * * * Rates shall be nondiscriminatory as to
741 the same class of risk.

742 **SECTION 17.** Section 83-34-19, Mississippi Code of 1972, is
743 amended as follows:

744 83-34-19. (1) Any assessable insurer or other licensed
745 insurer, or agent placing insurance through a nonadmitted insurer,
746 who may be aggrieved by an act, order, ruling or decision of the
747 association may, within thirty (30) days after such ruling, appeal
748 to the commissioner. Any hearings held by the commissioner
749 pursuant to such an appeal shall be in accordance with the

750 procedure set forth in the insurance laws of Mississippi. The
751 commissioner is authorized to appoint a member of his staff for
752 the purpose of hearing such appeals, and a ruling based upon such
753 hearing shall have the same effect as if heard by the
754 commissioner. All assessable insurers or other licensed insurers,
755 or agents placing insurance through a nonadmitted insurer,
756 aggrieved by any order or decision of the commissioner may appeal
757 to the Chancery Court of the First Judicial District of Hinds
758 County, Mississippi, consistent with the insurance laws of the
759 State of Mississippi.

760 (2) The association and any assessable insurer, other
761 licensed insurer or agent placing insurance through a nonadmitted
762 insurer that may be aggrieved by an act, order, ruling or decision
763 of the commissioner may, within thirty (30) days after such act,
764 order, ruling or decision, appeal to the Chancery Court of the
765 First Judicial District of Hinds County, Mississippi, consistent
766 with the insurance laws of the State of Mississippi.

767 **SECTION 18.** Section 83-34-21, Mississippi Code of 1972, is
768 amended as follows:

769 83-34-21. All reports of inspection performed by or on
770 behalf of the association shall be made available to the
771 assessable insurers of the association, applicants, agents,
772 brokers and the commissioner.

773 **SECTION 19.** Section 83-34-23, Mississippi Code of 1972, is
774 amended as follows:

775 83-34-23. There shall be no liability on the part of * * *
776 the insurance commissioner or any of his staff and representatives
777 for any action taken under and pursuant to the provisions of this
778 chapter. There shall be no liability on the part of the
779 association, its agents, representatives or employees, the members
780 of the board, or any assessable insurer of the association, except
781 for the contractual obligations of any contract of insurance and
782 the duty to pay assessments as provided in this chapter.

783 **SECTION 20.** Section 83-34-27, Mississippi Code of 1972, is
784 amended as follows:

785 83-34-27. The commissioner may from time to time make an
786 examination into the affairs of the association when he deems
787 prudent and, in undertaking such examination, may hold a public
788 hearing. The expenses of such examination shall be borne and paid
789 by the association. The association and the commissioner may from
790 time to time make an examination of the data and payments of
791 assessable insurers or other licensed insurers or agents placing
792 insurance through nonadmitted insurers as it deems prudent. The
793 expenses of such examination shall be borne and paid by the
794 examined party or entity. Any person noticed for such examination
795 may appeal the examination or the cost thereof, or both, to the
796 commissioner.

797 **SECTION 21.** The following shall be codified as Section
798 83-34-31, Mississippi Code of 1972:

799 83-34-31. (1) The board of directors, subject to the
800 approval of the commissioner, shall have the power and authority
801 to issue bonds, and the power and authority to enter into loans,
802 letters of credit, lines of credit, and other forms of
803 indebtedness, as needed for operations, the purchase of
804 reinsurance, claim losses, and incurred but not reported claims.

805 (2) All such bonds and loans are secured by the power and
806 duty of the commissioner to implement surcharges against all
807 property and casualty insurance premiums for insurance for
808 property and activities in this state sufficient to repay the
809 bonds or loans, or both.

810 (3) If any of the bonds remain unsold sixty (60) days after
811 issuance, the commissioner shall require all assessable insurers
812 to purchase the bonds, which purchased bonds shall be treated as
813 admitted assets; each assessable insurer shall be required to
814 purchase that percentage of the unsold portion of the bond issue
815 that equals the assessable insurer's current percentage of

816 participation. An assessable insurer shall not be required to
817 purchase the bonds to the extent that the commissioner determines
818 that the purchase would endanger or impair the solvency of the
819 insurer. The bonds must be in a form approved by the
820 commissioner. With approval of the commissioner, the association
821 may issue bonds or incur other indebtedness to retire or
822 consolidate bonds as appropriate. Bonds and other debt
823 obligations issued by or on behalf of the association are not to
824 be considered "state bonds" and shall not be an obligation of the
825 state.

826 (4) The state hereby covenants with holders of bonds issued
827 pursuant to this section that the state will not limit, alter or
828 deny the duties and obligations of this chapter, and of the
829 association and the commissioner as established by this chapter,
830 necessary to fulfill the terms of any agreements with bondholders,
831 or in any way impair the rights and remedies of such bondholders
832 as long as any such bonds remain outstanding unless adequate
833 provision has been made for the payment of such bonds pursuant to
834 the documents authorizing the issuance of such bonds.

835 **SECTION 22.** The following shall be codified as Section
836 83-34-33, Mississippi Code of 1972:

837 83-34-33. (1) When the association knows or has reason to
838 believe that (a) it has or will incur losses from a hurricane that
839 exceed reinsurance and other reasonably available assets of the
840 association, such that one or more bond issues or other financing,
841 or both, will be necessary to pay claims losses and other related
842 expenses, or (b) the association has a deficit that cannot be
843 reasonably resolved by income available to the association, then
844 the association shall immediately give notice to the commissioner
845 and request that the commissioner implement by an excess hurricane
846 loss surcharge on all property and casualty insurance premiums for
847 insurance for property and operations in this state designed to

848 recover to the association the amount of all such bonds and other
849 indebtedness resulting from the hurricane, or other deficit.

850 (2) At such time as the commissioner can reasonably estimate
851 the amount of bonds or indebtedness, or both, necessitated by a
852 hurricane event, and in no event more than ninety (90) days from
853 the notice given by the association, the commissioner shall have
854 the duty and the power to implement an excess hurricane loss
855 surcharge on all property and casualty insurance premiums for
856 insurance for property and activities in this state. "Premiums"
857 includes premiums for policies issued by or for the association
858 and by or for the Mississippi Residential Property Insurance
859 Underwriting Association. "Premiums" shall not include premiums
860 for workers' compensation coverage, premiums for medical
861 malpractice liability coverage including medical malpractice
862 liability coverage issued by companies created under Section
863 83-47-1 et seq., nor any premiums for coverage by insurance pools
864 or plans administered by or through the State of Mississippi.

865 (3) If the surcharge is designed to repay bonds, it shall be
866 designated as such and all funds recovered from the surcharge
867 shall be used for repayment of the bonds for which it was
868 implemented, until such time as the bonds have been paid or
869 redeemed.

870 (4) If the surcharge is designed to repay a specific
871 indebtedness incurred for losses from a specific hurricane, it
872 shall be designated as such and all funds recovered from the
873 surcharge shall be used for repayment of the indebtedness for
874 which it was implemented, until such time as the indebtedness has
875 been paid or redeemed.

876 (5) Such surcharge shall be specifically identified on
877 either the premium statements or the policy declarations pages or
878 other appropriate policy forms as relating to the specific
879 hurricane losses or bonds or indebtedness for which it was

880 implemented. The commissioner shall name each such surcharge so
881 that it can be uniformly identified by insurers and agents.

882 (6) The surcharge shall be a percentage of the total policy
883 premium but the surcharge shall not be considered premium and is
884 not subject to premium taxes or commissions. However, failure to
885 pay the surcharge shall be treated the same as failure to pay
886 premium. "Total policy premium" includes taxes and commissions.

887 (7) The commissioner shall implement an appropriate
888 surcharge percentage sufficient to recover the amount necessary
889 for repayment of bonds and indebtedness necessitated by a
890 hurricane, or the resolution of other deficit, as applicable. If
891 at any time such surcharge shall be insufficient, the commissioner
892 shall increase the surcharge as necessary and appropriate. The
893 commissioner shall cease surcharges as he determines appropriate
894 funds have been collected. However, the commissioner shall
895 endeavor to apply surcharges on a one-year basis in order to
896 promote consistency, nondiscrimination and fairness among
897 policyholders purchasing or renewing insurance during that year.
898 Any collections in excess of the amounts needed shall be assets of
899 the association for investment and other uses.

900 (8) Each licensed insurer issuing insurance for property and
901 casualty risks in the state and each agent placing insurance
902 through nonadmitted insurers, shall collect the surcharges
903 established by the commissioner under the authority of this
904 section. Funds collected by such licensed insurers and agents
905 placing insurance through nonadmitted insurers as surcharges
906 authorized by this section shall be collected and held in trust
907 and shall be fully remitted to the association on a quarterly
908 basis with forms providing appropriate information as designed by
909 the association. Insurers and agents shall remit such funds to
910 the association within twenty (20) days after the end of each
911 quarter. At such time the insurers and agents shall further remit
912 to the association all interest earned on the surcharge funds.

913 (9) The association and the commissioner are both
914 specifically given the power to audit licensed insurers and agents
915 placing insurance through nonadmitted insurers to confirm the
916 accuracy of remittances of surcharges at the expense of the
917 licensed insurers and agents.

918 (10) The commissioner has the duty and power to adjust the
919 percentage of any surcharge previously established as he finds
920 appropriate taking into consideration any relevant factors,
921 including, but not limited to, consolidation or replacement of
922 bonds, any additional indebtedness resulting from a hurricane, the
923 rate of recovery, anticipated length of total recovery, and impact
924 of other hurricanes; however, the commissioner shall not reduce
925 the amount of assessments implemented and designated to pay or
926 redeem bonds, or other indebtedness below the amount necessary to
927 timely pay or redeem such bonds, or other indebtedness.

928 (11) When the association knows or has reason to believe
929 that surcharges authorized by this section previously established
930 by the commissioner will be insufficient to timely pay or redeem
931 bonds or indebtedness, the association shall immediately give
932 notice to the commissioner. The commissioner shall alter such
933 surcharge as necessary to timely pay or redeem bonds or pay other
934 indebtedness.

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

938 (a) The original and current outstanding indebtedness
939 of all bonds and loans;

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

941 (c) Any information requested by the commissioner.

942 (13) The commissioner may request, and the association shall
943 provide, on an immediate basis to the commissioner any financial
944 information or other information concerning any surcharge. This

945 section shall not limit the reporting requirements provided by
946 Section 83-34-25.

947 **SECTION 23.** The following shall be codified as Section
948 83-34-35, Mississippi Code of 1972:

949 83-34-35. In order to avoid or lessen the possibility and
950 amount of surcharges authorized by this chapter, the commissioner
951 shall approve rates for policies issued by the association at
952 least adequate to fund annual reinsurance above a self-insured
953 retention of One Hundred Million Dollars (\$100,000,000.00) that,
954 combined with any readily available reserves of the association,
955 is sufficient to cover at least the probable maximum losses from a
956 storm expected to occur once every one hundred (100) years as
957 predicted by a model or method approved by the commissioner for
958 the properties insured by the association at the time the
959 reinsurance was negotiated. The amount of reinsurance in the
960 foregoing rate adequacy requirement shall increase every two (2)
961 years by increasing the probable maximum loss by five (5) years,
962 until such time as the probable maximum loss insured is for a
963 storm expected to occur every one hundred fifty (150) years. The
964 commissioner may approve rates in excess of the minimums required
965 by this section as consistent with his duties and the insurance
966 laws of the State of Mississippi.

967 **SECTION 24.** This act shall take effect and be in force from
968 and after its passage.