

By: Representatives Peranich, Bennett, Jones To: Insurance
(111th)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 563

1 AN ACT TO REQUIRE THE COMMISSIONER OF INSURANCE TO ESTABLISH
2 THE MISSISSIPPI HOMEOWNERS INSURANCE POLICYHOLDER BILL OF RIGHTS;
3 TO PROVIDE THAT, IN ANY ACTION FOR DAMAGES BY THE POLICYHOLDER
4 AGAINST AN INSURER UNDER A HOMEOWNERS POLICY, THE INSURER HAS THE
5 BURDEN OF PROOF AS TO THE APPLICATION OF ANY EXCLUSION IN THE
6 POLICY AND ANY EXCEPTION TO OR OTHER AVOIDANCE OF COVERAGE BY THE
7 INSURER; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The Commissioner of Insurance shall promulgate
10 reasonable rules and regulations establishing a "Mississippi
11 Homeowners Insurance Policyholder Bill of Rights" that sets forth
12 rights that Mississippi policyholders have with respect to their
13 homeowners personal lines residential insurance property coverage,
14 including renters/tenants insurance and mobile home/manufactured
15 housing property coverage. The Mississippi Homeowners Insurance
16 Policyholder Bill of Rights must include a provision establishing
17 reasonable time frames for the processing and payment of
18 homeowners insurance claims. In addition to the rights that are
19 specified by the commissioner and the provision regarding
20 reasonable time frames, the Mississippi Homeowners Insurance
21 Policyholder Bill of Rights must include the following provisions:

22 (a) Unless based on sound actuarial principles, an
23 insurance company may not treat a policyholder differently from
24 other individuals of the same class and essentially the same
25 hazard when evaluating a claim.

26 (b) If an insurer intends to increase a policyholder's
27 premium by ten percent (10%) or more upon renewal, the insurer
28 must send the policyholder written notice of the rate increase at



29 least thirty (30) days before the renewal date, or the policy
30 shall renew at the same rate and coverage.

31 (c) If a policyholder sues to recover under the
32 insurance policy, the insurance company has the burden of proof as
33 to the application of any exclusion in the policy and any
34 exception to or other avoidance of coverage claimed by the
35 insurer.

36 **SECTION 2.** No homeowners personal lines residential
37 insurance policy, including renters/tenants insurance and mobile
38 home/manufactured housing property coverage, shall be delivered,
39 issued for delivery or renewed in this state unless a copy of the
40 Mississippi Homeowners Insurance Policyholder Bill of Rights, as
41 promulgated by the Commissioner of Insurance, is included with the
42 policy.

43 **SECTION 3.** (1) In any civil action against a property and
44 casualty insurer under an insurance policy providing homeowners
45 personal lines residential insurance property coverage, including
46 renters/tenants insurance and mobile home/manufactured housing
47 property coverage, by the policyholder under the policy for
48 failure of the insurer to pay a lawful claim made under the
49 policy, including any damages related to the failure to pay, the
50 insurer has the burden of proving by a preponderance of evidence
51 that any exclusion in the policy, and any exception to or other
52 avoidance of coverage by the insurer, applies to the cause of
53 action.

54 (2) The provisions of this section shall apply to any action
55 filed on or after July 1, 2010, regardless of the date that the
56 cause of such action may have accrued.

57 **SECTION 4.** This act shall take effect and be in force from
58 and after July 1, 2010.

