

By: Representatives Chism, Turner, Arnold,
Miles, Paden, Hines

To: Insurance;
Appropriations

HOUSE BILL NO. 444
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-34-1, MISSISSIPPI CODE OF 1972, TO
2 DEFINE CERTAIN TERMS AS USED IN THE MISSISSIPPI WINDSTORM
3 UNDERWRITING ASSOCIATION LAW; TO AMEND SECTION 83-34-3,
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
5 SECTION 83-34-4, MISSISSIPPI CODE OF 1972, TO DIVERT A CERTAIN
6 AMOUNT OF FUNDS DERIVED FROM THE NONADMITTED POLICY FEE INTO THE
7 RURAL FIRE TRUCK FUND OR SUPPLEMENTARY RURAL FIRE TRUCK FUND, AND
8 TO EXTEND THE REPEALER ON THE SECTION; TO AMEND SECTION 83-34-5,
9 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 83-34-9,
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION
11 83-34-10, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ASSOCIATION
12 TO LEVY RECOUPABLE AND NONRECOUPABLE ASSESSMENTS UPON THE
13 OCCURRENCE OF CERTAIN EVENTS, TO PROVIDE THAT THE MINIMUM RESERVE
14 SHALL NOT BE CONSIDERED AS FUNDS AVAILABLE TO THE ASSOCIATION IN
15 DETERMINING WHETHER TO LEVY A RECOUPABLE OR NONRECOUPABLE
16 ASSESSMENT, AND TO SET THE MAXIMUM TOTAL OF NONRECOUPABLE
17 ASSESSMENTS; TO AMEND SECTION 83-34-12, MISSISSIPPI CODE OF 1972,
18 IN CONFORMITY; TO AMEND SECTION 83-34-13, MISSISSIPPI CODE OF
19 1972, TO PROVIDE THAT THE ASSOCIATION'S PLAN OF OPERATION MAY
20 INCLUDE THE ESTABLISHMENT OF A MINIMUM RESERVE; TO AMEND SECTIONS
21 83-34-23 AND 83-34-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
22 AMEND SECTION 83-34-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
23 COMMISSIONER OF INSURANCE TO IMPLEMENT AN EXCESS DEFICIT SURCHARGE
24 FOR COVERED EVENT LOSSES ON ALL PROPERTY AND CASUALTY PREMIUMS; TO
25 AMEND SECTION 83-34-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY;
26 TO REPEAL SECTION 83-34-11, MISSISSIPPI CODE OF 1972, WHICH
27 IMPLEMENTS A SURCHARGE ON ALL PROPERTY AND CASUALTY PREMIUMS FOR
28 THE PURPOSE OF REIMBURSING ASSESSABLE INSURERS WHO PAID A REGULAR
29 ASSESSMENT; TO AMEND SECTION 17-23-1, MISSISSIPPI CODE OF 1972, TO
30 AUTHORIZE AN ADDITIONAL ROUND OF FIRE TRUCKS UNDER THE RURAL FIRE
31 TRUCK ACQUISITION ASSISTANCE PROGRAM; AND FOR RELATED PURPOSES.

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



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

35 83-34-1. In this chapter, unless the context otherwise
36 requires:

37 (a) "Essential property insurance" means insurance
38 against direct loss to property from the risk of windstorm and
39 hail in the manner as defined and limited in the standard real
40 property and contents insurance forms approved by the
41 commissioner. Essential property insurance * * * may include
42 coverage for * * * either the actual cash value or replacement
43 cost value of the structure and contents. Essential property
44 insurance includes builders risks coverage. The extent of risk
45 covered, the insuring language and the exclusions are all subject
46 to approval by the commissioner. Policies, rules and rates shall
47 be filed with the commissioner in the manner provided for
48 insurance companies.

49 (b) "Association" means the Mississippi Windstorm
50 Underwriting Association established pursuant to the provisions of
51 this chapter.

52 (c) "Plan of operation" means the plan of operation of
53 the association approved or promulgated by the commissioner
54 pursuant to the provisions of this chapter.

55 (d) "Insurable property" means real property, and
56 contents therein when requested, at fixed locations in the coast
57 area, which property is determined by the association to be in an



58 insurable condition and otherwise meets the underwriting
59 requirements of the association. Any one- or two-family dwelling
60 built, rebuilt, altered or remodeled in compliance with the
61 applicable building codes, including design-wind requirements,
62 that is not otherwise rendered uninsurable by reason of use,
63 occupancy or state of repair, shall be an insurable risk.
64 Neighborhood area, location and environmental hazards beyond the
65 control of the applicant or owner of the property shall not be
66 considered in determining insurable condition. "Insurable
67 property" shall not include insurance on motor vehicles or
68 creditor placed insurance on mobile homes. "Insurable property"
69 includes mobile homes, modular homes or manufactured housing that
70 are installed in compliance with applicable codes.

71 (e) "Commissioner" means the Insurance Commissioner of
72 the State of Mississippi.

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

75 (g) (i) "Net direct premiums," for purposes of
76 calculating percentages of participation for assessable insurers
77 for the year 2007, means gross direct premiums, excluding
78 reinsurance assumed and ceded, written on property in this state
79 for the risk of windstorm and hail less return premiums upon
80 cancelled contracts, dividends paid or credited to policyholders,
81 or the unused or unabsorbed portion of premium deposits. "Net
82 direct premiums" includes the premium charge component for the



83 risk of windstorm and hail to property in all policies, including
84 multiperil and other policies that package or combine coverage for
85 other risks. The plan of operation shall prescribe the portion of
86 premium allocated for the risk of windstorm and hail in multiperil
87 and other policies that package or combine coverage for other
88 risks. "Net direct premiums" shall not include farm property.
89 "Net direct premiums" shall not include the property components of
90 motor vehicles and other mobile property, but includes premiums
91 for the risks of windstorm and hail for mobile homes, modular
92 homes or manufactured housing.

93 (ii) "Net direct premiums," for purposes of
94 calculating percentages of participation for assessable insurers
95 after the year 2007, means those premiums reported by the
96 assessable insurers in their annual statements to the Department
97 of Insurance that were charged for insurance for any and all risks
98 on real property and contents in the state. The department shall
99 determine which lines of real property and contents insurance
100 shall be included in the calculation of net direct premiums. The
101 included real property and contents insurance lines may be changed
102 from time to time in the discretion of the commissioner. "Net
103 direct premiums" shall not include premiums for insuring farm
104 property that are reported timely to the association as provided
105 in the plan of operation.

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



108 any statistics necessary to provide the information herein
109 required and which the commissioner is hereby authorized and
110 empowered to obtain from any assessable insurer.

111 (h) "Farm property" means property used for farming
112 purposes; however, it shall not include any property used for
113 dwelling purposes or any outbuildings used in connection
114 therewith.

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

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

120 (k) "Percentage of participation" for an assessable
121 insurer means the percentage determined by dividing the assessable
122 insurers net direct premiums written in this state in the previous
123 year by the aggregate net direct premiums written in this state by
124 all assessable insurers of the association in the previous year.
125 The percentage of participation may be modified as provided in
126 Sections 83-34-9(3) and 83-34-13(2).

127 (l) "Nonadmitted insurers" means those insurance
128 companies defined in Section 83-21-17, and any other companies and
129 persons selling insurance on risks in Mississippi that are not
130 licensed to do business in the State of Mississippi.



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

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

137 (o) "Minimum reserve" means an amount set forth in the
138 plan of operation which is maintained by the association for the
139 payment of salaries and other expenses necessary for the
140 continuous and ongoing operation of the association.

141 (p) "Recoupable assessment" means any assessment, in
142 whole or in part, that is levied on and payable by assessable
143 insurers to the association which is directly recoverable from
144 policyholders for any covered event. Any assessment levied due to
145 a covered event occurring during the calendar year 2019 shall be a
146 recoupable assessment.

147 (q) "Nonrecoupable assessment" means any assessment
148 levied on and payable by assessable insurers to the association
149 which is not directly recoverable from policyholders.

150 (r) "Excess deficit" means a deficit that exceeds
151 available surplus, reinsurance, recoupable and nonrecoupable
152 assessments and other reasonably available assets of the
153 association. The minimum reserve, as set forth in the plan of
154 operation, shall not be considered reasonably available assets of



155 the association when determining whether an excess deficit has
156 occurred.

157 (s) "Covered event" means an event, such as a
158 hurricane, other windstorm or hailstorm, which causes losses
159 covered by the policies issued by the association to its
160 policyholders.

161 **SECTION 2.** Section 83-34-3, Mississippi Code of 1972, is
162 amended as follows:

163 83-34-3. (1) From and after March 22, 2007, the Mississippi
164 Windstorm Underwriting Association, as created by Chapter 459,
165 Laws of 1987, shall be a separate and independent entity as
166 provided for herein. At its option, the association may
167 incorporate. All assets belonging to the association on or before
168 March 22, 2007, shall hereinafter belong to and remain with the
169 association. There shall be no distribution of income or assets
170 other than for the benefit of the association, which shall have
171 the right to invest and reinvest assets.

172 (2) From and after March 22, 2007, the association shall no
173 longer have members. Former "members" of the association shall be
174 "assessable insurers" and shall have no rights to the assets and
175 profits of the association, but shall have the obligation for
176 regular assessments as provided herein. Former members shall
177 continue to have the obligations provided in this chapter before
178 March 22, 2007, for all policyholder claims, costs, damages of any
179 kind and expenses in any manner resulting from losses that



180 occurred before March 22, 2007, for which the association may
181 assess as needed the former members in the manner provided in this
182 chapter before March 22, 2007. As a condition of its authority to
183 continue to transact the business of insurance in this state and
184 by transacting business in this state, each licensed insurer
185 agrees to be bound by the provisions of this statute and the plan
186 of operation as approved by the commissioner, and all amendments
187 and revisions thereto.

188 (3) Any licensed insurer first authorized to write insurance
189 after March 22, 2007, shall become an assessable insurer on the
190 first day of January immediately following such authorization.
191 The determination of such insurer's participation in the
192 association shall be made based upon writings in the prior year in
193 the same manner as for all other assessable insurers of the
194 association.

195 (4) Except as provided for in Section 83-34-4(6), the
196 premiums, recoupable and nonrecoupable assessments, fees,
197 investment income and other revenue of the association are funds
198 received for the sole purpose of providing insurance coverage,
199 paying claims for Mississippi citizens insured by the association,
200 securing and repaying debt obligations issued by the association,
201 and conducting all other activities of the association, all as
202 required or permitted by this chapter. Such revenue shall not be
203 considered taxes, fees, licenses or charges for services imposed



204 by the State of Mississippi on individuals, businesses, or
205 agencies, and shall not be used for other purposes.

206 (5) It is the intent of the Legislature that the association
207 be and act as a nonprofit entity. The association shall be free
208 from taxation of every kind by the state and any political
209 subdivision or other instrumentality thereof. It is the intent of
210 the Legislature that the association be tax exempt from all taxes,
211 including federal taxes, and the association is granted the
212 authority to take those steps necessary to obtain federal tax
213 exempt status.

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

219 (7) In the event of the termination of the association by
220 act of the Legislature, or other means, the assets of the
221 association shall be applied first to pay all debts, liabilities
222 and obligations of the association, including the establishment of
223 reasonable reserves for any contingent liabilities or obligations,
224 and all remaining assets of the association shall become property
225 of the state.

226 (8) The association shall operate as a private enterprise
227 and shall not be subject to the procurement provisions of Section
228 31-7-13, and policies and decisions of the association, including,



229 but not limited to, decisions relating to incurring debt, levying
230 of recoupable and nonrecoupable assessments, the issuance and sale
231 of bonds, claims decisions under association policies, hiring and
232 firing of employees, and all services relating to the operation of
233 the association shall not be subject to the provisions of Section
234 25-9-101 et seq. The association shall not be required to obtain
235 or to hold a license or certificate of authority issued by the
236 commissioner or any other office. The association shall not be
237 required to participate as a member insurer of the Mississippi
238 Insurance Guaranty Association.

239 **SECTION 3.** Section 83-34-4, Mississippi Code of 1972, is
240 reenacted and amended as follows:

241 83-34-4. (1) Nonadmitted insurers shall not be assessable
242 insurers of the association. All surplus lines insurance
243 producers placing insurance through nonadmitted insurers shall
244 collect from the insured and remit to the association a
245 nonadmitted policy fee on all premiums for all insurance written
246 by such surplus lines insurance producer for a policy from a
247 nonadmitted insurer for any and all risks in this state, except
248 that policies or portions thereof that cover residential
249 earthquake risks or residential flood risks that are not written
250 through the National Flood Insurance Program shall be exempt from
251 the nonadmitted policy fee. By procuring or selling insurance on
252 property in this state from a nonadmitted insurer, each surplus
253 lines insurance producer placing insurance through a nonadmitted



254 insurer agrees to be bound by the provisions of this chapter and
255 to collect and remit the nonadmitted policy fee provided for
256 herein.

257 (2) The nonadmitted policy fee shall be a percentage of the
258 total policy premium but the nonadmitted policy fee shall not be
259 considered premium and is not subject to premium taxes or
260 commissions. However, failure to pay the nonadmitted policy fee
261 shall be treated the same as failure to pay premium. "Total
262 policy premium" includes taxes and commissions.

263 (3) The nonadmitted policy fee percentage shall be three
264 percent (3%).

265 (4) Within twenty (20) days of the end of the quarter,
266 surplus lines insurance producers placing insurance through
267 nonadmitted insurers shall remit directly to the association all
268 nonadmitted policy fees collected in the preceding quarter. In
269 addition to the nonadmitted policy fee provided for herein,
270 surplus lines insurance producers placing insurance through
271 nonadmitted insurers shall collect and remit excess deficit
272 surcharges as provided by this chapter. Surplus lines insurance
273 producers placing insurance through nonadmitted insurers may
274 designate another surplus lines insurance producer that actually
275 procured the insurance from the nonadmitted carrier to collect and
276 remit the nonadmitted policy fees.

277 (5) Each insured in this state who directly procures or
278 renews insurance with a nonadmitted insurer on properties, risks



279 or exposures located or to be performed, in whole or in part, in
280 this state, other than insurance procured through a surplus lines
281 licensee, shall be subject to the nonadmitted policy fee which
282 shall be paid by the insured according to the procedures provided
283 for premium taxes in Section 83-21-17(5).

284 (6) Monies derived from the nonadmitted policy fee collected
285 under this section may be used by the association, in addition to
286 any uses provided for in Section 83-34-3(4), for education, public
287 outreach, training of building officials and other programs
288 targeted to reduce the number of policies within the association;
289 however, beginning on July 1, 2018, and ending on June 30, 2019,
290 before any fees are remitted to the association, One Million Five
291 Hundred Thousand Dollars (\$1,500,000.00) shall be diverted and
292 deposited into the Capital Expense Fund, and Four Million Five
293 Hundred Thousand Dollars (\$4,500,000.00) shall be diverted and
294 deposited into the Rural Fire Truck Fund or Supplementary Rural
295 Fire Truck Fund. Further, beginning July 1, 2019, and ending on
296 June 30, 2020, before any fees are remitted to the association,
297 Three Million Five Hundred Thousand Dollars (\$3,500,000.00) shall
298 be diverted and deposited into the Rural Fire Truck Fund or
299 Supplementary Rural Fire Truck Fund.

300 (7) This section shall stand repealed from and after July
301 1, * * * 2022.

302 **SECTION 4.** Section 83-34-5, Mississippi Code of 1972, is
303 amended as follows:



304 83-34-5. The association shall, pursuant to the provisions
305 of this chapter and the plan of operation, and with respect to
306 essential property insurance on insurable property, have the
307 power:

308 (a) To issue policies of essential property insurance
309 on insurable property to applicants;

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

313 (c) To purchase reinsurance for all or part of the
314 risks of the association;

315 (d) To levy and collect * * * recoupable and
316 nonrecoupable assessments from assessable insurers;

317 (e) To issue bonds or incur other forms of
318 indebtedness, including, but not limited to, loans, lines of
319 credit or letters of credit;

320 (f) To establish underwriting criteria consistent with
321 the provisions of this chapter and as approved by the
322 commissioner;

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

325 (h) To enter into contractual agreements with third
326 parties, including the Mississippi Windstorm Mitigation
327 Coordinating Council, for the purposes of developing and
328 implementing windstorm mitigation programs; and



329 (i) All other powers necessary to carry out the
330 provisions and intent of this chapter.

331 **SECTION 5.** Section 83-34-9, Mississippi Code of 1972, is
332 amended as follows:

333 83-34-9. (1) All assessable insurers of the association
334 shall participate in * * * recoupable and nonrecoupable
335 assessments levied by the association based upon their percentage
336 of participation. The association may allow affiliated insurers
337 to combine their annual net direct premiums and other data,
338 including data that supports any incentives that may be allowed by
339 the association, to the extent that such grouping promotes the
340 voluntary writing of essential property insurance in the coast
341 area. Any provisions for credits and grouping of data shall be
342 prescribed in the plan of operation.

343 (2) All profits of the association shall remain as assets of
344 the association.

345 (3) The plan of operation shall provide financial incentives
346 or financial penalties, or both, to ensure that assessable
347 insurers write essential property insurance in the coast area.
348 The incentives and penalties may include, but are not limited to,
349 a reduction in * * * recoupable and nonrecoupable
350 assessments, * * * adjustments in the percentage of participation,
351 and other incentives and penalties as provided in the plan of
352 operation. The commissioner shall approve the plan of operation
353 as provided in Section 83-34-13.



354 **SECTION 6.** Section 83-34-10, Mississippi Code of 1972, is
355 amended as follows:

356 83-34-10. (1) In the event of a * * * covered event that
357 may produce losses in excess of funds that may be immediately
358 available to the association, or in the event that the association
359 determines that it will otherwise have a claim deficit or any
360 other deficit, then the association, with consent of the
361 commissioner, shall have the power to levy * * * recoupable and
362 nonrecoupable assessments against assessable insurers based upon
363 their percentage of participation. * * *

364 The minimum reserve, as set forth in the plan of operation,
365 shall not be considered as funds available to the association in
366 determining whether to levy a recoupable or nonrecoupable
367 assessment.

368 (2) A nonrecoupable assessment levied under this section
369 shall not exceed six percent (6%) of the association's year-end
370 total limits in force for the preceding calendar year, or Two
371 Hundred Fifty Million Dollars (\$250,000,000.00), whichever is
372 less. Further, in any calendar year, the annual total of all
373 nonrecoupable assessment funds collected shall not exceed, in the
374 aggregate, Two Hundred Fifty Million Dollars (\$250,000,000.00).

375 **SECTION 7.** Section 83-34-12, Mississippi Code of 1972, is
376 amended as follows:

377 83-34-12. The * * * recoupable or nonrecoupable assessment
378 of an assessable insurer may, after hearing, be ordered deferred,



379 in whole or in part, upon application by the insurer if, in the
380 opinion of the commissioner, payment of the recoupable or
381 nonrecoupable assessment would render the insurer insolvent or in
382 danger of insolvency, or would otherwise leave the insurer in such
383 a condition that further transaction of the insurer's business
384 would be hazardous to its policyholders, creditors, assessable
385 insurers, subscribers, stockholders or the public. If that
386 payment of * * * a recoupable or nonrecoupable assessment against
387 an assessable insurer is deferred by order of the commissioner, in
388 whole or in part, the amount by which the recoupable or
389 nonrecoupable assessment is deferred shall be assessed against
390 other assessable insurers in the same manner as provided in
391 Section 83-34-9.

392 **SECTION 8.** Section 83-34-13, Mississippi Code of 1972, is
393 amended as follows:

394 83-34-13. (1) Within forty-five (45) days after March 22,
395 2007, the directors of the association shall submit to the
396 commissioner for review and approval a proposed plan of operation
397 revised to be consistent with the provisions of Chapter 425, Laws
398 of 2007. The association shall maintain a plan of operation. The
399 plan shall provide for the efficient, economical, fair and
400 nondiscriminatory administration of the association. The plan may
401 include the establishment of a minimum reserve, methods for the
402 nonrecoupable assessment of all assessable insurers for deficits
403 and expenses, the establishment of necessary facilities,



404 management of the association, underwriting standards, procedures
405 for determining the amounts of insurance to be provided to
406 specific risks, time limits and procedures for processing
407 applications for insurance, and for such other provisions as may
408 be deemed necessary by the board to carry out the purposes of this
409 chapter. The plan of operation shall include in the plan of
410 operation a mechanism for recoupment of recoupable assessments.

411 (2) The plan of operation shall provide financial incentives
412 or financial penalties, or both, to ensure that assessable
413 insurers write essential property insurance in the coast area.
414 The incentives and penalties may include, but are not limited to,
415 a reduction in * * * nonrecoupable assessments, * * * adjustments
416 in the percentage of participation, and other incentives and
417 penalties as provided in the plan of operation.

418 (3) The plan of operation shall provide (a) that the
419 association shall offer a two percent (2%) deductible for loss
420 from named storms; and (b) that the association shall also offer
421 options for other deductibles for loss from named storms with
422 appropriate rate reductions that shall include at least a twenty
423 percent (20%) deductible for loss from named storms.

424 (4) The plan of operation shall provide that the association
425 use actuarially appropriate geographical zones for rating and for
426 the use of credits and penalties to encourage voluntary writing in
427 the coast area.



428 (5) The commissioner shall approve the plan of operation and
429 all amendments before they become effective. It is the obligation
430 of the commissioner to confirm that such plan fulfills the
431 purposes of this chapter. If the commissioner approves a proposed
432 plan or amendment, he shall certify the approval to the directors,
433 and the plan, or amendment thereto, shall become effective ten
434 (10) days after such certification. If the commissioner
435 disapproves all or any part of the proposed plan of operation, or
436 amendment thereto, he shall return the same to the directors with
437 a written statement giving the reasons for disapproval and any
438 recommendations the commissioner may wish to make. Within ten
439 (10) days thereafter, the directors may alter the plan or
440 amendment in accordance with the commissioner's recommendation or
441 may return a new plan to the commissioner. The commissioner shall
442 consider the proposals and shall then promulgate and place into
443 effect a plan of operation certifying the same to the directors of
444 the association after approval by the board of directors. Any
445 such plan promulgated by the commissioner shall take effect ten
446 (10) days after certification to the directors.

447 (6) The commissioner may review the plan of operation at any
448 time he deems expedient or prudent. After review of the plan, the
449 commissioner may amend the plan after consultation with the
450 directors of the association and upon certification to the
451 directors of the amendment.



452 **SECTION 9.** Section 83-34-23, Mississippi Code of 1972, is
453 amended as follows:

454 83-34-23. There shall be no liability on the part of the
455 insurance commissioner or any of his staff and representatives for
456 any action taken under and pursuant to the provisions of this
457 chapter. There shall be no liability on the part of the
458 association, its agents, representatives or employees, the members
459 of the board, or any assessable insurer of the association, except
460 for the * * * specific obligations * * * stated in any contract of
461 insurance and the duty to pay assessments as provided in this
462 chapter.

463 **SECTION 10.** Section 83-34-31, Mississippi Code of 1972, is
464 amended as follows:

465 83-34-31. (1) The board of directors, subject to the
466 approval of the commissioner, shall have the power and authority
467 to issue bonds, and the power and authority to enter into loans,
468 letters of credit, lines of credit, and other forms of
469 indebtedness, as needed for operations, the purchase of
470 reinsurance, claim losses, and incurred but not reported claims.

471 * * *

472 (* * * 2) * * * The bonds must be in a form approved by the
473 commissioner. With approval of the commissioner, the association
474 may issue bonds or incur other indebtedness to retire or
475 consolidate bonds as appropriate. Bonds and other debt
476 obligations issued by or on behalf of the association are not to



477 be considered "state bonds" and shall not be an obligation of the
478 state.

479 (* * * 3) The state hereby covenants with holders of bonds
480 issued pursuant to this * * * chapter that the state will not
481 limit, alter or deny the duties and obligations of this chapter,
482 and of the association and the commissioner as established by this
483 chapter, necessary to fulfill the terms of any agreements with
484 bondholders, or in any way impair the rights and remedies of such
485 bondholders as long as any such bonds remain outstanding unless
486 adequate provision has been made for the payment of such bonds
487 pursuant to the documents authorizing the issuance of such bonds.

488 **SECTION 11.** Section 83-34-33, Mississippi Code of 1972, is
489 amended as follows:

490 83-34-33. (1) When the association knows or has reason to
491 believe that (a) it has or will incur losses from a * * * covered
492 event that exceeds available surplus, reinsurance, recoupable or
493 nonrecoupable assessments and other reasonably available assets of
494 the association, such that one or more bond issues or other
495 financing, or both, will be necessary to pay claims losses and
496 other related expenses, or (b) the association has * * * an excess
497 deficit that cannot be reasonably resolved by income available to
498 the association above the minimum reserve, then the association
499 shall immediately give notice to the commissioner and request that
500 the commissioner implement * * * an excess * * * deficit surcharge
501 on all property and casualty insurance premiums for insurance for



502 property and operations in this state designed to recover to the
503 association the amount of all such bonds and other indebtedness
504 resulting from the * * * covered event, or other deficit.

505 (2) All such bonds and loans are secured by the power and
506 duty of the commissioner to implement surcharges against all
507 property and casualty insurance premiums for insurance for
508 property and activities in this state sufficient to repay the
509 bonds or loans, or both.

510 (3) If any of the bonds remain unsold sixty (60) days after
511 issuance, the commissioner shall require all assessable insurers
512 to purchase the bonds, which purchased bonds shall be treated as
513 admitted assets; each assessable insurer shall be required to
514 purchase that percentage of the unsold portion of the bond issue
515 that equals the assessable insurer's current percentage of
516 participation. An assessable insurer shall not be required to
517 purchase the bonds to the extent that the commissioner determines
518 that the purchase would endanger or impair the solvency of the
519 insurer. The bonds must be in a form approved by the
520 commissioner. With approval of the commissioner, the association
521 may issue bonds or incur other indebtedness to retire or
522 consolidate bonds as appropriate. Bonds and other debt
523 obligations issued by or on behalf of the association are not to
524 be considered "state bonds" and shall not be an obligation of the
525 state.



526 (* * *4) At such time as the commissioner can reasonably
527 estimate the amount of bonds or indebtedness, or both,
528 necessitated by a * * * covered event, and in no event more than
529 ninety (90) days from the notice given by the association, the
530 commissioner shall have the duty and the power to implement an
531 excess * * * deficit surcharge on all property and casualty
532 insurance premiums for insurance for property and activities in
533 this state. "Premiums" includes premiums for policies issued by
534 or for the association and by or for the Mississippi Residential
535 Property Insurance Underwriting Association. "Premiums" shall not
536 include premiums for workers' compensation coverage, premiums for
537 medical malpractice liability coverage including medical
538 malpractice liability coverage issued by companies created under
539 Section 83-47-1 et seq., nor any premiums for coverage by
540 insurance pools or plans administered by or through the State of
541 Mississippi.

542 (* * *5) If the excess deficit surcharge is designed to
543 repay bonds, it shall be designated as such and all funds
544 recovered from the excess deficit surcharge shall be used for
545 repayment of the bonds for which it was implemented, until such
546 time as the bonds have been paid or redeemed.

547 (* * *6) If the excess deficit surcharge is designed to
548 repay a specific indebtedness incurred for losses from a
549 specific * * * covered event, it shall be designated as such and
550 all funds recovered from the excess deficit surcharge shall be



551 used for repayment of the indebtedness for which it was
552 implemented, until such time as the indebtedness has been paid or
553 redeemed.

554 (* * *7) Such excess deficit surcharge shall be
555 specifically identified on either the premium statements or the
556 policy declarations pages or other appropriate policy forms as
557 relating to the specific * * * covered event losses or bonds or
558 indebtedness for which it was implemented. The commissioner shall
559 name each such excess deficit surcharge so that it can be
560 uniformly identified by insurers and agents.

561 (* * *8) The excess deficit surcharge shall be a percentage
562 of the total policy premium but the excess deficit surcharge shall
563 not be considered premium and is not subject to premium taxes or
564 commissions. However, failure to pay the excess deficit surcharge
565 shall be treated the same as failure to pay premium. "Total
566 policy premium" includes taxes and commissions.

567 (* * *9) The commissioner shall implement an appropriate
568 excess deficit surcharge percentage sufficient to recover the
569 amount necessary for repayment of bonds and indebtedness
570 necessitated by a * * * covered event, or the resolution of other
571 deficit, as applicable. If at any time such surcharge shall be
572 insufficient, the commissioner shall increase the excess deficit
573 surcharge as necessary and appropriate. The commissioner shall
574 cease excess deficit surcharges as he determines appropriate funds
575 have been collected. However, the commissioner shall endeavor to



576 apply excess deficit surcharges on a one-year basis in order to
577 promote consistency, nondiscrimination and fairness among
578 policyholders purchasing or renewing insurance during that year.
579 Any collections in excess of the amounts needed shall be assets of
580 the association for investment and other uses.

581 (* * * 10) Each licensed insurer issuing insurance for
582 property and casualty risks in the state and each agent placing
583 insurance through nonadmitted insurers, shall collect the excess
584 deficit surcharges established by the commissioner under the
585 authority of this section. Funds collected by such licensed
586 insurers and agents placing insurance through nonadmitted insurers
587 as excess deficit surcharges authorized by this section shall be
588 collected and held in trust and shall be fully remitted to the
589 association on a quarterly basis with forms providing appropriate
590 information as designed by the association. Insurers and agents
591 shall remit such funds to the association within twenty (20) days
592 after the end of each quarter. At such time the insurers and
593 agents shall further remit to the association all interest earned
594 on the excess deficit surcharge funds.

595 (* * * 11) The association and the commissioner are both
596 specifically given the power to audit licensed insurers and agents
597 placing insurance through nonadmitted insurers to confirm the
598 accuracy of remittances of excess deficit surcharges at the
599 expense of the licensed insurers and agents.



600 (* * * 12) The commissioner has the duty and power to adjust
601 the percentage of any excess deficit surcharge previously
602 established as he finds appropriate taking into consideration any
603 relevant factors, including, but not limited to, consolidation or
604 replacement of bonds, any additional indebtedness resulting from
605 a * * * covered event, the rate of recovery, anticipated length of
606 total recovery, and impact of other * * * covered events; however,
607 the commissioner shall not reduce the amount of * * * excess
608 deficit surcharges implemented and designated to pay or redeem
609 bonds, or other indebtedness below the amount necessary to timely
610 pay or redeem such bonds, or other indebtedness.

611 (* * * 13) When the association knows or has reason to
612 believe that excess deficit surcharges authorized by this section
613 previously established by the commissioner will be insufficient to
614 timely pay or redeem bonds or indebtedness, the association shall
615 immediately give notice to the commissioner. The commissioner
616 shall alter such excess deficit surcharge as necessary to timely
617 pay or redeem bonds or pay other indebtedness.

618 (* * * 14) The association shall report quarterly to the
619 commissioner providing all financial information for each excess
620 deficit surcharge authorized by this section, including:

621 (a) The original and current outstanding indebtedness
622 of all bonds and loans;

623 (b) Total excess deficit surcharge funds recovered to
624 date; and



625 (c) Any information requested by the commissioner.

626 (* * *15) The commissioner may request, and the association
627 shall provide, on an immediate basis to the commissioner any
628 financial information or other information concerning any excess
629 deficit surcharge. This section shall not limit the reporting
630 requirements provided by Section 83-34-25.

631 **SECTION 12.** Section 83-34-35, Mississippi Code of 1972, is
632 amended as follows:

633 83-34-35. In order to avoid or lessen the possibility and
634 amount of excess deficit surcharges authorized by this chapter,
635 the commissioner shall approve rates for policies issued by the
636 association at least adequate to fund annual reinsurance above a
637 self-insured retention of One Hundred Million Dollars
638 (\$100,000,000.00) that, combined with any readily available
639 reserves of the association, is sufficient to cover at least the
640 probable maximum losses from a storm expected to occur once every
641 one hundred (100) years as predicted by a model or method approved
642 by the commissioner for the properties insured by the association
643 at the time the reinsurance was negotiated. The amount of
644 reinsurance in the foregoing rate adequacy requirement shall
645 increase every two (2) years by increasing the probable maximum
646 loss by five (5) years, until such time as the probable maximum
647 loss insured is for a storm expected to occur every one hundred
648 fifty (150) years. The commissioner may approve rates in excess
649 of the minimums required by this section as consistent with his



650 duties and the insurance laws of the State of Mississippi. Any
651 self-insured retention related to the purchase of reinsurance
652 shall be subject to the prior approval of the commissioner.

653 **SECTION 13.** Section 83-34-11, Mississippi Code of 1972,
654 which implements a surcharge on all property and casualty
655 insurance premiums in this state, is hereby repealed.

656 **SECTION 14.** Section 17-23-1, Mississippi Code of 1972, is
657 amended as follows:

658 17-23-1. (1) There is established the Rural Fire Truck
659 Acquisition Assistance Program to be administered by the
660 Department of Insurance for the purpose of assisting counties and
661 municipalities in the acquisition of fire trucks.

662 (2) There is created in the State Treasury a special fund to
663 be designated as the "Rural Fire Truck Fund." The Legislature may
664 appropriate that amount necessary to fulfill the obligations
665 created under this section by the Department of Insurance, from
666 the State General Fund to such special fund, which sum shall be
667 added to the remainder of the money transferred on July 1, 1995,
668 and during the 1996 Regular Session to the Rural Fire Truck Fund.
669 Unexpended amounts remaining in the fund at the end of a fiscal
670 year shall not lapse into the State General Fund, and any interest
671 earned on amounts in the fund shall be deposited to the credit of
672 the fund. Unobligated amounts remaining in the Rural Fire Truck
673 Fund, Fund No. 3507, or in any fund created for funds appropriated
674 or otherwise made available for this program, may be used as



675 matching funds by any county with remaining eligibility as
676 provided herein. It is the intent of the Legislature that the
677 Department of Insurance continue to accept applications from the
678 counties for fire trucks as provided in subsection (3) of this
679 section.

680 (3) (a) A county that meets the requirements provided
681 herein may receive an amount not to exceed * * * Eight Hundred
682 Thirty Thousand Dollars (\$830,000.00) as provided in subparagraphs
683 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x),
684 (xi) * * *, (xii) and (xiii) of this paragraph, and such amount
685 shall be divided as follows: an amount of not more than Fifty
686 Thousand Dollars (\$50,000.00) per fire truck for the first six (6)
687 trucks and not more than Seventy Thousand Dollars (\$70,000.00) per
688 fire truck for the seventh, eighth, ninth, tenth and eleventh
689 trucks, and not more than Ninety Thousand Dollars (\$90,000.00) per
690 fire truck for the twelfth and thirteenth truck. Monies
691 distributed under this chapter shall be expended only for the
692 purchase of new fire trucks and such trucks must meet the National
693 Fire Protection Association (NFPA) standards in the 1900 series.

694 (i) Any county that has not applied for a fire
695 truck under this section is eligible to submit applications
696 for * * * thirteen (13) fire trucks as follows: six (6) fire
697 trucks at not more than Fifty Thousand Dollars (\$50,000.00) per
698 truck and five (5) fire trucks at not more than Seventy Thousand
699 Dollars (\$70,000.00) per truck, and * * * two (2) fire trucks at



700 not more than Ninety Thousand Dollars (\$90,000.00) per truck or a
701 total of * * * Eight Hundred Thirty Thousand Dollars
702 (\$830,000.00).

703 (ii) Any county that has received one (1) fire
704 truck under this section is eligible to submit applications
705 for * * * twelve (12) fire trucks as follows: five (5) fire
706 trucks at not more than Fifty Thousand Dollars (\$50,000.00) per
707 truck and five (5) fire trucks at not more than Seventy Thousand
708 Dollars (\$70,000.00) per truck, and * * * two (2) fire trucks at
709 not more than Ninety Thousand Dollars (\$90,000.00) per truck or a
710 total of * * * Seven Hundred Eighty Thousand Dollars
711 (\$780,000.00).

712 (iii) Any county that has received two (2) fire
713 trucks under this section is eligible to submit an application
714 for * * * eleven (11) fire trucks as follows: four (4) fire
715 trucks at not more than Fifty Thousand Dollars (\$50,000.00) per
716 truck and five (5) fire trucks at not more than Seventy Thousand
717 Dollars (\$70,000.00) per truck, and * * * two (2) fire trucks at
718 not more than Ninety Thousand Dollars (\$90,000.00) per truck or a
719 total of not more than * * * Seven Hundred Thirty Thousand Dollars
720 (\$730,000.00).

721 (iv) Any county that has received three (3) fire
722 trucks under this section is eligible to submit an application
723 for * * * ten (10) fire trucks as follows: three (3) fire trucks
724 at not more than Fifty Thousand Dollars (\$50,000.00) per truck and



725 five (5) fire trucks at not more than Seventy Thousand Dollars
726 (\$70,000.00) per truck, and * * * two (2) fire trucks at not more
727 than Ninety Thousand Dollars (\$90,000.00) per truck or a total of
728 not more than * * * Six Hundred Eighty Thousand Dollars
729 (\$680,000.00).

730 (v) Any county that has received four (4) fire
731 trucks under this section is eligible to submit an application
732 for * * * nine (9) fire trucks as follows: two (2) fire trucks at
733 not more than Fifty Thousand Dollars (\$50,000.00) per truck and
734 five (5) fire trucks at not more than Seventy Thousand Dollars
735 (\$70,000.00) per truck, and * * * two (2) fire trucks at not more
736 than Ninety Thousand Dollars (\$90,000.00) per truck or a total of
737 not more than * * * Six Hundred Thirty Thousand Dollars
738 (\$630,000.00).

739 (vi) Any county that has received five (5) fire
740 trucks under this section is eligible to submit an application
741 for * * * eight (8) fire trucks as follows: one (1) fire truck at
742 not more than Fifty Thousand Dollars (\$50,000.00) per truck and
743 five (5) fire trucks at not more than Seventy Thousand Dollars
744 (\$70,000.00) per truck, and * * * two (2) fire trucks at not more
745 than Ninety Thousand Dollars (\$90,000.00) per truck or a total of
746 not more than * * * Five Hundred Eighty Thousand Dollars
747 (\$580,000.00).

748 (vii) Any county that has received six (6) fire
749 trucks under this section is eligible to submit an application



750 for * * * seven (7) fire trucks as follows: five (5) fire trucks
751 at not more than Seventy Thousand Dollars (\$70,000.00) per truck,
752 and * * * two (2) fire trucks at not more than Ninety Thousand
753 Dollars (\$90,000.00) per truck or a total of not more than * * *
754 Five Hundred Thirty Thousand Dollars (\$530,000.00).

755 (viii) Any county that has received seven (7) fire
756 trucks under this section is eligible to submit an application
757 for * * * six (6) fire trucks as follows: four (4) fire trucks at
758 not more than Seventy Thousand Dollars (\$70,000.00) per truck,
759 and * * * two (2) fire trucks at not more than Ninety Thousand
760 Dollars (\$90,000.00) per truck or a total of not more than * * *
761 Four Hundred Sixty Thousand Dollars (\$460,000.00).

762 (ix) Any county that has received eight (8) fire
763 trucks under this section is eligible to submit an application
764 for * * * five (5) fire trucks as follows: three (3) fire trucks
765 at not more than Seventy Thousand Dollars (\$70,000.00) per truck,
766 and * * * two (2) fire trucks at not more than Ninety Thousand
767 Dollars (\$90,000.00) per truck or a total of not more than * * *
768 Three Hundred Ninety Thousand Dollars (\$390,000.00).

769 (x) Any county that has received nine (9) fire
770 trucks under this section is eligible to submit an application
771 for * * * four (4) fire trucks as follows: two (2) fire trucks at
772 not more than Seventy Thousand Dollars (\$70,000.00) per truck,
773 and * * * two (2) fire trucks at not more than Ninety Thousand



774 Dollars (\$90,000.00) per truck or a total of not more than * * *
775 Three Hundred Twenty Thousand Dollars (\$320,000.00).

776 (xi) Any county that has received ten (10) fire
777 trucks under this section is eligible to submit an application
778 for * * * three (3) fire trucks as follows: one (1) fire truck at
779 not more than Seventy Thousand Dollars (\$70,000.00) per truck,
780 and * * * two (2) fire trucks at not more than Ninety Thousand
781 Dollars (\$90,000.00) per truck or a total of not more than * * *
782 Two Hundred Fifty Thousand Dollars (\$250,000.00).

783 (xii) Any county that has received eleven (11)
784 fire trucks under this section is eligible to submit an
785 application for * * * two (2) fire trucks at not more than Ninety
786 Thousand Dollars (\$90,000.00) per truck.

787 (xiii) Any county may apply for * * * two (2) fire
788 trucks at not more than Ninety Thousand Dollars (\$90,000.00) per
789 truck as provided in subparagraph (xii), provided that the county
790 agrees to forego any previous fire truck under subparagraphs (i)
791 through (xi) for which the county has not previously applied, and
792 that the county has received approval from the Rural Fire Truck
793 Acquisition Assistance Program Committee to apply for and receive
794 a truck under subparagraph (xii).

795 (b) The board of supervisors of the county shall submit
796 its request for the receipt of monies to the Department of
797 Insurance. A committee composed of the Commissioner of Insurance,
798 the State Fire Coordinator, the Director of the Rating Bureau and



799 the Director of the State Fire Academy shall review the requests
800 by the boards of supervisors and shall determine whether the
801 county or municipality for which the board of supervisors has
802 requested a truck meets the requirements of eligibility under this
803 chapter.

804 (c) To be eligible to receive monies under this
805 chapter:

806 (i) A county or municipality must pledge to set
807 aside or dedicate each year as matching funds, for a period not to
808 extend over ten (10) years, local funds in an amount equal to or
809 not less than one-tenth (1/10) of the amount of monies for which
810 it is requesting distribution from the Rural Fire Truck Fund,
811 which pledged monies may be derived from local ad valorem tax
812 authorized by law or from any other funds available to the county
813 or municipality, except for those funds received by municipalities
814 or counties from the Municipal Fire Protection Fund or the County
815 Volunteer Fire Department Fund, as defined in Sections 83-1-37 and
816 83-1-39.

817 (ii) A municipality must provide adequate
818 documentation of its contract with the county that requires the
819 municipality to provide fire protection in rural areas. The term
820 "rural areas" means any area within the county located outside the
821 boundaries of an incorporated municipality or any incorporated
822 municipality with a population of two thousand five hundred
823 (2,500) or less.



824 (d) The Department of Insurance shall maintain an
825 accurate record of all monies distributed to counties and
826 municipalities and the number of fire trucks purchased and the
827 cost for each fire truck, such records to be kept separate from
828 other records of the Department of Insurance; notify counties and
829 municipalities of the Rural Fire Truck Acquisition Assistance
830 Program and the requirements for them to become eligible to
831 participate; adopt and promulgate such rules and regulations as
832 may be necessary and desirable to implement the provisions of this
833 chapter; and file with the Legislature a report detailing how
834 monies made available under this chapter were distributed and
835 spent during the preceding portion of the fiscal year in each
836 county and municipality, the number of fire trucks purchased, the
837 counties and municipalities making such purchases, and the cost of
838 each fire truck purchased.

839 **SECTION 15.** This act shall take effect and be in force from
840 and after July 1, 2019.

