

By: Representative Ford (54th)

To: Insurance

HOUSE BILL NO. 773
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-2-7, MISSISSIPPI CODE OF 1972, TO
2 ENACT THE COMMERCIAL LINES MODERNIZATION ACT; TO PROVIDE THAT
3 RATES, SUPPLEMENTARY RATE INFORMATION, POLICY FORMS AND
4 ENDORSEMENTS FOR CERTAIN COMMERCIAL LINES INSURANCE COVERAGES
5 SHALL BE EXEMPT FROM FILING AND APPROVAL REQUIREMENTS; TO AMEND
6 SECTION 83-2-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
7 COMMISSIONER OF INSURANCE TO ADOPT RULES AND REGULATIONS TO
8 ESTABLISH THE CRITERIA AND PROCEDURES FOR DETERMINING WHEN A RATE
9 FILING SHOULD BE SUBMITTED TO AN ACTUARY FOR REVIEW; TO AMEND
10 SECTION 45-45-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
11 OWNER OF AN ELEVATOR THAT SERVES ONLY TWO ADJACENT FLOORS MAY
12 REQUEST AN EXEMPTION FROM THE ANNUAL INSPECTION REQUIREMENT UNDER
13 THE MISSISSIPPI CONVEYANCE SAFETY ACT PURSUANT TO RULES AND
14 REGULATIONS PROMULGATED BY THE COMMISSIONER OF INSURANCE; AND FOR
15 RELATED PURPOSES.

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

17 **SECTION 1.** Section 83-2-7, Mississippi Code of 1972, is
18 amended as follows:

19 83-2-7. (1) Except as provided in Section 83-2-9 and
20 subsections (2) * * *, (3) and (5) of this section, every insurer
21 shall file with the commissioner all rates, supplementary rate
22 information, policy forms and endorsements at least thirty (30)
23 days prior to the proposed effective date which shall be stated in
24 the filing. Rates, supplementary rate information, policy forms



25 and endorsements need not be filed for inland marine risks which
26 by general custom of the business are not written according to
27 manual rules or rating plans. Upon the request of the
28 commissioner, supporting information shall also be filed. Any
29 filing made under this section is deemed to be approved unless
30 disapproved by the Commissioner of Insurance within thirty (30)
31 days after the date of filing.

32 (2) A filing of adjustments of rates for existing rating
33 systems made under this section which does not involve a change in
34 the relationship between such rates and the expense portion
35 thereof or does not involve a change of the element of expenses
36 which are paid as a percentage of premiums and does not involve a
37 change in rate relativities among such classifications on any
38 basis other than loss experience is effective on the date
39 specified in the filing which shall not be less than thirty (30)
40 days after the filing is made and shall be deemed to meet the
41 requirements of this chapter.

42 (3) The commissioner may give written notice within thirty
43 (30) days of the receipt of the filing that additional time, not
44 to exceed sixty (60) days from the date of such notice, is
45 necessary to consider the filing. A filing is deemed to meet the
46 requirements of this chapter and becomes effective unless
47 disapproved by the commissioner before the expiration of the
48 waiting period or an extension thereof. Whenever a filing made
49 under this section is not accompanied by sufficient supporting



50 information, the commissioner shall inform the filing entity as to
51 what information is required to complete the filing. The filing
52 shall not be deemed to be completed until such information is
53 furnished.

54 (4) No insurance company shall make or issue a contract or
55 policy except in accordance with filings made with the
56 commissioner, if such filings are required.

57 (5) Subject to the provisions of subsections (6), (7) and
58 (8) of this section, rates and supplementary rate information for
59 the following commercial lines insurance coverages shall be exempt
60 from filing and approval requirements. However, the rates shall
61 remain subject to the standards set forth in Section 83-2-3.
62 Policy forms and endorsements for the following commercial lines
63 insurance coverages must be filed with the commissioner within
64 sixty (60) days of use for informational purposes only:

- 65 (a) Surety and Fidelity;
- 66 (b) Boiler and Machinery;
- 67 (c) Environmental Impairment or Pollution Liability;
- 68 (d) Kidnap and Ransom;
- 69 (e) Political Risk or Expropriation;
- 70 (f) Excess and Umbrella Liability;
- 71 (g) Employment Practices Liability;
- 72 (h) Media Liability;
- 73 (i) Product Liability, Product Recall, and Completed
74 Operations;



75 (j) Highly Protected Commercial Property; and
76 (k) Any other commercial lines insurance coverage or
77 risk that the commissioner shall, pursuant to regulation, exempt
78 from rate, rate supplementary information, or policy form filing
79 requirements in order to promote enhanced competition or to more
80 effectively use the resources of the department that might
81 otherwise be used to review commercial lines filings.

82 (6) If a commercial lines insurance rate, policy form or
83 endorsement is determined not to comply with the requirements of
84 Mississippi law, the commissioner may issue an order specifying in
85 detail how the rate, policy form, or endorsement fails to meet
86 statutory requirements and further specifying a prospective date
87 after which the rate or form may not be used. The commissioner's
88 findings shall not affect policies in force prior to the date
89 specified in the order. As part of such an order, the
90 commissioner may require the insurer subject to the order to
91 submit a filing for approval by the commissioner of a new rate or
92 policy form, if any, that will replace the discontinued rate or
93 policy form.

94 (7) The commissioner may temporarily reinstate, for a period
95 of no longer than one (1) year, the filing and approval
96 requirements for rate, rate supplementary information, or policy
97 form for a specific type of commercial lines insurance if, after a
98 hearing, the commissioner makes a finding of fact that a
99 reasonable degree of competition does not exist for that specific



100 type of insurance coverage. Such a finding of fact by the
101 commissioner must specify the relevant tests used to determine
102 whether a lack of a reasonable degree of competition exists and
103 the results thereof. In the absence of such specific findings of
104 fact by the commissioner, it shall be presumed that a competitive
105 market exists.

106 (8) For purposes of this section, commercial lines insurance
107 means property and casualty insurance for any risk that is not a
108 personal or family risk, but shall not include workers'
109 compensation, medical malpractice liability, creditor-placed
110 insurance or any insurance issued by residual market mechanisms or
111 assigned risk plans.

112 **SECTION 2.** Section 83-2-3, Mississippi Code of 1972, is
113 amended as follows:

114 83-2-3. (1) Rates shall comply with the following
115 standards:

116 (a) Rates shall not be excessive, inadequate or
117 unfairly discriminatory.

118 (b) A rate is excessive if it is likely to produce a
119 profit that is unreasonably high for the insurance provided or if
120 the expense provision included therein is unreasonably high in
121 relation to the services rendered.

122 (c) A rate is inadequate if it threatens the solvency
123 of the insurance company or tends to create a monopoly.



124 (d) Unfair discrimination exists if, after allowing for
125 practical limitations, price differentials fail to reflect
126 equitably the differences in expected losses and expenses. A rate
127 is not unfairly discriminatory because different premiums result
128 for policyholders with like loss exposures with different
129 expenses, or like expenses but different loss exposures, so long
130 as the rate reflects the differences with reasonable accuracy.

131 (2) In determining whether rates comply with the standards
132 set forth in subsection (1), the following criteria shall apply:

133 (a) Due consideration shall be given to past and
134 prospective loss and expense experience within and outside this
135 state; to catastrophe hazards; to any residual market loss
136 redistributions and other similar obligations; to a reasonable
137 provision for profit and contingencies; to trends within and
138 outside this state; to loadings for leveling premium rates over a
139 reasonable period of time or for dividends or savings to be
140 allowed or returned by insurers to their policyholders, members or
141 subscribers; and to all other relevant factors, including the
142 judgment of the filer.

143 (b) Risks may be classified in any reasonable way for
144 the establishment of rates except that no risks may be grouped by
145 classifications based, in whole or in part, on race, color, creed,
146 or national origin of the risk. Rates may be modified for
147 individual risks in accordance with rating plans or schedules



148 which provide for recognition of probable variations in hazards,
149 expenses or both.

150 (c) The systems of expense provisions included in rates
151 for use by an insurer or group of insurers may differ from those
152 of other insurers or group of insurers to reflect the operating
153 methods of such insurer or group with respect to any kind of
154 insurance, or with respect to any subdivision or combination
155 thereof.

156 (d) Any homeowners' insurance policy filed with the
157 Commissioner of Insurance that offers a percentage deductible for
158 the peril of windstorm from a named storm shall offer a buy-back
159 provision for that deductible which is actuarially sound; however,
160 the Commissioner of Insurance may grant a waiver from the
161 mandatory buy-back provision in accordance with the following
162 procedure and criteria:

163 (i) An insurance company shall make a formal
164 filing requesting a waiver from the buy-back provision requirement
165 with the Commissioner of Insurance.

166 (ii) An insurance company shall submit written
167 proof in its formal filing as to why it is in the best interest of
168 Mississippi policyholders to receive a waiver from the buy-back
169 provision requirement and shall provide any supporting
170 documentation requested by the commissioner deemed appropriate to
171 make his decision.



172 (iii) All expenses incurred by the Commissioner of
173 Insurance or his designee in determining the validity of the
174 waiver request shall be borne by the petitioning insurer. Such
175 expenses may include, but not be limited to, the cost of reviewing
176 the filing by actuaries, and if the commissioner deems a public
177 hearing appropriate, the cost of a facility, the cost of publicity
178 and the cost of a court reporter for the hearing.

179 (e) The commissioner shall establish by regulation
180 uniform policy language regarding the applicability of hurricane
181 deductibles and the form of notice to be provided to an insured
182 under a homeowner's insurance policy by an insurer utilizing a
183 hurricane deductible program or programs. The term "hurricane,"
184 for the purpose of a hurricane deductible program, means a storm
185 system that has been declared to be a hurricane by the National
186 Hurricane Center of the National Weather Service. The duration of
187 the hurricane includes the time period, in Mississippi:

188 (i) Beginning at the time a hurricane watch or
189 hurricane warning is issued for any part of Mississippi by the
190 National Hurricane Center of the National Weather Service;

191 (ii) Continuing for the time period during which
192 the hurricane conditions exist anywhere in Mississippi; and

193 (iii) Ending twenty-four (24) hours following the
194 termination of the last hurricane watch or hurricane warning
195 issued for any part of Mississippi by the National Hurricane
196 Center of the National Weather Service.



197 (3) To ensure the most appropriate use of state resources
198 with respect to the engagement of actuarial services for the
199 review of rate filings under this chapter, the commissioner may
200 adopt rules and regulations to establish the criteria and
201 procedures for determining when a rate filing should be submitted
202 to an actuary for review.

203 **SECTION 3.** Section 45-45-27, Mississippi Code of 1972, is
204 amended as follows:

205 45-45-27. (1) It shall be the responsibility of the owner
206 of all new and existing conveyances located in any building or
207 structure to have the conveyance inspected annually (ASME
208 A17.1/CSA B44, category one) by a licensed elevator inspector who
209 shall supply the property owner or lessee and the licensing
210 authority with a written inspection report that describes any and
211 all code violations. However, if the conveyance is an elevator
212 that serves only two (2) adjacent floors, the owner may request an
213 exemption from the annual inspection requirement pursuant to rules
214 and regulations promulgated by the commissioner governing said
215 exemption. Property owners shall have thirty (30) days from the
216 date of the published inspection report to be in full compliance
217 with correcting the violations.

218 (2) (a) It shall be the responsibility of the owner of all
219 conveyances to hire an elevator contractor or a limited elevator
220 contractor to supervise the required tests at intervals in



221 compliance with the ASME A17.1/CSA B44 Appendix N, ASME A18.1 and
222 ASCE 21.

223 (b) All tests shall be performed by a licensed elevator
224 mechanic.

225 **SECTION 4.** This act shall take effect and be in force from
226 and after July 1, 2020.

