

## Senate Amendments to House Bill No. 773

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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.

SS26\HB773A.3J

Eugene S. Clarke  
Secretary of the Senate