

By: Representative Turner

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1174

1 AN ACT TO CREATE THE MISSISSIPPI PUBLIC ADJUSTER PROFESSIONAL  
2 STANDARDS REFORM ACT; TO AMEND SECTION 83-17-503, MISSISSIPPI CODE  
3 OF 1972, TO PROVIDE FOR THE LICENSURE FOR INDEPENDENT AND PUBLIC  
4 ADJUSTERS BY THE DEPARTMENT OF INSURANCE; TO PROVIDE HOW A PUBLIC  
5 ADJUSTER SHALL DEMONSTRATE FINANCIAL RESPONSIBILITY; TO PROVIDE  
6 WHEN LICENSES SHALL NOT BE REQUIRED; TO PROVIDE FOR TEMPORARY  
7 REGISTRATION FOR EMERGENCY INDEPENDENT ADJUSTERS; TO PROVIDE FOR  
8 THE LICENSING OF NONRESIDENTS; TO CREATE A NEW SECTION OF LAW THAT  
9 PROVIDES THAT A PUBLIC ADJUSTER SHALL NOT PROVIDE SERVICES TO AN  
10 INSURED UNTIL A WRITTEN CONTRACT WITH THE INSURED HAS BEEN  
11 EXECUTED; TO PROVIDE FOR THE TERMS AND THE CONTENT OF THE  
12 CONTRACT; TO CREATE A NEW SECTION OF LAW THAT REQUIRES A PUBLIC  
13 ADJUSTER TO GIVE AN INSURED WRITTEN NOTICE OF THE INSURED'S  
14 RIGHTS; TO PROVIDE THE RESPONSIBILITIES OF THE PUBLIC ADJUSTER; TO  
15 CREATE A NEW SECTION OF LAW THAT PROVIDES THAT ALL FUNDS RECEIVED  
16 OR HELD BY A PUBLIC ADJUSTER ON BEHALF OF AN INSURED TOWARD THE  
17 SETTLEMENT OF A CLAIM SHALL BE HANDLED IN A FIDUCIARY CAPACITY AND  
18 DEPOSITED INTO CERTAIN FIDUCIARY TRUST ACCOUNTS; TO CREATE A NEW  
19 SECTION OF LAW THAT PROVIDES FOR THE COMMISSIONS THAT A PUBLIC  
20 ADJUSTER MAY BE CHARGED AND THE FEES THAT A PUBLIC ADJUSTER MAY  
21 CHARGE; TO CREATE A NEW SECTION OF LAW THAT PROVIDES CAUSES FOR  
22 THE COMMISSIONER OF INSURANCE TO PLACE ON PROBATION, SUSPEND OR  
23 REVOKE A LICENSE OR REFUSE TO RENEW THE LICENSE; TO PROVIDE THE  
24 CIVIL PENALTIES AND FINES THAT MAY BE IMPOSED WHEN A LICENSE IS  
25 DENIED, SUSPENDED OR REVOKED; TO AUTHORIZE THE COMMISSIONER TO  
26 PROMULGATE RULES AND REGULATIONS; TO AMEND SECTIONS 83-17-505,  
27 83-17-507 AND 83-17-511, MISSISSIPPI CODE OF 1972, TO DELETE THE  
28 PROVISIONS IN THEIR ENTIRETY; TO BRING FORWARD SECTIONS 83-17-501,  
29 83-17-509, 83-17-513, 83-17-515, 83-17-517, 83-17-519, 83-17-521,  
30 83-17-523, 83-17-525 AND 83-17-527, MISSISSIPPI CODE OF 1972, FOR  
31 THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 83-17-401,  
32 83-17-403, 83-17-405, 83-17-407, 83-17-409, 83-17-411, 83-17-413,  
33 83-17-415, 83-17-417, 83-17-419, 83-17-421, 83-17-423 AND



83-17-425, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE  
AMENDMENT; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known and may be cited as the  
"Mississippi Public Adjuster Professional Standards Reform  
Act."

**SECTION 2.** Section 83-17-503, Mississippi Code of 1972, is  
amended as follows:

83-17-503. (1) Except as provided in this section, no  
person shall act as or hold himself out to be \* \* \* an independent  
or public adjuster in this state unless he is licensed therefor by  
the \* \* \* department as an independent or public adjuster, except  
that an individual, who is undergoing education and training as a  
public adjuster under the direction and supervision of a licensed  
public adjuster for a period not exceeding twelve (12) months may  
act as a public adjuster without having a public adjuster's  
license, if at the beginning of such training period, the name of  
such trainee has been registered as such with the commissioner.

(2) (a) An individual applying for a resident independent  
or public adjuster license shall make an application to the  
Commissioner of Insurance on the appropriate uniform individual  
application and in a format prescribed by the commissioner.

(b) An applicant under paragraph (a) of this subsection  
shall declare under penalty of suspension, revocation, or refusal  
of the license that the statements made in the application are



true, correct, and complete to the best of the individual's  
knowledge and belief.

(c) Before approving an application submitted under  
paragraph (a) of this subsection, the commissioner shall find that  
the individual to be licensed:

(i) Is at least eighteen (18) years of age;

(ii) Is eligible to designate Mississippi as the  
individual's home state;

(iii) Is trustworthy, reliable, and of good  
reputation, evidence of which shall be determined through an  
investigation by the commissioner;

(iv) Has not committed any act that is a ground  
for probation, suspension, revocation, or refusal of a license as  
set forth in Section 83-17-519;

(v) Has successfully passed the examination for  
the adjuster license and the applicable line of authority for  
which the individual has applied; and

(vi) Is financially responsible to exercise the  
license.

(3) (a) To demonstrate financial responsibility, a person  
applying for a public adjuster license shall obtain a bond or  
irrevocable letter of credit prior to issuance of a license and  
shall maintain the bond or letter of credit for the duration of  
the license with the following limits:



(i) A surety bond executed and issued by an insurer authorized to issue surety bonds in Mississippi, which bond shall:

1. Be in the minimum amount of Fifty Thousand Dollars (\$50,000.00);

2. Be in favor of the State of Mississippi;

3. Specifically authorize recovery of any person in Mississippi who sustained damages as the result of the public adjuster's erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and

4. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or

(ii) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:

1. Be in the minimum amount of Fifty Thousand Dollars (\$50,000.00);

2. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and



106                   3. Not be terminated unless written notice is  
107 given to the licensee at least thirty (30) days prior to the  
108 termination.

109           (b) The commissioner may ask for evidence of financial  
110 responsibility at any time the commissioner deems relevant.

111           (c) If the evidence of financial responsibility  
112 terminates or becomes impaired, the public adjuster license shall:

113                   (i) Automatically terminate; and

114                   (ii) Be promptly surrendered to the commissioner  
115 without demand.

116           (4) (a) A business entity applying for a resident  
117 independent or public adjuster license shall make an application  
118 to the commissioner on the appropriate uniform business entity  
119 application and in a format prescribed by the commissioner.

120           (b) An applicant under paragraph (a) of this subsection  
121 shall declare under penalty of suspension, revocation, or refusal  
122 of the license that the statements made in the application  
123 are true, correct, and complete to the best of the business  
124 entity's knowledge and belief.

125           (c) Before approving an application submitted under  
126 paragraph (a) of this subsection, the commissioner shall find that  
127 the business entity:

128                   (i) Is eligible to designate Mississippi as its  
129 home state;



130                   (ii) Has designated a licensed independent or  
131 public adjuster responsible for the business entity's compliance  
132 with the insurance laws and regulations of Mississippi; and

133                   (iii) Has not committed an act that is a ground  
134 for probation, suspension, revocation, or refusal of an  
135 independent or public adjuster's license as set forth in Section  
136 83-17-519.

137       (5) For applications made under this section, the  
138 commissioner may:

139               (a) Require additional information or submissions from  
140 applicants; and

141               (b) Obtain any documents or information reasonably  
142 necessary to verify the information contained in an application.

143       (6) Unless denied licensure pursuant to Section 83-17-519, a  
144 person or business entity who has met the requirements of  
145 subsections (2) to (5) of this section shall be issued an  
146 independent or public adjuster license.

147       (7) An independent adjuster may qualify for a license in one  
148 or more of the following lines of authority:

149               (a) Property and casualty;

150               (b) Workers' compensation; or

151               (c) Crop.

152       (8) A public adjuster may qualify for a license in one or  
153 more of the following lines of authority:

154               (a) Property and casualty; or



155           (b) Crop.

156           (9) Notwithstanding any other provision of this article, a  
157 license as an independent adjuster shall not be required of the  
158 following:

159           (a) An individual who is sent into Mississippi on  
160 behalf of an insurer for the sole purpose of investigating or  
161 making adjustment of a particular loss resulting from a  
162 catastrophe, or for the adjustment of a series of losses resulting  
163 from a catastrophe common to all losses;

164           (b) An attorney licensed to practice law in  
165 Mississippi, when acting in his or her professional capacity as an  
166 attorney;

167           (c) A person employed solely to obtain facts  
168 surrounding a claim or to furnish technical assistance to a  
169 licensed independent adjuster;

170           (d) An individual who is employed to investigate  
171 suspected fraudulent insurance claims, but who does not adjust  
172 losses or determine claims payments;

173           (e) A person who:

174               (i) Solely performs executive, administrative,  
175 managerial, or clerical duties, or any combination thereof; and

176               (ii) Does not investigate, negotiate, or settle  
177 claims with policyholders, claimants, or their legal  
178 representatives;



179           (f) A licensed health care provider or its employee who  
180 provides managed care services if the services do not include the  
181 determination of compensability;

182           (g) A health maintenance organization or any of its  
183 employees or an employee of any organization providing managed  
184 care services if the services do not include the determination of  
185 compensability;

186           (h) A person who settles only reinsurance or  
187 subrogation claims;

188           (i) An officer, director, manager, or employee of an  
189 authorized insurer, surplus lines insurer, or risk retention  
190 group, or an attorney-in-fact of a reciprocal insurer;

191           (j) A United States manager of the United States branch  
192 of an alien insurer;

193           (k) A person who investigates, negotiates, or settles  
194 claims arising under a life, accident and health, or disability  
195 insurance policy or annuity contract;

196           (l) An individual employee, under a self-insured  
197 arrangement, who adjusts claims on behalf of the individual's  
198 employer;

199           (m) A licensed agent, attorney-in-fact of a reciprocal  
200 insurer, or managing general agent of the insurer, to whom claim  
201 authority has been granted by an insurer; or

202           (n) (i) A person who:





203 1. Is an employee of a licensed independent  
204 adjuster, is an employee of an affiliate that is a licensed  
205 independent adjuster, or is supervised by a licensed independent  
206 adjuster, if there are no more than twenty-five (25) persons under  
207 the supervision of one (1) licensed individual independent  
208 adjuster or licensed agent who is exempt from licensure pursuant  
209 to paragraph (m) of this subsection;

210 2. Collects claim information from insureds  
211 or claimants;

212 3. Enters data into an automated claims  
213 adjudication system; and

214 4. Furnishes claim information to insureds or  
215 claimants from the results of the automated claims adjudication  
216 system.

217 (ii) For purposes of this paragraph, "automated  
218 claims adjudication system" means a preprogrammed computer system  
219 designed for the collection, data entry, calculation, and  
220 system-generated final resolution of consumer electronic products  
221 insurance claims that complies with claim settlement practices.

222 (10) Notwithstanding any other provision of this article, a  
223 license as a public adjuster shall not be required of the  
224 following:

225 (a) An attorney licensed to practice law in  
226 Mississippi, when acting in his or her professional capacity as an  
227 attorney;



228           (b) A person who negotiates or settles claims arising  
229 under a life or health insurance policy or an annuity contract;

230           (c) A person employed only for the purpose of obtaining  
231 facts surrounding a loss or furnishing technical assistance to a  
232 licensed public adjuster, including photographers, estimators,  
233 private investigators, engineers, and handwriting experts;

234           (d) A licensed health care provider or its employee who  
235 prepares or files a health claim form on behalf of a patient; or

236           (e) An employee or agent of an insurer adjusting claims  
237 relating to food spoilage with respect to residential property  
238 insurance in which the amount of coverage for the applicable type  
239 of loss is contractually limited to One Thousand Dollars  
240 (\$1,000.00) or less.

241           (11) For purposes of this section, except as otherwise  
242 provided in subsection (15) of this section, "home state" means  
243 any state or territory of the United States or the District of  
244 Columbia in which an independent or public adjuster:

245           (a) Maintains his or her principal place of residence  
246 or business; and

247           (b) Is licensed to act as a resident independent or  
248 public adjuster.

249           (12) Temporary registration for emergency independent  
250 adjusters shall be issued by the commissioner in the event of a  
251 catastrophe declared in Mississippi in the following manner:



252           (a) An insurer shall notify the commissioner by  
253 submitting an application for temporary emergency registration of  
254 each individual not already licensed in the state where the  
255 catastrophe has been declared, who will act as an emergency  
256 independent adjuster on behalf of the insurer;

257           (b) A person who is otherwise qualified to adjust  
258 claims, but who is not already licensed in the state, may act as  
259 an emergency independent adjuster and adjust claims if, within  
260 five (5) days of deployment to adjust claims arising from the  
261 catastrophe, the insurer notifies the commissioner by providing  
262 the following information, in a format prescribed by the  
263 commissioner:

264                   (i) The name of the individual;  
265                   (ii) The Social Security number of the individual;  
266                   (iii) The name of the insurer that the independent  
267 adjuster will represent;  
268                   (iv) The catastrophe or loss control number;  
269                   (v) The catastrophe event name and date; and  
270                   (vi) Any other information the commissioner deems  
271 necessary; and

272           (c) An emergency independent adjuster's registration  
273 shall remain in force for a period not to exceed ninety (90) days,  
274 unless extended by the commissioner.

275           (13) (a) As used in this subsection, "home state" has the  
276 same meaning as in subsection (13) of this section, except that



for purposes of this subsection the term includes any state or territory of the United States or the District of Columbia in which an applicant under this subsection is licensed to act as a resident independent or public adjuster if the state or territory of the applicant's principal place of residence does not issue an independent or public adjuster license.

(b) Unless refused licensure in accordance with Section 83-17-519, a nonresident person shall receive a nonresident independent or public adjuster license if:

(i) The person is currently licensed in good standing as an independent or public adjuster in his, her, or its home state;

(ii) The person has submitted the proper request for licensure;

(iii) The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and

(iv) The person's designated home state issues nonresident independent or public adjuster licenses to persons of Mississippi on the same basis.

(c) The commissioner may:

(i) Verify an applicant's licensing status through any appropriate database, including the database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries; or



(ii) Request certification of an applicant's good standing.

(d) As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.

(e) A nonresident adjuster license issued under this subsection shall terminate and be surrendered immediately to the commissioner if the licensee's resident adjuster license terminates for any reason, unless:

(i) The termination is due to the licensee being issued a new resident independent or public adjuster license in his, her, or its new home state; and

(ii) The new resident state or territory has reciprocity with Mississippi.

( \* \* \*14) Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by confinement in the county jail for not more than one (1) year, or by both such fine and confinement.

**SECTION 3.** (1) (a) Except as provided in paragraph (b) of this subsection, a public adjuster shall not provide services to an insured until a written contract with the insured has been executed on a form that has been pre-filed with and approved by the commissioner.



326           (b) The commissioner may approve a form that allows a  
327 public adjuster to be compensated for services provided to an  
328 insured prior to the execution of a written contract in emergency  
329 circumstances.

330           (c) A contract between a public adjuster and an insured  
331 in violation of paragraph (a) of this subsection shall not be  
332 enforceable in this state.

333           (d) A form pre-filed with the commissioner by a public  
334 adjuster for approval under paragraph (a) of this subsection shall  
335 be subject to disapproval by the commissioner at any time if the  
336 form is found to:

337                   (i) Violate any provision of this chapter;

338                   (ii) Contain or incorporate by reference any  
339 inconsistent, ambiguous, or misleading clauses; or

340                   (iii) Contain any title, heading, or other  
341 indication of its provisions which is:

342                           1. Misleading; or

343                           2. Printed in a size of typeface or manner of  
344 reproduction so as to be substantially illegible.

345           (e) A contract between a public adjuster and an insured  
346 that was executed on a form that was pre-filed with and approved  
347 by the commissioner under paragraph (a) of this subsection prior  
348 to a disapproval of the form under paragraph (d) of this  
349 subsection shall be enforceable to the extent allowed by:

350                   (i) Ordinary principles of contract; and



351                   (ii) Any applicable state or federal laws  
352 implicated by the contract.

353           (2) A public adjuster shall ensure that all contracts  
354 between the public adjuster and the insured for services are in  
355 writing and contain the following terms:

356                   (a) The legible full name of the adjuster signing the  
357 contract, as specified in the department's licensing records;

358                   (b) The adjuster's permanent home state business  
359 address and phone number;

360                   (c) The license number issued to the adjuster by the  
361 department;

362                   (d) A title of "Public Adjuster Contract";

363                   (e) The insured's full name, street address, insurer  
364 name, and policy number, if known or upon notification;

365                   (f) A description of the loss or damage and its  
366 location, if applicable;

367                   (g) A description of services to be provided to the  
368 insured;

369                   (h) The signatures of the adjuster and the insured;

370                   (i) The date the contract was signed by:

371                           (i) The adjuster; and

372                           (ii) The insured;

373                   (j) Attestation language stating that the adjuster has  
374 a letter of credit or a surety bond as required by Section 2 of  
375 this act;



(k) The full salary, fee, commission, compensation, or other consideration the adjuster is to receive for services, including, but not limited to:

(i) If the compensation is based on a percentage of the insurance settlement, the exact percentage, which shall be in accordance with Section 6 of this act;

(ii) The initial expenses to be reimbursed to the adjuster from the proceeds of the claim payment, specified by type, with dollar estimates; and

(iii) Any additional expenses, if first approved by the insured;

(l) A statement that the adjuster shall not give legal advice or act on behalf of or aid any person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages;

(m) The process for rescinding the contract, including the date by which rescission of the contract by the adjuster or the insured may occur; and

(n) A statement that clearly states in substance the following: "Complaints regarding this contract or regarding the public adjuster may be filed with the consumer protection division of the Department of Insurance."

(3) (a) Compensation provisions in a contract between a public adjuster and an insured shall not be redacted in any copy of the contract provided to the commissioner.





401           (b) A redaction prohibited under paragraph (a) of this  
402 subsection shall constitute an omission of material fact.

403           (4) A contract between a public adjuster and an insured  
404 shall not contain any contract term that:

405           (a) Allows the adjuster's percentage fee to be  
406 collected when money is due from an insurer, but not paid;

407           (b) Allows the adjuster to collect the entire fee from  
408 the first check issued by an insurer, rather than as a percentage  
409 of each check issued by an insurer;

410           (c) Requires an insured to authorize an insurer to  
411 issue a check only in the name of the adjuster;

412           (d) Imposes collection costs or late fees;

413           (e) Allows the adjuster's rate of compensation to be  
414 increased based on the fact that a claim is litigated; or

415           (f) Precludes the adjuster from pursuing civil  
416 remedies.

417           (5) Prior to the signing of a contract with an insured, a  
418 public adjuster shall provide the insured with a separate  
419 disclosure document regarding the claim process that states the  
420 following:

421           "Property insurance policies obligate the insured to present  
422 a claim to his or her insurance company for consideration. Three  
423 (3) types of adjusters may be involved in the claim process as  
424 follows:



425                   1. "Independent adjuster" means an insurance  
426 adjuster who is hired on a contract basis by an insurance company  
427 to represent the insurance company's interest in the settlement of  
428 the claims and who is paid by the insurance company. An  
429 independent adjuster shall not charge a fee to the insured; and

430                   2. "Public adjuster" means an insurance  
431 adjuster who does not work for any insurance company. A public  
432 adjuster works for the insured to assist in the preparation,  
433 presentation, and settlement of the claim, and the insured hires a  
434 public adjuster by signing a contract agreeing to pay him or her a  
435 fee or commission based on a percentage of the settlement or  
436 another method of payment. The insured is not required to hire a  
437 public adjuster to help the insured meet his or her obligations  
438 under the policy, but has the right to hire a public adjuster.  
439 The insured has the right to initiate direct communications with  
440 the insured's attorney, the insurer, the insurer's adjuster, the  
441 insurer's attorney, and any other person regarding the settlement  
442 of the insured's claim. The public adjuster shall not be a  
443 representative or employee of the insurer. The salary, fee,  
444 commission, or other consideration paid to the public adjuster is  
445 the obligation of the insured, not the insurer."

446           (6) (a) A contract between a public adjuster and an insured  
447 shall be executed in duplicate to provide an original contract to:

448                   (i) The public adjuster; and

449                   (ii) The insured.



450           (b) A public adjuster's original contract shall be  
451 available at all times for inspection by the commissioner without  
452 notice.

453           (7) Within seventy-two (72) hours of entering into a  
454 contract with an insured, a public adjuster shall provide the  
455 insurer:

456           (a) A notification letter that:

457                   (i) Has been signed by the insured; and

458                   (ii) Authorizes the public adjuster to represent  
459 the insured's interest; and

460           (b) A copy of the contract.

461           (8) (a) The insured shall have the right to rescind a  
462 contract with a public adjuster within five (5) business days  
463 after the date the contract was signed.

464           (b) A rescission of a public adjuster contract shall  
465 be:

466                   (i) In writing;

467                   (ii) Mailed or delivered to the public adjuster at  
468 the address in the contract; and

469                   (iii) Postmarked or received within the five (5)  
470 business day period.

471           (9) If an insured exercises the right to rescind a contract  
472 under subsection (8) of this section, anything of value given by  
473 the insured under the contract to the public adjuster shall be



returned to the insured within fifteen (15) business days following receipt by the public adjuster of the rescission notice.

**SECTION 4.** (1) A public adjuster shall give an insured written notice of the insured's rights under this section and Sections 2 and 4 of this act.

(2) A public adjuster shall ensure that:

(a) Prompt notice of a claim is provided to the insurer;

(b) The property that is subject to a claim is available for inspection of the loss or damage by the insurer; and

(c) The insurer is given the opportunity to interview the insured directly about the loss or damage and claim.

(3) A public adjuster shall not restrict or prevent an insurer or its adjuster, or an attorney, investigator, or other person acting on behalf of the insurer, from:

(a) Having reasonable access, at reasonable times, to:

(i) The insured or claimant; or

(ii) The insured property that is the subject of a claim;

(b) Obtaining necessary information to investigate and respond to a claim; or

(c) Corresponding directly with the insured regarding the claim, except a public adjuster shall be copied on any correspondence with the insured relating to the claim.



498           (4)   (a)   A public adjuster shall not act or fail to  
499 reasonably act in any manner that obstructs or prevents the  
500 insurer or its adjuster from timely conducting an inspection of  
501 any part of the insured property for which there is a claim for  
502 loss or damage.

503                   (b)   Except as provided in paragraph (c) of this  
504 subsection, a public adjuster representing an insured may be  
505 present for the insurer's inspection.

506                   (c)   If the unavailability of a public adjuster, after a  
507 reasonable request by the insurer, otherwise delays the insurer's  
508 timely inspection of the property, the insured shall allow the  
509 insurer to have access to the property without the participation  
510 or presence of the public adjuster in order to facilitate the  
511 insurer's prompt inspection of the loss or damage.

512           (5)   A public adjuster shall provide the insured, the  
513 insurer, and the commissioner with a written disclosure concerning  
514 any direct or indirect financial interest that the adjuster has  
515 with any other party who is involved in any aspect of the claim.

516           (6)   A public adjuster shall not:

517                   (a)   Participate, directly or indirectly, in the  
518 reconstruction, repair, or restoration of damaged property that is  
519 the subject of a claim adjusted by the adjuster;

520                   (b)   Engage in any activities that may be reasonably  
521 construed as a conflict of interest, including, directly or



indirectly, soliciting or accepting any remuneration of any kind or nature;

(c) Have a financial interest in any salvage, repair, or any other business entity that obtains business in connection with any claim that the public adjuster has a contract to adjust; or

(d) (i) Use claim information obtained in the course of any claim investigation for commercial purposes.

(ii) As used in subparagraph (i) of this paragraph, "commercial purposes" includes marketing or advertising used for the benefit of the public adjuster.

(e) File a complaint with the commissioner on behalf of an insured alleging an unfair claim settlement practice unless the insured has given written consent for the public adjuster to file the complaint on the insured's behalf.

**SECTION 5.** (1) All funds received or held by a public adjuster on behalf of an insured toward the settlement of a claim shall be:

(a) Handled in a fiduciary capacity; and

(b) Deposited into one or more separate noninterest-bearing fiduciary trust accounts in a financial institution licensed to do business in this state no later than the close of the second business day from the receipt of the funds.



(2) The funds referenced in subsection (1) of this section shall:

(a) Be held separately from any personal or nonbusiness funds;

(b) Not be commingled or combined with other funds;

(c) Be reasonably ascertainable from the books of accounts and records of the public adjuster; and

(d) Be disbursed within thirty (30) calendar days of any invoice received by the public adjuster upon approval of the insured or the claimant that the work has been satisfactorily completed.

(3) A public adjuster shall maintain an accurate record and itemization of any funds deposited into an account under subsection (1) of this section.

**SECTION 6.** (1) Except as provided in subsection (2) of this section:

(a) Any fee charged to an insured by a public adjuster shall be:

(i) Based only on the amount of the insurance settlement proceeds actually received by the insured; and

(ii) Collected by the public adjuster after the insured has received the insurance settlement proceeds from the insurer;

(b) A public adjuster may receive a commission for services provided under this subtitle consisting of:



(i) An hourly fee;

(ii) A flat rate;

(iii) A percentage of the total amount paid by the insurer to resolve a claim; or

(iv) Another method of compensation; and

(c) A public adjuster:

(i) Shall not charge an unreasonable fee; and

(ii) May charge a reasonable fee that does not exceed:

1. For non-catastrophic claims, fifteen percent (15%) of the total insurance recovery of the insured; and
2. For catastrophic claims, ten percent (10%) of the total insurance recovery of the insured.

(2) If an insurer, not later than seventy-two (72) hours after the date on which a loss or damage is reported to the insurer, either pays or commits in writing to pay the policy limit of the insurance policy to the insured, a public adjuster shall:

- (a) Not receive a commission consisting of a percentage of the total amount paid by the insurer to resolve a claim;
- (b) Inform the insured that the claim settlement amount may not be increased by the insurer; and
- (c) Be entitled only to reasonable compensation from the insured for services provided by the adjuster on behalf of the insured, based on the time spent on the claim and expenses





incurred by the adjuster prior to when the claim was paid or the insured received a written commitment to pay from the insurer.

**SECTION 7.** (1) The commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this act, or may levy a civil penalty in accordance with Section 83-17-519, or any combination of actions for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in a license application;

(b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance or the business of life settlements;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;

(f) Having been convicted of or having pled guilty or nolo contendere to any felony;



619           (g) Having admitted or been found to have committed any  
620 unfair insurance trade practice, insurance fraud, or fraudulent  
621 life settlement act;

622           (h) Using fraudulent, coercive, or dishonest practices;  
623 or demonstrating incompetence, untrustworthiness, or financial  
624 irresponsibility; or being a source of injury or loss to the  
625 public in the conduct of business in this state or elsewhere;

626           (i) Having an insurance license, life settlement  
627 license, or its equivalent, denied, suspended, or revoked in any  
628 other state, province, district, or territory;

629           (j) Surrendering or otherwise terminating any license  
630 issued by this state or by any other jurisdiction, under threat of  
631 disciplinary action, denial, or refusal of the issuance of or  
632 renewal of any other license issued by this state or by any other  
633 jurisdiction; or revocation or suspension of any other license  
634 held by the licensee issued by this state or by any other  
635 jurisdiction;

636           (k) Forging another's name to an application for  
637 insurance, to any other document related to an insurance  
638 transaction, or to any document related to the business of life  
639 settlements;

640           (l) Cheating, including improperly using notes or any  
641 other reference material to complete an examination for license;



642 (m) Knowingly accepting insurance from an individual or  
643 business entity who is not licensed, but who is required to be  
644 licensed under this subtitle;

645 (n) Failing to comply with an administrative or court  
646 order imposing a child support obligation;

647 (o) Failing to pay state income tax or to comply with  
648 any administrative or court order directing payment of state  
649 income tax;

650 (p) Having been convicted of a misdemeanor for which  
651 restitution is ordered in excess of Three Hundred Dollars  
652 (\$300.00), or of any misdemeanor involving dishonesty, breach of  
653 trust, or moral turpitude;

654 (q) Failing to no longer meet the requirements for  
655 initial licensure; or

656 (r) Any other cause for which issuance of the license  
657 could have been refused, had it then existed and been known to the  
658 commissioner.

659 (2) (a) For any public adjuster or apprentice adjuster  
660 supervised by a public adjuster as provided in Section 83-17-503,  
661 the commissioner may deny, suspend, or revoke the adjuster's  
662 license or impose a fine not to exceed Five Thousand Dollars  
663 (\$5,000.00) per act against the adjuster, or both, for any of the  
664 following causes:

665 (i) Violating any provision of this chapter;



666 (ii) Violating any administrative regulation or  
667 order of the commissioner;

668 (iii) Receiving payment or anything of value as a  
669 result of an unfair or deceptive practice;

670 (iv) Receiving or accepting any fee, kickback, or  
671 other thing of value pursuant to any agreement or understanding,  
672 oral or otherwise, from anyone other than an insured;

673 (v) Entering into a split-fee arrangement with  
674 another person who is not a public adjuster; or

675 (vi) Being otherwise paid or accepting payment for  
676 public adjuster services that have not been performed.

677 (b) The sanctions and penalties under this subsection  
678 shall be in addition to any other remedies, penalties, or  
679 sanctions available to the commissioner against a public adjuster  
680 or an apprentice adjuster supervised by a public adjuster under  
681 Section 83-17-519, under this section, or under any other law.

682 (3) The license of a business entity may be suspended,  
683 revoked, or refused for any cause relating to an individual  
684 designated in or registered under the license if the commissioner  
685 finds that:

686 (a) An individual licensee's violation was known or  
687 should have been known by one or more of the partners, officers,  
688 or managers acting on behalf of the business entity; and

689 (b) The violation was not reported to the department  
690 nor corrective action taken.



(4) The applicant or licensee may make written request for a hearing in accordance with Section 83-17-519.

(5) The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.

(6) The sanctions and penalties applicable to licenses and licensees under subsection (1) of this section shall also be applicable to registrations and registrants.

**SECTION 8.** Pursuant to Section 83-17-527, the commissioner may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of this act.

**SECTION 9.** Section 83-17-505, Mississippi Code of 1972, is amended as follows:

83-17-505. \* \* \* [DELETED]

**SECTION 10.** Section 83-17-507, Mississippi Code of 1972, is amended as follows:

83-17-507. \* \* \* [DELETED]

**SECTION 11.** Section 83-17-511, Mississippi Code of 1972, is amended as follows:

83-17-511. \* \* \* [DELETED]

**SECTION 12.** Section 83-17-501, Mississippi Code of 1972, is brought forward as follows:



83-17-501. As used in this article, unless the context otherwise requires:

(a) "Certified" means, except as used in Section 83-17-519(2), written representations addressed to the commissioner concerning the integrity, competence and qualifications of a person, in form and content satisfactory to the commissioner, or concerning other matters as the commissioner may by regulation hereafter prescribe.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Department" means the Mississippi Insurance Department.

(d) "Insurer" means any insurance company or self-insured person or entity.

(e) "Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured and subject to the prohibition provided in Section 73-3-55:

(i) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(ii) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first



party insurance claims for losses or damages arising out of  
policies of insurance that insure real or personal property; or  
(iii) Directly or indirectly solicits business,  
investigates or adjusts losses, or advises an insured about first  
party claims for losses or damages arising out of policies of  
insurance that insure real or personal property for another person  
engaged in the business of adjusting losses or damages covered by  
an insurance policy, for the insured.

A public adjuster shall not include an attorney at law who  
does not advertise or represent that he is a public adjuster.

**SECTION 13.** Section 83-17-509, Mississippi Code of 1972, is  
brought forward as follows:

83-17-509. In the event of a catastrophe or emergency which  
arises out of a disaster, act of God, riot, civil commotion,  
conflagration or other similar occurrence, the commissioner, upon  
application, may issue an emergency license to persons who are  
residents or nonresidents of this state and who may or may not be  
otherwise licensed public adjusters. Such emergency license shall  
remain in force for a period not to exceed ninety (90) days,  
unless extended for an additional period of ninety (90) days by  
the commissioner. The applicant must be certified by (a) a person  
licensed under the provisions of this article, or by (b) such  
other person as may be approved by the commissioner. The licensed  
public adjuster or other person who certifies the applicant under



the provisions of this section shall be responsible for the loss or claims practices of the emergency license holder.

Within five (5) days of any applicant beginning work as a public adjuster under this section, the application and certification provided for in the preceding paragraph shall be provided to the commissioner without such public adjuster being deemed in violation of this article, provided that the commissioner, after notice and hearing, may revoke the emergency license upon the grounds as otherwise contained in this article providing for revocation of a public adjuster's license.

The fee for an emergency license shall be in an amount not to exceed Fifty Dollars (\$50.00) as determined by the commissioner and shall be due and payable within thirty (30) days of the issuance of such emergency license.

**SECTION 14.** Section 83-17-513, Mississippi Code of 1972, is brought forward as follows:

83-17-513. The commissioner shall adopt a procedure for certifying continuing education programs for public adjusters. Every individual seeking renewal of a public adjuster license, which has been in effect for a term of eighteen (18) months or less shall satisfactorily complete twelve (12) hours of study in approved continuing education courses. Every individual seeking renewal of a public adjuster license, which has been in effect for a term of more than eighteen (18) months shall satisfactorily complete twenty-four (24) hours of study in approved continuing





education courses of which three (3) hours shall have a course concentration in ethics.

**SECTION 15.** Section 83-17-515, Mississippi Code of 1972, is brought forward as follows:

83-17-515. (1) Each applicant for a license as a public adjuster, before the issuance of such license, shall personally take and pass, to the satisfaction of the commissioner, an examination as a test of his qualifications and competency; but the requirement of an examination shall not apply to any of the following:

(a) An applicant for the renewal of a license issued hereunder;

(b) An applicant who is licensed as a public adjuster, as defined by this article, in another state with which state a reciprocal agreement has been entered into by the commissioner; or

(c) Any person who has completed a course or training program in adjusting for losses as prescribed and approved by the commissioner and is certified to the commissioner upon completion of the course that such person has completed the course or training program, and has passed an examination testing his knowledge and qualification, as prescribed by the commissioner.

(2) Each examination for a license as a public adjuster shall be as the commissioner may prescribe and shall be of sufficient scope reasonably to test the applicant's knowledge relative to the kinds of insurance which may be dealt with under



the license applied for and the duties, responsibilities and laws of this state applicable to such a licensee.

(3) The commissioner shall prepare and make available to applicants a manual or instructions specifying in general terms the subjects which may be covered in any examination for such a license.

**SECTION 16.** Section 83-17-517, Mississippi Code of 1972, is brought forward as follows:

83-17-517. (1) The privilege license of an individual to act as a public adjuster shall continue from the date of issuance for original licenses or from the expiration date for existing licenses until the last day of the month of the licensee's birthday in the second year following issuance or renewal of the license, with a minimum term of thirteen (13) months. The privilege license of a business entity to act as a public adjuster shall continue from the date of issuance until May 31 in the second year following issuance or renewal of the license, with a minimum term of thirteen (13) months.

(2) Each public adjuster shall file an application for renewal of license on the form and in the manner prescribed by the commissioner for such purpose. Upon the filing of such application for renewal of license and the payment of the required fees, prior to the expiration date, the current license shall continue to be in force until the renewal license is issued by the commissioner or until the commissioner has refused for cause to



839 issue such renewal license, as provided in this article, and has  
840 given notice of such refusal in writing to the public adjuster.

841       **SECTION 17.** Section 83-17-519, Mississippi Code of 1972, is  
842 brought forward as follows:

843       83-17-519. (1) A license may be refused, or a license duly  
844 issued may be suspended or revoked or the renewal thereof refused  
845 by the commissioner, or the commissioner may levy a civil penalty  
846 in an amount not to exceed Five Thousand Dollars (\$5,000.00) per  
847 violation, or both, and any such penalty shall be deposited into  
848 the special fund of the State Treasury designated as the  
849 "Insurance Department Fund", if, after notice and hearing as  
850 hereinafter provided, he finds that the applicant for, or holder  
851 of, such license:

852               (a) Has intentionally made a material misstatement in  
853 the application for such license; or

854               (b) Has obtained, or attempted to obtain, such license  
855 by fraud or misrepresentation; or

856               (c) Has misappropriated or converted to his own use or  
857 illegally withheld money belonging to another person or entity; or

858               (d) Has otherwise demonstrated lack of trustworthiness  
859 or competence to act as a public adjuster; or

860               (e) Has been guilty of fraudulent or dishonest  
861 practices or has been convicted of a felony; or



862           (f) Has materially misrepresented the terms and  
863 conditions of insurance policies or contracts or failed to  
864 identify himself as a public adjuster; or

865           (g) Has obtained or attempted to obtain such license  
866 for a purpose other than holding himself out to the general public  
867 as a public adjuster; or

868           (h) Has violated any insurance laws, or any regulation,  
869 subpoena or order of the commissioner or of another state's  
870 commissioner of insurance.

871       (2) Before any license shall be refused (except for failure  
872 to pass a required written examination) or suspended or revoked or  
873 the renewal thereof refused hereunder, the commissioner shall give  
874 notice of his intention so to do, by certified mail, return  
875 receipt requested, to the applicant for or holder of such license,  
876 and shall set a date not less than twenty (20) days from the date  
877 of mailing such notice when the applicant or licensee may appear  
878 to be heard and produce evidence in opposition to such refusal,  
879 suspension or revocation. Such notice shall constitute automatic  
880 suspension of license if the person involved is a licensed public  
881 adjuster. In the conduct of such hearing, the commissioner or any  
882 regular salaried employee of the department specially designated  
883 by him for such purpose shall have the power to administer oaths,  
884 to require the appearance of and examine any person under oath,  
885 and to require the production of books, records or papers relevant  
886 to the inquiry upon his own initiative or upon the request of the



887 applicant or licensee. Upon the termination of such hearing,  
888 findings shall be reduced to writing and, upon approval by the  
889 commissioner, shall be filed in his office; and notice of the  
890 findings shall be sent by certified mail, return receipt  
891 requested, to the applicant or licensee.

892 (3) Where the grounds set out in subsection (1)(c) or (1)(f)  
893 of this section are the grounds for any hearing, the commissioner  
894 may, in his discretion in lieu of the hearing provided for in  
895 subsection (2) of this section, file a petition requesting the  
896 court to suspend or revoke any license authorized hereunder in a  
897 court of competent jurisdiction of the county or district in which  
898 the alleged offense occurred. In such cases, subpoenas may be  
899 issued for witnesses, and mileage and witness fees paid as in  
900 other cases. All costs of such cause shall be paid by the  
901 defendant, if the finding of the court be against him.

902 (4) No licensee whose license has been revoked hereunder  
903 shall be entitled to file another application for a license as a  
904 public adjuster within one (1) year from the effective date of  
905 such revocation or, if judicial review of such revocation is  
906 sought, within one (1) year from the date of final court order or  
907 decree affirming such revocation. An application filed after such  
908 one-year period shall be refused by the commissioner unless the  
909 applicant shows good cause why the revocation of his license shall  
910 not be deemed a bar to the issuance of a new license.



(5) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(6) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

**SECTION 18.** Section 83-17-521, Mississippi Code of 1972, is brought forward as follows:

83-17-521. Any person aggrieved by any action or decision of the commissioner under the provisions of this article may appeal therefrom to the Circuit Court of the First Judicial District of Hinds County in the manner provided by law. The circuit court shall have the authority and jurisdiction to hear the appeal and render its decision in regard thereto in termtime or vacation.

**SECTION 19.** Section 83-17-523, Mississippi Code of 1972, is brought forward as follows:

83-17-523. (1) Public adjusters shall ensure that all contracts for their services are in writing, signed by the insured and the public adjuster who solicited the contract, and a copy of the contract shall be provided to the insured upon execution. All such contracts shall be subject to the following provisions:

(a) No public adjuster shall charge, agree to, or accept as compensation any payment, commission, fee or other thing



of value equal to more than ten percent (10%) of any insurance settlement or the proceeds of any claim investigated.

(b) No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit or other thing of value, prior to partial or full settlement of a claim.

(c) Any costs to be reimbursed to a public adjuster out of the proceeds of a settlement shall be specified by kind and estimated amounts.

(d) A public adjuster's contract with the insured shall be revocable or cancelable by the insured without cause and without penalty or obligation for at least five (5) business days after the contract is executed by the insured. Nothing in this provision shall be construed to prevent an insured from pursuing any civil legal remedy to revoke or cancel the contract after the expiration of such cancellation period.

(e) No public adjuster may require that an insured authorize an insurer to issue a check only in the name of the public adjuster.

(f) No public adjuster shall be entitled to any payment, commission, fee or other thing of value of any insurance settlement or agreed settlement that was made between the insured and the insurance company before the public adjuster and the insured entered into a contract for services.

(g) If an insurance company extends a written settlement offer to the insured before the insured enters into a



contract with a public adjuster for services, then a public adjuster may only be entitled to an amount that is no more than ten percent (10%) of the settlement amount that is in excess of the amount that was offered in writing to the insured prior to entering into the contract with the public adjuster.

(2) Public adjusters shall adhere to the following ethical requirements:

(a) No public adjuster shall undertake the adjustment of any claim for which the public adjuster is not currently competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise.

(b) No public adjuster shall, as a public adjuster, represent any person or entity whose claim the public adjuster has previously adjusted while acting as an independent adjuster representing any insurer, either directly or through an independent adjusting firm retained by the insurer.

(c) A public adjuster shall not knowingly make any oral or written material misrepresentations or statements to any insured or potential insured which are false and intended to injure any person engaged in the business of insurance.

(d) No public adjuster shall knowingly enter into a contract to adjust a residential property claim subsequent to a declaration of total loss by an insurer, unless the services to be provided by the public adjuster can reasonably be expected to





986 result in the insured obtaining an insurance settlement, net of  
987 the public adjuster's compensation, in excess of the amount the  
988 insured would have obtained without the services of the public  
989 adjuster.

990 (e) A public adjuster shall advise each insured that  
991 the insured has the right to retain an attorney at law of his  
992 choice throughout the public adjuster's investigation and  
993 adjustment of the claim.

994 (f) If the claim is not settled by the public adjuster,  
995 the public adjuster shall advise the insured that the insured has  
996 the right to retain an attorney at law of his choice.

997 (g) No public adjuster shall contract for, agree to, or  
998 receive anything of value from any attorney at law or other person  
999 acting in concert with any attorney at law (i) for referring  
1000 claims to the attorney, or (ii) in connection with any claim for  
1001 which the public adjuster has performed or intends to perform  
1002 services.

1003 (h) No public adjuster shall split any attorney's fee  
1004 with any attorney at law.

1005 (i) A public adjuster shall not testify as an expert  
1006 witness in any judicial or administrative proceeding while  
1007 maintaining a pecuniary interest in the outcome of the proceeding,  
1008 as otherwise permitted by Section 83-17-523(1)(a); provided,  
1009 however, that a public adjuster may testify as an expert witness  
1010 if pursuant to the terms of his contract his compensation is



converted to a specified hourly rate, which rate (i) is subject to such limitations as may be prescribed by the commissioner, and (ii) is not subject to any contingencies. In the event of a conversion of the public adjuster's contract to an hourly rate agreement, the prior fee arrangement shall be inadmissible at trial.

(j) A public adjuster shall not participate, directly or indirectly, in the reconstruction, repair or restoration of damaged property that is the subject of a claim adjusted by the adjuster.

(k) A public adjuster shall not engage in any activities that may be reasonably construed as a conflict of interest, including, directly or indirectly, soliciting or accepting any remuneration of any kind or nature.

(l) A public adjuster shall not have a financial interest in any salvage, repair or any other business entity that obtains business in connection with any claim that the public adjuster has a contract to adjust.

**SECTION 20.** Section 83-17-525, Mississippi Code of 1972, is brought forward as follows:

83-17-525. This article shall not be construed as entitling a person who is not licensed by the Mississippi Supreme Court to practice law in this state.

**SECTION 21.** Section 83-17-527, Mississippi Code of 1972, is brought forward as follows:



1036           83-17-527. This article is declared to be cumulative and  
1037 supplemental to all other valid statutes relating to insurance  
1038 agents, solicitors, adjusters and public adjusters. The  
1039 Commissioner of Insurance is directed and authorized to make such  
1040 reasonable rules and regulations as may be necessary for the  
1041 administration of this article, including, but not limited to,  
1042 rules and regulations (a) establishing procedures for the filing  
1043 and approval of contracts to be used by public adjusters and/or  
1044 prescribing one or more model contracts for use by public  
1045 adjusters, (b) regulating solicitations by public adjusters, and  
1046 (c) establishing bonding and/or errors and omissions insurance  
1047 requirements for public adjusters.

1048           **SECTION 22.** Section 83-17-401, Mississippi Code of 1972, is  
1049 brought forward as follows:

1050           83-17-401. As used in this article, unless the context  
1051 otherwise requires:

1052           (a) "Adjuster" means any person who, as an independent  
1053 contractor, or as an employee of an independent contractor,  
1054 adjustment bureau, association, insurance company or corporation,  
1055 managing general agent or self-insured, investigates or adjusts  
1056 losses on behalf of either an insurer or a self-insured, or any  
1057 person who supervises the handling of claims. "Adjuster" shall  
1058 not include:



1059 (i) An attorney-at-law who adjusts insurance  
1060 losses from time to time and incidental to the practice of law,  
1061 and who does not advertise or represent that he is an adjuster;  
1062 (ii) A salaried employee of an insurer who is  
1063 regularly engaged in the adjustment, investigation or supervision  
1064 of insurance claims;  
1065 (iii) Persons employed only for the purpose of  
1066 furnishing technical assistance to a licensed adjuster, including,  
1067 but not limited to, photographers, estimators, private detectives,  
1068 engineers, handwriting experts and attorneys-at-law;  
1069 (iv) A licensed agent or general agent of an  
1070 authorized insurer who processes undisputed or uncontested losses,  
1071 or both, for such insurer under policies issued by the licensed  
1072 agent or general agent;  
1073 (v) A person who performs clerical duties with no  
1074 negotiations with the parties on disputed or contested claims, or  
1075 both;  
1076 (vi) Any person who handles claims arising under  
1077 life, accident and health insurance policies;  
1078 (vii) Any person who is a multiperil crop  
1079 insurance adjuster; or  
1080 (viii) Any person who collects claim information  
1081 from, or furnishes claim information to, insureds or claimants,  
1082 and who performs data entry including entering data into an  
1083 automated claims adjudication system, if the person is an employee



1084 of a licensed independent adjuster or its affiliate where no more  
1085 than twenty-five (25) such persons are under the supervision of  
1086 one (1) licensed independent adjuster or licensed agent. A  
1087 licensed agent who is acting as a supervisor and adjusting  
1088 portable electronics insurance claims in accordance with this  
1089 subparagraph does not need to be licensed as an adjuster.

1090 (b) "Insurer" means any insurance company or  
1091 self-insured.

1092 (c) "Commissioner" means the Commissioner of Insurance.

1093 (d) "Automated claims adjudication system" means a  
1094 preprogrammed computer system designed for the collection, data  
1095 entry, calculation and final resolution of portable electronics  
1096 insurance claims which:

1097 (i) May only be utilized by a licensed independent  
1098 adjuster, licensed agent or supervised persons operating in  
1099 accordance with paragraph (a)(viii) of this section; and

1100 (ii) Must comply with all claims payment  
1101 requirements of the insurance code; and must be certified as  
1102 compliant with this section by a licensed independent adjuster  
1103 that is an officer of a licensed business entity under this  
1104 chapter.

1105 (e) "Workers' compensation adjuster" means an adjuster  
1106 whose scope of licensure is limited to workers' compensation  
1107 insurance. A workers' compensation adjuster may not represent an  
1108 insured individual. A workers' compensation adjuster must comply



1109 with all licensing and continuing education requirements as are  
1110 prescribed by the commissioner pursuant to this article.

1111       **SECTION 23.** Section 83-17-403, Mississippi Code of 1972, is  
1112 brought forward as follows:

1113       83-17-403. (1) No person shall act as or hold himself out  
1114 to be an adjuster in this state unless he is licensed therefor by  
1115 the Commissioner of Insurance in this state, except that an  
1116 individual, who is undergoing education and training as an  
1117 adjuster under the direction and supervision of a licensed  
1118 adjuster for a period not exceeding twelve (12) months may act as  
1119 an adjuster without having an adjuster's license, if at the  
1120 beginning of such training period, the name of such trainee has  
1121 been registered as such with the commissioner.

1122       (2) Any person who violates the provisions of this section  
1123 shall be guilty of a misdemeanor and, upon conviction thereof,  
1124 shall be punished by a fine of not more than Two Hundred Fifty  
1125 Dollars (\$250.00) or by confinement in the county jail for not  
1126 more than six (6) months, or by both such fine and confinement.

1127       **SECTION 24.** Section 83-17-405, Mississippi Code of 1972, is  
1128 brought forward as follows:

1129       83-17-405. Application for a license as an insurance  
1130 adjuster shall be made to the commissioner upon forms as  
1131 prescribed and furnished by the commissioner. As a part of, or in  
1132 connection with, any such application, the applicant shall furnish  
1133 such information concerning his identity, personal history,



1134 experience, business record and any other pertinent facts as the  
1135 commissioner may reasonably require.

1136       **SECTION 25.** Section 83-17-407, Mississippi Code of 1972, is  
1137 brought forward as follows:

1138       83-17-407. The commissioner may waive any license  
1139 requirement for an applicant with a valid license from another  
1140 state having license requirements substantially equivalent to  
1141 those of this state, or an applicant with a certification from a  
1142 person or entity approved by the commissioner that provides  
1143 adjuster education and training and has met the standards as set  
1144 forth by the commissioner regarding pre-licensing coursework and  
1145 examination. No applicant with a valid license from another state  
1146 shall be rejected solely on the basis that the individual is not a  
1147 resident of the United States of America.

1148       **SECTION 26.** Section 83-17-409, Mississippi Code of 1972, is  
1149 brought forward as follows:

1150       83-17-409. In the event of a catastrophe or emergency which  
1151 arises out of a disaster, act of God, riot, civil commotion,  
1152 conflagration or other similar occurrence, the commissioner, upon  
1153 application, shall issue an emergency license to persons who are  
1154 residents or nonresidents of this state and who may or may not be  
1155 otherwise licensed adjusters. Such emergency license shall remain  
1156 in force for a period not to exceed ninety (90) days, unless  
1157 extended for an additional period of ninety (90) days by the  
1158 commissioner. The applicant must be certified by (a) a person



1159 licensed under the provisions of this article, or by (b) an  
1160 insurer who maintains an office in this state and is licensed to  
1161 do business in this state. The licensed adjuster or insurer who  
1162 certifies the applicant under the provisions of this section shall  
1163 be responsible for the loss or claims practices of the emergency  
1164 license holder.

1165       Within five (5) days of any applicant beginning work as an  
1166 adjuster under this section, the employer of such adjuster shall  
1167 certify to the commissioner such application without being deemed  
1168 in violation of this article, provided that the commissioner,  
1169 after notice and hearing, may revoke the emergency license upon  
1170 the grounds as otherwise contained in this article providing for  
1171 revocation of an adjuster's license.

1172       The fee for an emergency license shall be in an amount not to  
1173 exceed Fifty Dollars (\$50.00) as determined by the commissioner  
1174 and shall be due and payable within thirty (30) days of the  
1175 issuance of such emergency license.

1176       **SECTION 27.** Section 83-17-411, Mississippi Code of 1972, is  
1177 brought forward as follows:

1178       83-17-411. An insurer shall not knowingly refer any claim or  
1179 loss for adjustment in this state to any person purporting to be  
1180 or acting as an insurance adjuster unless such person is currently  
1181 licensed as such as required in this article.

1182       **SECTION 28.** Section 83-17-413, Mississippi Code of 1972, is  
1183 brought forward as follows:





1184           83-17-413. The commissioner shall license as an insurance  
1185 adjuster only an individual who has otherwise complied with this  
1186 article and who has furnished evidence satisfactory to the  
1187 commissioner that:

1188           (a) He is at least eighteen (18) years of age;

1189           (b) He is a bona fide resident of this state, or is a  
1190 resident of a state or country which will permit residents of this  
1191 state to act as insurance adjusters in such other state or  
1192 country;

1193           (c) If he is a nonresident of the United States, he has  
1194 complied with all federal laws pertaining to employment or the  
1195 transaction of business in the United States;

1196           (d) He is a trustworthy person;

1197           (e) He has had experience or special education or  
1198 training with reference to the handling of loss claims under  
1199 insurance contracts of sufficient duration and extent to make him  
1200 competent to fulfill the responsibilities of an insurance  
1201 adjuster; and

1202           (f) He has successfully passed an examination as  
1203 required by the commissioner in accordance with this article or  
1204 has been exempted according to the provisions of this article.

1205           **SECTION 29.** Section 83-17-415, Mississippi Code of 1972, is  
1206 brought forward as follows:

1207           83-17-415. The commissioner shall adopt a procedure for  
1208 certifying continuing education programs. Each individual seeking



1209 renewal of an adjuster license, which has been in effect for a  
1210 term of eighteen (18) months or less shall satisfactorily complete  
1211 twelve (12) hours of study in approved continuing education  
1212 courses. Every individual seeking renewal of an adjuster license,  
1213 which has been in effect for a term of more than eighteen (18)  
1214 months shall satisfactorily complete twenty-four (24) hours of  
1215 study in approved continuing education courses, of which three (3)  
1216 hours shall have a course concentration in ethics.

1217 **SECTION 30.** Section 83-17-417, Mississippi Code of 1972, is  
1218 brought forward as follows:

1219 83-17-417. (1) Each applicant for a license as an adjuster,  
1220 before the issuance of such license, shall personally take and  
1221 pass, to the satisfaction of the commissioner, an examination as a  
1222 test of his qualifications and competency; but the requirement of  
1223 an examination shall not apply to any of the following:

1224 (a) An applicant who for the one-year period next  
1225 preceding July 1, 1993, has been principally engaged in the  
1226 investigation, adjustment or supervision of losses and who is so  
1227 engaged on July 1, 1993;

1228 (b) An applicant for the renewal of a license issued  
1229 hereunder;

1230 (c) An applicant who is licensed as an insurance  
1231 adjuster, as defined by this article, in another state with which  
1232 state a reciprocal agreement has been entered into by the  
1233 commissioner;



1234           (d) Any person who possesses a certification from a  
1235 person or entity approved by the commissioner that provides  
1236 adjuster education and training and that requires, as a  
1237 prerequisite to certification, an examination substantially  
1238 equivalent to those of this state and approved by the  
1239 commissioner; or

1240           (e) Any person who has completed a course or training  
1241 program in adjusting of losses as prescribed and approved by the  
1242 commissioner and is certified to the commissioner upon completion  
1243 of the course that such person has completed the course or  
1244 training program, and has passed an examination testing his  
1245 knowledge and qualification, as prescribed by the commissioner.

1246           (2) Each examination for a license as an adjuster shall be  
1247 as the commissioner may prescribe and shall be of sufficient scope  
1248 reasonably to test the applicant's knowledge relative to the kinds  
1249 of insurance which may be dealt with under the license applied for  
1250 and the duties, responsibilities and laws of this state applicable  
1251 to such a licensee.

1252           (3) The commissioner shall prepare and make available to  
1253 applicants a manual or instructions specifying in general terms  
1254 the subjects which may be covered in any examination for such a  
1255 license.

1256           **SECTION 31.** Section 83-17-419, Mississippi Code of 1972, is  
1257 brought forward as follows:



1258           83-17-419. (1) The privilege license of an individual to  
1259 act as an adjuster shall continue from the date of issuance for  
1260 original licenses or from the expiration date for existing  
1261 licenses until the last day of the month of the licensee's  
1262 birthday in the second year following issuance or renewal of the  
1263 license, with a minimum term of thirteen (13) months. The  
1264 privilege license of a business entity to act as an adjuster shall  
1265 continue from the date of issuance until May 31, in the second  
1266 year following issuance or renewal of the license, with a minimum  
1267 term of thirteen (13) months.

1268           (2) Each adjuster shall file an application for renewal of  
1269 license on the form and in the manner prescribed by the  
1270 commissioner for such purpose. Upon the filing of such  
1271 application for renewal of license and the payment of the required  
1272 fees, the current license shall continue to be in force until the  
1273 renewal license is issued by the commissioner or until the  
1274 commissioner has refused for cause to issue such renewal license,  
1275 as provided in this article, and has given notice of such refusal  
1276 in writing to the adjuster.

1277           **SECTION 32.** Section 83-17-421, Mississippi Code of 1972, is  
1278 brought forward as follows:

1279           83-17-421. (1) A license may be refused, or a license duly  
1280 issued may be suspended or revoked or the renewal thereof refused  
1281 by the commissioner if, after notice and hearing as hereinafter



1282 provided, he finds that the applicant for, or holder of, such  
1283 license:

1284 (a) Has wilfully violated any provision of the  
1285 insurance laws of this state; or

1286 (b) Has intentionally made a material misstatement in  
1287 the application for such license; or

1288 (c) Has obtained, or attempted to obtain, such license  
1289 by fraud or misrepresentation; or

1290 (d) Has misappropriated or converted to his own use or  
1291 illegally withheld money belonging to an insurer or beneficiary;  
1292 or

1293 (e) Has otherwise demonstrated lack of trustworthiness  
1294 or competence to act as an adjuster; or

1295 (f) Has been guilty of fraudulent or dishonest  
1296 practices or has been convicted of a felony; or

1297 (g) Has materially misrepresented the terms and  
1298 conditions of insurance policies or contracts; or wilfully  
1299 exaggerated prospective returns on investment features of policies  
1300 or fails to identify himself as an adjuster and in so doing  
1301 receives a compensation for his participation in the sale of  
1302 insurance; or

1303 (h) Has made or issued, or caused to be made or issued,  
1304 any statement misrepresenting or making incomplete comparisons  
1305 regarding the terms or conditions of any insurance or annuity  
1306 contract legally issued by any insurer, for the purpose of



1307 inducing or attempting to induce the owner of such contract to  
1308 forfeit or surrender such contract or allow it to lapse for the  
1309 purpose of replacing such contract with another; or

1310 (i) Has obtained or attempted to obtain such license,  
1311 not for the purpose of holding himself out to the general public  
1312 as an adjuster, but primarily for the purpose of soliciting,  
1313 negotiating or procuring insurance or annuity contracts covering  
1314 himself or members of his family.

1315 (2) Before any license shall be refused (except for failure  
1316 to pass a required written examination) or suspended or revoked or  
1317 the renewal thereof refused hereunder, the commissioner shall give  
1318 notice of his intention so to do, by registered mail, to the  
1319 applicant for or holder of such license and the insurer whom he  
1320 represents or who desires that he be licensed, and shall set a  
1321 date not less than twenty (20) days from the date of mailing such  
1322 notice when the applicant or licensee and a duly authorized  
1323 representative of the insurer may appear to be heard and produce  
1324 evidence. Such notice shall constitute automatic suspension of  
1325 license if the person involved is a licensed adjuster. In the  
1326 conduct of such hearing, the commissioner or any regular salaried  
1327 employee specially designated by him for such purpose shall have  
1328 power to administer oaths, to require the appearance of and  
1329 examine any person under oath and to require the production of  
1330 books, records or papers relevant to the inquiry upon his own  
1331 initiative or upon the request of the applicant or licensee. Upon



1332 the termination of such hearing, findings shall be reduced to  
1333 writing and, upon approval by the commissioner, shall be filed in  
1334 his office; and notice of the findings shall be sent by registered  
1335 mail to the applicant or licensee and the insurer concerned.

1336 (3) Where the grounds set out in subsection (1)(d) or (1)(g)  
1337 are the grounds for any hearing, the commissioner may, in his  
1338 discretion in lieu of the hearing provided for in subsection (2)  
1339 of this section, file a petition to suspend or revoke any license  
1340 authorized hereunder in a court of competent jurisdiction of the  
1341 county or district in which the alleged offense occurred. In such  
1342 cases, subpoenas may be issued for witnesses, and mileage and  
1343 witness fees paid as in other cases. All costs of such cause  
1344 shall be paid by the defendant, if found guilty, and if costs  
1345 cannot be made and collected from the defendant, such costs shall  
1346 be assessed against the company issuing the contract involved in  
1347 such cause.

1348 (4) No licensee whose license has been revoked hereunder  
1349 shall be entitled to file another application for a license as an  
1350 adjuster within one (1) year from the effective date of such  
1351 revocation or, if judicial review of such revocation is sought,  
1352 within one (1) year from the date of final court order or decree  
1353 affirming such revocation. Such application, when filed, may be  
1354 refused by the commissioner unless the applicant shows good cause  
1355 why the revocation of his license shall not be deemed a bar to the  
1356 issuance of a new license.



1357           **SECTION 33.** Section 83-17-423, Mississippi Code of 1972, is  
1358 brought forward as follows:

1359           83-17-423. Any person aggrieved by any action or decision of  
1360 the Commissioner of Insurance under the provisions of this article  
1361 may appeal therefrom to the Circuit Court of the First Judicial  
1362 District of Hinds County in the manner provided by law. The  
1363 circuit court shall have the authority and jurisdiction to hear  
1364 the appeal and render its decision in regard thereto in termtime  
1365 or vacation.

1366           **SECTION 34.** Section 83-17-425, Mississippi Code of 1972, is  
1367 brought forward as follows:

1368           83-17-425. This article is declared to be cumulative and  
1369 supplemental to all other valid statutes relating to insurance  
1370 agents, solicitors and adjusters.

1371           **SECTION 35.** This act shall take effect and be in force from  
1372 and after July 1, 2025.

