

By: Representative Turner

To: Insurance

## 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, STAFF AND  
4 PUBLIC ADJUSTERS BY THE DEPARTMENT OF INSURANCE; TO PROVIDE HOW A  
5 PUBLIC ADJUSTER SHALL DEMONSTRATE FINANCIAL RESPONSIBILITY; TO  
6 PROVIDE WHEN LICENSES SHALL NOT BE REQUIRED; TO PROVIDE FOR  
7 TEMPORARY REGISTRATION FOR EMERGENCY INDEPENDENT OR STAFF  
8 ADJUSTERS; TO PROVIDE FOR THE LICENSING OF NONRESIDENTS; TO CREATE  
9 A NEW SECTION OF LAW THAT PROVIDES THAT A PUBLIC ADJUSTER SHALL  
10 NOT PROVIDE SERVICES TO AN INSURED UNTIL A WRITTEN CONTRACT WITH  
11 THE INSURED HAS BEEN EXECUTED; TO PROVIDE FOR THE TERMS AND THE  
12 CONTENT OF THE CONTRACT; TO CREATE A NEW SECTION OF LAW THAT  
13 REQUIRES A PUBLIC ADJUSTER TO GIVE AN INSURED WRITTEN NOTICE OF  
14 THE INSURED'S RIGHTS; TO PROVIDE THE RESPONSIBILITIES OF THE  
15 PUBLIC ADJUSTER; TO CREATE A NEW SECTION OF LAW THAT PROVIDES THAT  
16 ALL FUNDS RECEIVED OR HELD BY A PUBLIC ADJUSTER ON BEHALF OF AN  
17 INSURED TOWARD THE SETTLEMENT OF A CLAIM SHALL BE HANDLED IN A  
18 FIDUCIARY CAPACITY AND DEPOSITED INTO CERTAIN FIDUCIARY TRUST  
19 ACCOUNTS; TO CREATE A NEW SECTION OF LAW THAT PROVIDES FOR THE  
20 COMMISSIONS THAT A PUBLIC ADJUSTER MAY BE CHARGED AND THE FEES  
21 THAT A PUBLIC ADJUSTER MAY CHARGE; TO CREATE A NEW SECTION OF LAW  
22 THAT PROVIDES CAUSES FOR THE COMMISSIONER OF INSURANCE TO PLACE ON  
23 PROBATION, SUSPEND OR REVOKE A LICENSE OR REFUSE TO RENEW THE  
24 LICENSE; TO PROVIDE THE CIVIL PENALTIES AND FINES THAT MAY BE  
25 IMPOSED WHEN A LICENSE IS DENIED, SUSPENDED OR REVOKED; TO  
26 AUTHORIZE THE COMMISSIONER TO PROMULGATE RULES AND REGULATIONS; TO  
27 AMEND SECTIONS 83-17-505, 83-17-507 AND 83-17-511, MISSISSIPPI  
28 CODE OF 1972, TO DELETE THE PROVISIONS IN THEIR ENTIRETY; TO BRING  
29 FORWARD SECTIONS 83-17-501, 83-17-509, 83-17-513, 83-17-515,  
30 83-17-517, 83-17-519, 83-17-521, 83-17-523, 83-17-525 AND  
31 83-17-527, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE  
32 AMENDMENT; TO AMEND SECTIONS 83-17-401, 83-17-403, 83-17-405,  
33 83-17-407, 83-17-409, 83-17-411, 83-17-413, 83-17-415, 83-17-417,  
34 83-17-419, 83-17-421, 83-17-423 AND 83-17-425, MISSISSIPPI CODE OF



35 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
36 PURPOSES.

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

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

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

43 83-17-503. (1) Except as provided in this section, no  
44 person shall act as or hold himself out to be \* \* \* an  
45 independent, staff or public adjuster in this state unless he is  
46 licensed therefor by the \* \* \* department as an independent,  
47 staff, or public adjuster, except that an individual, who is  
48 undergoing education and training as a public adjuster under the  
49 direction and supervision of a licensed public adjuster for a  
50 period not exceeding twelve (12) months may act as a public  
51 adjuster without having a public adjuster's license, if at the  
52 beginning of such training period, the name of such trainee has  
53 been registered as such with the commissioner.

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

58 (b) An applicant under paragraph (a) of this subsection  
59 shall declare under penalty of suspension, revocation, or refusal  
60 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:



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

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

90                   2. Be in favor of the State of Mississippi;

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

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

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

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

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



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

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

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

115                   (i) Automatically terminate; and

116                   (ii) Be promptly surrendered to the commissioner  
117 without demand.

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

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

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

130                   (i) Is eligible to designate Mississippi as its  
131 home state;



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

135                   (iii) Has not committed an act that is a ground  
136 for probation, suspension, revocation, or refusal of an  
137 independent or public adjuster's license as set forth in Section  
138 83-17-519.

139       (5) For applications made under this section, the  
140 commissioner may:

141               (a) Require additional information or submissions from  
142 applicants; and

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

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

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

151               (a) Property and casualty;

152               (b) Workers' compensation; or

153               (c) Crop.

154       (8) Notwithstanding any other provision of this article, an  
155 individual who is employed by an insurer to investigate suspected  
156 fraudulent insurance claims, but who does not adjust losses or



determine claims payments, shall not be required to be licensed as a staff adjuster.

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

(a) Property and casualty; or

(b) Crop.

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

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

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

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

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

(e) A person who:



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

183                   (ii) Does not investigate, negotiate, or settle  
184 claims with policyholders, claimants, or their legal  
185 representatives;

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

189                   (g) A health maintenance organization or any of its  
190 employees or an employee of any organization providing managed  
191 care services if the services do not include the determination of  
192 compensability;

193                   (h) A person who settles only reinsurance or  
194 subrogation claims;

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

198                   (j) A United States manager of the United States branch  
199 of an alien insurer;

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

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





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

209           (n) (i) A person who:

210                   1. Is an employee of a licensed independent  
211 adjuster, is an employee of an affiliate that is a licensed  
212 independent adjuster, or is supervised by a licensed independent  
213 adjuster, if there are no more than twenty-five (25) persons under  
214 the supervision of one (1) licensed individual independent  
215 adjuster or licensed agent who is exempt from licensure pursuant  
216 to paragraph (m) of this subsection;

217                   2. Collects claim information from insureds  
218 or claimants;

219                   3. Enters data into an automated claims  
220 adjudication system; and

221                   4. Furnishes claim information to insureds or  
222 claimants from the results of the automated claims adjudication  
223 system.

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



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

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

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

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

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

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

(12) Notwithstanding any other provision of this article, a license as a staff adjuster shall not be required of an employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to One Thousand Dollars (\$1,000.00) or less.



254       (13) For purposes of this section, except as otherwise  
255 provided in subsection (15) of this section, "home state" means  
256 any state or territory of the United States or the District of  
257 Columbia in which an independent, staff, or public adjuster:

258           (a) Maintains his or her principal place of residence  
259 or business; and

260           (b) Is licensed to act as a resident independent,  
261 staff, or public adjuster.

262       (14) Temporary registration for emergency independent or  
263 staff adjusters shall be issued by the commissioner in the event  
264 of a catastrophe declared in Mississippi in the following manner:

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

270           (b) A person who is otherwise qualified to adjust  
271 claims, but who is not already licensed in the state, may act as  
272 an emergency independent or staff adjuster and adjust claims if,  
273 within five (5) days of deployment to adjust claims arising from  
274 the catastrophe, the insurer notifies the commissioner by  
275 providing the following information, in a format prescribed by the  
276 commissioner:

277           (i) The name of the individual;

278           (ii) The Social Security number of the individual;



279                   (iii) The name of the insurer that the independent  
280 or staff adjuster will represent;

281                   (iv) The catastrophe or loss control number;

282                   (v) The catastrophe event name and date; and

283                   (vi) Any other information the commissioner deems  
284 necessary; and

285                   (c) An emergency independent or staff adjuster's  
286 registration shall remain in force for a period not to exceed  
287 ninety (90) days, unless extended by the commissioner.

288                   (15) (a) As used in this subsection, "home state" has the  
289 same meaning as in subsection (13) of this section, except that  
290 for purposes of this subsection the term includes any state or  
291 territory of the United States or the District of Columbia in  
292 which an applicant under this subsection is licensed to act as a  
293 resident independent, staff, or public adjuster if the state or  
294 territory of the applicant's principal place of residence does not  
295 issue an independent, staff, or public adjuster license.

296                   (b) Unless refused licensure in accordance with Section  
297 83-17-519, a nonresident person shall receive a nonresident  
298 independent, staff, or public adjuster license if:

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

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



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

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

310                   (c) The commissioner may:

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

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

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

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

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

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



( \* \* \*16) 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.

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

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

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

- (i) Violate any provision of this chapter;
- (ii) Contain or incorporate by reference any inconsistent, ambiguous, or misleading clauses; or



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

1. Misleading; or
2. Printed in a size of typeface or manner of reproduction so as to be substantially illegible.

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

- (i) Ordinary principles of contract; and
- (ii) Any applicable state or federal laws implicated by the contract.

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

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

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

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

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

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



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

380 (g) A description of services to be provided to the  
381 insured;

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

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

384 (i) The adjuster; and  
385 (ii) The insured;

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

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

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

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

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

400 (l) A statement that the adjuster shall not give legal  
401 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.

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

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

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

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

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

(d) Imposes collection costs or late fees;



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

(f) Precludes the adjuster from pursuing civil remedies.

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

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

1. "Staff adjuster" means an insurance adjuster who is an employee of an insurance company, who represents the interest of the insurance company, and who is paid by the insurance company. A staff adjuster shall not charge a fee to the insured;

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

3. "Public adjuster" means an insurance adjuster who does not work for any insurance company. A public adjuster works for the insured to assist in the preparation,



451 presentation, and settlement of the claim, and the insured hires a  
452 public adjuster by signing a contract agreeing to pay him or her a  
453 fee or commission based on a percentage of the settlement or  
454 another method of payment. The insured is not required to hire a  
455 public adjuster to help the insured meet his or her obligations  
456 under the policy, but has the right to hire a public adjuster.  
457 The insured has the right to initiate direct communications with  
458 the insured's attorney, the insurer, the insurer's adjuster, the  
459 insurer's attorney, and any other person regarding the settlement  
460 of the insured's claim. The public adjuster shall not be a  
461 representative or employee of the insurer. The salary, fee,  
462 commission, or other consideration paid to the public adjuster is  
463 the obligation of the insured, not the insurer."

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

466 (i) The public adjuster; and

467 (ii) The insured.

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

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

474 (a) A notification letter that:

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



476 (ii) Authorizes the public adjuster to represent  
477 the insured's interest; and

478 (b) A copy of the contract.

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

482 (b) A rescission of a public adjuster contract shall  
483 be:

484 (i) In writing;

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

487 (iii) Postmarked or received within the five (5)  
488 business day period.

489 (9) If an insured exercises the right to rescind a contract  
490 under subsection (8) of this section, anything of value given by  
491 the insured under the contract to the public adjuster shall be  
492 returned to the insured within fifteen (15) business days  
493 following receipt by the public adjuster of the rescission notice.

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

497 (2) A public adjuster shall ensure that:

498 (a) Prompt notice of a claim is provided to the  
499 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.

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

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



524 (c) If the unavailability of a public adjuster, after a  
525 reasonable request by the insurer, otherwise delays the insurer's  
526 timely inspection of the property, the insured shall allow the  
527 insurer to have access to the property without the participation  
528 or presence of the public adjuster in order to facilitate the  
529 insurer's prompt inspection of the loss or damage.

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

534 (6) A public adjuster shall not:

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

538 (b) Engage in any activities that may be reasonably  
539 construed as a conflict of interest, including, directly or  
540 indirectly, soliciting or accepting any remuneration of any kind  
541 or nature;

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

546 (d) (i) Use claim information obtained in the course  
547 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:





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

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

606                   (a) Not receive a commission consisting of a percentage  
607 of the total amount paid by the insurer to resolve a claim;

608                   (b) Inform the insured that the claim settlement amount  
609 may not be increased by the insurer; and

610                   (c) Be entitled only to reasonable compensation from  
611 the insured for services provided by the adjuster on behalf of the  
612 insured, based on the time spent on the claim and expenses  
613 incurred by the adjuster prior to when the claim was paid or the  
614 insured received a written commitment to pay from the insurer.

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



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

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

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

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

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

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

637           (g) Having admitted or been found to have committed any  
638 unfair insurance trade practice, insurance fraud, or fraudulent  
639 life settlement act;

640           (h) Using fraudulent, coercive, or dishonest practices;  
641 or demonstrating incompetence, untrustworthiness, or financial  
642 irresponsibility; or being a source of injury or loss to the  
643 public in the conduct of business in this state or elsewhere;

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



647           (j) Surrendering or otherwise terminating any license  
648 issued by this state or by any other jurisdiction, under threat of  
649 disciplinary action, denial, or refusal of the issuance of or  
650 renewal of any other license issued by this state or by any other  
651 jurisdiction; or revocation or suspension of any other license  
652 held by the licensee issued by this state or by any other  
653 jurisdiction;

654           (k) Forging another's name to an application for  
655 insurance, to any other document related to an insurance  
656 transaction, or to any document related to the business of life  
657 settlements;

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

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

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

665           (o) Failing to pay state income tax or to comply with  
666 any administrative or court order directing payment of state  
667 income tax;

668           (p) Having been convicted of a misdemeanor for which  
669 restitution is ordered in excess of Three Hundred Dollars  
670 (\$300.00), or of any misdemeanor involving dishonesty, breach of  
671 trust, or moral turpitude;



672           (q) Failing to no longer meet the requirements for  
673 initial licensure; or

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

677       (2) (a) For any public adjuster or apprentice adjuster  
678 supervised by a public adjuster as provided in Section 83-17-503,  
679 the commissioner may deny, suspend, or revoke the adjuster's  
680 license or impose a fine not to exceed Five Thousand Dollars  
681 (\$5,000.00) per act against the adjuster, or both, for any of the  
682 following causes:

683                   (i) Violating any provision of this chapter;

684                   (ii) Violating any administrative regulation or  
685 order of the commissioner;

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

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

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

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

695       (b) The sanctions and penalties under this subsection  
696 shall be in addition to any other remedies, penalties, or



697 sanctions available to the commissioner against a public adjuster  
698 or an apprentice adjuster supervised by a public adjuster under  
699 Section 83-17-519, under this section, or under any other law.

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

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

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

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

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

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



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

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

725       83-17-505.   \* \* \* [DELETED]

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

728       83-17-507.   \* \* \* [DELETED]

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

731       83-17-511.   \* \* \* [DELETED]

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

734       83-17-501. As used in this article, unless the context  
735 otherwise requires:

736               (a) "Certified" means, except as used in Section  
737 83-17-519(2), written representations addressed to the  
738 commissioner concerning the integrity, competence and  
739 qualifications of a person, in form and content satisfactory to  
740 the commissioner, or concerning other matters as the commissioner  
741 may by regulation hereafter prescribe.

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

743               (c) "Department" means the Mississippi Insurance  
744 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 issue such renewal license, as provided in this article, and has given notice of such refusal in writing to the public adjuster.

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

83-17-519. (1) A license may be refused, or a license duly issued may be suspended or revoked or the renewal thereof refused by the commissioner, or the commissioner may levy a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) per violation, or both, and any such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund", if, after notice and hearing as



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

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

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

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

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

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

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

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

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

(2) Before any license shall be refused (except for failure to pass a required written examination) or suspended or revoked or the renewal thereof refused hereunder, the commissioner shall give notice of his intention so to do, by certified mail, return



893 receipt requested, to the applicant for or holder of such license,  
894 and shall set a date not less than twenty (20) days from the date  
895 of mailing such notice when the applicant or licensee may appear  
896 to be heard and produce evidence in opposition to such refusal,  
897 suspension or revocation. Such notice shall constitute automatic  
898 suspension of license if the person involved is a licensed public  
899 adjuster. In the conduct of such hearing, the commissioner or any  
900 regular salaried employee of the department specially designated  
901 by him for such purpose shall have the power to administer oaths,  
902 to require the appearance of and examine any person under oath,  
903 and to require the production of books, records or papers relevant  
904 to the inquiry upon his own initiative or upon the request of the  
905 applicant or licensee. Upon the termination of such hearing,  
906 findings shall be reduced to writing and, upon approval by the  
907 commissioner, shall be filed in his office; and notice of the  
908 findings shall be sent by certified mail, return receipt  
909 requested, to the applicant or licensee.

910 (3) Where the grounds set out in subsection (1)(c) or (1)(f)  
911 of this section are the grounds for any hearing, the commissioner  
912 may, in his discretion in lieu of the hearing provided for in  
913 subsection (2) of this section, file a petition requesting the  
914 court to suspend or revoke any license authorized hereunder in a  
915 court of competent jurisdiction of the county or district in which  
916 the alleged offense occurred. In such cases, subpoenas may be  
917 issued for witnesses, and mileage and witness fees paid as in



other cases. All costs of such cause shall be paid by the defendant, if the finding of the court be against him.

(4) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a public adjuster within one (1) year from the effective date of such revocation or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming such revocation. An application filed after such one-year period shall be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall 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



967 any civil legal remedy to revoke or cancel the contract after the  
968 expiration of such cancellation period.

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

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

977 (g) If an insurance company extends a written  
978 settlement offer to the insured before the insured enters into a  
979 contract with a public adjuster for services, then a public  
980 adjuster may only be entitled to an amount that is no more than  
981 ten percent (10%) of the settlement amount that is in excess of  
982 the amount that was offered in writing to the insured prior to  
983 entering into the contract with the public adjuster.

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

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





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

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

1000 (d) No public adjuster shall knowingly enter into a  
1001 contract to adjust a residential property claim subsequent to a  
1002 declaration of total loss by an insurer, unless the services to be  
1003 provided by the public adjuster can reasonably be expected to  
1004 result in the insured obtaining an insurance settlement, net of  
1005 the public adjuster's compensation, in excess of the amount the  
1006 insured would have obtained without the services of the public  
1007 adjuster.

1008 (e) A public adjuster shall advise each insured that  
1009 the insured has the right to retain an attorney at law of his  
1010 choice throughout the public adjuster's investigation and  
1011 adjustment of the claim.

1012 (f) If the claim is not settled by the public adjuster,  
1013 the public adjuster shall advise the insured that the insured has  
1014 the right to retain an attorney at law of his choice.



1015           (g) No public adjuster shall contract for, agree to, or  
1016 receive anything of value from any attorney at law or other person  
1017 acting in concert with any attorney at law (i) for referring  
1018 claims to the attorney, or (ii) in connection with any claim for  
1019 which the public adjuster has performed or intends to perform  
1020 services.

1021           (h) No public adjuster shall split any attorney's fee  
1022 with any attorney at law.

1023           (i) A public adjuster shall not testify as an expert  
1024 witness in any judicial or administrative proceeding while  
1025 maintaining a pecuniary interest in the outcome of the proceeding,  
1026 as otherwise permitted by Section 83-17-523(1)(a); provided,  
1027 however, that a public adjuster may testify as an expert witness  
1028 if pursuant to the terms of his contract his compensation is  
1029 converted to a specified hourly rate, which rate (i) is subject to  
1030 such limitations as may be prescribed by the commissioner, and  
1031 (ii) is not subject to any contingencies. In the event of a  
1032 conversion of the public adjuster's contract to an hourly rate  
1033 agreement, the prior fee arrangement shall be inadmissible at  
1034 trial.

1035           (j) A public adjuster shall not participate, directly  
1036 or indirectly, in the reconstruction, repair or restoration of  
1037 damaged property that is the subject of a claim adjusted by the  
1038 adjuster.



1039           (k) A public adjuster shall not engage in any  
1040 activities that may be reasonably construed as a conflict of  
1041 interest, including, directly or indirectly, soliciting or  
1042 accepting any remuneration of any kind or nature.

1043           (l) A public adjuster shall not have a financial  
1044 interest in any salvage, repair or any other business entity that  
1045 obtains business in connection with any claim that the public  
1046 adjuster has a contract to adjust.

1047           **SECTION 20.** Section 83-17-525, Mississippi Code of 1972, is  
1048 brought forward as follows:

1049           83-17-525. This article shall not be construed as entitling  
1050 a person who is not licensed by the Mississippi Supreme Court to  
1051 practice law in this state.

1052           **SECTION 21.** Section 83-17-527, Mississippi Code of 1972, is  
1053 brought forward as follows:

1054           83-17-527. This article is declared to be cumulative and  
1055 supplemental to all other valid statutes relating to insurance  
1056 agents, solicitors, adjusters and public adjusters. The  
1057 Commissioner of Insurance is directed and authorized to make such  
1058 reasonable rules and regulations as may be necessary for the  
1059 administration of this article, including, but not limited to,  
1060 rules and regulations (a) establishing procedures for the filing  
1061 and approval of contracts to be used by public adjusters and/or  
1062 prescribing one or more model contracts for use by public  
1063 adjusters, (b) regulating solicitations by public adjusters, and



(c) establishing bonding and/or errors and omissions insurance requirements for public adjusters.

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

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

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

(i) An attorney-at-law who adjusts insurance losses from time to time and incidental to the practice of law, and who does not advertise or represent that he is an adjuster;

(ii) A salaried employee of an insurer who is regularly engaged in the adjustment, investigation or supervision of insurance claims;

(iii) Persons employed only for the purpose of furnishing technical assistance to a licensed adjuster, including, but not limited to, photographers, estimators, private detectives, engineers, handwriting experts and attorneys-at-law;

(iv) A licensed agent or general agent of an authorized insurer who processes undisputed or uncontested losses,



1089 or both, for such insurer under policies issued by the licensed  
1090 agent or general agent;

1091 (v) A person who performs clerical duties with no  
1092 negotiations with the parties on disputed or contested claims, or  
1093 both;

1094 (vi) Any person who handles claims arising under  
1095 life, accident and health insurance policies;

1096 (vii) Any person who is a multiperil crop  
1097 insurance adjuster; or

1098 (viii) Any person who collects claim information  
1099 from, or furnishes claim information to, insureds or claimants,  
1100 and who performs data entry including entering data into an  
1101 automated claims adjudication system, if the person is an employee  
1102 of a licensed independent adjuster or its affiliate where no more  
1103 than twenty-five (25) such persons are under the supervision of  
1104 one (1) licensed independent adjuster or licensed agent. A  
1105 licensed agent who is acting as a supervisor and adjusting  
1106 portable electronics insurance claims in accordance with this  
1107 subparagraph does not need to be licensed as an adjuster.

1108 (b) "Insurer" means any insurance company or  
1109 self-insured.

1110 (c) "Commissioner" means the Commissioner of Insurance.

1111 (d) "Automated claims adjudication system" means a  
1112 preprogrammed computer system designed for the collection, data



1113 entry, calculation and final resolution of portable electronics  
1114 insurance claims which:

1115 (i) May only be utilized by a licensed independent  
1116 adjuster, licensed agent or supervised persons operating in  
1117 accordance with paragraph (a)(viii) of this section; and

1118 (ii) Must comply with all claims payment  
1119 requirements of the insurance code; and must be certified as  
1120 compliant with this section by a licensed independent adjuster  
1121 that is an officer of a licensed business entity under this  
1122 chapter.

1123 (e) "Workers' compensation adjuster" means an adjuster  
1124 whose scope of licensure is limited to workers' compensation  
1125 insurance. A workers' compensation adjuster may not represent an  
1126 insured individual. A workers' compensation adjuster must comply  
1127 with all licensing and continuing education requirements as are  
1128 prescribed by the commissioner pursuant to this article.

1129 **SECTION 23.** Section 83-17-403, Mississippi Code of 1972, is  
1130 brought forward as follows:

1131 83-17-403. (1) No person shall act as or hold himself out  
1132 to be an adjuster in this state unless he is licensed therefor by  
1133 the Commissioner of Insurance in this state, except that an  
1134 individual, who is undergoing education and training as an  
1135 adjuster under the direction and supervision of a licensed  
1136 adjuster for a period not exceeding twelve (12) months may act as  
1137 an adjuster without having an adjuster's license, if at the



1138 beginning of such training period, the name of such trainee has  
1139 been registered as such with the commissioner.

1140 (2) Any person who violates the provisions of this section  
1141 shall be guilty of a misdemeanor and, upon conviction thereof,  
1142 shall be punished by a fine of not more than Two Hundred Fifty  
1143 Dollars (\$250.00) or by confinement in the county jail for not  
1144 more than six (6) months, or by both such fine and confinement.

1145 **SECTION 24.** Section 83-17-405, Mississippi Code of 1972, is  
1146 brought forward as follows:

1147 83-17-405. Application for a license as an insurance  
1148 adjuster shall be made to the commissioner upon forms as  
1149 prescribed and furnished by the commissioner. As a part of, or in  
1150 connection with, any such application, the applicant shall furnish  
1151 such information concerning his identity, personal history,  
1152 experience, business record and any other pertinent facts as the  
1153 commissioner may reasonably require.

1154 **SECTION 25.** Section 83-17-407, Mississippi Code of 1972, is  
1155 brought forward as follows:

1156 83-17-407. The commissioner may waive any license  
1157 requirement for an applicant with a valid license from another  
1158 state having license requirements substantially equivalent to  
1159 those of this state, or an applicant with a certification from a  
1160 person or entity approved by the commissioner that provides  
1161 adjuster education and training and has met the standards as set  
1162 forth by the commissioner regarding pre-licensing coursework and



1163 examination. No applicant with a valid license from another state  
1164 shall be rejected solely on the basis that the individual is not a  
1165 resident of the United States of America.

1166       **SECTION 26.** Section 83-17-409, Mississippi Code of 1972, is  
1167 brought forward as follows:

1168       83-17-409. In the event of a catastrophe or emergency which  
1169 arises out of a disaster, act of God, riot, civil commotion,  
1170 conflagration or other similar occurrence, the commissioner, upon  
1171 application, shall issue an emergency license to persons who are  
1172 residents or nonresidents of this state and who may or may not be  
1173 otherwise licensed adjusters. Such emergency license shall remain  
1174 in force for a period not to exceed ninety (90) days, unless  
1175 extended for an additional period of ninety (90) days by the  
1176 commissioner. The applicant must be certified by (a) a person  
1177 licensed under the provisions of this article, or by (b) an  
1178 insurer who maintains an office in this state and is licensed to  
1179 do business in this state. The licensed adjuster or insurer who  
1180 certifies the applicant under the provisions of this section shall  
1181 be responsible for the loss or claims practices of the emergency  
1182 license holder.

1183       Within five (5) days of any applicant beginning work as an  
1184 adjuster under this section, the employer of such adjuster shall  
1185 certify to the commissioner such application without being deemed  
1186 in violation of this article, provided that the commissioner,  
1187 after notice and hearing, may revoke the emergency license upon





the grounds as otherwise contained in this article providing for  
revocation of an 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 27.** Section 83-17-411, Mississippi Code of 1972, is  
brought forward as follows:

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

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

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

- (a) He is at least eighteen (18) years of age;
- (b) He is a bona fide resident of this state, or is a  
resident of a state or country which will permit residents of this  
state to act as insurance adjusters in such other state or  
country;



1211           (c) If he is a nonresident of the United States, he has  
1212 complied with all federal laws pertaining to employment or the  
1213 transaction of business in the United States;

1214           (d) He is a trustworthy person;

1215           (e) He has had experience or special education or  
1216 training with reference to the handling of loss claims under  
1217 insurance contracts of sufficient duration and extent to make him  
1218 competent to fulfill the responsibilities of an insurance  
1219 adjuster; and

1220           (f) He has successfully passed an examination as  
1221 required by the commissioner in accordance with this article or  
1222 has been exempted according to the provisions of this article.

1223           **SECTION 29.** Section 83-17-415, Mississippi Code of 1972, is  
1224 brought forward as follows:

1225           83-17-415. The commissioner shall adopt a procedure for  
1226 certifying continuing education programs. Each individual seeking  
1227 renewal of an adjuster license, which has been in effect for a  
1228 term of eighteen (18) months or less shall satisfactorily complete  
1229 twelve (12) hours of study in approved continuing education  
1230 courses. Every individual seeking renewal of an adjuster license,  
1231 which has been in effect for a term of more than eighteen (18)  
1232 months shall satisfactorily complete twenty-four (24) hours of  
1233 study in approved continuing education courses, of which three (3)  
1234 hours shall have a course concentration in ethics.



1235           **SECTION 30.** Section 83-17-417, Mississippi Code of 1972, is  
1236 brought forward as follows:

1237           83-17-417. (1) Each applicant for a license as an adjuster,  
1238 before the issuance of such license, shall personally take and  
1239 pass, to the satisfaction of the commissioner, an examination as a  
1240 test of his qualifications and competency; but the requirement of  
1241 an examination shall not apply to any of the following:

1242           (a) An applicant who for the one-year period next  
1243 preceding July 1, 1993, has been principally engaged in the  
1244 investigation, adjustment or supervision of losses and who is so  
1245 engaged on July 1, 1993;

1246           (b) An applicant for the renewal of a license issued  
1247 hereunder;

1248           (c) An applicant who is licensed as an insurance  
1249 adjuster, as defined by this article, in another state with which  
1250 state a reciprocal agreement has been entered into by the  
1251 commissioner;

1252           (d) Any person who possesses a certification from a  
1253 person or entity approved by the commissioner that provides  
1254 adjuster education and training and that requires, as a  
1255 prerequisite to certification, an examination substantially  
1256 equivalent to those of this state and approved by the  
1257 commissioner; or

1258           (e) Any person who has completed a course or training  
1259 program in adjusting of losses as prescribed and approved by the



1260 commissioner and is certified to the commissioner upon completion  
1261 of the course that such person has completed the course or  
1262 training program, and has passed an examination testing his  
1263 knowledge and qualification, as prescribed by the commissioner.

1264 (2) Each examination for a license as an adjuster shall be  
1265 as the commissioner may prescribe and shall be of sufficient scope  
1266 reasonably to test the applicant's knowledge relative to the kinds  
1267 of insurance which may be dealt with under the license applied for  
1268 and the duties, responsibilities and laws of this state applicable  
1269 to such a licensee.

1270 (3) The commissioner shall prepare and make available to  
1271 applicants a manual or instructions specifying in general terms  
1272 the subjects which may be covered in any examination for such a  
1273 license.

1274 **SECTION 31.** Section 83-17-419, Mississippi Code of 1972, is  
1275 brought forward as follows:

1276 83-17-419. (1) The privilege license of an individual to  
1277 act as an adjuster shall continue from the date of issuance for  
1278 original licenses or from the expiration date for existing  
1279 licenses until the last day of the month of the licensee's  
1280 birthday in the second year following issuance or renewal of the  
1281 license, with a minimum term of thirteen (13) months. The  
1282 privilege license of a business entity to act as an adjuster shall  
1283 continue from the date of issuance until May 31, in the second



1284 year following issuance or renewal of the license, with a minimum  
1285 term of thirteen (13) months.

1286 (2) Each adjuster shall file an application for renewal of  
1287 license on the form and in the manner prescribed by the  
1288 commissioner for such purpose. Upon the filing of such  
1289 application for renewal of license and the payment of the required  
1290 fees, the current license shall continue to be in force until the  
1291 renewal license is issued by the commissioner or until the  
1292 commissioner has refused for cause to issue such renewal license,  
1293 as provided in this article, and has given notice of such refusal  
1294 in writing to the adjuster.

1295 **SECTION 32.** Section 83-17-421, Mississippi Code of 1972, is  
1296 brought forward as follows:

1297 83-17-421. (1) A license may be refused, or a license duly  
1298 issued may be suspended or revoked or the renewal thereof refused  
1299 by the commissioner if, after notice and hearing as hereinafter  
1300 provided, he finds that the applicant for, or holder of, such  
1301 license:

1302 (a) Has wilfully violated any provision of the  
1303 insurance laws of this state; or

1304 (b) Has intentionally made a material misstatement in  
1305 the application for such license; or

1306 (c) Has obtained, or attempted to obtain, such license  
1307 by fraud or misrepresentation; or



1308           (d) Has misappropriated or converted to his own use or  
1309 illegally withheld money belonging to an insurer or beneficiary;  
1310 or

1311           (e) Has otherwise demonstrated lack of trustworthiness  
1312 or competence to act as an adjuster; or

1313           (f) Has been guilty of fraudulent or dishonest  
1314 practices or has been convicted of a felony; or

1315           (g) Has materially misrepresented the terms and  
1316 conditions of insurance policies or contracts; or wilfully  
1317 exaggerated prospective returns on investment features of policies  
1318 or fails to identify himself as an adjuster and in so doing  
1319 receives a compensation for his participation in the sale of  
1320 insurance; or

1321           (h) Has made or issued, or caused to be made or issued,  
1322 any statement misrepresenting or making incomplete comparisons  
1323 regarding the terms or conditions of any insurance or annuity  
1324 contract legally issued by any insurer, for the purpose of  
1325 inducing or attempting to induce the owner of such contract to  
1326 forfeit or surrender such contract or allow it to lapse for the  
1327 purpose of replacing such contract with another; or

1328           (i) Has obtained or attempted to obtain such license,  
1329 not for the purpose of holding himself out to the general public  
1330 as an adjuster, but primarily for the purpose of soliciting,  
1331 negotiating or procuring insurance or annuity contracts covering  
1332 himself or members of his family.



1333           (2) Before any license shall be refused (except for failure  
1334 to pass a required written examination) or suspended or revoked or  
1335 the renewal thereof refused hereunder, the commissioner shall give  
1336 notice of his intention so to do, by registered mail, to the  
1337 applicant for or holder of such license and the insurer whom he  
1338 represents or who desires that he be licensed, and shall set a  
1339 date not less than twenty (20) days from the date of mailing such  
1340 notice when the applicant or licensee and a duly authorized  
1341 representative of the insurer may appear to be heard and produce  
1342 evidence. Such notice shall constitute automatic suspension of  
1343 license if the person involved is a licensed adjuster. In the  
1344 conduct of such hearing, the commissioner or any regular salaried  
1345 employee specially designated by him for such purpose shall have  
1346 power to administer oaths, to require the appearance of and  
1347 examine any person under oath and to require the production of  
1348 books, records or papers relevant to the inquiry upon his own  
1349 initiative or upon the request of the applicant or licensee. Upon  
1350 the termination of such hearing, findings shall be reduced to  
1351 writing and, upon approval by the commissioner, shall be filed in  
1352 his office; and notice of the findings shall be sent by registered  
1353 mail to the applicant or licensee and the insurer concerned.

1354           (3) Where the grounds set out in subsection (1)(d) or (1)(g)  
1355 are the grounds for any hearing, the commissioner may, in his  
1356 discretion in lieu of the hearing provided for in subsection (2)  
1357 of this section, file a petition to suspend or revoke any license



1358 authorized hereunder in a court of competent jurisdiction of the  
1359 county or district in which the alleged offense occurred. In such  
1360 cases, subpoenas may be issued for witnesses, and mileage and  
1361 witness fees paid as in other cases. All costs of such cause  
1362 shall be paid by the defendant, if found guilty, and if costs  
1363 cannot be made and collected from the defendant, such costs shall  
1364 be assessed against the company issuing the contract involved in  
1365 such cause.

1366 (4) No licensee whose license has been revoked hereunder  
1367 shall be entitled to file another application for a license as an  
1368 adjuster within one (1) year from the effective date of such  
1369 revocation or, if judicial review of such revocation is sought,  
1370 within one (1) year from the date of final court order or decree  
1371 affirming such revocation. Such application, when filed, may be  
1372 refused by the commissioner unless the applicant shows good cause  
1373 why the revocation of his license shall not be deemed a bar to the  
1374 issuance of a new license.

1375 **SECTION 33.** Section 83-17-423, Mississippi Code of 1972, is  
1376 brought forward as follows:

1377 83-17-423. Any person aggrieved by any action or decision of  
1378 the Commissioner of Insurance under the provisions of this article  
1379 may appeal therefrom to the Circuit Court of the First Judicial  
1380 District of Hinds County in the manner provided by law. The  
1381 circuit court shall have the authority and jurisdiction to hear





1382 the appeal and render its decision in regard thereto in termtime  
1383 or vacation.

1384       **SECTION 34.** Section 83-17-425, Mississippi Code of 1972, is  
1385 brought forward as follows:

1386       83-17-425. This article is declared to be cumulative and  
1387 supplemental to all other valid statutes relating to insurance  
1388 agents, solicitors and adjusters.

1389       **SECTION 35.** This act shall take effect and be in force from  
1390 and after July 1, 2025.

