

By: Representative Turner

To: Insurance

HOUSE BILL NO. 1174  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-17-501, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE CERTAIN TERMS RELATED TO PUBLIC ADJUSTERS; TO AMEND  
3 SECTION 83-17-511, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
4 ADDITIONAL REQUIREMENTS FOR THE LICENSURE FOR PUBLIC ADJUSTERS BY  
5 THE DEPARTMENT OF INSURANCE; TO PROVIDE HOW A PUBLIC ADJUSTER  
6 SHALL DEMONSTRATE FINANCIAL RESPONSIBILITY; TO PROVIDE FOR THE  
7 LICENSING OF BUSINESS ENTITIES AS PUBLIC ADJUSTERS AND NONRESIDENT  
8 PUBLIC ADJUSTERS; TO AMEND SECTION 83-17-523, MISSISSIPPI CODE OF  
9 1972, TO REQUIRE ADDITIONAL CONTRACT TERMS IN CONTRACTS BETWEEN A  
10 PUBLIC ADJUSTER AND AN INSURED; TO CREATE A NEW SECTION OF LAW  
11 THAT PROVIDES THAT ALL FUNDS RECEIVED OR HELD BY A PUBLIC ADJUSTER  
12 ON BEHALF OF AN INSURED TOWARD THE SETTLEMENT OF A CLAIM SHALL BE  
13 HANDLED IN A FIDUCIARY CAPACITY AND DEPOSITED INTO CERTAIN  
14 FIDUCIARY TRUST ACCOUNTS; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 83-17-501, Mississippi Code of 1972, is  
17 amended as follows:

18 83-17-501. As used in this article, unless the context  
19 otherwise requires:

20 (a) "Certified" means, except as used in Section  
21 83-17-519(2), written representations addressed to the  
22 commissioner concerning the integrity, competence and  
23 qualifications of a person, in form and content satisfactory to



24 the commissioner, or concerning other matters as the commissioner  
25 may by regulation hereafter prescribe.

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

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

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

31 (e) "Public adjuster" means any person who, for direct,  
32 indirect, or any other compensation or any other thing of value on  
33 behalf of the insured \* \* \*:

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

39 (ii) Advertises for employment as a public  
40 adjuster of insurance claims or solicits business or represents  
41 himself or herself to the public as a public adjuster of first  
42 party insurance claims for losses or damages arising out of  
43 policies of insurance that insure real or personal property; or

44 (iii) Directly or indirectly solicits business,  
45 investigates or adjusts losses, or advises an insured about first  
46 party claims for losses or damages arising out of policies of  
47 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.

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

(f) "Person" means an individual, firm, company, association, organization, partnership, limited liability company or corporation.

(g) "Home state" means any state or territory of the United States or the District of Columbia in which a public adjuster:

(i) Maintains their principal place of residence or business; and

(ii) Is licensed to act as a resident public adjuster.

**SECTION 2.** Section 83-17-511, Mississippi Code of 1972, is amended as follows:

83-17-511. (1) The commissioner shall license as a public 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 twenty-one (21) years of age;

(b) He is a bona fide resident of this state, or is a resident of a state which will permit residents of this state to act as public adjusters in such other state;



73 (c) He is \* \* \* trustworthy \* \* \*, reliable, and of  
74 good reputation, evidence of which shall be determined through an  
75 investigation of the commissioner;

76 (d) He has had experience or special education or  
77 training with reference to the handling of loss claims under  
78 insurance contracts of sufficient duration and extent to make him  
79 competent to fulfill the responsibilities of a public  
80 adjuster; \* \* \*

81 (e) He has successfully passed an examination as  
82 required by the commissioner in accordance with this article or  
83 has been exempted according to the provisions of this  
84 article \* \* \*;

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

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

91 (h) Has paid the fees pursuant to Section 27-15-97; and

92 (i) Is financially responsible to exercise the license.  
93 To demonstrate financial responsibility, a person applying for a  
94 public adjuster license shall:

95 (i) Obtain a bond or irrevocable letter of credit  
96 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:

1. A surety bond executed and issued by an  
insurer authorized to issue surety bonds in Mississippi, which  
bond shall:

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

b. Be in favor of the State of  
Mississippi;

c. 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

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

2. An irrevocable letter of credit issued by  
a qualified financial institution, which letter of credit shall:

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

b. 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

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

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

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

1. Automatically terminate; and
2. Be promptly surrendered to the commissioner without demand.

(2) (a) A business entity applying for a resident public adjuster license shall make an application to the commissioner on the appropriate uniform business entity application, in a form or 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 business entity's knowledge and belief.

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



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

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

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

(iv) Has paid the privilege tax pursuant to Section 27-15-97.

(3) (a) A nonresident person applying for a nonresident public adjuster license must show:

(i) The person is currently licensed in good standing as a public adjuster in their home state;

(ii) The person has submitted the proper request for licensure and has paid the fees required by Section 25-17-97;

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

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

(b) 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.

(4) For applications made under this section, the  
commissioner may require additional information or submissions  
from applicants; and obtain any documents or information  
reasonably necessary to verify the information contained in an  
application.

**SECTION 3.** Section 83-17-523, Mississippi Code of 1972, is  
amended 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.

(i) A revocation or cancellation of a public adjuster contract shall be:

1. In writing;
2. Mailed or delivered to the public adjuster at the address in the contract; and
3. Postmarked or received within the five-business-day period.

(ii) If an insured exercises the right to revoke or cancel a contract, anything of value given by 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 contract revocation or cancellation.

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



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

224 (g) If an insurance company extends a written  
225 settlement offer to the insured before the insured enters into a  
226 contract with a public adjuster for services, then a public  
227 adjuster may only be entitled to an amount that is no more than  
228 ten percent (10%) of the settlement amount that is in excess of  
229 the amount that was offered in writing to the insured prior to  
230 entering into the contract with the public adjuster.

231 (h) All contracts between the public adjuster and the  
232 insured for services are in writing and contain the following  
233 terms:

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

236 (ii) The adjuster's permanent home state business  
237 address and phone number;

238 (iii) The license number issued to the adjuster by  
239 the department;

240 (iv) A title of "Public Adjuster Contract";

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



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

(vii) A description of services to be provided to the insured;

(viii) The signatures of the adjuster and the insured;

(ix) The date the contract was signed by:

1. The adjuster; and

2. The insured;

(x) Attestation language stating that the adjuster has a letter of credit or a surety bond as required by Section 83-17-511.

(i) A contract between a public adjuster and an insured shall be executed in duplicate to provide an original contract to the public adjuster and the insured.

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

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

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

(g) No public adjuster shall contract for, agree to, or receive anything of value from any attorney-at-law or other person acting in concert with any attorney-at-law (i) for referring claims to the attorney, or (ii) in connection with any claim for



which the public adjuster has performed or intends to perform services.

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

(i) A public adjuster shall not testify as an expert witness in any judicial or administrative proceeding while maintaining a pecuniary interest in the outcome of the proceeding, as otherwise permitted by Section 83-17-523(1)(a); provided, however, that a public adjuster may testify as an expert witness 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.



(1) 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 4.** (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.



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

344           **SECTION 5.** This act shall take effect and be in force from  
345 and after July 1, 2025.

