

By: Senator(s) Michel

To: Insurance

## SENATE BILL NO. 2403

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 REPEAL SECTIONS 83-17-505, 83-17-507 AND 83-17-511, MISSISSIPPI  
28 CODE OF 1972, WHICH PROVIDE CERTAIN LICENSURE PROCEDURES FOR  
29 LICENSE AS A PUBLIC ADJUSTER BY THE COMMISSIONER OF INSURANCE; TO  
30 BRING FORWARD SECTIONS 83-17-501, 83-17-509, 83-17-513, 83-17-515,  
31 83-17-517, 83-17-519, 83-17-521, 83-17-523, 83-17-525 AND  
32 83-17-527, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE  
33 AMENDMENT; TO AMEND SECTIONS 83-17-401, 83-17-403, 83-17-405,  
34 83-17-407, 83-17-409, 83-17-411, 83-17-413, 83-17-415, 83-17-417,



35 83-17-419, 83-17-421, 83-17-423 AND 83-17-425, MISSISSIPPI CODE OF  
36 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
37 PURPOSES.

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

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

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

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

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

59 (b) An applicant under paragraph (a) of this subsection  
60 shall declare under penalty of suspension, revocation, or refusal  
61 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:



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

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

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

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

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

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

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

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



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

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

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

116                   (i) Automatically terminate; and

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

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

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

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

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



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

136                   (iii) Has not committed an act that is a ground  
137 for probation, suspension, revocation, or refusal of an  
138 independent or public adjuster's license as set forth in Section  
139 83-17-519.

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

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

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

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

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

152                   (a) Property and casualty;

153                   (b) Workers' compensation; or

154                   (c) Crop.

155           (8) Notwithstanding any other provision of this article, an  
156 individual who is employed by an insurer to investigate suspected  
157 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:



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

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

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

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

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

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

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

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

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





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

210           (n) (i) A person who:

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

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

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

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

225           (ii) For purposes of this paragraph, "automated  
226 claims adjudication system" means a preprogrammed computer system  
227 designed for the collection, data entry, calculation, and  
228 system-generated final resolution of consumer electronic products  
229 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.



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

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

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

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

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

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

(i) The name of the individual;

(ii) The Social Security number of the individual;



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

(iv) The catastrophe or loss control number;

(v) The catastrophe event name and date; and

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

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

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

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

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

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



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

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

311           (c) The commissioner may:

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

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

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

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

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

328                   (ii) The new resident state or territory has  
329 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;



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

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

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

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

385                       (i) The adjuster; and

386                       (ii) The insured;

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

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

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

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

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

401                   (l) A statement that the adjuster shall not give legal  
402 advice or act on behalf of or aid any person in negotiating or





403 settling a claim relating to bodily injury, death, or noneconomic  
404 damages;

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

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

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

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

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

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

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

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

426 (d) Imposes collection costs or late fees;



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

429           (f) Precludes the adjuster from pursuing civil  
430 remedies.

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

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

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

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

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



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

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

467 (i) The public adjuster; and

468 (ii) The insured.

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

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

475 (a) A notification letter that:

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



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

479                   (b) A copy of the contract.

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

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

485                   (i) In writing;

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

488                   (iii) Postmarked or received within the  
489 five-business-day period.

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

495           **SECTION 4.** (1) A public adjuster shall give an insured  
496 written notice of the insured's rights under this section and  
497 Sections 2 and 3 of this act.

498           (2) A public adjuster shall ensure that:

499                   (a) Prompt notice of a claim is provided to the  
500 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.



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

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

(6) A public adjuster shall not:

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

(b) 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;

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

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



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

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

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

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

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

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

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

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

(d) Be disbursed within thirty (30) calendar days of any invoice received by the public adjuster upon approval of the



insured or the claimant that the work has been satisfactorily completed.

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

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

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

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

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

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

(i) An hourly fee;

(ii) A flat rate;

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

(iv) Another method of compensation; and

(c) A public adjuster:

(i) Shall not charge an unreasonable fee; and

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





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

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

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

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

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

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



623           (a) Providing incorrect, misleading, incomplete, or  
624 materially untrue information in a license application;  
625           (b) Violating any insurance laws, or violating any  
626 administrative regulations, subpoena, or order of the commissioner  
627 or of another state's insurance commissioner;  
628           (c) Obtaining or attempting to obtain a license through  
629 misrepresentation or fraud;  
630           (d) Improperly withholding, misappropriating, or  
631 converting any monies or properties received in the course of  
632 doing insurance or the business of life settlements;  
633           (e) Intentionally misrepresenting the terms of an  
634 actual or proposed insurance contract, life settlement contract,  
635 or application for insurance;  
636           (f) Having been convicted of or having pled guilty or  
637 nolo contendere to any felony;  
638           (g) Having admitted or been found to have committed any  
639 unfair insurance trade practice, insurance fraud, or fraudulent  
640 life settlement act;  
641           (h) Using fraudulent, coercive, or dishonest practices;  
642 or demonstrating incompetence, untrustworthiness, or financial  
643 irresponsibility; or being a source of injury or loss to the  
644 public in the conduct of business in this state or elsewhere;  
645           (i) Having an insurance license, life settlement  
646 license, or its equivalent, denied, suspended, or revoked in any  
647 other state, province, district, or territory;



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

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

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

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

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

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

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



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

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

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

684                   (i) Violating any provision of this chapter;

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

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

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

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

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

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



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

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

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

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

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

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

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



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

724           **SECTION 9.** Sections 83-17-505, 83-17-507 and 83-17-511,  
725 Mississippi Code of 1972, which provide certain licensure  
726 procedures for license as a public adjuster by the Commissioner of  
727 Insurance, are hereby repealed.

728           **SECTION 10.** Section 83-17-501, Mississippi Code of 1972, is  
729 brought forward as follows:

730           83-17-501. As used in this article, unless the context  
731 otherwise requires:

732           (a) "Certified" means, except as used in Section  
733 83-17-519(2), written representations addressed to the  
734 commissioner concerning the integrity, competence and  
735 qualifications of a person, in form and content satisfactory to  
736 the commissioner, or concerning other matters as the commissioner  
737 may by regulation hereafter prescribe.

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

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

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

743           (e) "Public adjuster" means any person who, for  
744 compensation or any other thing of value on behalf of the insured  
745 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 11.** 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 12.** 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 13.** 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 14.** 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 15.** 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



870                   (c) Has misappropriated or converted to his own use or  
871 illegally withheld money belonging to another person or entity; or  
872                   (d) Has otherwise demonstrated lack of trustworthiness  
873 or competence to act as a public adjuster; or  
874                   (e) Has been guilty of fraudulent or dishonest  
875 practices or has been convicted of a felony; or  
876                   (f) Has materially misrepresented the terms and  
877 conditions of insurance policies or contracts or failed to  
878 identify himself as a public adjuster; or  
879                   (g) Has obtained or attempted to obtain such license  
880 for a purpose other than holding himself out to the general public  
881 as a public adjuster; or  
882                   (h) Has violated any insurance laws, or any regulation,  
883 subpoena or order of the commissioner or of another state's  
884 commissioner of insurance.

885           (2) Before any license shall be refused (except for failure  
886 to pass a required written examination) or suspended or revoked or  
887 the renewal thereof refused hereunder, the commissioner shall give  
888 notice of his intention so to do, by certified mail, return  
889 receipt requested, to the applicant for or holder of such license,  
890 and shall set a date not less than twenty (20) days from the date  
891 of mailing such notice when the applicant or licensee may appear  
892 to be heard and produce evidence in opposition to such refusal,  
893 suspension or revocation. Such notice shall constitute automatic  
894 suspension of license if the person involved is a licensed public



895 adjuster. In the conduct of such hearing, the commissioner or any  
896 regular salaried employee of the department specially designated  
897 by him for such purpose shall have the power to administer oaths,  
898 to require the appearance of and examine any person under oath,  
899 and to require the production of books, records or papers relevant  
900 to the inquiry upon his own initiative or upon the request of the  
901 applicant or licensee. Upon the termination of such hearing,  
902 findings shall be reduced to writing and, upon approval by the  
903 commissioner, shall be filed in his office; and notice of the  
904 findings shall be sent by certified mail, return receipt  
905 requested, to the applicant or licensee.

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

916 (4) No licensee whose license has been revoked hereunder  
917 shall be entitled to file another application for a license as a  
918 public adjuster within one (1) year from the effective date of  
919 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 16.** 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 17.** Section 83-17-523, Mississippi Code of 1972, is brought forward as follows:

83-17-523. (1) Public adjusters shall ensure that all contracts for their services are in writing, signed by the insured



and the public adjuster who solicited the contract, and a copy of the contract shall be provided to the insured upon execution. All such contracts shall be subject to the following provisions:

(a) No public adjuster shall charge, agree to, or accept as compensation any payment, commission, fee or other thing of value equal to more than ten percent (10%) of any insurance settlement or the proceeds of any claim investigated.

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

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

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

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

(f) No public adjuster shall be entitled to any payment, commission, fee or other thing of value of any insurance



970 settlement or agreed settlement that was made between the insured  
971 and the insurance company before the public adjuster and the  
972 insured entered into a contract for services.

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

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

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

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

992 (c) A public adjuster shall not knowingly make any oral  
993 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.



1019           (i) A public adjuster shall not testify as an expert  
1020 witness in any judicial or administrative proceeding while  
1021 maintaining a pecuniary interest in the outcome of the proceeding,  
1022 as otherwise permitted by Section 83-17-523(1)(a); provided,  
1023 however, that a public adjuster may testify as an expert witness  
1024 if pursuant to the terms of his contract his compensation is  
1025 converted to a specified hourly rate, which rate (i) is subject to  
1026 such limitations as may be prescribed by the commissioner, and  
1027 (ii) is not subject to any contingencies. In the event of a  
1028 conversion of the public adjuster's contract to an hourly rate  
1029 agreement, the prior fee arrangement shall be inadmissible at  
1030 trial.

1031           (j) A public adjuster shall not participate, directly  
1032 or indirectly, in the reconstruction, repair or restoration of  
1033 damaged property that is the subject of a claim adjusted by the  
1034 adjuster.

1035           (k) A public adjuster shall not engage in any  
1036 activities that may be reasonably construed as a conflict of  
1037 interest, including, directly or indirectly, soliciting or  
1038 accepting any remuneration of any kind or nature.

1039           (l) A public adjuster shall not have a financial  
1040 interest in any salvage, repair or any other business entity that  
1041 obtains business in connection with any claim that the public  
1042 adjuster has a contract to adjust.



1043           **SECTION 18.** Section 83-17-525, Mississippi Code of 1972, is  
1044 brought forward as follows:

1045           83-17-525. This article shall not be construed as entitling  
1046 a person who is not licensed by the Mississippi Supreme Court to  
1047 practice law in this state.

1048           **SECTION 19.** Section 83-17-527, Mississippi Code of 1972, is  
1049 brought forward as follows:

1050           83-17-527. This article is declared to be cumulative and  
1051 supplemental to all other valid statutes relating to insurance  
1052 agents, solicitors, adjusters and public adjusters. The  
1053 Commissioner of Insurance is directed and authorized to make such  
1054 reasonable rules and regulations as may be necessary for the  
1055 administration of this article, including, but not limited to,  
1056 rules and regulations (a) establishing procedures for the filing  
1057 and approval of contracts to be used by public adjusters and/or  
1058 prescribing one or more model contracts for use by public  
1059 adjusters, (b) regulating solicitations by public adjusters, and  
1060 (c) establishing bonding and/or errors and omissions insurance  
1061 requirements for public adjusters.

1062           **SECTION 20.** Section 83-17-401, Mississippi Code of 1972, is  
1063 brought forward as follows:

1064           83-17-401. As used in this article, unless the context  
1065 otherwise requires:

1066           (a) "Adjuster" means any person who, as an independent  
1067 contractor, or as an employee of an independent contractor,



1068 adjustment bureau, association, insurance company or corporation,  
1069 managing general agent or self-insured, investigates or adjusts  
1070 losses on behalf of either an insurer or a self-insured, or any  
1071 person who supervises the handling of claims. "Adjuster" shall  
1072 not include:

1073 (i) An attorney-at-law who adjusts insurance  
1074 losses from time to time and incidental to the practice of law,  
1075 and who does not advertise or represent that he is an adjuster;

1076 (ii) A salaried employee of an insurer who is  
1077 regularly engaged in the adjustment, investigation or supervision  
1078 of insurance claims;

1079 (iii) Persons employed only for the purpose of  
1080 furnishing technical assistance to a licensed adjuster, including,  
1081 but not limited to, photographers, estimators, private detectives,  
1082 engineers, handwriting experts and attorneys-at-law;

1083 (iv) A licensed agent or general agent of an  
1084 authorized insurer who processes undisputed or uncontested losses,  
1085 or both, for such insurer under policies issued by the licensed  
1086 agent or general agent;

1087 (v) A person who performs clerical duties with no  
1088 negotiations with the parties on disputed or contested claims, or  
1089 both;

1090 (vi) Any person who handles claims arising under  
1091 life, accident and health insurance policies;



1092                   (vii) Any person who is a multiperil crop  
1093 insurance adjuster; or  
1094                   (viii) Any person who collects claim information  
1095 from, or furnishes claim information to, insureds or claimants,  
1096 and who performs data entry including entering data into an  
1097 automated claims adjudication system, if the person is an employee  
1098 of a licensed independent adjuster or its affiliate where no more  
1099 than twenty-five (25) such persons are under the supervision of  
1100 one (1) licensed independent adjuster or licensed agent. A  
1101 licensed agent who is acting as a supervisor and adjusting  
1102 portable electronics insurance claims in accordance with this  
1103 subparagraph does not need to be licensed as an adjuster.

1104                   (b) "Insurer" means any insurance company or  
1105 self-insured.

1106                   (c) "Commissioner" means the Commissioner of Insurance.

1107                   (d) "Automated claims adjudication system" means a  
1108 preprogrammed computer system designed for the collection, data  
1109 entry, calculation and final resolution of portable electronics  
1110 insurance claims which:

1111                   (i) May only be utilized by a licensed independent  
1112 adjuster, licensed agent or supervised persons operating in  
1113 accordance with paragraph (a)(viii) of this section; and

1114                   (ii) Must comply with all claims payment  
1115 requirements of the insurance code; and must be certified as  
1116 compliant with this section by a licensed independent adjuster



1117 that is an officer of a licensed business entity under this  
1118 chapter.

1119 (e) "Workers' compensation adjuster" means an adjuster  
1120 whose scope of licensure is limited to workers' compensation  
1121 insurance. A workers' compensation adjuster may not represent an  
1122 insured individual. A workers' compensation adjuster must comply  
1123 with all licensing and continuing education requirements as are  
1124 prescribed by the commissioner pursuant to this article.

1125 **SECTION 21.** Section 83-17-403, Mississippi Code of 1972, is  
1126 brought forward as follows:

1127 83-17-403. (1) No person shall act as or hold himself out  
1128 to be an adjuster in this state unless he is licensed therefor by  
1129 the Commissioner of Insurance in this state, except that an  
1130 individual, who is undergoing education and training as an  
1131 adjuster under the direction and supervision of a licensed  
1132 adjuster for a period not exceeding twelve (12) months may act as  
1133 an adjuster without having an adjuster's license, if at the  
1134 beginning of such training period, the name of such trainee has  
1135 been registered as such with the commissioner.

1136 (2) Any person who violates the provisions of this section  
1137 shall be guilty of a misdemeanor and, upon conviction thereof,  
1138 shall be punished by a fine of not more than Two Hundred Fifty  
1139 Dollars (\$250.00) or by confinement in the county jail for not  
1140 more than six (6) months, or by both such fine and confinement.



1141           **SECTION 22.** Section 83-17-405, Mississippi Code of 1972, is  
1142 brought forward as follows:

1143           83-17-405. Application for a license as an insurance  
1144 adjuster shall be made to the commissioner upon forms as  
1145 prescribed and furnished by the commissioner. As a part of, or in  
1146 connection with, any such application, the applicant shall furnish  
1147 such information concerning his identity, personal history,  
1148 experience, business record and any other pertinent facts as the  
1149 commissioner may reasonably require.

1150           **SECTION 23.** Section 83-17-407, Mississippi Code of 1972, is  
1151 brought forward as follows:

1152           83-17-407. The commissioner may waive any license  
1153 requirement for an applicant with a valid license from another  
1154 state having license requirements substantially equivalent to  
1155 those of this state, or an applicant with a certification from a  
1156 person or entity approved by the commissioner that provides  
1157 adjuster education and training and has met the standards as set  
1158 forth by the commissioner regarding pre-licensing coursework and  
1159 examination. No applicant with a valid license from another state  
1160 shall be rejected solely on the basis that the individual is not a  
1161 resident of the United States of America.

1162           **SECTION 24.** Section 83-17-409, Mississippi Code of 1972, is  
1163 brought forward as follows:

1164           83-17-409. In the event of a catastrophe or emergency which  
1165 arises out of a disaster, act of God, riot, civil commotion,



1166 conflagration or other similar occurrence, the commissioner, upon  
1167 application, shall issue an emergency license to persons who are  
1168 residents or nonresidents of this state and who may or may not be  
1169 otherwise licensed adjusters. Such emergency license shall remain  
1170 in force for a period not to exceed ninety (90) days, unless  
1171 extended for an additional period of ninety (90) days by the  
1172 commissioner. The applicant must be certified by (a) a person  
1173 licensed under the provisions of this article, or by (b) an  
1174 insurer who maintains an office in this state and is licensed to  
1175 do business in this state. The licensed adjuster or insurer who  
1176 certifies the applicant under the provisions of this section shall  
1177 be responsible for the loss or claims practices of the emergency  
1178 license holder.

1179       Within five (5) days of any applicant beginning work as an  
1180 adjuster under this section, the employer of such adjuster shall  
1181 certify to the commissioner such application without being deemed  
1182 in violation of this article, provided that the commissioner,  
1183 after notice and hearing, may revoke the emergency license upon  
1184 the grounds as otherwise contained in this article providing for  
1185 revocation of an adjuster's license.

1186       The fee for an emergency license shall be in an amount not to  
1187 exceed Fifty Dollars (\$50.00) as determined by the commissioner  
1188 and shall be due and payable within thirty (30) days of the  
1189 issuance of such emergency license.





1190           **SECTION 25.** Section 83-17-411, Mississippi Code of 1972, is  
1191 brought forward as follows:

1192           83-17-411. An insurer shall not knowingly refer any claim or  
1193 loss for adjustment in this state to any person purporting to be  
1194 or acting as an insurance adjuster unless such person is currently  
1195 licensed as such as required in this article.

1196           **SECTION 26.** Section 83-17-413, Mississippi Code of 1972, is  
1197 brought forward as follows:

1198           83-17-413. The commissioner shall license as an insurance  
1199 adjuster only an individual who has otherwise complied with this  
1200 article and who has furnished evidence satisfactory to the  
1201 commissioner that:

1202           (a) He is at least eighteen (18) years of age;

1203           (b) He is a bona fide resident of this state, or is a  
1204 resident of a state or country which will permit residents of this  
1205 state to act as insurance adjusters in such other state or  
1206 country;

1207           (c) If he is a nonresident of the United States, he has  
1208 complied with all federal laws pertaining to employment or the  
1209 transaction of business in the United States;

1210           (d) He is a trustworthy person;

1211           (e) He has had experience or special education or  
1212 training with reference to the handling of loss claims under  
1213 insurance contracts of sufficient duration and extent to make him



1214 competent to fulfill the responsibilities of an insurance  
1215 adjuster; and

1216 (f) He has successfully passed an examination as  
1217 required by the commissioner in accordance with this article or  
1218 has been exempted according to the provisions of this article.

1219 **SECTION 27.** Section 83-17-415, Mississippi Code of 1972, is  
1220 brought forward as follows:

1221 83-17-415. The commissioner shall adopt a procedure for  
1222 certifying continuing education programs. Each individual seeking  
1223 renewal of an adjuster license, which has been in effect for a  
1224 term of eighteen (18) months or less shall satisfactorily complete  
1225 twelve (12) hours of study in approved continuing education  
1226 courses. Every individual seeking renewal of an adjuster license,  
1227 which has been in effect for a term of more than eighteen (18)  
1228 months shall satisfactorily complete twenty-four (24) hours of  
1229 study in approved continuing education courses, of which three (3)  
1230 hours shall have a course concentration in ethics.

1231 **SECTION 28.** Section 83-17-417, Mississippi Code of 1972, is  
1232 brought forward as follows:

1233 83-17-417. (1) Each applicant for a license as an adjuster,  
1234 before the issuance of such license, shall personally take and  
1235 pass, to the satisfaction of the commissioner, an examination as a  
1236 test of his qualifications and competency; but the requirement of  
1237 an examination shall not apply to any of the following:



1238           (a) An applicant who for the one-year period next  
1239 preceding July 1, 1993, has been principally engaged in the  
1240 investigation, adjustment or supervision of losses and who is so  
1241 engaged on July 1, 1993;

1242           (b) An applicant for the renewal of a license issued  
1243 hereunder;

1244           (c) An applicant who is licensed as an insurance  
1245 adjuster, as defined by this article, in another state with which  
1246 state a reciprocal agreement has been entered into by the  
1247 commissioner;

1248           (d) Any person who possesses a certification from a  
1249 person or entity approved by the commissioner that provides  
1250 adjuster education and training and that requires, as a  
1251 prerequisite to certification, an examination substantially  
1252 equivalent to those of this state and approved by the  
1253 commissioner; or

1254           (e) Any person who has completed a course or training  
1255 program in adjusting of losses as prescribed and approved by the  
1256 commissioner and is certified to the commissioner upon completion  
1257 of the course that such person has completed the course or  
1258 training program, and has passed an examination testing his  
1259 knowledge and qualification, as prescribed by the commissioner.

1260           (2) Each examination for a license as an adjuster shall be  
1261 as the commissioner may prescribe and shall be of sufficient scope  
1262 reasonably to test the applicant's knowledge relative to the kinds



1263 of insurance which may be dealt with under the license applied for  
1264 and the duties, responsibilities and laws of this state applicable  
1265 to such a licensee.

1266 (3) The commissioner shall prepare and make available to  
1267 applicants a manual or instructions specifying in general terms  
1268 the subjects which may be covered in any examination for such a  
1269 license.

1270 **SECTION 29.** Section 83-17-419, Mississippi Code of 1972, is  
1271 brought forward as follows:

1272 83-17-419. (1) The privilege license of an individual to  
1273 act as an adjuster shall continue from the date of issuance for  
1274 original licenses or from the expiration date for existing  
1275 licenses until the last day of the month of the licensee's  
1276 birthday in the second year following issuance or renewal of the  
1277 license, with a minimum term of thirteen (13) months. The  
1278 privilege license of a business entity to act as an adjuster shall  
1279 continue from the date of issuance until May 31, in the second  
1280 year following issuance or renewal of the license, with a minimum  
1281 term of thirteen (13) months.

1282 (2) Each adjuster shall file an application for renewal of  
1283 license on the form and in the manner prescribed by the  
1284 commissioner for such purpose. Upon the filing of such  
1285 application for renewal of license and the payment of the required  
1286 fees, the current license shall continue to be in force until the  
1287 renewal license is issued by the commissioner or until the



1288 commissioner has refused for cause to issue such renewal license,  
1289 as provided in this article, and has given notice of such refusal  
1290 in writing to the adjuster.

1291       **SECTION 30.** Section 83-17-421, Mississippi Code of 1972, is  
1292 brought forward as follows:

1293       83-17-421. (1) A license may be refused, or a license duly  
1294 issued may be suspended or revoked or the renewal thereof refused  
1295 by the commissioner if, after notice and hearing as hereinafter  
1296 provided, he finds that the applicant for, or holder of, such  
1297 license:

1298               (a) Has wilfully violated any provision of the  
1299 insurance laws of this state; or

1300               (b) Has intentionally made a material misstatement in  
1301 the application for such license; or

1302               (c) Has obtained, or attempted to obtain, such license  
1303 by fraud or misrepresentation; or

1304               (d) Has misappropriated or converted to his own use or  
1305 illegally withheld money belonging to an insurer or beneficiary;  
1306 or

1307               (e) Has otherwise demonstrated lack of trustworthiness  
1308 or competence to act as an adjuster; or

1309               (f) Has been guilty of fraudulent or dishonest  
1310 practices or has been convicted of a felony; or

1311               (g) Has materially misrepresented the terms and  
1312 conditions of insurance policies or contracts; or wilfully



1313 exaggerated prospective returns on investment features of policies  
1314 or fails to identify himself as an adjuster and in so doing  
1315 receives a compensation for his participation in the sale of  
1316 insurance; or

1317           (h) Has made or issued, or caused to be made or issued,  
1318 any statement misrepresenting or making incomplete comparisons  
1319 regarding the terms or conditions of any insurance or annuity  
1320 contract legally issued by any insurer, for the purpose of  
1321 inducing or attempting to induce the owner of such contract to  
1322 forfeit or surrender such contract or allow it to lapse for the  
1323 purpose of replacing such contract with another; or

1324           (i) Has obtained or attempted to obtain such license,  
1325 not for the purpose of holding himself out to the general public  
1326 as an adjuster, but primarily for the purpose of soliciting,  
1327 negotiating or procuring insurance or annuity contracts covering  
1328 himself or members of his family.

1329           (2) Before any license shall be refused (except for failure  
1330 to pass a required written examination) or suspended or revoked or  
1331 the renewal thereof refused hereunder, the commissioner shall give  
1332 notice of his intention so to do, by registered mail, to the  
1333 applicant for or holder of such license and the insurer whom he  
1334 represents or who desires that he be licensed, and shall set a  
1335 date not less than twenty (20) days from the date of mailing such  
1336 notice when the applicant or licensee and a duly authorized  
1337 representative of the insurer may appear to be heard and produce



evidence. Such notice shall constitute automatic suspension of license if the person involved is a licensed adjuster. In the conduct of such hearing, the commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon the termination of such hearing, findings shall be reduced to writing and, upon approval by the commissioner, shall be filed in his office; and notice of the findings shall be sent by registered mail to the applicant or licensee and the insurer concerned.

(3) Where the grounds set out in subsection (1)(d) or (1)(g) are the grounds for any hearing, the commissioner may, in his discretion in lieu of the hearing provided for in subsection (2) of this section, file a petition to suspend or revoke any license authorized hereunder in a court of competent jurisdiction of the county or district in which the alleged offense occurred. In such cases, subpoenas may be 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 found guilty, and if costs cannot be made and collected from the defendant, such costs shall be assessed against the company issuing the contract involved in such cause.



1362           (4) No licensee whose license has been revoked hereunder  
1363 shall be entitled to file another application for a license as an  
1364 adjuster within one (1) year from the effective date of such  
1365 revocation or, if judicial review of such revocation is sought,  
1366 within one (1) year from the date of final court order or decree  
1367 affirming such revocation. Such application, when filed, may be  
1368 refused by the commissioner unless the applicant shows good cause  
1369 why the revocation of his license shall not be deemed a bar to the  
1370 issuance of a new license.

1371           **SECTION 31.** Section 83-17-423, Mississippi Code of 1972, is  
1372 brought forward as follows:

1373           83-17-423. Any person aggrieved by any action or decision of  
1374 the Commissioner of Insurance under the provisions of this article  
1375 may appeal therefrom to the Circuit Court of the First Judicial  
1376 District of Hinds County in the manner provided by law. The  
1377 circuit court shall have the authority and jurisdiction to hear  
1378 the appeal and render its decision in regard thereto in termtime  
1379 or vacation.

1380           **SECTION 32.** Section 83-17-425, Mississippi Code of 1972, is  
1381 brought forward as follows:

1382           83-17-425. This article is declared to be cumulative and  
1383 supplemental to all other valid statutes relating to insurance  
1384 agents, solicitors and adjusters.

1385           **SECTION 33.** This act shall take effect and be in force from  
1386 and after July 1, 2025.

