

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



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

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

67 (i) Is at least eighteen (18) years of age;
68 (ii) Is eligible to designate Mississippi as the
69 individual's home state;

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

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

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

79 (vi) Is financially responsible to exercise the
80 license.

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



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

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

2. Be in favor of the State of Mississippi;

3. Specifically authorize recovery of any

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

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

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

1. Be in the minimum amount of Fifty Thousand
; ;

2. Be subject to lawful levy of execution on
n to whom the public adjuster has been found to
s the result of erroneous acts, failure to act,
. or conviction for unfair practices in his or
public adjuster; and

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

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.

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

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

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

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

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

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

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

(a) Property and casualty:

(b) Workers' compensation; or

(c) Crop.

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



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

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

162 (a) Property and casualty; or
163 (b) Crop.

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

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

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

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

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

181 (e) A person who:

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

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

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

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

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

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

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

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

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



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

(n) (i) A person who:

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

2. Collects claim information from insureds or claimants;

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

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

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



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

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

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

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

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

244 (e) An employee or agent of an insurer adjusting claims
245 relating to food spoilage with respect to residential property
246 insurance in which the amount of coverage for the applicable type
247 of loss is contractually limited to One Thousand Dollars
248 (\$1,000.00) or less.

249 (12) Notwithstanding any other provision of this article, a
250 license as a staff adjuster shall not be required of an employee
251 or agent of an insurer adjusting claims relating to food spoilage
252 with respect to residential property insurance in which the amount
253 of coverage for the applicable type of loss is contractually
254 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

resident independent, staff, or public adjuster if the state or

territory of the applicant's principal place of residence does not exceed

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;



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

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

(c) The commissioner may:

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

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

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

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

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

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

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

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



354 (iii) Contain any title, heading, or other
355 indication of its provisions which is:
356 1. Misleading; or
357 2. Printed in a size of typeface or manner of
358 reproduction so as to be substantially illegible.

359 (e) A contract between a public adjuster and an insured
360 that was executed on a form that was pre-filed with and approved
361 by the commissioner under paragraph (a) of this subsection prior
362 to a disapproval of the form under paragraph (d) of this
363 subsection shall be enforceable to the extent allowed by:
364 (i) Ordinary principles of contract; and
365 (ii) Any applicable state or federal laws
366 implicated by the contract.

367 (2) A public adjuster shall ensure that all contracts
368 between the public adjuster and the insured for services are in
369 writing and contain the following terms:
370 (a) The legible full name of the adjuster signing the
371 contract, as specified in the department's licensing records;
372 (b) The adjuster's permanent home state business
373 address and phone number;
374 (c) The license number issued to the adjuster by the
375 department;
376 (d) A title of "Public Adjuster Contract";
377 (e) The insured's full name, street address, insurer
378 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:

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:



- (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.



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

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

535 (6) A public adjuster shall not:

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

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

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



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

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

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

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

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

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

570 (c) Be reasonably ascertainable from the books of

571 accounts and records of the public adjuster; and

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



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

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

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

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

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

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

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

590 (i) An hourly fee;

591 (ii) A flat rate;

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

594 (iv) Another method of compensation; and

595 (c) A public adjuster:

596 (i) Shall not charge an unreasonable fee; and

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

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:

- (a) Providing incorrect, misleading, incomplete, or materially untrue information in a license application;
- (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;
- (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
- (d) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance or the business of life settlements;
- (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;
- (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
- (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent life settlement act;
- (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
- (i) Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any 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 (1) 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



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

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

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

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

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

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

718 (6) The sanctions and penalties applicable to licenses and
719 licensees under subsection (1) of this section shall also be
720 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:

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

751 (ii) Advertises for employment as a public
752 adjuster of insurance claims or solicits business or represents
753 himself or herself to the public as a public adjuster of first
754 party insurance claims for losses or damages arising out of
755 policies of insurance that insure real or personal property; or

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

764 **SECTION 11.** Section 83-17-509, Mississippi Code of 1972, is
765 brought forward as follows:

766 83-17-509. In the event of a catastrophe or emergency which
767 arises out of a disaster, act of God, riot, civil commotion,
768 conflagration or other similar occurrence, the commissioner, upon
769 application, may issue an emergency license to persons who are
770 residents or nonresidents of this state and who may or may not be

771 otherwise licensed public adjusters. Such emergency license shall
772 remain in force for a period not to exceed ninety (90) days,
773 unless extended for an additional period of ninety (90) days by
774 the commissioner. The applicant must be certified by (a) a person
775 licensed under the provisions of this article, or by (b) such
776 other person as may be approved by the commissioner. The licensed
777 public adjuster or other person who certifies the applicant under
778 the provisions of this section shall be responsible for the loss
779 or claims practices of the emergency license holder.

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

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

792 **SECTION 12.** Section 83-17-513, Mississippi Code of 1972, is
793 brought forward as follows:

794 83-17-513. The commissioner shall adopt a procedure for
795 certifying continuing education programs for public adjusters.

796 Every individual seeking renewal of a public adjuster license,
797 which has been in effect for a term of eighteen (18) months or
798 less shall satisfactorily complete twelve (12) hours of study in
799 approved continuing education courses. Every individual seeking
800 renewal of a public adjuster license, which has been in effect for
801 a term of more than eighteen (18) months shall satisfactorily
802 complete twenty-four (24) hours of study in approved continuing
803 education courses of which three (3) hours shall have a course
804 concentration in ethics.

805 **SECTION 13.** Section 83-17-515, Mississippi Code of 1972, is
806 brought forward as follows:

807 83-17-515. (1) Each applicant for a license as a public
808 adjuster, before the issuance of such license, shall personally
809 take and pass, to the satisfaction of the commissioner, an
810 examination as a test of his qualifications and competency; but
811 the requirement of an examination shall not apply to any of the
812 following:

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

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

818 (c) Any person who has completed a course or training
819 program in adjusting for losses as prescribed and approved by the
820 commissioner and is certified to the commissioner upon completion



821 of the course that such person has completed the course or
822 training program, and has passed an examination testing his
823 knowledge and qualification, as prescribed by the commissioner.

824 (2) Each examination for a license as a public adjuster
825 shall be as the commissioner may prescribe and shall be of
826 sufficient scope reasonably to test the applicant's knowledge
827 relative to the kinds of insurance which may be dealt with under
828 the license applied for and the duties, responsibilities and laws
829 of this state applicable to such a licensee.

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

834 **SECTION 14.** Section 83-17-517, Mississippi Code of 1972, is
835 brought forward as follows:

836 83-17-517. (1) The privilege license of an individual to
837 act as a public adjuster shall continue from the date of issuance
838 for original licenses or from the expiration date for existing
839 licenses until the last day of the month of the licensee's
840 birthday in the second year following issuance or renewal of the
841 license, with a minimum term of thirteen (13) months. The
842 privilege license of a business entity to act as a public adjuster
843 shall continue from the date of issuance until May 31 in the
844 second year following issuance or renewal of the license, with a
845 minimum term of thirteen (13) months.



846 (2) Each public adjuster shall file an application for
847 renewal of license on the form and in the manner prescribed by the
848 commissioner for such purpose. Upon the filing of such
849 application for renewal of license and the payment of the required
850 fees, prior to the expiration date, the current license shall
851 continue to be in force until the renewal license is issued by the
852 commissioner or until the commissioner has refused for cause to
853 issue such renewal license, as provided in this article, and has
854 given notice of such refusal in writing to the public adjuster.

855 **SECTION 15.** Section 83-17-519, Mississippi Code of 1972, is
856 brought forward as follows:

857 83-17-519. (1) A license may be refused, or a license duly
858 issued may be suspended or revoked or the renewal thereof refused
859 by the commissioner, or the commissioner may levy a civil penalty
860 in an amount not to exceed Five Thousand Dollars (\$5,000.00) per
861 violation, or both, and any such penalty shall be deposited into
862 the special fund of the State Treasury designated as the
863 "Insurance Department Fund", if, after notice and hearing as
864 hereinafter provided, he finds that the applicant for, or holder
865 of, such license:

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

868 (b) Has obtained, or attempted to obtain, such license
869 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



920 sought, within one (1) year from the date of final court order or
921 decree affirming such revocation. An application filed after such
922 one-year period shall be refused by the commissioner unless the
923 applicant shows good cause why the revocation of his license shall
924 not be deemed a bar to the issuance of a new license.

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

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

933 **SECTION 16.** Section 83-17-521, Mississippi Code of 1972, is
934 brought forward as follows:

935 83-17-521. Any person aggrieved by any action or decision of
936 the commissioner under the provisions of this article may appeal
937 therefrom to the Circuit Court of the First Judicial District of
938 Hinds County in the manner provided by law. The circuit court
939 shall have the authority and jurisdiction to hear the appeal and
940 render its decision in regard thereto in termtime or vacation.

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

943 83-17-523. (1) Public adjusters shall ensure that all
944 contracts for their services are in writing, signed by the insured

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

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

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

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

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

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

968 (f) No public adjuster shall be entitled to any
969 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

994 insured or potential insured which are false and intended to
995 injure any person engaged in the business of insurance.

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

1004 (e) A public adjuster shall advise each insured that
1005 the insured has the right to retain an attorney at law of his
1006 choice throughout the public adjuster's investigation and
1007 adjustment of the claim.

1008 (f) If the claim is not settled by the public adjuster,
1009 the public adjuster shall advise the insured that the insured has
1010 the right to retain an attorney at law of his choice.

1011 (g) No public adjuster shall contract for, agree to, or
1012 receive anything of value from any attorney at law or other person
1013 acting in concert with any attorney at law (i) for referring
1014 claims to the attorney, or (ii) in connection with any claim for
1015 which the public adjuster has performed or intends to perform
1016 services.

1017 (h) No public adjuster shall split any attorney's fee
1018 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 (1) 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
1116 compliant with this section by a licensed independent ad-

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



1338 evidence. Such notice shall constitute automatic suspension of
1339 license if the person involved is a licensed adjuster. In the
1340 conduct of such hearing, the commissioner or any regular salaried
1341 employee specially designated by him for such purpose shall have
1342 power to administer oaths, to require the appearance of and
1343 examine any person under oath and to require the production of
1344 books, records or papers relevant to the inquiry upon his own
1345 initiative or upon the request of the applicant or licensee. Upon
1346 the termination of such hearing, findings shall be reduced to
1347 writing and, upon approval by the commissioner, shall be filed in
1348 his office; and notice of the findings shall be sent by registered
1349 mail to the applicant or licensee and the insurer concerned.

1350 (3) Where the grounds set out in subsection (1) (d) or (1) (g)
1351 are the grounds for any hearing, the commissioner may, in his
1352 discretion in lieu of the hearing provided for in subsection (2)
1353 of this section, file a petition to suspend or revoke any license
1354 authorized hereunder in a court of competent jurisdiction of the
1355 county or district in which the alleged offense occurred. In such
1356 cases, subpoenas may be issued for witnesses, and mileage and
1357 witness fees paid as in other cases. All costs of such cause
1358 shall be paid by the defendant, if found guilty, and if costs
1359 cannot be made and collected from the defendant, such costs shall
1360 be assessed against the company issuing the contract involved in
1361 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.

