

Senate Amendments to House Bill No. 1174

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

42 83-17-503. (1) Except as provided in this section, no
43 person shall act as or hold himself out to be * * * an independent
44 or public adjuster in this state unless he is licensed therefor by
45 the * * * department as an independent or public adjuster, except
46 that an individual, who is undergoing education and training as a
47 public adjuster under the direction and supervision of a licensed
48 public adjuster for a period not exceeding twelve (12) months may
49 act as a public adjuster without having a public adjuster's
50 license, if at the beginning of such training period, the name of
51 such trainee has been registered as such with the commissioner.

52 (2) (a) An individual applying for a resident independent
53 or public adjuster license shall make an application to the

54 Commissioner of Insurance on the appropriate uniform individual
55 application and in a format prescribed by the commissioner.

56 (b) An applicant under paragraph (a) of this subsection
57 shall declare under penalty of suspension, revocation, or refusal
58 of the license that the statements made in the application are
59 true, correct, and complete to the best of the individual's
60 knowledge and belief.

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

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

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

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

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

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

76 (vi) Is financially responsible to exercise the
77 license.

78 (3) (a) To demonstrate financial responsibility, a person
79 applying for a public adjuster license shall obtain a bond or

irrevocable letter of credit prior to issuance of a license and
shall maintain the bond or letter of credit for the duration of
the license with the following limits:

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

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

2. Be in favor of the State of Mississippi;

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

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

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

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

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

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

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

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

113 (i) Automatically terminate; and

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

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

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

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

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

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

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

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

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

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

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

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

149 (a) Property and casualty;

150 (b) Workers' compensation; or

151 (c) Crop.

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

154 (a) Property and casualty; or

155 (b) Crop.

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

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

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

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

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

173 (e) A person who:

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

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

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

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

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

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

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

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

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

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

202 (n) (i) A person who:

203 1. Is an employee of a licensed independent
204 adjuster, is an employee of an affiliate that is a licensed
205 independent adjuster, or is supervised by a licensed independent
206 adjuster, if there are no more than twenty-five (25) persons under
207 the supervision of one (1) licensed individual independent

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.

(10) 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;

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

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

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

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

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

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

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

257 (b) A person who is otherwise qualified to adjust
258 claims, but who is not already licensed in the state, may act as
259 an emergency independent adjuster and adjust claims if, within

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

(13) (a) As used in this subsection, "home state" has the same meaning as in subsection (11) of this section, except that for purposes of this subsection the term includes any state or territory of the United States or the District of Columbia in which an applicant under this subsection is licensed to act as a resident independent or public adjuster if the state or territory of the applicant's principal place of residence does not issue an independent or public adjuster license.

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

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

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

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

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

297 (c) The commissioner may:

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

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

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

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

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

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

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

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

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

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

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

(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";

363 (e) The insured's full name, street address, insurer
364 name, and policy number, if known or upon notification;
365 (f) A description of the loss or damage and its
366 location, if applicable;
367 (g) A description of services to be provided to the
368 insured;
369 (h) The signatures of the adjuster and the insured;
370 (i) The date the contract was signed by:
371 (i) The adjuster; and
372 (ii) The insured;
373 (j) Attestation language stating that the adjuster has
374 a letter of credit or a surety bond as required by Section 2 of
375 this act;
376 (k) The full salary, fee, commission, compensation, or
377 other consideration the adjuster is to receive for services,
378 including, but not limited to:
379 (i) If the compensation is based on a percentage
380 of the insurance settlement, the exact percentage, which shall be
381 in accordance with Section 6 of this act; however, no public
382 adjuster shall be entitled to any payment, commission, fee or
383 other thing of value of any insurance settlement or agreed
384 settlement that was made between the insured and the insurance
385 company before the public adjuster and the insured entered into a
386 contract for services;

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

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

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

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

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

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

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

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

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

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

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

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

(d) Imposes collection costs or late fees;

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

(f) Precludes the adjuster from pursuing civil remedies.

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

"Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. Two

(2) types of adjusters may be involved in the claim process as follows:

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

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

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

(i) The public adjuster; and

(ii) The insured.

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

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

(a) A notification letter that:

- (i) Has been signed by the insured; and
- (ii) Authorizes the public adjuster to represent the insured's interest; and

(b) A copy of the contract.

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

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

- (i) In writing;
- (ii) Mailed or delivered to the public adjuster at the address in the contract; and
- (iii) Postmarked or received within the five (5) business day period.

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

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

(2) A public adjuster shall ensure that:

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

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

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

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

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

(i) The insured or claimant; or

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

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

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

(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;

(ii) If an insurance company extends a written settlement offer to the insured before the insured enters into a contract with a public adjuster for services, then a public adjuster may only be entitled to an amount that is no more than ten percent (10%) of the settlement amount that is in excess of the amount that was offered in writing to the insured prior to entering into the contract with the public adjuster; and

(iii) 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

591 (c) A public adjuster:

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

593 (ii) May charge a reasonable fee that does not

594 exceed:

595 1. For noncatastrophic claims, ten percent

596 (10%) of the total insurance recovery of the insured; and

597 2. For catastrophic claims, ten percent (10%)

598 of the total insurance recovery of the insured.

599 (2) If an insurer, not later than seventy-two (72) hours

600 after the date on which a loss or damage is reported to the

601 insurer, either pays or commits in writing to pay the policy limit

602 of the insurance policy to the insured, a public adjuster shall:

603 (a) Not receive a commission consisting of a percentage

604 of the total amount paid by the insurer to resolve a claim;

605 (b) Inform the insured that the claim settlement amount

606 may not be increased by the insurer; and

607 (c) Be entitled only to reasonable compensation from

608 the insured for services provided by the adjuster on behalf of the

609 insured, based on the time spent on the claim and expenses

610 incurred by the adjuster prior to when the claim was paid or the

611 insured received a written commitment to pay from the insurer.

612 **SECTION 7.** (1) The commissioner may place on probation,

613 suspend, or may impose conditions upon the continuance of a

614 license for not more than twenty-four (24) months, revoke, or

615 refuse to issue or renew any license issued under this act, or may

616 levy a civil penalty in accordance with Section 83-17-519, or any

617 combination of actions for any one or more of the following
618 causes:

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

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

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

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

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

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

634 (g) Having admitted or been found to have committed any
635 unfair insurance trade practice, insurance fraud, or fraudulent
636 life settlement act;

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

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

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

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

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

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

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

662 (o) Failing to pay state income tax or to comply with
663 any administrative or court order directing payment of state
664 income tax;

665 (p) Having been convicted of a misdemeanor for which
666 restitution is ordered in excess of Three Hundred Dollars

667 (\$300.00), or of any misdemeanor involving dishonesty, breach of
668 trust, or moral turpitude;

669 (q) Failing to no longer meet the requirements for
670 initial licensure; or

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

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

680 (i) Violating any provision of this chapter;

681 (ii) Violating any administrative regulation or
682 order of the commissioner;

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

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

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

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

692 (b) The sanctions and penalties under this subsection
693 shall be in addition to any other remedies, penalties, or
694 sanctions available to the commissioner against a public adjuster
695 or an apprentice adjuster supervised by a public adjuster under
696 Section 83-17-519, under this section, or under any other law.

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

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

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

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

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

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

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

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

722 83-17-505. * * * [Deleted]

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

725 83-17-507. * * * [Deleted]

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

728 83-17-511. * * * [Deleted]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

795 83-17-513. The commissioner shall adopt a procedure for
796 certifying continuing education programs for public adjusters.
797 Every individual seeking renewal of a public adjuster license,
798 which has been in effect for a term of eighteen (18) months or
799 less shall satisfactorily complete twelve (12) hours of study in
800 approved continuing education courses. Every individual seeking
801 renewal of a public adjuster license, which has been in effect for
802 a term of more than eighteen (18) months shall satisfactorily
803 complete twenty-four (24) hours of study in approved continuing
804 education courses of which three (3) hours shall have a course
805 concentration in ethics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

917 (4) No licensee whose license has been revoked hereunder
918 shall be entitled to file another application for a license as a
919 public adjuster within one (1) year from the effective date of
920 such revocation or, if judicial review of such revocation is
921 sought, within one (1) year from the date of final court order or
922 decree affirming such revocation. An application filed after such

one-year period shall be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1000 provided by the public adjuster can reasonably be expected to
1001 result in the insured obtaining an insurance settlement, net of
1002 the public adjuster's compensation, in excess of the amount the
1003 insured would have obtained without the services of the public
1004 adjuster.

1005 (e) A public adjuster shall advise each insured that
1006 the insured has the right to retain an attorney at law of his
1007 choice throughout the public adjuster's investigation and
1008 adjustment of the claim.

1009 (f) If the claim is not settled by the public adjuster,
1010 the public adjuster shall advise the insured that the insured has
1011 the right to retain an attorney at law of his choice.

1012 (g) No public adjuster shall contract for, agree to, or
1013 receive anything of value from any attorney at law or other person
1014 acting in concert with any attorney at law (i) for referring
1015 claims to the attorney, or (ii) in connection with any claim for
1016 which the public adjuster has performed or intends to perform
1017 services.

1018 (h) No public adjuster shall split any attorney's fee
1019 with any attorney at law.

1020 (i) A public adjuster shall not testify as an expert
1021 witness in any judicial or administrative proceeding while
1022 maintaining a pecuniary interest in the outcome of the proceeding,
1023 as otherwise permitted by Section 83-17-523(1)(a); provided,
1024 however, that a public adjuster may testify as an expert witness
1025 if pursuant to the terms of his contract his compensation is

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

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

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

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

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

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

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

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

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

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

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

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

1077 (ii) A salaried employee of an insurer who is
1078 regularly engaged in the adjustment, investigation or supervision
1079 of insurance claims;

1080 (iii) Persons employed only for the purpose of
1081 furnishing technical assistance to a licensed adjuster, including,
1082 but not limited to, photographers, estimators, private detectives,
1083 engineers, handwriting experts and attorneys-at-law;

1084 (iv) A licensed agent or general agent of an
1085 authorized insurer who processes undisputed or uncontested losses,
1086 or both, for such insurer under policies issued by the licensed
1087 agent or general agent;

1088 (v) A person who performs clerical duties with no
1089 negotiations with the parties on disputed or contested claims, or
1090 both;

1091 (vi) Any person who handles claims arising under
1092 life, accident and health insurance policies;

1093 (vii) Any person who is a multiperil crop
1094 insurance adjuster; or

1095 (viii) Any person who collects claim information
1096 from, or furnishes claim information to, insureds or claimants,
1097 and who performs data entry including entering data into an
1098 automated claims adjudication system, if the person is an employee
1099 of a licensed independent adjuster or its affiliate where no more
1100 than twenty-five (25) such persons are under the supervision of
1101 one (1) licensed independent adjuster or licensed agent. A
1102 licensed agent who is acting as a supervisor and adjusting

1103 portable electronics insurance claims in accordance with this
1104 subparagraph does not need to be licensed as an adjuster.

1105 (b) "Insurer" means any insurance company or
1106 self-insured.

1107 (c) "Commissioner" means the Commissioner of Insurance.

1108 (d) "Automated claims adjudication system" means a
1109 preprogrammed computer system designed for the collection, data
1110 entry, calculation and final resolution of portable electronics
1111 insurance claims which:

1112 (i) May only be utilized by a licensed independent
1113 adjuster, licensed agent or supervised persons operating in
1114 accordance with paragraph (a)(viii) of this section; and

1115 (ii) Must comply with all claims payment
1116 requirements of the insurance code; and must be certified as
1117 compliant with this section by a licensed independent adjuster
1118 that is an officer of a licensed business entity under this
1119 chapter.

1120 (e) "Workers' compensation adjuster" means an adjuster
1121 whose scope of licensure is limited to workers' compensation
1122 insurance. A workers' compensation adjuster may not represent an
1123 insured individual. A workers' compensation adjuster must comply
1124 with all licensing and continuing education requirements as are
1125 prescribed by the commissioner pursuant to this article.

1126 **SECTION 23.** Section 83-17-403, Mississippi Code of 1972, is
1127 brought forward as follows:

1128 83-17-403. (1) No person shall act as or hold himself out
1129 to be an adjuster in this state unless he is licensed therefor by
1130 the Commissioner of Insurance in this state, except that an
1131 individual, who is undergoing education and training as an
1132 adjuster under the direction and supervision of a licensed
1133 adjuster for a period not exceeding twelve (12) months may act as
1134 an adjuster without having an adjuster's license, if at the
1135 beginning of such training period, the name of such trainee has
1136 been registered as such with the commissioner.

1137 (2) Any person who violates the provisions of this section
1138 shall be guilty of a misdemeanor and, upon conviction thereof,
1139 shall be punished by a fine of not more than Two Hundred Fifty
1140 Dollars (\$250.00) or by confinement in the county jail for not
1141 more than six (6) months, or by both such fine and confinement.

1142 **SECTION 24.** Section 83-17-405, Mississippi Code of 1972, is
1143 brought forward as follows:

1144 83-17-405. Application for a license as an insurance
1145 adjuster shall be made to the commissioner upon forms as
1146 prescribed and furnished by the commissioner. As a part of, or in
1147 connection with, any such application, the applicant shall furnish
1148 such information concerning his identity, personal history,
1149 experience, business record and any other pertinent facts as the
1150 commissioner may reasonably require.

1151 **SECTION 25.** Section 83-17-407, Mississippi Code of 1972, is
1152 brought forward as follows:

1153 83-17-407. The commissioner may waive any license
1154 requirement for an applicant with a valid license from another
1155 state having license requirements substantially equivalent to
1156 those of this state, or an applicant with a certification from a
1157 person or entity approved by the commissioner that provides
1158 adjuster education and training and has met the standards as set
1159 forth by the commissioner regarding pre-licensing coursework and
1160 examination. No applicant with a valid license from another state
1161 shall be rejected solely on the basis that the individual is not a
1162 resident of the United States of America.

1163 **SECTION 26.** Section 83-17-409, Mississippi Code of 1972, is
1164 brought forward as follows:

1165 83-17-409. In the event of a catastrophe or emergency which
1166 arises out of a disaster, act of God, riot, civil commotion,
1167 conflagration or other similar occurrence, the commissioner, upon
1168 application, shall issue an emergency license to persons who are
1169 residents or nonresidents of this state and who may or may not be
1170 otherwise licensed adjusters. Such emergency license shall remain
1171 in force for a period not to exceed ninety (90) days, unless
1172 extended for an additional period of ninety (90) days by the
1173 commissioner. The applicant must be certified by (a) a person
1174 licensed under the provisions of this article, or by (b) an
1175 insurer who maintains an office in this state and is licensed to
1176 do business in this state. The licensed adjuster or insurer who
1177 certifies the applicant under the provisions of this section shall

1178 be responsible for the loss or claims practices of the emergency
1179 license holder.

1180 Within five (5) days of any applicant beginning work as an
1181 adjuster under this section, the employer of such adjuster shall
1182 certify to the commissioner such application without being deemed
1183 in violation of this article, provided that the commissioner,
1184 after notice and hearing, may revoke the emergency license upon
1185 the grounds as otherwise contained in this article providing for
1186 revocation of an adjuster's license.

1187 The fee for an emergency license shall be in an amount not to
1188 exceed Fifty Dollars (\$50.00) as determined by the commissioner
1189 and shall be due and payable within thirty (30) days of the
1190 issuance of such emergency license.

1191 **SECTION 27.** Section 83-17-411, Mississippi Code of 1972, is
1192 brought forward as follows:

1193 83-17-411. An insurer shall not knowingly refer any claim or
1194 loss for adjustment in this state to any person purporting to be
1195 or acting as an insurance adjuster unless such person is currently
1196 licensed as such as required in this article.

1197 **SECTION 28.** Section 83-17-413, Mississippi Code of 1972, is
1198 brought forward as follows:

1199 83-17-413. The commissioner shall license as an insurance
1200 adjuster only an individual who has otherwise complied with this
1201 article and who has furnished evidence satisfactory to the
1202 commissioner that:

1203 (a) He is at least eighteen (18) years of age;

1204 (b) He is a bona fide resident of this state, or is a
1205 resident of a state or country which will permit residents of this
1206 state to act as insurance adjusters in such other state or
1207 country;

1208 (c) If he is a nonresident of the United States, he has
1209 complied with all federal laws pertaining to employment or the
1210 transaction of business in the United States;

1211 (d) He is a trustworthy person;

1212 (e) He has had experience or special education or
1213 training with reference to the handling of loss claims under
1214 insurance contracts of sufficient duration and extent to make him
1215 competent to fulfill the responsibilities of an insurance
1216 adjuster; and

1217 (f) He has successfully passed an examination as
1218 required by the commissioner in accordance with this article or
1219 has been exempted according to the provisions of this article.

1220 **SECTION 29.** Section 83-17-415, Mississippi Code of 1972, is
1221 brought forward as follows:

1222 83-17-415. The commissioner shall adopt a procedure for
1223 certifying continuing education programs. Each individual seeking
1224 renewal of an adjuster license, which has been in effect for a
1225 term of eighteen (18) months or less shall satisfactorily complete
1226 twelve (12) hours of study in approved continuing education
1227 courses. Every individual seeking renewal of an adjuster license,
1228 which has been in effect for a term of more than eighteen (18)
1229 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 30. Section 83-17-417, Mississippi Code of 1972, is brought forward as follows:

83-17-417. (1) Each applicant for a license as an 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 who for the one-year period next preceding July 1, 1993, has been principally engaged in the investigation, adjustment or supervision of losses and who is so engaged on July 1, 1993;

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

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

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

(e) Any person who has completed a course or training program in adjusting of 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 an 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 31. Section 83-17-419, Mississippi Code of 1972, is brought forward as follows:

83-17-419. (1) The privilege license of an individual to act as an 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 an adjuster shall continue from the date of issuance until May 31, in the second

1281 year following issuance or renewal of the license, with a minimum
1282 term of thirteen (13) months.

1283 (2) Each adjuster shall file an application for renewal of
1284 license on the form and in the manner prescribed by the
1285 commissioner for such purpose. Upon the filing of such
1286 application for renewal of license and the payment of the required
1287 fees, the current license shall continue to be in force until the
1288 renewal license is issued by the commissioner or until the
1289 commissioner has refused for cause to issue such renewal license,
1290 as provided in this article, and has given notice of such refusal
1291 in writing to the adjuster.

1292 **SECTION 32.** Section 83-17-421, Mississippi Code of 1972, is
1293 brought forward as follows:

1294 83-17-421. (1) A license may be refused, or a license duly
1295 issued may be suspended or revoked or the renewal thereof refused
1296 by the commissioner if, after notice and hearing as hereinafter
1297 provided, he finds that the applicant for, or holder of, such
1298 license:

1299 (a) Has wilfully violated any provision of the
1300 insurance laws of this state; or

1301 (b) Has intentionally made a material misstatement in
1302 the application for such license; or

1303 (c) Has obtained, or attempted to obtain, such license
1304 by fraud or misrepresentation; or

1305 (d) Has misappropriated or converted to his own use or
1306 illegally withheld money belonging to an insurer or beneficiary;
1307 or

1308 (e) Has otherwise demonstrated lack of trustworthiness
1309 or competence to act as an adjuster; or

1310 (f) Has been guilty of fraudulent or dishonest
1311 practices or has been convicted of a felony; or

1312 (g) Has materially misrepresented the terms and
1313 conditions of insurance policies or contracts; or wilfully
1314 exaggerated prospective returns on investment features of policies
1315 or fails to identify himself as an adjuster and in so doing
1316 receives a compensation for his participation in the sale of
1317 insurance; or

1318 (h) Has made or issued, or caused to be made or issued,
1319 any statement misrepresenting or making incomplete comparisons
1320 regarding the terms or conditions of any insurance or annuity
1321 contract legally issued by any insurer, for the purpose of
1322 inducing or attempting to induce the owner of such contract to
1323 forfeit or surrender such contract or allow it to lapse for the
1324 purpose of replacing such contract with another; or

1325 (i) Has obtained or attempted to obtain such license,
1326 not for the purpose of holding himself out to the general public
1327 as an adjuster, but primarily for the purpose of soliciting,
1328 negotiating or procuring insurance or annuity contracts covering
1329 himself or members of his family.

1330 (2) Before any license shall be refused (except for failure
1331 to pass a required written examination) or suspended or revoked or
1332 the renewal thereof refused hereunder, the commissioner shall give
1333 notice of his intention so to do, by registered mail, to the
1334 applicant for or holder of such license and the insurer whom he
1335 represents or who desires that he be licensed, and shall set a
1336 date not less than twenty (20) days from the date of mailing such
1337 notice when the applicant or licensee and a duly authorized
1338 representative of the insurer may appear to be heard and produce
1339 evidence. Such notice shall constitute automatic suspension of
1340 license if the person involved is a licensed adjuster. In the
1341 conduct of such hearing, the commissioner or any regular salaried
1342 employee specially designated by him for such purpose shall have
1343 power to administer oaths, to require the appearance of and
1344 examine any person under oath and to require the production of
1345 books, records or papers relevant to the inquiry upon his own
1346 initiative or upon the request of the applicant or licensee. Upon
1347 the termination of such hearing, findings shall be reduced to
1348 writing and, upon approval by the commissioner, shall be filed in
1349 his office; and notice of the findings shall be sent by registered
1350 mail to the applicant or licensee and the insurer concerned.

1351 (3) Where the grounds set out in subsection (1)(d) or (1)(g)
1352 are the grounds for any hearing, the commissioner may, in his
1353 discretion in lieu of the hearing provided for in subsection (2)
1354 of this section, file a petition to suspend or revoke any license
1355 authorized hereunder in a court of competent jurisdiction of the

1356 county or district in which the alleged offense occurred. In such
1357 cases, subpoenas may be issued for witnesses, and mileage and
1358 witness fees paid as in other cases. All costs of such cause
1359 shall be paid by the defendant, if found guilty, and if costs
1360 cannot be made and collected from the defendant, such costs shall
1361 be assessed against the company issuing the contract involved in
1362 such cause.

1363 (4) No licensee whose license has been revoked hereunder
1364 shall be entitled to file another application for a license as an
1365 adjuster within one (1) year from the effective date of such
1366 revocation or, if judicial review of such revocation is sought,
1367 within one (1) year from the date of final court order or decree
1368 affirming such revocation. Such application, when filed, may be
1369 refused by the commissioner unless the applicant shows good cause
1370 why the revocation of his license shall not be deemed a bar to the
1371 issuance of a new license.

1372 **SECTION 33.** Section 83-17-423, Mississippi Code of 1972, is
1373 brought forward as follows:

1374 83-17-423. Any person aggrieved by any action or decision of
1375 the Commissioner of Insurance under the provisions of this article
1376 may appeal therefrom to the Circuit Court of the First Judicial
1377 District of Hinds County in the manner provided by law. The
1378 circuit court shall have the authority and jurisdiction to hear
1379 the appeal and render its decision in regard thereto in termtime
1380 or vacation.

1381 **SECTION 34.** Section 83-17-425, Mississippi Code of 1972, is
1382 brought forward as follows:

1383 83-17-425. This article is declared to be cumulative and
1384 supplemental to all other valid statutes relating to insurance
1385 agents, solicitors and adjusters.

1386 **SECTION 35.** This act shall take effect and be in force from
1387 and after July 1, 2025, and shall stand repealed on June 30, 2025.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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

33 83-17-413, 83-17-415, 83-17-417, 83-17-419, 83-17-421, 83-17-423
34 AND 83-17-425, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
35 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

SS26\HB1174PS.J

Amanda White
Secretary of the Senate