

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2741

1 AN ACT TO CREATE THE MISSISSIPPI CREDITOR-PLACED INSURANCE
 2 ACT; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE TIME WHEN
 3 CREDITOR-PLACED INSURANCE SHALL BECOME EFFECTIVE OR IS TERMINATED;
 4 TO PROVIDE FOR THE METHOD BY WHICH PREMIUMS FOR CREDITOR-PLACED
 5 INSURANCE COVERAGE MAY BE CALCULATED; TO PROVIDE THAT
 6 CREDITOR-PLACED INSURANCE SHALL BE SET FORTH IN AN INDIVIDUAL
 7 POLICY OR CERTIFICATE OF INSURANCE; TO REQUIRE ALL POLICY FORMS
 8 AND CERTIFICATES OF CREDITOR-PLACED INSURANCE DELIVERED IN THIS
 9 STATE TO BE FILED WITH THE COMMISSIONER OF INSURANCE; TO PROVIDE
 10 THAT THE ENTIRE AMOUNT OF THE PREMIUM DUE FROM A CREDITOR SHALL BE
 11 REMITTED TO THE INSURER OR ITS PRODUCER IN ACCORDANCE WITH THE
 12 INSURER'S REQUIREMENTS; TO PROVIDE THAT A CREDITOR SHALL NOT
 13 IMPOSE CHARGES ON A DEBTOR FOR CREDITOR-PLACED INSURANCE COVERAGE
 14 UNLESS ADEQUATE DISCLOSURE OF THE REQUIREMENT TO MAINTAIN
 15 INSURANCE HAS BEEN MADE TO THE DEBTOR; TO AUTHORIZE THE
 16 COMMISSIONER OF INSURANCE TO CONDUCT INVESTIGATIONS OF INSURERS
 17 AND PRODUCERS; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO
 18 PROMULGATE RULES AND REGULATIONS; AND FOR RELATED PURPOSES.

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

20 SECTION 1. The purposes of this act are to:

21 (a) Promote the public welfare by regulating
22 creditor-placed insurance;

23 (b) Create a legal framework within which
24 creditor-placed insurance may be written in this state;

25 (c) Help maintain the separation between creditors and
26 insurers; and

27 (d) Minimize the possibilities of unfair competitive
28 practices in the sale of creditor-placed insurance.

29 SECTION 2. (1) This act applies to an insurer or producer
30 transacting creditor-placed insurance as defined in this act.

31 (2) All creditor-placed insurance written in connection with
32 credit transactions for personal, family or household purposes is
33 subject to the provisions of this act, except:

34 (a) Transactions involving extensions of credit
35 primarily for business or commercial purposes;

36 (b) Insurance on collateralized real property;
37 provided, however, that creditor-placed insurance written for
38 mobile homes or manufactured housing shall be subject to the
39 provisions of this act;

40 (c) Insurance offered by the creditor and elected by
41 the debtor at the debtor's option;

42 (d) Insurance for which no specific charge is made to
43 the debtor or the debtor's account; or

44 (e) Blanket insurance, whether paid for by the debtor
45 or the creditor.

46 (3) Nothing in this act shall be construed to create or
47 imply a private cause of action for violation of this act, and the
48 commissioner shall have authority to bring administrative or
49 judicial proceedings to enforce this act.

50 SECTION 3. As used in this act, unless the context otherwise
51 requires:

52 (a) "Actual cash value (ACV)" means the cost of
53 replacing damaged or destroyed property with comparable new
54 property, minus depreciation and obsolescence.

55 (b) "Blanket insurance" means insurance that provides
56 coverage on collateral as defined in a policy issued to a
57 creditor, without specifically listing the collateral covered.

58 (c) "Collateral" means personal property that is
59 pledged as security for the satisfaction of a debt.

60 (d) "Credit agreement" means the written document that
61 sets forth the terms of the credit transaction and includes the
62 security agreement.

63 (e) "Credit transaction" means a transaction by the
64 terms of which the repayment of money loaned or credit commitment
65 made, or payment of goods, services or properties sold or leased,
66 is to be made at a future date or dates.

67 (f) "Creditor" means the lender of money or vendor or
68 lessor of goods, services, property, rights or privileges for
69 which payment is arranged through a credit transaction, or any
70 successor to the right, title or interest of a lender, vendor or
71 lessor.

72 (g) "Creditor-placed insurance" means insurance that is
73 purchased unilaterally by the creditor, who is the named insured,
74 subsequent to the date of the credit transaction, providing
75 coverage against loss, expense or damage to collateralized
76 personal property as a result of fire, theft, collision or other
77 risks of loss that would either impair a creditor's interest or
78 adversely affect the value of collateral covered by limited dual
79 interest insurance. It is purchased according to the terms of the
80 credit agreement as a result of the debtor's failure to provide
81 required physical damage insurance, with the cost of the coverage
82 being charged to the debtor. It shall be either single interest
83 insurance or limited dual interest insurance.

84 (h) "Debtor" means the borrower of money or a purchaser
85 or lessee of goods, services, property, rights or privileges for
86 which payment is arranged through a credit transaction.

87 (i) "Insurance tracking" means monitoring evidence of
88 insurance on collateralized credit transactions to determine
89 whether insurance required by the credit agreement has lapsed, and
90 communicating with debtors concerning the status of insurance
91 coverage.

92 (j) "Insurer" means an insurance company, association
93 or exchange authorized to issue insurance policies in the State of
94 Mississippi.

95 (k) "Lapse" means that the insurance coverage required
96 by the credit agreement is not in force.

97 (l) "Limited dual interest insurance" means insurance
98 purchased by the creditor to insure its interest in the collateral
99 securing the debtor's credit transaction. This insurance waives

100 the three (3) conditions for loss payment under single interest
101 insurance and extends coverage on the collateral while in the
102 possession of the debtor.

103 (m) "Loss ratio" means the ratio of incurred losses to
104 earned premium.

105 (n) "Net debt" means the amount necessary to liquidate
106 the remaining debt in a single lump-sum payment, excluding all
107 unearned interest and other unearned charges.

108 (o) "Producer" means a person who receives a commission
109 for insurance placed or written or who, on behalf of an insurer or
110 creditor, solicits, negotiates, effects, procures, delivers,
111 renews, continues or binds policies of insurance to which this act
112 applies, except a regular salaried officer, employee or other
113 representative of an insurer who devotes substantially all working
114 time to activities other than those specified here and who
115 receives no compensation that is directly dependent on the amount
116 of insurance business written, and except a regular salaried
117 officer or employee of a creditor who receives no compensation
118 that is directly dependent on the amount of insurance effected or
119 procured.

120 (p) "Single interest insurance" means insurance
121 purchased by the creditor to insure its interest in the collateral
122 securing a debtor's credit transaction. Three (3) conditions must
123 be met for payment of loss under the policy:

124 (i) The debtor has defaulted in payment;

125 (ii) The creditor has legally repossessed the
126 collateral, unless collateral has been stolen from the debtor; and

127 (iii) The creditor has suffered an impairment of
128 interest.

129 (q) "Commissioner" means the Commissioner of Insurance.

130 SECTION 4. (1) Creditor-placed insurance shall become
131 effective on the latest of the following dates:

132 (a) The date of the credit transaction;

133 (b) The date prior coverage, including prior
134 creditor-placed insurance coverage lapsed;

135 (c) One (1) year before the date on which the related
136 insurance charge is made to the debtor's account; or

137 (d) A later date provided for in the agreement between
138 the creditor and insurer.

139 (2) Creditor-placed insurance shall terminate on the
140 earliest of the following dates:

141 (a) The date other acceptable insurance becomes
142 effective, subject to the debtor providing acceptable evidence of
143 the other insurance to the creditor;

144 (b) The date the collateralized personal property is
145 repossessed, unless the property is returned to the debtor within
146 ten (10) days of the repossession. The creditor-placed insurance
147 may be kept in force, but the lender must pay the premium that is
148 earned after repossession;

149 (c) The date the collateralized personal property is
150 determined by the insurer to be a total loss;

151 (d) The date the debt is completely extinguished; or

152 (e) An earlier date specified in the individual policy
153 or certificate of insurance.

154 (3) An insurance charge shall not be made to a debtor for a
155 term longer than the scheduled term of the creditor-placed
156 insurance when it becomes effective, nor may an insurance charge
157 be made to the debtor for creditor-placed insurance before the
158 effective date of the insurance.

159 (4) If a charge is made to a debtor for creditor-placed
160 insurance coverage that exceeds a term of one (1) year, the debtor
161 shall be notified at least annually that the insurance will be
162 canceled and a refund or credit of unearned charges made if
163 evidence of acceptable insurance secured by the debtor is
164 provided.

165 SECTION 5. (1) Premiums for creditor-placed insurance
166 coverage may be calculated based on:

167 (a) An amount not exceeding the net debt even though
168 the coverage may limit the insurer's liability to the net debt,
169 actual cash value or cost of repair; or

170 (b) Other premium calculation methods that more closely
171 reflect the exposure of each item insured and approximate the
172 premium calculation method of the coverage required by the credit
173 agreement.

174 (2) An insurer shall not write creditor-placed insurance for
175 which the premium rate differs from that determined by the
176 schedules of the insurer on file and approved by the commissioner.
177 The premium or amount charged to the debtor for creditor-placed
178 insurance shall not exceed the premiums charged by the insurer,
179 computed at the time the charge to the debtor is determined.

180 (3) A method of billing insurance charges to the debtor on
181 closed-end credit transactions that creates a balloon payment at
182 the end of the credit transaction or extends the credit
183 transaction's maturity date is prohibited, unless specifically
184 disclosed at the time of the origination of the credit agreement.

185 SECTION 6. (1) Creditor-placed insurance coverage shall not
186 include:

187 (a) Coverage for the cost of repossession;

188 (b) Skip, confiscation and conversion coverage;

189 (c) Coverage for payment of mechanics' or other liens
190 that do not arise from a covered loss occurrence;

191 (d) Coverage that requires a debtor's insurance
192 deductible to be less than Two Hundred Dollars (\$200.00); or

193 (e) Coverage that is broader than the insurance
194 coverages that meet the minimum insurance requirements of the
195 credit agreement.

196 (2) Nothing in this section shall be deemed to prohibit the
197 issuance of a separate policy or endorsement providing the

198 coverages listed in subsection (1) of this section. However, no
199 charge shall be passed along to the debtor for the coverages.

200 SECTION 7. Creditor-placed insurance shall be set forth in
201 an individual policy or certificate of insurance. A copy of the
202 individual policy, certificate of insurance coverage or other
203 evidence of insurance coverage shall be mailed, first-class mail,
204 or delivered in person to the last known address of the debtor.

205 SECTION 8. (1) All policy forms and certificates of
206 creditor-placed insurance to be delivered or issued for delivery
207 in this state and the schedules of premium rates pertaining
208 thereto shall be filed with the Commissioner of Insurance.

209 (2) The commissioner shall within thirty (30) days after the
210 filing of the policy forms and certificates of insurance
211 disapprove a form that does not conform to this act or to other
212 applicable provisions of the insurance statutes and regulations
213 and shall, within thirty (30) days of filing, disapprove a
214 schedule of premium rates pertaining to the form if it does not
215 conform to the standard set forth in subsection (5).

216 (3) If the commissioner disapproves a form or schedule of
217 premium rates in accordance with subsection (2), the commissioner
218 shall promptly notify the insurer in writing of the disapproval,
219 and it shall be unlawful for the insurer to issue or use the form
220 or schedule. In the notice, the commissioner shall specify the
221 reasons for disapproval and state that a hearing will be granted
222 within sixty (60) days after receipt of request in writing by the
223 insurer.

224 (4) Unless the commissioner disapproves the form or schedule
225 of premium rates in accordance with subsections (2) and (3) or
226 gives written approval of the form or schedule within thirty (30)
227 days after the filing, the form or schedule shall be deemed
228 approved on the thirty-first day after the filing. However,
229 within thirty (30) days after receiving a filing, the commissioner
230 may issue a notice which delays the effective date of a filing for

231 not more than thirty (30) days after the notice is issued if the
232 commissioner determines that additional information or
233 clarification concerning the rate or policy form is required.

234 (5) The schedules of premium rates shall not be excessive,
235 inadequate or unfairly discriminatory. In determining whether a
236 schedule of premium rates are excessive, inadequate or unfairly
237 discriminatory, the commissioner shall take into account past and
238 prospective loss experience, general and administrative expenses,
239 loss settlement and adjustment expenses, reasonable creditor
240 compensation and other acquisition costs including insurance
241 tracking costs, reserves, taxes, licenses, fees and assessments,
242 reasonable insurer profit and other relevant data. Rates are not
243 unfairly discriminatory because different premiums result for
244 different policyholders, including group policyholders, with
245 similar loss exposures but different expense factors or similar
246 expense factors but different loss exposures, nor are rates
247 unfairly discriminatory if they are averaged broadly among all
248 persons insured in this state or all persons insured under a group
249 insurance policy.

250 (6) The commissioner may withdraw approval of an approved
251 form or schedule of premium rates when the commissioner would be
252 required to disapprove the form or schedule of premium rates if it
253 were filed at the time of the withdrawal. The withdrawal shall be
254 in writing and shall specify the reasons for withdrawal and the
255 effective date of the withdrawal. An insurer adversely affected
256 by a withdrawal may, within thirty (30) days after receiving the
257 written notification of the withdrawal, request in writing a
258 hearing to determine whether the withdrawal should be annulled,
259 modified or confirmed. Unless the commissioner grants an
260 extension in writing in the withdrawal or subsequently grants an
261 extension the withdrawal shall, in the absence of a request for
262 hearing, become effective, prospectively and not retroactively, on
263 the ninety-first day following delivery of the notice of

264 withdrawal and, if the request for hearing is filed, on the
265 ninety-first day following delivery of written notice of the
266 commissioner's determination.

267 (7) Forms and rates filed and approved in accordance with
268 this section shall be deemed to be in compliance in all respects
269 with the laws of this state.

270 SECTION 9. (1) Within sixty (60) calendar days after the
271 termination of creditor-placed insurance coverage, and in
272 accordance with the formulas approved by the commissioner, an
273 insurer shall refund any unearned premium or other identifiable
274 charges.

275 (2) Within sixty (60) calendar days after the termination
276 date of creditor-placed insurance coverage, the insurer or
277 creditor shall provide to the debtor a statement of refund
278 disclosing the effective date, the termination date, the amount of
279 premium being refunded and the amount of premium charged for the
280 coverage provided. No statement shall be required in the event
281 that the policy terminates pursuant to subsection (2)(d) of
282 Section 4 of this act.

283 (3) The entire amount of premiums, minimum premiums, fees or
284 charges of any kind shall be refunded if no coverage was provided.

285 SECTION 10. (1) In the event of a loss under the
286 creditor-placed insurance policy, the insurer shall pay, at a
287 minimum, the least of the following, the value of which shall be
288 determined as of the date of loss:

289 (a) The cost to repair the collateral less any
290 applicable deductible;

291 (b) The actual cash value of the collateral less any
292 applicable deductible;

293 (c) The net debt, less any applicable deductible; or

294 (d) If single interest insurance is provided, the
295 amount by which the creditor's interest is impaired.

296 (2) The net debt or actual cash value amounts in subsection
297 (1) may be reduced by the value of salvage if the insurer does not
298 take possession of the insured property. This does not preclude
299 the borrower's right to retain possession of the damaged
300 collateral, if desired.

301 (3) In the event of a loss, no subrogation shall run against
302 the debtor from the insurer.

303 (4) Whenever a claim is made on a creditor-placed insurance
304 policy, the insurer shall furnish to the creditor a written
305 statement of the loss explaining the settlement amount and the
306 method of settlement, and the creditor shall furnish this
307 information to the debtor.

308 (5) A creditor or insurer may not abandon salvage to a
309 towing or storage facility in lieu of payment of storage fees
310 without the consent of the facility and the claimant. The insurer
311 shall be responsible for the payment of towing and storage charges
312 for a covered loss occurrence from the time the claim is reported
313 to the insurer in accordance with the terms of the policy to the
314 time the claim is paid. After the claim is paid, the debtor shall
315 be responsible for the payment of any towing or storage charges.

316 SECTION 11. (1) In order for the creditor to place
317 insurance on the collateral pledged by the debtor and pass the
318 cost of the insurance onto the debtor:

319 (a) The creditor must have a security interest in the
320 personal property;

321 (b) The credit agreement must require the debtor to
322 maintain insurance on the collateral to protect the creditor's
323 interest;

324 (c) The credit agreement must authorize the creditor to
325 place the insurance if the debtor fails to provide evidence of the
326 insurance; and

327 (d) The information set forth in paragraphs (a) through
328 (c) of this subsection (1) must be clearly disclosed to the debtor
329 at the inception of the credit transaction.

330 (2) The debtor shall always have the right to provide
331 required insurance through existing policies of insurance owned or
332 controlled by the debtor or of procuring and furnishing the
333 required coverage through an insurer authorized to transact
334 insurance within this state. However, a creditor may establish
335 maximum acceptable deductibles, insurer solidity standards and
336 other reasonable conditions with respect to the required
337 insurance.

338 SECTION 12. (1) The entire amount of the premium due from a
339 creditor shall be remitted to the insurer or its producer in
340 accordance with the insurer's requirements. No commissions may be
341 paid to, or retained by, a person or entity except a licensed and
342 appointed insurance producer.

343 (2) The retention by the creditor of unearned premiums upon
344 cancellation of the insurance without crediting to the debtor's
345 account the amount of unearned insurance charges is prohibited.

346 (3) Rebates to the creditor of a portion of the premium
347 charged to the debtor are prohibited as are other inducements
348 provided to the creditor by an insurer or producer. The listing
349 of the following activities as prohibited rebates or inducements
350 is not intended to be restrictive, and the commissioner may
351 identify an activity as prohibited by rule, regulation or order:

352 (a) Allowing insurers or producers to purchase
353 certificates of deposit from the creditor or to maintain accounts
354 with the creditor at less than the market interest rates and
355 charges that the creditor applies to other customers for deposit
356 accounts of similar amounts and duration; and

357 (b) Paying a commission to a person, including a
358 creditor, who is not appropriately licensed as a producer in this
359 state.

360 (4) Prohibited rebates or inducements do not include:

361 (a) The providing of insurance tracking and other
362 services incidental to the creditor-placed insurance program;

363 (b) The paying of commissions and other compensation to
364 a duly licensed and appointed insurance producer, whether or not
365 affiliated with the creditor;

366 (c) The paying to the creditor policyholder of group
367 experience rated refunds or policy dividends; and

368 (d) The paying to the creditor of amounts intended to
369 reimburse the creditor for its expenses incurred incidental to the
370 creditor-placed insurance program (such as costs of data
371 processing, mail processing, telephone service, insurance
372 tracking, billing, collections and related activities); provided
373 that these payments are calculated in a manner that does not
374 exceed an amount reasonably estimated to equal the expenses
375 incurred by the creditor.

376 (5) Nothing contained in this section shall prohibit or
377 restrict an insurer or producer from maintaining a demand, premium
378 deposit or other account or accounts with a creditor for which the
379 insurer or agent provides insurance if the accounts pay the market
380 interest rate and charges that the creditor applies to other
381 customers for deposit accounts of similar amounts and duration.

382 SECTION 13. (1) A creditor shall not impose charges,
383 including premium costs and related interest and finance charges,
384 on a debtor for creditor-placed insurance coverage unless adequate
385 disclosure of the requirement to maintain insurance has been made
386 to the debtor. Adequate disclosure is accomplished if the
387 following occurs:

388 (a) The credit agreement sets forth the requirement
389 that the debtor must maintain insurance on the collateral as
390 provided for in Section 11 of this act;

391 (b) The creditor makes reasonable efforts to notify the
392 debtor of the requirement to maintain insurance and allows a
393 reasonable time for compliance with this requirement;

394 (c) A final notice as required by this act is sent to
395 the debtor; and

396 (d) If creditor-placed insurance coverage is issued, a
397 copy of the policy or certificate, with disclosure of premium
398 charged, is sent to the debtor as provided for in Section 7 of
399 this act.

400 (2) After adequate disclosure of the request to maintain
401 insurance has been made to the debtor as required by this section,
402 a creditor may proceed to impose charges for creditor-placed
403 insurance if the debtor fails to provide evidence of insurance. A
404 creditor may impose charges no earlier than ten (10) calendar days
405 after sending the final notice. However, the charges can be
406 retroactive to the date of exposure to loss.

407 (3) Reasonable efforts to notify the debtor are accomplished
408 if:

409 (a) The creditor mails a notice by first-class mail to
410 the debtor's last known address as contained in the creditor's
411 records, stating that the creditor intends to charge the debtor
412 for creditor-placed insurance coverage on the collateral if the
413 debtor fails to provide evidence of the property insurance to the
414 creditor;

415 (b) The creditor allows the debtor at least twenty (20)
416 calendar days to respond to the notice and provide evidence of
417 acceptable insurance coverage before sending a final notice; and

418 (c) The creditor sends a final notice in compliance
419 with this section by first-class mail to the debtor's last known
420 address as contained in the creditor's records at least ten (10)
421 calendar days before the cost of insurance is charged to the
422 debtor by the creditor. Proof of the mailing of the final notice
423 shall be retained for at least three (3) years following the

424 expiration or termination of the coverage or as otherwise required
425 by law. A register of letters shall be deemed sufficient proof to
426 satisfy this requirement.

427 (4) The initial notice shall be in a form determined by the
428 creditor to remind the debtor of the requirement to maintain
429 insurance on the collateral. The final notice shall be as
430 complete as the following notice, printed in not less than twelve
431 (12) point type, and modified where necessary to fit the nature of
432 the credit transaction:

433 "FINAL NOTICE

434 Your credit agreement with us requires you to have
435 property insurance on the collateral until you pay off
436 your loan. You have not given us proof you have
437 insurance on the property. You can ask your insurance
438 company or agent to give us proof of insurance or you
439 can send us proof you have property insurance within ten
440 (10) calendar days after the date this letter was
441 postmarked. If you do not, we will charge you for the
442 insurance we buy.

443 You must pay for the property insurance we buy. It
444 may cost more than insurance you can buy on your own.
445 The premium of the insurance we buy may be added to your
446 loan balance and we may charge you interest on it. You
447 will be charged interest on the premium at the rate of
448 _____ per annum.

449 The insurance we buy will pay claims to us (the
450 creditor) for physical damage to your property. It will
451 not pay any claims made against you and it may not pay
452 you for any claims you make. The insurance we buy will
453 not give you any liability insurance coverage and will
454 not meet any other requirements of state law.

455 We may receive compensation for placing this
456 insurance, which is included in the cost of coverage
457 charged to you.

458 The property coverage we buy will start on the date
459 shown in the policy or certificate, which may go back to
460 the date of the loan or the date your prior coverage
461 stopped. We will cancel the insurance we bought for you
462 and give you a refund or credit of unearned charges if
463 you give us proof you have bought property insurance
464 somewhere else or if you have paid off the loan."

465 (5) All creditor-placed insurance shall be set forth in an
466 individual policy or certificate of insurance. Not earlier than
467 the sending of the final notice nor fifteen (15) days after a
468 charge is made to the debtor for creditor-placed insurance
469 coverage, the creditor shall cause a copy of the individual
470 policy, certificate or other evidence of insurance coverage
471 evidencing the creditor-placed insurance coverage to be sent,
472 first-class mail, to the debtor's last known address.

473 (6) A creditor's compliance with or failure to comply with
474 this act shall not be construed to require the creditor to
475 purchase insurance coverage on the collateral, and the creditor
476 shall not be liable to the debtor or a third party as a result of
477 its failure to purchase the insurance.

478 SECTION 14. (1) The commissioner may conduct investigations
479 and/or examinations of insurers and producers to ensure compliance
480 with the provisions of the act or any rule, regulation or order
481 hereunder, as well as under any other applicable statutes or
482 regulations.

483 (2) The commissioner may by order, deny, suspend or revoke
484 an insurer's certificate of authority or a producer's license if
485 the commissioner finds that such insurer or producer has violated
486 any provision of the act.

487 (3) If the commissioner has reason to believe that any
488 person or entity is engaging in any activity that would be a
489 violation of this act or any rule promulgated under this act, the
490 commissioner may issue an order directing that person or entity to
491 cease and desist from committing the violations, impose a civil
492 penalty for the violations, provide an equitable remedy for past
493 violations, or any combination of these. Such order may be issued
494 without prior notice if the commissioner makes a finding that such
495 order is necessary for the protection of policyholders and that
496 the public health, safety and welfare require the order to be
497 issued without prior notice to affected parties. At any hearing
498 or other proceeding conducted as a result of an order to cease and
499 desist, pursuant to this act, the person or entity subject to the
500 order shall be required to show cause why such order should be
501 annulled, modified or confirmed.

502 (4) Whenever it appears to the commissioner that any person
503 or entity has engaged or is about to engage in an act of practice
504 constituting a violation of any provision of this act or any rule,
505 regulation or order hereunder, the commissioner may, in the
506 commissioner's discretion, bring an action in chancery court of
507 any county in this state to enjoin the acts or practices and to
508 enforce compliance with this act or any rule, regulation or order
509 hereunder. Upon a proper showing, a permanent or temporary
510 injunction, restraining order, writ of mandamus, disgorgement or
511 other proper equitable relief shall be granted.

512 (5) Additionally, upon a finding that any person or entity
513 has violated a provision of this act, the commissioner may impose
514 a civil penalty of not more than One Thousand Dollars (\$1,000.00)
515 for each violation, and may revoke, suspend or decline to renew
516 any license of such person or entity to sell or issue insurance.

517 (6) Any person aggrieved by a final order of the
518 commissioner under this act may obtain judicial review of the
519 order in the Circuit Court of Hinds County by filing, within

520 thirty (30) days of the issuance and service of such order, a
521 written petition or complaint praying that said order be modified
522 or set aside. A copy of such petition shall be served upon the
523 commissioner, and the commissioner shall file a complete record of
524 the proceedings with said court, which shall then have
525 jurisdiction of the proceedings and questions determined therein.

526 SECTION 15. The commissioner is authorized after notice and
527 hearing to promulgate rules and regulations to effectuate the
528 purposes of this act. The commissioner may require such
529 information as is reasonably necessary for the enforcement of this
530 act. All rules and regulations adopted and promulgated pursuant
531 to this act shall be subject to the Mississippi Administrative
532 Procedures Law, Section 25-43-1 et seq.

533 SECTION 16. If any provision of this act or the application
534 thereof to any person or circumstance is held invalid, such
535 invalidity shall not affect other provisions or applications of
536 the act which can be given effect without the invalid provision or
537 application, and to that end the provisions of this act are
538 declared to be severable.

539 SECTION 17. This act shall take effect and be in force from
540 and after July 1, 2001.