

By: Representatives Compretta, Bentz,  
Fleming

To: Sel Cmte on Hurricane  
Recovery

HOUSE BILL NO. 1321

1 AN ACT TO PROVIDE THAT INSURANCE COMPANIES MUST PAY ON A  
2 TIMELY BASIS THE BENEFITS PROVIDED UNDER THE TERMS OF AUTOMOBILE,  
3 HOMEOWNERS, AND FLOOD, HURRICANE OR WINDSTORM INSURANCE POLICIES,  
4 OR IN THE ALTERNATIVE, PAY INTEREST ON CLAIMS NOT PAID ON A TIMELY  
5 BASIS; TO PROVIDE CONDITIONS UNDER WHICH THE PAYMENT OF CLAIMS  
6 SHALL NOT BE CONSIDERED TO BE UNTIMELY; TO PROVIDE FOR THE  
7 CALCULATION OF INTEREST ON CLAIMS THAT ARE NOT PAID ON A TIMELY  
8 BASIS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) An insurer must pay on a timely basis to its  
11 insured, an individual or entity directly entitled to benefits  
12 under its insured's contract of insurance, or a third party tort  
13 claimant, the benefits provided under the terms of its automobile,  
14 homeowners, and any type of flood, hurricane or windstorm  
15 insurance policies, or, in the alternative, the insurer must pay  
16 to its insured, an individual or entity directly entitled to  
17 benefits under its insured's said contracts of insurance, or a  
18 third party tort claimant, twelve percent (12%) interest as  
19 provided in subsection (3) of this section on claims not paid on a  
20 timely basis.

21 (2) Payment of a claim shall not be untimely during any  
22 period in which the insurer is unable to pay the claim when there  
23 is no recipient who is legally able to give a valid release for  
24 the payment, or where the insurer is unable to determine who is  
25 entitled to receive the payment, if the insurer has promptly  
26 notified the claimant of that inability and has offered in good  
27 faith to promptly pay the claim upon determination of who is  
28 entitled to receive the payment. Payment shall also not be  
29 untimely if the insured, individual or entity directly entitled to  
30 benefits under its insured's contract of insurance, or third party

31 tort claimant, purposefully acts to cause the insurer to delay  
32 payment.

33 (3) If benefits are not paid on a timely basis and there is  
34 later a settlement by the insurer or an award against the insurer  
35 by a court of law, the benefits paid to the insured, an individual  
36 or entity directly entitled to benefits under its insured's  
37 contract of insurance, or third party tort claimant, shall bear  
38 simple interest from a date of thirty (30) days after the insurer  
39 receives actual notice from the insured, individual or entity  
40 directly entitled to benefits under its insured's contract of  
41 insurance, or third party tort claimant, at the rate of twelve  
42 percent (12%) per annum. The interest shall be paid in addition  
43 to and at the time of payment of loss. If the loss exceeds the  
44 limits of insurance coverage available, interest shall be payable  
45 based upon the limits of the insurance coverage rather than the  
46 amount of the loss. If payment is offered by the insurer but is  
47 rejected by the claimant, and the claimant does not subsequently  
48 recover an amount in excess of the amount offered, interest is not  
49 due. Interest paid pursuant to this section shall not act to  
50 preclude an award against the insurer for any punitive damages,  
51 court costs, attorney fees, or any other general and special  
52 damages elsewhere allowed by law.

53 (4) For the purposes of this section, the term "insurer"  
54 means any domestic or foreign insurance corporation or association  
55 engaged in the business of insurance or suretyship which has  
56 qualified to transact surety or casualty business in this state.

57 **SECTION 2.** This act shall take effect and be in force from  
58 and after July 1, 2006.