

By: Representatives Wells-Smith, Upshaw

To: Insurance

HOUSE BILL NO. 1426

1 AN ACT TO AMEND SECTION 83-34-15, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT HOLDERS OF INSURANCE POLICIES ISSUED BY THE
3 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION (WIND POOL) MUST BE
4 GIVEN THE OPTION TO SELECT DEDUCTIBLE PERCENTAGES THAT ARE HIGHER
5 THAN THE MINIMUM REQUIRED PERCENTAGE FOR A DEDUCTIBLE BASED ON A
6 PERCENTAGE OF THE VALUE OF THE PROPERTY THAT APPLIES TO WINDSTORM
7 LOSSES RESULTING FROM A HURRICANE; TO PROVIDE THAT THE PREMIUM
8 RATES FOR SUCH A POLICY SHALL BE CORRESPONDINGLY REDUCED WHEN THE
9 POLICYHOLDER SELECTS A HIGHER PERCENTAGE DEDUCTIBLE; AND FOR
10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 83-34-15, Mississippi Code of 1972, is
13 amended as follows:

14 83-34-15. (1) Any person having an insurable interest in
15 insurable property is entitled to apply to the association for
16 such coverage and for an inspection of the property on or after
17 the effective date of the plan of operation. Applications shall
18 be made on behalf of the owner of the insurable interest by a
19 licensed resident broker or agent authorized by him. Applications
20 shall be submitted on forms prescribed by the association.

21 The commissions paid to the submitting broker or agent shall
22 not exceed fifteen percent (15%) of the premium.

23 The term "insurable interest" as used in this subsection
24 shall be deemed to include any lawful and substantial economic
25 interest in the safety or preservation of property from loss,
26 destruction or pecuniary damage.

27 (2) (a) If the association determines that the property is
28 insurable and that there is no unpaid premium due from the
29 applicant for prior insurance on the property, the association,
30 upon receipt of the premium or such portion thereof as is
31 prescribed in the plan of operation, shall cause to be issued, or

32 issue, a policy of essential property insurance for a term of one
33 (1) year. Any policy issued under the provisions of this section
34 shall be renewed annually, upon application therefor, so long as
35 the property meets the definition of "insurable property" set
36 forth in Section 83-34-1. The coverage limits shall be determined
37 by the value of the insurable property at the time the policy is
38 issued subject to maximum limits, which shall be set forth under
39 the plan of operation adopted by the board; provided that the
40 commissioner may revise any limit that he determines to be
41 inadequate. The coverage afforded by policies issued by or
42 through the association shall not be subject to any deductible or
43 coinsurance provision except as specifically approved by the
44 commissioner.

45 (b) If the policies issued under the provisions of this
46 section are required to include a deductible based on a percentage
47 of the value of the insurable property that applies to windstorm
48 losses resulting from a storm named by the National Hurricane
49 Center of the National Weather Service, the association and the
50 commissioner shall offer the policyholders the option to select
51 deductible percentages that are higher than the minimum required
52 percentage, and shall provide for corresponding reductions in the
53 premium rates for a policy when the policyholder selects a higher
54 percentage deductible. If the insurable property is subject to a
55 mortgage or deed of trust, the policyholder, in order to be
56 allowed to select a higher percentage deductible, must have a
57 letter of credit with a financial institution that is at least
58 equal to the amount of the higher percentage deductible applied to
59 the insured value of the insurable property. If the insurable
60 property is a condominium, the management body of the condominium
61 project may establish an account that contains at least the amount
62 of the higher percentage deductible applied to the insured value
63 of the insurable property of the condominium project, and assess

64 the individual owners of the condominium units for a proportionate
65 share of the amount that is necessary for the account.

66 (3) If the association for any reason denies an application
67 and refuses to issue or cause to be issued an insurance policy on
68 insurable property to any applicant, or takes no action on an
69 application within the time prescribed in the plan of operation,
70 the applicant may appeal to the commissioner. The commissioner or
71 a designated member of his staff, after reviewing the facts, may
72 direct the association to issue or cause to be issued an insurance
73 policy to the applicant. In carrying out his duties under this
74 section, the commissioner may request, and the association shall
75 provide, any information the commissioner deems necessary to a
76 determination concerning the reasons for the denial or delay of
77 the application.

78 **SECTION 2.** This act shall take effect and be in force from
79 and after July 1, 2007.