

By: Representative Turner

To: Insurance

HOUSE BILL NO. 1347

1 AN ACT TO AMEND SECTIONS 83-11-17 AND 83-11-19, MISSISSIPPI
2 CODE OF 1972, TO REMOVE THE REQUIREMENT OF A FIFTEEN DOLLAR FILING
3 FEE IN AUTOMOBILE CANCELLATION OR NONRENEWAL APPEALS; TO AMEND
4 SECTION 83-17-71, MISSISSIPPI CODE OF 1972, TO EXTEND THE TIME
5 FRAME FROM WHICH AN INSURANCE PRODUCER WHOSE LICENSE HAS BEEN
6 REVOKED OR FORFEITED MAY REAPPLY FOR LICENSURE; TO AMEND SECTION
7 83-17-251, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM PRELICENSING
8 REQUIREMENTS INDIVIDUALS SEEKING LICENSURE IN THE LIFE LINE OF
9 AUTHORITY ONLY; TO AMEND SECTION 83-17-523, MISSISSIPPI CODE OF
10 1972, TO CLARIFY THE COMPENSATION OF A PUBLIC ADJUSTER; TO PROVIDE
11 THAT A PUBLIC ADJUSTER SHALL NOT PARTICIPATE IN THE
12 RECONSTRUCTION, REPAIR OR RESTORATION OF DAMAGED PROPERTY THAT IS
13 THE SUBJECT OF A CLAIM ADJUSTED BY THE ADJUSTER; TO PROVIDE THAT
14 A PUBLIC ADJUSTER SHALL NOT ENGAGE IN ANY ACTIVITIES THAT MAY BE
15 REASONABLY CONSTRUED AS A CONFLICT OF INTEREST; TO PROVIDE THAT A
16 PUBLIC ADJUSTER SHALL NOT HAVE A FINANCIAL INTEREST IN ANY
17 SALVAGE, REPAIR OR ANY OTHER BUSINESS ENTITY THAT OBTAINS BUSINESS
18 IN CONNECTION WITH ANY CLAIM THAT THE PUBLIC ADJUSTER HAS A
19 CONTRACT TO ADJUST; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO
20 ADOPT RULES AND REGULATIONS TO ALLOW HIM, DURING A COMPANY
21 EXAMINATION, TO EXAMINE AND ADDRESS ANY INEQUALITIES REGARDING
22 PROVIDER REIMBURSEMENT RATES PAID BY AN INSURER, SUBCONTRACTOR,
23 OTHER PAYOR OR BY THIRD-PARTY ADMINISTRATORS; TO PROVIDE THAT
24 FAILURE TO COMPLY WITH RULES AND REGULATIONS ADOPTED BY THE
25 COMMISSIONER MAY RESULT IN A FINE NOT TO EXCEED \$10,000.00 PER
26 VIOLATION; TO ADD A THREE-YEAR REPEALER TO THE SECTION; AND FOR
27 RELATED PURPOSES.

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

29 **SECTION 1.** Section 83-11-17, Mississippi Code of 1972, is
30 amended as follows:



31 83-11-17. A named insured who wishes to contest the reason
32 or reasons for a cancellation of a policy which has been in effect
33 for sixty (60) days or more or failure by insurer to give proper
34 notice of nonrenewal as provided hereunder shall, not less than
35 seven (7) working days from the date of receipt of notice of
36 cancellation or receipt of notice of nonrenewal, mail or deliver
37 to the Commissioner of Insurance a written request for a hearing,
38 which request shall state clearly the basis for the appeal * * *.

39 A cancellation or nonrenewal which is subject to the
40 provisions of this article shall be deemed effective unless the
41 Commissioner of Insurance determines otherwise in accordance with
42 the provisions of this article.

43 **SECTION 2.** Section 83-11-19, Mississippi Code of 1972, is
44 amended as follows:

45 83-11-19. Within two (2) working days after receipt of a
46 timely request for a hearing, the commissioner or his officially
47 appointed designee shall call a hearing upon at least seven (7)
48 days' notice to the parties. Each insurer licensed to do in this
49 state the kind of business which is subject to this article shall
50 maintain on file with the commissioner the name and address of the
51 person authorized to receive notices pursuant to this article on
52 behalf of the insurer.

53 The commissioner or his designated representative who
54 conducted the hearing shall, at the conclusion thereof or not
55 later than two (2) days thereafter, issue his written findings to



56 the parties. If he finds for the named insured, he shall * * *
57 either order the insurer to rescind its notice of cancellation or,
58 if the date cancellation is to be effective has elapsed, order the
59 policy reinstated or renewed. Such order shall operate
60 retroactively only to cover a period not to exceed twenty (20)
61 days from the date cancellation otherwise would have been
62 effective, and prospectively from the date on which the order was
63 issued; provided, however, that no policy shall be reinstated or
64 renewed while the named insured is in arrears in payment of
65 premiums on such policy. If the commissioner or his
66 representative finds for the insurer, his written order shall so
67 state * * *. Reinstatement of a policy under this section shall
68 not operate in any way to extend the expiration, termination, or
69 anniversary date provided in the policy. Renewal of a policy
70 shall be for a term of one (1) year from the expiration date of
71 the prior policy, and otherwise shall contain the same coverage,
72 terms, and contractual provisions contained in said prior policy.

73 **SECTION 3.** Section 83-17-71, Mississippi Code of 1972, is
74 amended as follows:

75 83-17-71. (1) The commissioner may place on probation,
76 suspend, revoke or refuse to issue or renew an insurance
77 producer's license or may levy a civil penalty in an amount not to
78 exceed One Thousand Dollars (\$1,000.00) per violation and such
79 penalty shall be deposited into the special fund of the State



80 Treasury designated as the "Insurance Department Fund" for any one
81 or more of the following causes:

82 (a) Providing incorrect, misleading, incomplete or
83 materially untrue information in the license application;

84 (b) Violating any insurance laws, or violating any
85 regulation, subpoena or order of the commissioner or of another
86 state's commissioner;

87 (c) Obtaining or attempting to obtain a license through
88 misrepresentation or fraud;

89 (d) Improperly withholding, misappropriating or
90 converting any monies or properties received in the course of
91 doing insurance business;

92 (e) Intentionally misrepresenting the terms of an
93 actual or proposed insurance contract or application for
94 insurance;

95 (f) Having been convicted of a felony;

96 (g) Having admitted or been found to have committed any
97 insurance unfair trade practice or fraud;

98 (h) Using fraudulent, coercive or dishonest practices
99 or demonstrating incompetence, untrustworthiness or financial
100 irresponsibility in the conduct of business in this state or
101 elsewhere;

102 (i) Having an insurance producer license, or its
103 equivalent, denied, suspended or revoked in any other state,
104 province, district or territory;



105 (j) Forging another's name to an application for
106 insurance or to any document related to an insurance transaction;

107 (k) Improperly using notes or any other reference
108 material to complete an examination for an insurance license;

109 (l) Knowingly accepting insurance business from an
110 individual who is not licensed;

111 (m) Failing to comply with an administrative or court
112 order imposing a child support obligation; or

113 (n) Failing to pay state income tax or comply with any
114 administrative or court order directing payment of state income
115 tax.

116 (2) If the action by the commissioner is to nonrenew or to
117 deny an application for a license, the commissioner shall notify
118 the applicant or licensee and advise, in writing, the applicant or
119 licensee of the reason for the denial or nonrenewal of the
120 applicant's or licensee's license. The applicant or licensee may
121 make written demand upon the commissioner within ten (10) days for
122 a hearing before the commissioner to determine the reasonableness
123 of the commissioner's action. The hearing shall be held within
124 thirty (30) days.

125 (3) The license of a business entity may be suspended,
126 revoked or refused if the commissioner finds, after hearing, that
127 an individual licensee's violation was known or should have been
128 known by one or more of the partners, officers or managers acting



129 on behalf of the partnership or corporation and the violation was
130 neither reported to the commissioner nor corrective action taken.

131 (4) In addition to, or in lieu of, any applicable denial,
132 suspension or revocation of a license, a person may, after
133 hearing, be subject to a civil fine not to exceed One Thousand
134 Dollars (\$1,000.00) per violation and such fine shall be deposited
135 into the special fund in the State Treasury designated as the
136 "Insurance Department Fund."

137 (5) The commissioner shall retain the authority to enforce
138 the provisions of and impose any penalty or remedy authorized by
139 this article and Title 83, Mississippi Code of 1972, against any
140 person who is under investigation for or charged with a violation
141 of this article or Title 83, Mississippi Code of 1972, even if the
142 person's license or registration has been surrendered or has
143 lapsed by operation of law.

144 (6) No licensee whose license has been revoked hereunder
145 shall be entitled to file another application for a license as a
146 producer * * * at a minimum of one (1) year or a maximum of five
147 (5) years, as set by the commissioner, from the effective date of
148 such revocation or, if judicial review of such revocation is
149 sought, * * * at a minimum of one (1) year or a maximum of five (5)
150 years, as set by the commissioner, from the date of final court
151 order or decree affirming such revocation. Such application, when
152 filed, may be refused by the commissioner unless the applicant



153 shows good cause why the revocation of his license shall not be
154 deemed a bar to the issuance of a new license.

155 (7) Notwithstanding any other provision of this article to
156 the contrary, a person licensed in this state as a nonresident
157 producer whose license is denied, suspended or revoked in his or
158 her home state shall also have his or her nonresident license
159 denied, suspended or revoked in this state without prior notice or
160 hearing.

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

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

169 **SECTION 4.** Section 83-17-251, Mississippi Code of 1972, is
170 amended as follows:

171 83-17-251. (1) Every individual seeking to be licensed as
172 an insurance producer in the State of Mississippi, as a condition
173 of issuance of an original license, must furnish the Commissioner
174 of Insurance certification on a form prescribed by the
175 commissioner that he or she has completed an approved prelicensing
176 course of study for the line of insurance requested.



177 (2) The prelicensing course of study hours shall consist of
178 twenty (20) hours of approved prelicensing education courses per
179 line of authority. The Commissioner of Insurance shall determine
180 the content requirements for each prelicensing course of study.
181 The prelicensing educational requirements of this section shall
182 not apply to:

183 (a) An individual that is exempt from taking the
184 written examination as provided in Section 83-17-39(1) and Section
185 83-17-67.

186 (b) An individual who has received a bachelor's degree
187 with major coursework in insurance from an accredited institution
188 of higher learning.

189 (c) An individual holding a current and valid CEBS,
190 CHFC, CIC, CFP, CLU, FLMI, LUTCF designation is exempt for the
191 life line of authority.

192 (d) An individual holding a current and valid RHU,
193 CEBS, REBC, HIA designation is exempt for the accident and health
194 or sickness line of authority.

195 (e) An individual holding a current and valid AAI, ARM,
196 CIC, CPCU designation is exempt for the property and casualty
197 lines of authority.

198 (f) Limited lines insurance producer and limited lines
199 credit insurance producer as defined in Section 83-17-53.



200 (g) An individual that is seeking licensure for the
201 variable life and variable annuity products line of authority
202 only.

203 (h) An individual that is seeking licensure for the
204 life line of authority only.

205 (3) Every individual seeking renewal of an insurance
206 producer license, which has been in effect for a term of eighteen
207 (18) months or less shall satisfactorily complete twelve (12)
208 hours of study in approved continuing education courses. Every
209 individual seeking renewal of an insurance producer license, which
210 has been in effect for a term of more than eighteen (18) months
211 shall satisfactorily complete twenty-four (24) hours of study in
212 approved continuing education courses, of which three (3) hours
213 shall have a course concentration in ethics.

214 (4) The continuing educational requirements of this section
215 shall not apply to:

216 (a) Any individual that is exempt from taking the
217 written examination as provided in Section 83-17-39(1)(b), (c),
218 (e) and (g);

219 (b) Any limited lines producer or limited lines credit
220 insurance producer;

221 (c) A person not a resident of this state who meets the
222 continuing educational requirement in the state in which such
223 person resides and Mississippi has a reciprocal agreement with
224 that state;



225 (d) Nonactive agents as defined in Section 83-17-1; or
226 (e) Any individual who is sixty-five (65) years of age
227 or older and who has been licensed as an insurance producer for a
228 continuous period of twenty-five (25) years or more as of April
229 17, 2023, as evidenced by submission of an affidavit, under oath,
230 on a form prescribed by the commissioner, signed by the licensee
231 attesting to satisfaction of the age, licensing and experience
232 requirements of this paragraph (e).

233 **SECTION 5.** Section 83-17-523, Mississippi Code of 1972, is
234 amended as follows:

235 83-17-523. (1) Public adjusters shall ensure that all
236 contracts for their services are in writing, signed by the insured
237 and the public adjuster who solicited the contract, and a copy of
238 the contract shall be provided to the insured upon execution. All
239 such contracts shall be subject to the following provisions:

240 (a) No public adjuster shall charge, agree to, or
241 accept as compensation any payment, commission, fee or other thing
242 of value equal to more than ten percent (10%) of any insurance
243 settlement or the proceeds of any claim investigated, exclusive of
244 any settlement or agreed settlement made between the insured and
245 the insurance company prior to the public adjuster and insured
246 entering into a contract for services.

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



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

253 (d) A public adjuster's contract with the insured shall
254 be revocable or cancelable by the insured without cause and
255 without penalty or obligation for at least five (5) business days
256 after the contract is executed by the insured. Nothing in this
257 provision shall be construed to prevent an insured from pursuing
258 any civil legal remedy to revoke or cancel the contract after the
259 expiration of such cancellation period.

260 (e) No public adjuster may require that an insured
261 authorize an insurer to issue a check only in the name of the
262 public adjuster.

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

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

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



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

279 (d) No public adjuster shall knowingly enter into a
280 contract to adjust a residential property claim subsequent to a
281 declaration of total loss by an insurer, unless the services to be
282 provided by the public adjuster can reasonably be expected to
283 result in the insured obtaining an insurance settlement, net of
284 the public adjuster's compensation, in excess of the amount the
285 insured would have obtained without the services of the public
286 adjuster.

287 (e) A public adjuster shall advise each insured that
288 the insured has the right to retain an attorney at law of his
289 choice throughout the public adjuster's investigation and
290 adjustment of the claim.

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

294 (g) No public adjuster shall contract for, agree to, or
295 receive anything of value from any attorney at law or other person
296 acting in concert with any attorney at law (i) for referring
297 claims to the attorney, or (ii) in connection with any claim for
298 which the public adjuster has performed or intends to perform
299 services.



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

302 (i) A public adjuster shall not testify as an expert
303 witness in any judicial or administrative proceeding while
304 maintaining a pecuniary interest in the outcome of the proceeding,
305 as otherwise permitted by Section 83-17-523(1) (a); provided,
306 however, that a public adjuster may testify as an expert witness
307 if pursuant to the terms of his contract his compensation is
308 converted to a specified hourly rate, which rate (i) is subject to
309 such limitations as may be prescribed by the commissioner, and
310 (ii) is not subject to any contingencies. In the event of a
311 conversion of the public adjuster's contract to an hourly rate
312 agreement, the prior fee arrangement shall be inadmissible at
313 trial.

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

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

322 (l) A public adjuster shall not have a financial
323 interest in any salvage, repair, or any other business entity that



324 obtains business in connection with any claim that the public
325 adjuster has a contract to adjust.

326 **SECTION 6.** (1) The Commissioner of Insurance may adopt
327 rules and regulations to allow him, during a company examination,
328 to examine and address any inequalities or irregularities
329 regarding provider reimbursement rates paid by an insurer,
330 subcontractor, third-party administrator or other payor regarding
331 covered services received by covered persons in this state. Such
332 rules and regulations shall allow an insurer to show evidence as
333 to why any inequality or irregularity may be justified. Failure
334 to comply with rules and regulations adopted by the Commissioner
335 under this section may result in a fine not to exceed Ten Thousand
336 Dollars (\$10,000.00) per violation.

337 (2) This section shall not apply to Medicaid health plans.

338 (3) This section shall stand repealed on July 1, 2027.

339 **SECTION 7.** This act shall take effect and be in force from
340 and after July 1, 2024.

