

By: Senator(s) Clarke

To: Insurance

## SENATE BILL NO. 2735

1 AN ACT TO AMEND SECTION 27-15-97, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE STATEWIDE PRIVILEGE TAXES FOR INSURANCE ADJUSTERS;  
3 TO AMEND SECTION 83-17-7, MISSISSIPPI CODE OF 1972, WHICH  
4 PROHIBITS INSURANCE COMPANIES AND AGENTS FROM PAYING COMMISSIONS  
5 TO ANY PERSON OR ENTITY THAT IS NOT LICENSED AS AN INSURANCE AGENT  
6 IN MISSISSIPPI, TO DELETE THE REPEALER ON THE SECTION; TO AMEND  
7 SECTION 83-17-25, MISSISSIPPI CODE OF 1972, TO SPECIFY THAT ANY  
8 PRIVILEGE LICENSE ISSUED UNDER CHAPTER 17, TITLE 83, MISSISSIPPI  
9 CODE OF 1972, SHALL BE EFFECTIVE ON THE DATE THE LICENSE IS  
10 ISSUED; TO AMEND SECTION 83-17-401, MISSISSIPPI CODE OF 1972, TO  
11 PRECLUDE MULTI-PERIL INSURANCE ADJUSTERS FROM DEFINITION OF  
12 "ADJUSTER" IN THE INSURANCE LAWS GOVERNING INSURANCE ADJUSTER  
13 LICENSING; TO AMEND SECTION 83-17-415, MISSISSIPPI CODE OF 1972,  
14 TO REVISE THE CONTINUING EDUCATION REQUIREMENTS FOR INSURANCE  
15 ADJUSTERS; TO AMEND SECTION 83-17-419, MISSISSIPPI CODE OF 1972,  
16 TO REVISE THE PROVISIONS REGARDING THE EXPIRATION AND RENEWAL OF  
17 AN INSURANCE ADJUSTER PRIVILEGE LICENSE; TO AMEND SECTION  
18 83-17-513, MISSISSIPPI CODE OF 1972, TO REVISE THE CONTINUING  
19 EDUCATION REQUIREMENTS FOR PUBLIC ADJUSTERS; TO AMEND SECTION  
20 83-17-517, MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS  
21 REGARDING THE EXPIRATION AND RENEWAL OF A PUBLIC ADJUSTER LICENSE;  
22 TO SPECIFY THAT ANY PRIVILEGE LICENSE ISSUED UNDER TITLE 83,  
23 MISSISSIPPI CODE OF 1972, SHALL BE EFFECTIVE ON THE DATE THE  
24 LICENSE IS ISSUED; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Section 27-15-97, Mississippi Code of 1972, is  
27 amended as follows:

28 27-15-97. Upon each incorporated company, firm, or  
29 association engaged in the business of adjusting any insured  
30 losses Four Hundred Dollars (\$400.00).

31 Upon each person engaged in the business of adjusting any  
32 insured losses One Hundred Dollars (\$100.00).

33 This section shall not apply to officers or salaried  
34 employees of insurers nor to special or other agents of licensed  
35 insurers who adjust for the insurers they represent.



36           **SECTION 2.** Section 83-17-7, Mississippi Code of 1972, is  
37 amended as follows:

38           83-17-7. It shall be unlawful for any insurance company or  
39 any insurance agent to pay, directly or indirectly, any  
40 commission, brokerage or other valuable consideration on account  
41 of any policy or policies written on risks in this state to any  
42 person, agent, firm or corporation not duly licensed as an  
43 insurance agent in this state, except that property and other  
44 risks of nonresident persons, and of foreign corporations not  
45 qualified in this state, may be insured by brokers or other agents  
46 duly licensed in other states.

47           It shall be lawful, however, for an insurance company or any  
48 insurance agent to pay, directly or indirectly, to the surviving  
49 spouse or heirs of a deceased licensed insurance agent in this  
50 state any commissions or other valuable consideration to which the  
51 deceased agent would be entitled, whether such surviving spouse or  
52 heir is or is not a licensed agent.

53           It shall be lawful for an insurance agent, agency or  
54 affiliate to pay a referral fee to any unlicensed employee of the  
55 agent, agency or affiliate when the employee refers a prospective  
56 insured to the licensed agent or agency. The referral fee shall  
57 be a one-time nominal fee of a fixed dollar amount for each  
58 referral customer. The payment of any referral fee shall not  
59 depend on whether the referral results in a sale of any insurance  
60 products. Furthermore, the referral fee shall not be based on a  
61 percentage of any premiums or commissions collected by the  
62 licensed agent. The referral fee shall not be paid, either  
63 directly or indirectly, to the prospective insured.

64           The Commissioner of Insurance may promulgate rules and  
65 regulations necessary to carry out the provisions of this section.

66           \* \* \*

67           **SECTION 3.** Section 83-17-25, Mississippi Code of 1972, is  
68 amended as follows:



69 83-17-25. No certificate of authority shall be issued to any  
70 agent who has not previously obtained from the commissioner a  
71 privilege license to act as an insurance agent; provided that  
72 agents or organizers of fraternal orders shall not be required to  
73 have such privilege license.

74 The privilege licenses and filing fees required of life  
75 insurance companies, health and accident insurance companies,  
76 hospital insurance companies and fraternal insurance companies,  
77 shall continue for the next ensuing twelve (12) months after  
78 January 1 of each year.

79 The privilege licenses and filing fees required of fire,  
80 casualty, liability, fidelity, surety, guaranty, inland marine,  
81 plate glass and title insurance companies shall continue for the  
82 next ensuing twelve (12) months after June 1 of each year.

83 The privilege license of an individual to act as an insurance  
84 producer, limited lines producer, limited lines credit insurance  
85 producer, supervising general agent or managing general agent  
86 shall continue from the date of issuance of original licenses or  
87 from the expiration date for existing licenses until the last day  
88 of the month of the licensee's birthday in the second year  
89 following issuance or renewal of the license, with a minimum term  
90 of thirteen (13) months.

91 The privilege license of a business entity to act as  
92 insurance producer, limited lines producer, limited lines credit  
93 insurance producer, supervising general agent or managing general  
94 agent shall continue from the date of issuance until May 31 in the  
95 second year following issuance or renewal of the license, with a  
96 minimum term of thirteen (13) months.

97 Any privilege license issued under this chapter shall be  
98 effective on the date the license is issued.

99 **SECTION 4.** Section 83-17-401, Mississippi Code of 1972, is  
100 amended as follows:



101 83-17-401. As used in this article, unless the context  
102 otherwise requires:

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

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

113 (ii) A salaried employee of an insurer who is  
114 regularly engaged in the adjustment, investigation or supervision  
115 of insurance claims;

116 (iii) Persons employed only for the purpose of  
117 furnishing technical assistance to a licensed adjuster, including,  
118 but not limited to, photographers, estimators, private detectives,  
119 engineers, handwriting experts and attorneys at law;

120 (iv) A licensed agent or general agent of an  
121 authorized insurer who processes undisputed or uncontested losses,  
122 or both, for such insurer under policies issued by the licensed  
123 agent or general agent;

124 (v) A person who performs clerical duties with no  
125 negotiations with the parties on disputed or contested claims, or  
126 both; \* \* \*

127 (vi) Any person who handles claims arising under  
128 life, accident and health insurance policies; or

129 (vii) Any person who is a multi-peril crop  
130 insurance (MPCI) adjuster.

131 (b) "Insurer" means any insurance company or  
132 self-insured.

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



134           **SECTION 5.** Section 83-17-415, Mississippi Code of 1972, is  
135 amended as follows:

136           83-17-415. The commissioner shall adopt a procedure for  
137 certifying continuing education programs. Every individual  
138 seeking renewal of an adjuster license that has been in effect for  
139 a term of eighteen (18) months or less shall satisfactorily  
140 complete during the license period twelve (12) hours of study in  
141 approved continuing education courses. Every individual seeking  
142 renewal of an adjuster license that has been in effect for a term  
143 of more than eighteen (18) months shall satisfactorily complete  
144 during the license period twenty-four (24) hours of study in  
145 approved continuing education courses of which three (3) hours  
146 shall have a course concentration in ethics.

147           **SECTION 6.** Section 83-17-419, Mississippi Code of 1972, is  
148 amended as follows:

149           83-17-419. (1) The privilege license of an individual to  
150 act as an adjuster shall continue from the date of issuance for  
151 original licenses, or from the expiration date for existing  
152 licenses, until the last day of the month of the licensee's  
153 birthday in the second year following issuance or renewal of the  
154 license, with a minimum term of thirteen (13) months.

155           The privilege license of a business entity to act as an  
156 adjuster shall continue from the date of issuance until May 31 in  
157 the second year following issuance or renewal of the license, with  
158 a minimum term of thirteen (13) months.

159           (2) Each adjuster shall file an application for renewal of  
160 license on the form and in the manner prescribed by the  
161 commissioner for such purpose. Upon the filing of such  
162 application for renewal of license and the payment of the required  
163 fees, the current license shall continue to be in force until the  
164 renewal license is issued by the commissioner or until the  
165 commissioner has refused for cause to issue such renewal license,



166 as provided in this article, and has given notice of such refusal  
167 in writing to the adjuster.

168 **SECTION 7.** Section 83-17-513, Mississippi Code of 1972, is  
169 amended as follows:

170 83-17-513. The commissioner shall adopt a procedure for  
171 certifying continuing education programs for public adjusters.  
172 Every individual seeking renewal of a public adjuster license that  
173 has been in effect for a term of eighteen (18) months or less  
174 shall satisfactorily complete during the license period twelve  
175 (12) hours of study in approved continuing education courses.  
176 Every individual seeking renewal of a public adjuster license that  
177 has been in effect for a term of more than eighteen (18) months  
178 shall satisfactorily complete during the license period  
179 twenty-four (24) hours of study in approved continuing education  
180 courses of which three (3) hours shall have a course concentration  
181 in ethics.

182 **SECTION 8.** Section 83-17-517, Mississippi Code of 1972, is  
183 amended as follows:

184 83-17-517. (1) The privilege license of an individual to  
185 act as a public adjuster shall continue from the date of issuance  
186 for original licenses, or from the expiration date for existing  
187 licenses, until the last day of the month of the licensee's  
188 birthday in the second year following issuance or renewal of the  
189 license, with a minimum term of thirteen (13) months.

190 The privilege license of a business entity to act as a public  
191 adjuster shall continue from the date of issuance until May 31 in  
192 the second year following issuance or renewal of the license, with  
193 a minimum term of thirteen (13) months.

194 (2) Each public adjuster shall file an application for  
195 renewal of license on the form and in the manner prescribed by the  
196 commissioner for such purpose. Upon the filing of such  
197 application for renewal of license and the payment of the required  
198 fees, prior to the expiration date, the current license shall



199 continue to be in force until the renewal license is issued by the  
200 commissioner or until the commissioner has refused for cause to  
201 issue such renewal license, as provided in this article, and has  
202 given notice of such refusal in writing to the public adjuster.

203       **SECTION 9.** Any privilege license issued under Title 83,  
204 Mississippi Code of 1972, shall be effective on the date the  
205 license is issued.

206       **SECTION 10.** Sections 2, 3, 4 and 9 of this act shall take  
207 effect and be in force from and after its passage, and Sections 1,  
208 5, 6, 7 and 8 of this act shall take effect and be in force from  
209 and after April 1, 2011.

