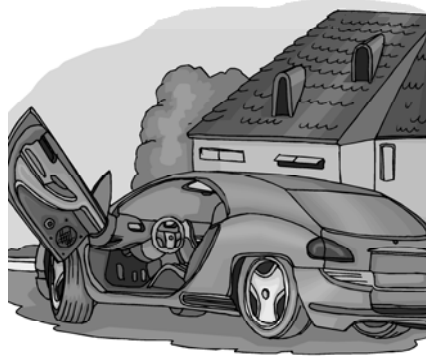


Insurance Regulations



Property and Casualty Insurance Regulation Supplemental Manual for Mississippi



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§ 83-1-1. Department of insurance created.

There is hereby continued a separate and distinct department of insurance, which shall be charged with the execution of all laws (except as otherwise specifically provided by statute) now in force, or which may hereafter be enacted, relative to all insurance and all insurance companies, corporations, associations, or orders.

§ 83-1-3. Insurance commissioner.

The chief officer of the department shall be denominated the Commissioner of Insurance, who shall be elected at the general election as other state officers, and who shall possess the same qualifications as required for the Secretary of State. His term of office shall be four (4) years, as that of other state officials. No person shall be Commissioner of Insurance who is in any way connected with the management or control of any company, corporation, association, or order affected by this title, and his term of office shall immediately cease if at any time he shall become so interested. Before entering on the discharge of his duties, the commissioner shall take the oath of office required of state officers and give a corporate bond in favor of the state in the penal sum of Twenty-five Thousand Dollars (\$25,000.00) in some company or companies duly authorized to transact business in this state, to be approved by the Governor and conditioned for the faithful performance of the duties of said office during his term, which bond and oath of office shall be filed with the Secretary of State.

§ 83-1-4. Rules and regulations relative to certain general liability insurance policies.

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The Commissioner of Insurance is hereby authorized and directed to promulgate rules and regulations necessary to establish a plan for the availability of commercial liability insurance contracts of owners', landowners' and tenants' liability policies and manufacturers' and contractors' liability policies, covering bodily injury and property damage.

§ 83-1-5. Compensation and employees.

The commissioner shall receive a compensation to be fixed by law. He is hereby authorized to employ a clerk and stenographer and an actuary at a salary to be fixed by law; and in addition shall be allowed a sufficient sum for traveling expenses and for extra clerical help.

§ 83-1-7. Deputy.

The commissioner shall have authority to appoint, with the consent of the Governor, a deputy commissioner, who shall have power, during his absence or inability to act from any cause, to perform any and all of the duties of the commissioner. Said deputy shall be commissioned by the Governor and shall be subject to the same requirements, restrictions, and qualifications as the commissioner, excepting that the bond of the deputy shall be in the penal sum of Ten Thousand Dollars (\$10,000.00), conditioned and approved in the same manner as the bond of the commissioner.

§ 83-1-9. Offices.

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Suitable offices in the Statehouse for conducting the business of said department shall be provided by the Governor, and the superintendent or keeper of the Statehouse shall, from time to time, furnish the necessary furniture, seal and stationery, fuel, lights, and other requirements, and properly care for said offices. The expense thereof shall be defrayed in the same manner as like expenses of other departments of the state government.

§ 83-1-11. Seal.

The Department of Insurance shall have a seal, around the margin of which shall appear the words "Commissioner of Insurance, Mississippi," with the image of an eagle in the center and thirteen (13) stars over the head of the eagle. Each certificate and other official paper executed by the commissioner under authority of law and sealed with the seal of the department shall be received as evidence in all courts, investigations, and proceedings authorized by law, and may be recorded in the same manner and with like effect as a deed. All copies of papers certified by him and authenticated by said seal shall be accepted in all matters equally and in like manner as the original.

§ 83-1-13. Monthly report; payment of taxes to state treasurer.

The commissioner shall furnish to the Auditor on or before the tenth day of each month a statement, in detail, of the taxes and licenses received by him under this title during the previous month, and shall pay to the Treasurer the amount in full of such taxes and licenses. The State Tax Commission shall make payment to the State Treasurer of taxes collected by it under this title in the manner provided by [Section 7-9-21](#).

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§ 83-1-15. Annual report to governor.

The commissioner shall, on or before the first day of May, annually, make a report to the governor, which shall show all of his official acts; the condition of all insurance companies within the meaning of this title, doing business in this state, accompanied by a condensation of their reports to him arranged in proper form for printing; the licenses issued by him, and the taxes received from all sources and paid by him to the treasurer; and such changes in the laws affecting his department, as in his judgment should be made. The governor shall transmit this report to the legislature. The commissioner shall see that all laws relating to matters under his supervision are faithfully executed. He shall supply each insurance company doing business in this state with all necessary printed forms.

§ 83-1-17. Laws enforced by suit.

Compliance with the provisions of this title as to deposits, obligations, prohibitions, and the payment of taxes, fees, and penalties by and upon foreign insurance companies or other insurers may be enforced by the commissioner by suit in the name of the state.

§ 83-1-19. Group insurance for state employees.

The state insurance commissioner is hereby authorized, empowered and directed, in his discretion, to promulgate such regulations as may properly apply to the writing of group insurance on state officials and employees. Such insurance shall be optional with any one or all of said state officials or employees.

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§ 83-1-21. Reports on file as public record.

The commissioner shall keep in his office for public inspection all reports received by him, a record of all his proceedings, including a concise statement of the result of official examinations, an exhibit of the financial condition and methods of all insurers under his supervision, as disclosed by their statements or by official examination, and such other information with regard to them as he may deem it proper to preserve.

Such reports or records which are no longer useful or necessary may be disposed of in accordance with approved records control schedules. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

§ 83-1-23. Examination before granting authority.

Before granting a certificate of authority to any insurance company organized under the laws of another state or government, the commissioner shall be satisfied that it is qualified to transact business under the laws of the state in which it has its principal office, and also as to its financial ability and condition.

§ 83-1-27. Examination of foreign concerns.

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Whenever the Commissioner of Insurance deems it prudent for the protection of the policyholders in this state, he shall in like manner visit and examine, or cause to be visited and examined by some competent person or persons he may appoint for that purpose, any foreign insurance company applying for admission or already admitted to do business by agencies in this state, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or his deputy and the expenses and compensation of his assistants employed therein. For the purpose aforesaid, the commissioner or his deputy or persons making examination shall have free access to all the books and papers of the insurance company that relate to its business and to the books and papers kept by any of its agents, and may summon and qualify as witnesses, under oath, and examine the directors, officers, agents and trustees of any such company, and any other persons in relation to its affairs, transactions and conditions. Such examination shall be made by the commissioner, or by his accredited representatives, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or financial examiners, actuaries, market conduct examiners, accountants, attorneys or other professional service organizations necessary to administer this section. The Department of Insurance may contract with professional service organizations to examine all companies under its jurisdiction, and the professional service organization may directly bill the company under examination. The commissioner shall monitor the charges for these professional services and verify that all costs are reasonable. If a company fails to pay these fees within thirty (30) days of billing, the commissioner, after notice and a hearing, is authorized to impose an administrative fine not to exceed One Thousand Dollars (\$1,000.00) per day to be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund." The compensation and expense of the commissioner or such examiner for the commissioner shall not exceed that approved by the National Association of Insurance Commissioners for all financial and market conduct examiners on such examinations, itemized account of such charges being rendered to and approved by the Commissioner of Insurance.

The results of audits performed hereunder by the Commissioner of Insurance may be furnished to the State Tax Commission. Nothing herein shall be construed to prohibit the State Tax Commission from performing such additional audits or verifications as it may deem necessary to insure the proper payment of taxes.

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Whenever the Commissioner of Insurance deems it prudent for the protection of the policyholders in this state, he shall in like manner visit and examine, or cause to be visited and examined by some competent person or persons he may appoint for that purpose, any foreign insurance company applying for admission or already admitted to do business by agencies in this state, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or his deputy and the expenses and compensation of his assistants employed therein. For the purpose aforesaid, the commissioner or his deputy or persons making examination shall have free access to all the books and papers of the insurance company that relate to its business and to the books and papers kept by any of its agents, and may summon and qualify as witnesses, under oath, and examine the directors, officers, agents and trustees of any such company, and any other persons in relation to its affairs, transactions and conditions. Such examination shall be made by the commissioner, or by his accredited representatives, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or financial examiners, actuaries, market conduct examiners, accountants, attorneys or other professional service organizations necessary to administer this section. The Department of Insurance may contract with professional service organizations to examine all companies under its jurisdiction, and the professional service organization may directly bill the company under examination. The commissioner shall monitor the charges for these professional services and verify that all costs are reasonable. If a company fails to pay these fees within thirty (30) days of billing, the commissioner, after notice and a hearing, is authorized to impose an administrative fine not to exceed One Thousand Dollars (\$1,000.00) per day to be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund." The compensation and expense of the commissioner or such examiner for the commissioner shall not exceed that approved by the National Association of Insurance Commissioners for all financial and market conduct examiners on such examinations, itemized account of such charges being rendered to and approved by the Commissioner of Insurance.

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§ 83-1-29. Suspension or revocation of certificate of authority.

Whenever it shall appear to the commissioner, upon examination or other evidence, that a foreign insurance company is in an unsound condition, or upon notification by the State Tax Commission that the company is delinquent in the payment of taxes due the state, or that it has failed to comply with the law, or that it, its officers, or agents, refused to submit to examination or to perform any legal obligation in relation thereto, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notification thereof to be published in one or more newspapers published in this state. No new business shall thereafter be done by it or its agents in this state while such default or disability continues, nor until its authority to do business is restored by the commissioner. If, upon examination, he is of the opinion that any domestic insurance company is insolvent, or has exceeded its powers, or has failed to comply with any provision of law applicable to it, or that its condition is such as to render its further proceeding hazardous to the public or its policyholders, or upon notification by the State Tax Commission that the company is delinquent in the payment of taxes due the state, he shall suspend its license. If he deems it necessary, he shall apply to a judge of the chancery court to issue an injunction restraining it, in part or in whole from further proceeding with its business. Such judge may, in his discretion, issue the injunction forthwith or upon notice and hearing thereon and, after a full hearing of the matter, may dissolve or modify such injunction or make it permanent, may make all orders and decrees needful in the premises, and may appoint agents or receivers to take possession of the property or effects of the company and to settle its affairs, subject to such rules and orders as the court may, from time to time, prescribe according to the course of proceedings in equity.

§ 83-1-31. Audit of books to determine tax liability.

When, in the judgment of the Insurance Commissioner, or upon request by the State Tax Commission, an audit, examination, or inspection of the books, records, invoices, papers, memoranda, or other data appears to be required or necessary to determine the assessment of a

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tax, or to establish a tax liability, or to verify a payment of a tax, under the tax laws of this state, of a taxpayer doing business both within and without the state and maintaining his principal place of business outside the state, such audit, or examination, or inspection may be made at the principal place of business outside the state to the same extent and same effect as audits, examinations, or inspections are made of books, records, invoices, papers, memoranda, or other data located in this state.

The Insurance Commissioner, who is directly charged with the duty of auditing the records necessary for use by the State Tax Commission in assessing and collecting taxes under laws which require a taxpayer to keep adequate books, records, papers, invoices, memoranda, or other data at a place in this state, reflecting his liability for any tax due the state, and which taxpayer conducts his business both within and without Mississippi and maintains his principal place of business outside this state, at which his books, records, etc., are located, may elect to audit, examine, or inspect all books, records, papers, invoices, memoranda, or other data reflecting upon the Mississippi tax assessment and tax liability at the principal place of business of the taxpayer, rather than require the taxpayer to transport all of his books, records, papers, invoices, memoranda, and other data to some place in this state.

§ 83-1-33. Taxpayer liable for cost of audit.

When the insurance commissioner shall elect to audit, examine, or inspect the books, records, papers, invoices, memoranda, or other data of a taxpayer at his principal place of business outside this state, he shall designate, in writing, his agent or agents, employee or employees, to make the audit, examination, or inspection at the principal place of business of the taxpayer, and shall state the kind of tax for which the audit, examination, or inspection is thereby made.

In regard to inspection made by the commissioner of insurance the cost thereof, to include only the actual expenses involved to be determined after audit, examination, or inspection has been made, shall be paid by the taxpayer. The commissioner shall first approve the account or cost of such examination and determine to his satisfaction that it is reasonable, and that there are charged only the direct expenses involved in making the audit, examination, or inspection. He shall then pay, from the support funds authorized by the legislative act to be used by him in the administration of the duties of his office, to the agent or agents, employee or employees who

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made the audit, examination, or inspection, his, or their, itemized expense accounts. Then a detailed itemized statement of the expenses or cost of such audit, examination, or inspection shall be rendered the taxpayer. If such is done, the taxpayer shall be directed to pay the cost thereby set out as a refund into the treasury of the State of Mississippi to the credit of the support fund account of the officer who made the audit, examination, or inspection; and the treasurer's receipt shall be mailed to the taxpayer.

The charge for or cost of any audit, examination, or inspection of the books, records, papers, invoices, memoranda, or other data made by the commissioner of insurance at the principal place of business outside this state of any taxpayer, and made under the provisions of any of the tax laws shall become a liability of the taxpayer to the State of Mississippi, collectible in the same manner as is the tax imposed by the tax law under which the audit, examination, or inspection has been made.

§ 83-1-35. Reward in case of willful destruction by fire or explosion of real or personal property within state.

The Commissioner of Insurance is hereby authorized, in his discretion, to offer a reward not to exceed One Thousand Dollars (\$1,000.00) for information leading to the apprehension, indictment and conviction of any person, persons or organization of persons responsible for the willful destruction by fire or explosion of any real or personal property located within this state.

The Commissioner of Insurance is further directed to have suitable reward notices printed and posted in conspicuous places, and to utilize such other news media or informational materials as necessary to encourage those with information to come forward.

The reward monies paid, if any, as well as the cost of printing and distribution of reward notices and other news media or informational materials, shall be paid from premium taxes under

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[Sections 27-15-103](#) and [27-15-109](#). However, the Commissioner of Insurance shall keep a separate account of all monies disbursed under the provisions of this section and shall include the same in his annual report.

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§ 83-1-37. Municipal fire protection fund.

(1) The State Tax Commission shall pay for credit to a fund known as the "Municipal Fire

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Protection Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax collected annually from the taxes levied on the gross premiums on fire insurance policies written on properties in this state, under [Sections 27-15-103](#) through [27-15-127](#). The State Treasurer shall credit this amount to the Municipal Fire Protection Fund. This fund shall be set aside and earmarked for payment to municipalities in this state, as hereinafter provided.

(2) Using 1990 as a base year, the State Tax Commission shall pay over annually to the State Treasurer, for credit to the "Municipal Fire Protection Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, under [Sections 27-15-103](#) through [27-15-127](#).

(3) The fund hereby created and denominated "Municipal Fire Protection Fund" shall be apportioned and paid over by the Department of Insurance to the incorporated municipalities certified as eligible to participate in the fund by the Commissioner of Insurance, and shall be distributed once each year on a population basis, to be determined by the most recent federal census. Municipalities receiving these funds shall earmark such monies for fire protection services; except, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be designated for the training of municipal personnel as needed for the adoption of and compliance with the minimum building codes as established and promulgated by the Mississippi Building Codes Council.

(4) The amount paid under subsections (1) and (2) of this section to a municipality shall be used and expended in accordance with the guidelines established by the Commissioner of Insurance authorized by [Section 45-11-7](#), and for the training of municipal personnel as needed for the adoption of and compliance with the minimum building codes as established and promulgated by the Mississippi Building Codes Council.

(5) Each municipality shall levy a tax of not less than one-fourth (1/4) mill on all property of the municipality or appropriate the avails of not less than one-fourth (1/4) mill from the municipality's general fund for fire protection purposes. Municipalities may allow such millage to be collected by the county. Each municipality shall annually provide the Commissioner of Insurance and the State Fire Coordinator on a form provided by the State Fire Coordinator a

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report stating whether the municipality is levied the one-fourth ($1/4$) mill hereby required or in lieu thereof is allowing such millage to be collected by the county.

§ 83-1-39. County volunteer fire department fund; fund for insurance rebate monies not expended for fire protection purposes.

(1) The State Tax Commission shall pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax in addition to the amount collected by it under the provisions of [Section 27-15-103](#) et seq. Such funds, hereinafter referred to as insurance rebate monies, are hereby earmarked for payment to the various counties of the state and shall be paid over to the counties by the Department of Insurance on the basis of the population of each county as it compares to the population of participating counties, not counting residents of any municipality. Such insurance rebate monies shall only be distributed to those counties which are in compliance with subsections (5) and (6) of this section. Of these monies, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be designated for the purposes prescribed in subsection (3)(f) of this section.

(2) Using 1990 as a base year, the State Tax Commission shall pay to the State Treasurer, to be credited to the "County Volunteer Fire Department Fund," an amount representing one-half of ten percent ($1/2$ of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, in addition to the amount collected by it under [Section 27-15-103](#) et seq.

(3) Insurance rebate monies shall be expended by the board of supervisors for fire protection purposes of each county for the following categories:

(a) For training expenses;

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(b) Purchase of equipment, purchase of fire trucks, repair and refurbishing of fire trucks and fire fighting equipment, and capital construction anywhere in the county or pledging as security for a period of not more than ten (10) years for such purchases;

(c) Purchase of insurance on county-owned fire fighting equipment;

(d) Fire protection service contracts, including, but not limited to, municipalities, legal fire protection districts, and nonprofit corporations providing or coordinating fire service in or out of the county;

(e) Appropriations to legal fire protection districts located in counties subject to all restrictions applicable to the use of insurance rebate monies; or

(f) Training of any county personnel as needed for the adoption of and compliance with the codes established and promulgated by the Mississippi Building Codes Council. Any county-owned equipment or other property, at the option of the board of supervisors, may be used by any legally created fire department.

(4) Insurance rebate monies not expended in a given fiscal year for fire protection purposes shall be placed in a special fund with a written plan approved by the Commissioner of Insurance for disposition and expenditure of such monies. After the contracts for fire protection services have been approved and accepted by the board of supervisors, the monies shall be released to be expended in such manner as provided by this section.

(5) No county shall receive payments pursuant to this section after July 1, 1988, unless such county:

(a) Designates a county fire service coordinator who is responsible for seeing that standard guidelines established by the Commissioner of Insurance pursuant to [Section 45-11-7\(9\)](#),

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Mississippi Code of 1972, are followed. The county fire coordinator must demonstrate that he possesses fire-related knowledge and experience;

(b) Designates one (1) member of the sheriff's department to be the county fire investigator and, from and after July 1, 2008, requires the designated member of the sheriff's department to attend the State Fire Academy to be trained in arson investigation; however, in the event of a loss of the county fire investigator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the Commissioner of Insurance and the county may continue to receive payments on an interim basis for a period not to exceed one (1) year;

(c) Adheres to the standard guidelines established by the Commissioner of Insurance pursuant to [Section 45-11-7\(9\)](#); and

(d) Counties shall levy a tax of not less than one-fourth ($1/4$) mill on all property of the county or appropriate avails of not less than one-fourth ($1/4$) mill from the county's general fund for fire protection purposes. Municipalities making a written declaration to the county that they fund and provide their own fire services shall be exempted from this levy. This levy shall be used for fire protection purposes which include, but are not limited to, contracting with any provider of fire protection services.

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(6) (a) No funds shall be paid by the county to any provider of fire protection services except in accordance with a written contract entered into in accordance with guidelines established by the Commissioner of Insurance and properly approved by the board of supervisors and Commissioner of Insurance. No county shall distribute funds to any fire service provider which has not met the reporting requirements required by the Commissioner of Insurance. At such time that a fire protection services provider, particularly a county volunteer fire department, a municipality or a fire protection district, has fulfilled the obligations of the written contract and has met the reporting requirements provided for in this subsection and the board of supervisors has received the insurance rebate monies, the board of supervisors shall disburse the appropriate amount to the fire protection services provider within a reasonable time, not to exceed six (6) weeks, from the time such requirements are met. Insurance rebate monies used for the purposes of contracting shall be expended by the fire service provider for capital construction, training expenses, purchase of fire fighting equipment, including payments on any loans made for the purpose of purchasing fire fighting equipment, and purchase of insurance for any fire equipment owned or operated by the provider.

(b) If the Commissioner of Insurance believes that a county is using the funds in a manner not consistent with subsections (5) and (6) of this section, the commissioner shall request the State Auditor to conduct an investigation pursuant to [Section 7-7-211\(e\)](#).

(7) The board of supervisors of any county may contribute funds directly to any provider of fire protection services serving such county. Such contributions must be used for fire protection purposes as may be reasonably established by the Commissioner of Insurance.

(8) Any municipal, county or local water association or other utility district supplying water may, upon adoption of a resolution authorizing such action, contribute free of charge to a volunteer fire department or fire protection district serving such local government, political subdivision or utility district such water as is necessary for fire fighting or training activities of such volunteer fire department or fire protection district.

(9) The board of supervisors of any county may, in its discretion, grade, gravel, shell and/or maintain real property of a county volunteer fire department, including roads or driveways

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thereof, as necessary for the effective and safe operation of such county volunteer fire department. Any action taken by the board of supervisors under the authority of this subsection shall be spread upon the minutes of the board of supervisors when the work is authorized.

(10) For the purpose of this section, "fire protection district" means a district organized under [Section 19-5-151](#) et seq., or pursuant to any other code section or by any local and private act authorizing the establishment of a fire protection district, unless the context clearly requires otherwise.

§ 83-1-43. Authority of commissioner to enforce federal "Health Insurance Portability and Accountability Act of 1996".

The Commissioner of Insurance may make use of any of the powers established under the insurance laws and regulations of this state to enforce the federal "Health Insurance Portability and Accountability Act of 1996." The commissioner may establish and, from time to time, amend the rules and regulations relating to the enforcement of and compliance with the "Health Insurance Portability and Accountability Act of 1996."

§ 83-1-45. Commissioner of Insurance to adopt rules and regulations governing disclosure of nonpublic personal information by insurance licensees.

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The Commissioner of Insurance may adopt any rules and regulations necessary to implement the provisions of the Gramm-Leach-Bliley Act of 1999 (Public Law 106-102), including, but not limited to, rules and regulations governing the disclosure by insurance licensees of nonpublic personal information.

§ 83-1-47. Commissioner of Insurance authorized to establish nonbinding, nonadversarial alternative dispute resolution procedure for personal lines insurance claims.

The Commissioner of Insurance may make use of any of the powers established under the insurance laws and regulations of this state to establish a nonbinding, nonadversarial alternative dispute resolution procedure for the effective, fair and timely handling of personal lines insurance claims. The commissioner may establish and, from time to time, amend the rules and regulations relating to the establishment and enforcement of this section.

§ 83-1-191. Comprehensive hurricane damage mitigation program established; cost-benefit study on wind hazard mitigation construction measures; inspections; financial grants for residential retrofits; public education; advisory council; rules and regulations [Repealed effective July 1, 2012].

(1) There is established within the Department of Insurance a Comprehensive Hurricane Damage Mitigation Program. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property or commercial property in this state. Implementation of this program is subject to the availability of funds that may be appropriated by the Legislature for this purpose. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage

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mitigation that shall include the following:

(a) *Cost-benefit study on wind hazard mitigation construction measures.* The performance of a cost-benefit study to establish the most appropriate wind hazard mitigation construction measures for both new construction and the retrofitting of existing construction for both residential and commercial facilities within the wind-borne debris regions of Mississippi as defined by the International Building Code. The recommended wind construction techniques shall be based on both the newly adopted Mississippi building code sections for wind load design and the wind-borne debris region. The list of construction measures to be considered for evaluation in the cost-benefit study shall be based on scientifically established and sound, but common, construction techniques that go above and beyond the basic recommendations in the adopted building codes. This allows residents to utilize multiple options that will further reduce risk and loss and still be awarded for their endeavors with appropriate wind insurance discounts. It is recommended that existing accepted scientific studies that validate the wind hazard construction techniques benefits and effects be taken into consideration when establishing the list of construction techniques that homeowners and business owners can employ. This will ensure that only established construction measures that have been studied and modeled as successful mitigation measures will be considered to reduce the chance of including risky or unsound data that will cost both the property owner and state unnecessary losses. The cost-benefit study shall be based on actual construction cost data collected for both several types of residential construction and commercial construction materials, building techniques and designs that are common to the region. The study shall provide as much information as possible that will enhance the data and options provided to the public, so that homeowners and business owners can make informed and educated decisions as to their level of involvement. Based on the construction data, modeling shall be performed on a variety of residential and commercial designs, so that a broad enough representative spectrum of data can be obtained. The data from the study will be utilized in a report to establish tables reflecting actuarially appropriate levels of wind insurance discounts (in percentages) for each mitigation construction technique/combination of techniques. This report will be utilized as a guide for the Department of Insurance and the insurance industry for developing actuarially appropriate discounts, credits or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. Additional data that will enhance the program, such as studies to reflect property value increases for retrofitting or building to the established wind hazard mitigation construction techniques and cost comparison data collected to establish the value of this program against the investment required to include the mitigation measures, also shall be provided.

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(b) *Wind certification and hurricane mitigation inspections.*

(i) Home-retrofit inspections of site-built, residential property, including single-family, two-family, three-family or four-family residential units, and a set of representative commercial facilities shall be offered to determine what mitigation measures are needed and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. A state program will be established within the Department of Insurance to provide homeowners and business owners wind certification and hurricane mitigation inspections. The inspections provided to homeowners and business owners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies corrective actions a homeowner may take to mitigate hurricane damage.
2. A range of cost estimates regarding the mitigation features.
3. Insurer-specific information regarding premium discounts correlated to recommended mitigation features identified by the inspection.
4. A hurricane resistance rating scale specifying the home's current as well as projected wind resistance capabilities.

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This data shall be provided by trained and certified inspectors in standardized reporting formats and forms regardless of the insurer involved with the property owner to ensure all data collected during inspections is equivalent in style and content that allows construction data, estimates and discount information to be easily assimilated into a database. It also ensures consistency of the program information for the consumers when dealing with more than one (1) insurance company for the comparison of services or when changing policies. Data pertaining to the number of inspections, inspection reports and consumers participating in the program shall be stored in a state database for evaluation of the program's success and review of state goals in reducing wind hazard loss in the state.

(ii) To qualify for selection by the department as a provider of wind certification and hurricane mitigation inspections services, the entity shall, at a minimum, and on a form and in the manner prescribed by the commissioner:

1. Use wind certification and hurricane mitigation inspectors who:

a. Have prior experience in residential and/or commercial construction or inspection and have received specialized training in hurricane mitigation procedures through the state certified program. In order to qualify for training in the inspection process, the individual should be either a licensed building code official, a licensed contractor or inspector in the State of Mississippi, or a civil engineer.

b. Have undergone drug testing and background checks.

c. Have been certified through a state mandated training program, in a manner satisfactory to the department, to conduct the inspections.

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d. Have not been convicted of a felony crime of violence or of a sexual offense; have not received a first-time offender pardon or nonadjudication order for a felony crime of violence or of a sexual offense; or have not entered a plea of guilty or nolo contendere to a felony charge of a violence or of a sexual offense.

e. Submit a statement authorizing the Commissioner of Insurance to order fingerprint analysis or any other analysis or documents deemed necessary by the commissioner for the purpose of verifying the criminal history of the individual. The commissioner shall have the authority to conduct criminal history verification on a local, state or national level, and shall have the authority to require the individual to pay for the costs of such criminal history verification.

2. Provide a quality assurance program including a reinspection component.

3. Have data collection equipment and computer systems, so that data can be submitted electronically to the state's database of inspection reports, insurance certificates, and other industry information related to this program. It is mandatory that all inspectors provide original copies to the property owner of any inspection reports, estimates, etc., pertaining to the inspection and keep a copy of all inspection materials on hand for state audits.

(c) *Financial grants to retrofit properties.* Financial grants may be used to encourage single-family, site-built, owner-occupied, residential property owners or commercial property owners to retrofit their properties to make them less vulnerable to hurricane damage.

(d) *Education and consumer awareness.* Multimedia public education, awareness and advertising efforts designed to specifically address mitigation techniques shall be employed, as well as a component to support ongoing consumer resources and referral services. In addition, all insurance companies shall provide notification to their clients regarding the availability of this program, participation details, and directions to the state Web site promoting the program, along with appropriate contact phone numbers to the state agency administering the program. The notification to the clients must be sent by the insurance company within thirty (30) days after filing their insurance discount schedules with the Department of Insurance.

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(e) *Advisory council.* There is created an advisory council to provide advice and assistance to the program administrator with regard to his or her administration of the program. The advisory council shall consist of:

(i) An agent, selected by the Independent Insurance Agents of Mississippi.

(ii) Two (2) representatives of residential property insurers, selected by the Department of Insurance.

(iii) One (1) representative of homebuilders, selected by the Home Builders Association of Mississippi.

(iv) The Chairman of the House Insurance Committee, or his designee.

(v) The Chairman of the Senate Insurance Committee, or his designee.

(vi) The Executive Director of the Mississippi Windstorm Underwriting Association, or his designee.

(vii) The Director of the Mississippi Emergency Management Agency, or his designee.

Members appointed under subparagraphs (i) and (ii) shall serve at the pleasure of the Department of Insurance. All other members shall serve as voting ex officio members. Members of the advisory council who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by [Section 25-3-69](#), and shall be reimbursed in

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accordance with [Section 25-3-41](#), for mileage and actual expenses incurred in the performance of their duties. Legislative members of the advisory council shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the advisory council may be paid while the Legislature is in session. No advisory council member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the council, which action shall be recorded in the official minutes of the meeting. Nonlegislative members shall be paid from any funds made available to the advisory council for that purpose.

(f) *Rules and regulations.* The Department of Insurance shall adopt rules and regulations governing the Comprehensive Hurricane Damage Mitigation Program. The department also shall adopt rules and regulations establishing priorities for grants provided under this section based on objective criteria that gives priority to reducing the state's probable maximum loss from hurricanes. However, pursuant to this overall goal, the department may further establish priorities based on the insured value of the dwelling, whether or not the dwelling is insured by the Mississippi Windstorm Underwriting Association and whether or not the area under consideration has sufficient resources and the ability to perform the retrofitting required.

(2) This section shall stand repealed from and after July 1, 2012.

§ 83-2-1. Applicability of chapter and types of insurance excepted; definitions.

(1) This chapter applies to all forms of property and casualty insurance on risks or operations in this state by any insurer authorized to do business in this state, except:

(a) Accident and health;

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(b) Ocean marine insurance;

(c) Reinsurance;

(d) Aircraft liability and aircraft hull insurance;

(e) Title insurance;

(f) Credit accident and health insurance.

(2) As used in this chapter:

(a) "Advisory organization" means any person or organization, other than a rate service organization, which assists insurers as authorized by § [83-2-9\(3\)](#).

(b) "Joint underwriting" means a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a risk pursuant to which two (2) or more insurers separately contract with the insured at a price and under policy terms agreed upon between the insurers.

(c) "Pool" means a voluntary arrangement other than a residual market mechanism, established on an ongoing basis, pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate or other pooling agreement.

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(d) "Rate service organization" means any person or organization which assists insurers in ratemaking or filing as authorized by § [83-2-9](#).

(e) The terms "rate service organization" and "advisory organization" do not include joint underwriting organizations, actuarial, legal or other consultants, a single insurer, any employees of an insurer, or insurers under common control or management or their employees or managers.

(f) "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through ordinary methods.

(g) "Supplementary rate information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, and any other similar information needed to determine the applicable rate in effect or to be in effect.

(h) "Supporting information" means (i) the experience and judgment of the filer and the experience or data of other insurers or organizations relied upon by the filer, (ii) the interpretation of any statistical data relied upon by the filer, (iii) a description of methods used in making the rates, and (iv) other similar information relied upon by the filer.

§ 83-2-3. Standards applicable to rates; criteria for determining compliance.

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(1) Rates shall comply with the following standards:

(a) Rates shall not be excessive, inadequate or unfairly discriminatory.

(b) A rate is excessive if it is likely to produce a profit that is unreasonably high for the insurance provided or if the expense provision included therein is unreasonably high in relation to the services rendered.

(c) A rate is inadequate if it threatens the solvency of the insurance company or tends to create a monopoly.

(d) Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with like loss exposures with different expenses, or like expenses but different loss exposures, so long as the rate reflects the differences with reasonable accuracy.

(2) In determining whether rates comply with the standards set forth in subsection (1), the following criteria shall apply:

(a) Due consideration shall be given to past and prospective loss and expense experience within and outside this state; to catastrophe hazards; to any residual market loss redistributions and other similar obligations; to a reasonable provision for profit and contingencies; to trends within and outside this state; to loadings for leveling premium rates over a reasonable period of time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers; and to all other relevant factors, including the judgment of the filer.

(b) Risks may be classified in any reasonable way for the establishment of rates except that no risks may be grouped by classifications based in whole or in part on race, color, creed, or

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national origin of the risk. Rates may be modified for individual risks in accordance with rating plans or schedules which provide for recognition of probable variations in hazards, expenses or both.

(c) The systems of expense provisions included in rates for use by an insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the operating methods of such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(d) Any homeowners' insurance policy filed with the Commissioner of Insurance that offers a percentage deductible for the peril of windstorm from a named storm shall offer a buy-back provision for that deductible which is actuarially sound; however, the Commissioner of Insurance may grant a waiver from the mandatory buy-back provision in accordance with the following procedure and criteria:

(i) An insurance company shall make a formal filing requesting a waiver from the buy-back provision requirement with the Commissioner of Insurance.

(ii) An insurance company shall submit written proof in its formal filing as to why it is in the best interest of Mississippi policyholders to receive a waiver from the buy-back provision requirement and shall provide any supporting documentation requested by the commissioner deemed appropriate to make his decision.

(iii) All expenses incurred by the Commissioner of Insurance or his designee in determining the validity of the waiver request shall be borne by the petitioning insurer. Such expenses may include, but not be limited to, the cost of reviewing the filing by actuaries, and if the commissioner deems a public hearing appropriate, the cost of a facility, the cost of publicity and the cost of a court reporter for the hearing.

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§ 83-2-5. Filing of rates and related information by residual market mechanisms.

Residual market mechanisms shall file with the commissioner all rates, supplementary rate information, supporting information, policy forms, and endorsements at least thirty (30) days before the proposed effective date. The commissioner may give written notice within thirty (30) days of the receipt of the filing that additional time, not to exceed thirty (30) days from the date of such notice, is necessary to consider the filing. Upon written application by the residual market mechanism, the commissioner may authorize rates to be effective before the expiration of the waiting period or an extension thereof. A filing is deemed to meet the requirements of this chapter and becomes effective unless disapproved by the commissioner before the expiration of the waiting period or an extension thereof. Whenever a filing made under this section is not accompanied by sufficient supporting information, the commissioner shall inform the filing entity as to what information is required to complete the filing. The filing shall not be deemed to be made until such information is furnished.

§ 83-2-7. Filing of rates and related information by insurers; exceptions; effective date of rate adjustment filing.

(1) Except as provided in [Section 83-2-9](#) and subsection (2) of this section, every insurer shall file with the commissioner all rates, supplementary rate information, policy forms and endorsements at least thirty (30) days prior to the proposed effective date which shall be stated in the filing. Rates, supplementary rate information, policy forms and endorsements need not be filed for inland marine risks which by general custom of the business are not written according to manual rules or rating plans. Upon the request of the commissioner, supporting information shall also be filed. Any filing made under this section is deemed to be approved unless disapproved by the Commissioner of Insurance within thirty (30) days after the date of filing.

(2) A filing of adjustments of rates for existing rating systems made under this section which

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does not involve a change in the relationship between such rates and the expense portion thereof or does not involve a change of the element of expenses which are paid as a percentage of premiums and does not involve a change in rate relativities among such classifications on any basis other than loss experience is effective on the date specified in the filing which shall not be less than thirty (30) days after the filing is made and shall be deemed to meet the requirements of this chapter.

Within thirty (30) days after receiving a filing, the commissioner may issue an order which delays the effective date of a filing under this section for not more than thirty (30) days after the date the order is issued if (a) the filing does not conform to generally accepted actuarial procedures; or (b) the amount of the rate adjustment is not justified by the supporting information. A delay order under this subsection shall specifically set forth the objections of the commissioner. The filing party may submit a corrected filing or supplemental information as appropriate. In the event that a corrected filing or supplemental information is not submitted, the filing is deemed to be withdrawn.

(3) No insurance company shall make or issue a contract or policy except in accordance with filings made with the commissioner, if such filings are required.

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§ 83-2-9. Public inspection of filed rates and related information; rates exceeding those filed; filing by rate service organization; filing by reference.

(1) All rates, supplementary rate information, policy forms, endorsements and any supporting information filed under this chapter shall be open to public inspection at any reasonable time as soon as filed. Copies may be obtained by any person on request and upon payment of a reasonable charge.

(2) A rate in excess of that provided by a filing otherwise applicable may be used on a specific risk upon written application of an insured, stating specific reasons why a risk requires higher than standard rates on file by an insurer notwithstanding any other provisions of this chapter. An endorsement shall be attached to the policy giving such reasons and the percentage of surcharge. A copy of the endorsement shall be kept by the insurer and its agent. Copies of such endorsements shall be furnished to the commissioner upon request for his review to determine that the rates are not excessive, inadequate or unfairly discriminatory.

(3) Rate service organization filings:

(a) The filings required by [Section 83-2-5](#) and [Section 83-2-7](#) may be made by a rate service organization designated by an insurer or residual market mechanism.

(b) An insurer may make a filing in compliance with [Section 83-2-7](#) by giving written notice to the commissioner that the insurer is following rates filed by a rate service organization in any particular line with any exceptions clearly set forth as necessary to fully inform the commissioner.

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(4) An insurer may file by reference to rates, supplementary rate information, supporting information, policy forms and endorsements filed by and effective for another insurer or a rate service organization.

§ 83-2-11. Disapproval of rates by commissioner and related procedure; interim rates in absence of legally effective rates.

(1) The commissioner shall disapprove a rate or policy form or endorsement if the commissioner finds that the rate is unjustified, or the policy form or endorsement:

(a) Is in any respect in violation of or does not comply with this code; or

(b) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract.

(2) Disapproval procedure:

(a) Upon disapproval of a filing, the commissioner shall issue an order specifying the manner in which the filing fails to meet the requirements of this chapter. The filer shall be given a hearing upon written request made within thirty (30) days after the disapproval order.

(b) If the commissioner disapproves a rate, policy form or endorsement currently in effect, the commissioner shall issue such an order only after a hearing held on not less than twenty (20) days written notice to the filing insurer or rating organization. The insurer or rating organization may waive the hearing. An order shall be issued within fifteen (15) days after the close of the hearing or within thirty (30) days after the filing of a waiver of hearing and shall specify in what

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respects the rates policy form or endorsement fail to meet the requirements of this chapter. The order shall also state when the further use of such policy form or endorsement or rate in contracts of insurance made thereafter shall be prohibited which shall be within a reasonable period of time, but not less than forty-five (45) days. The order may include a provision for premium adjustment for policies issued, renewed or nonrenewed after the effective date of such order.

(3) Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner on request of the insurer shall specify interim rates for the insurer that are sufficient to protect the interests of all parties and the commissioner may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis shall not be required.

§ 83-2-13. Furnishing rate information to insureds; hearing of complaints as to application of rating system; appeals.

(1) Every insurer or rate service organization shall furnish to any insured affected by a rate published by it all pertinent information as to such rate within a reasonable time after receipt of a written request and upon payment of a reasonable charge.

(2) Every insurer and rate service organization shall provide reasonable means whereby any person aggrieved by the application of its rating system may be heard within this state on written request to review the manner in which such rating system is applied in relation to the insurance afforded. If the insurer fails to grant or reject such request within thirty (30) days, the applicant may proceed in the same manner as if the application has been rejected. A party affected by the action of an insurer with respect to a request under this subsection may appeal to the commissioner within thirty (30) days after receipt of notice of such action. The commissioner, after a hearing held upon not less than ten (10) days written notice to the appellant and insurer, may affirm, modify or reverse such action.

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§ 83-2-15. Rating Bureau as exclusive provider of services relating to rates; licensing of and services provided by rate service organization.

(1) No rate service organization other than the Rating Bureau established pursuant to [Section 83-3-5](#) shall provide any service relating to the rates of any insurance subject to this chapter, and no insurer shall utilize the services of such organization for such purposes unless the organization has obtained a license.

(2) A rate service organization may perform the following services upon request of the Commissioner of Insurance:

(a) Collect, compile and furnish loss or expense statistics;

(b) Recommend rates or supplementary rate information;

(c) Advise about rate questions and provide supporting information for rates;

(d) Make inspections, surveys and audits;

(e) Conduct research and on-site inspections in order to prepare classifications of public fire defenses;

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(f) Prepare and file policy forms and endorsements and consult with members, subscribers and others relating to their use;

(g) Provide actuarial, statistical and administrative services to insurers and insurer-supported organizations;

(h) Conduct and report on the content of research projects; and

(i) Furnish any other services related to those enumerated in this subsection.

(3) A rate service organization or an advisory organization shall not refuse to supply any services for which it is licensed in this state to any insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services. A rate service organization shall not require the purchase of any specific services as a condition to obtaining the services sought, provided the furnishing of the requested services does not place an unreasonable burden on the rate service organization.

(4) A rate service organization applying for a license shall include with its application:

(a) A copy of its constitution, articles of association or incorporation, bylaws and any other rules or regulations governing the conduct of its business;

(b) A list of its members and subscribers;

(c) A service and acknowledgement of service of process as provided for insurance companies under [Section 83-21-39](#); and

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(d) A statement showing its technical qualifications.

(5) Upon a finding by the commissioner that the applicant is qualified, the commissioner shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rate service organization. Each application under this subsection shall be granted or denied in whole or in part by the commissioner within sixty (60) days after the date of its filing. Licenses issued pursuant to this section shall remain in effect until suspended or revoked by the commissioner. The fee for said license shall be Twenty-five Dollars (\$25.00).

§ 83-2-17. Advisory organizations; registration; unfair practices.

(1) An advisory organization shall not provide any service relating to the rates of any insurer subject to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes, unless the advisory organization has registered under subsection (3).

(2) A registered advisory organization may perform one or more of the authorized activities enumerated in [Section 83-2-15](#) but such advisory organization shall not make any filings on behalf of insurers.

(3) An advisory organization shall submit at the time of registration:

(a) A copy of its constitution, articles of association or incorporation, bylaws and any other rules or regulations governing the conduct of its business;

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(b) A list of its members and subscribers;

(c) A service and acknowledgement of service of process as provided for insurance companies under [Section 83-21-39](#); and

(d) An agreement that the commissioner may examine each advisory organization in accordance with the provisions of [Section 83-2-25](#).

(4) If after a hearing the commissioner finds that any activity or practice of any advisory organization is unfair, unreasonable or otherwise inconsistent with the provisions of this chapter, the commissioner shall specify the finding in an order requiring the discontinuance of such activity or practice.

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§ 83-2-21. Prohibition of insurer agreements as to adherence to or use of rates and related information; exception for insurers under common ownership or management.

An insurer may not agree with any other insurer to adhere to or use any rate or supplementary rate information. The fact that an insurer adheres to or uses such material is not sufficient in itself to support a finding that an agreement to adhere or use exists, but such fact may supplement other evidence of such agreement. Two (2) or more insurers having common ownership or operating in this state under common management or control may act in concert between or among themselves in the same manner as if they constitute a single insurer.

§ 83-2-23. Cooperation among insurers participating in joint underwriting, pools, residual market mechanisms; registration with and review by commissioner; unfair practices.

(1) Notwithstanding [Section 83-2-21](#), insurers participating in joint underwriting, pools or residual market mechanisms may act in cooperation with each other in the making of rates, supplementary rate information, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other such information and in the conduct of research in connection with such activity.

(2) (a) Except to the extent modified by this section, insurers participating in joint underwriting, pool or residual market mechanisms are subject to the other provisions of this chapter.

(b) Every pool shall file with the commissioner a copy of its constitution, articles of association or incorporation, bylaws and any other rules or regulations governing its activities, a list of its members, the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served, and any changes in the foregoing.

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(c) Any residual market mechanism, plan or agreement to implement such a mechanism, and any amendments thereto, shall be submitted in writing to the commissioner for approval, together with such information as the commissioner may reasonably require.

(d) If, after a hearing, the commissioner finds that any activity or practice of insurers participating in joint underwriting, pool or residual market mechanisms is unfair, unreasonable or otherwise inconsistent with the provisions of this chapter, the commissioner shall issue a written order specifying in what respects such activity or practice is unfair, unreasonable or otherwise inconsistent with the provisions of this chapter and require the discontinuance of such activity or practice.

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§ 83-2-25. Compliance review; related reports and records.

(1) The commissioner may examine any insurer, advisory organization, rate service organization, pool or residual market mechanism to ascertain compliance with this chapter.

(2) Every insurer, advisory organization, rate service organization, pool and residual market mechanism shall maintain records of the type and kind reasonably adapted to its method of operation. Such records shall contain the experience, data, statistics and other information collected or used by it in its activities. These records shall be available for examination or inspection by the commissioner at any time upon reasonable notice.

(3) The cost of an examination made pursuant to this section shall be paid by the examined party in the same manner as provided by [Section 83-1-27](#).

(4) The commissioner may accept the report of an examination made by the insurance supervisory official of another state in lieu of an examination under this section.

§ 83-2-27. Payment of dividends, savings or unabsorbed premium deposits to insureds.

Nothing in this chapter shall be construed to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers shall not be deemed a rating plan.

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§ 83-2-29. Penalties; procedures for license suspension.

(1) If the commissioner finds that any person or organization has violated any provision of this chapter, the commissioner may impose a penalty in accordance with [Section 83-5-85](#). Technical violations arising from systems or computer errors of the same type shall be treated as a single violation. In the event of an overcharge, if the insurer makes restitution, including payment of interest, no penalty shall be imposed.

(2) The commissioner, within his discretion, is authorized to abate such part of the foregoing penalty as the facts of the particular case warrant and to bring suit for such lesser amount as may be determined, or to accept such lesser amount in settlement of the state's claim for penalties.

(3) The commissioner may suspend the license of any rate service organization or insurer for failure to comply with an order of the commissioner within the time limit set forth in the order, or any extension thereof which the commissioner may grant. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the stated period unless modified or rescinded by the commissioner until the order upon which the suspension is based is modified, rescinded or reversed.

(4) A license shall not be suspended except upon a written order of the commissioner stating his findings, made after a hearing held upon not less than ten (10) days written notice to such person or organization, specifying the alleged violation.

§ 83-2-31. Appeals; rates charged pending disposition of appeal.

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Any order issued by the commissioner under this chapter may be appealed to the Chancery Court of the First Judicial District of Hinds County in the manner provided by law. Where the order of the commissioner results in an increase or decrease in rates, any insurer affected thereby with leave of court, pending final disposition of the proceedings in the court, may continue to charge rates which were obtained prior to such order of decrease, or may charge rates resulting from such order of increase on condition that the difference in the premiums be deposited in a special account by the insurer or paid to the holders of policies issued after the order of the commissioner, as the court may determine.

§ 83-2-33. Property and casualty insurance companies to contribute to Insurance Department Fund.

All property and casualty insurance companies doing business in this state shall contribute annually, at such times as the Insurance Commissioner shall determine, in proportion to their gross premiums collected within the State of Mississippi during the preceding year, to a special fund in the State Treasury to be known as the "Insurance Department Fund" to be expended by the Insurance Commissioner in the payment of the expenses of the Department of Insurance as the commissioner may deem necessary. The commissioner is hereby authorized to employ such actuarial and other assistance as shall be necessary to carry out the duties of the department; and such employees shall be under the authority and direction of the Insurance Commissioner. The amount to be contributed annually to the fund shall be fixed each year by the Insurance Commissioner at a percentage of the gross premiums so collected during the preceding year. However, a minimum assessment of One Hundred Dollars (\$100.00) shall be charged to each licensed property and casualty insurance company regardless of the gross premium amount collected during the preceding year.

The total contributions collected for the Insurance Department Fund shall not exceed the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) in each fiscal year.

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§ 83-2-35. Payment of fee by property and casualty insurers; deposit of fee into Insurance Department Fund.

(1) This section applies to all forms of property and casualty insurance on risks or operations in this state by any insurer authorized to do business in this state, except:

(a) Accident and health;

(b) Ocean marine insurance;

(c) Reinsurance;

(d) Aircraft liability and aircraft hull insurance;

(e) Title insurance;

(f) Credit accident and health insurance.

(2) All such insurers shall pay to the Commissioner of Insurance a fee of Fifteen Dollars (\$15.00) for each form or rate filing filed with the commissioner. The commissioner shall pay such fees into the special fund in the State Treasury designated as the "Insurance Department Fund."

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§ 83-3-2. Meaning of "Insurance Commission."

Any reference to Insurance Commission in Title 83 shall mean the Commissioner of Insurance.

§ 83-3-5. Rating bureau.

All fire insurance companies organized or admitted to do business in this state shall maintain a Rating Bureau, to be composed of such number of persons resident in this state as shall be desired and who shall be skilled in the business of fire insurance rating, fire hazard, fire protection engineering, and fire insurance inspection. Said Rating Bureau may be chartered or operated as a corporation, or association, or limited partnership, and shall provide for such officers, board of directors, and bylaws as it may deem proper, and change or alter the same from time to time as may be necessary. The Rating Bureau shall maintain an office in the Jackson metropolitan area; and all of the correspondence, files, papers, and documents of such Rating Bureau shall be preserved by said bureau, and shall be opened at all times to the inspection and examination of any insured or any person interested.

§ 83-3-7. Members of bureau.

Each fire insurance company licensed to do business in this state shall become a member of the Rating Bureau and shall pay its proportion of the expenses of organization, maintenance, and operation of said bureau, as provided in [Section 83-3-9](#).

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§ 83-3-9. Expense of bureau paid by companies.

The expense of the organization, maintenance, and operation of the Rating Bureau shall be paid by the members of the bureau, and no part of said expense shall in any event be paid by the state or by any county or municipality. The expense not covered by user fees shall be shared by all members through an annual assessment as established by the board of directors with due consideration given to the extent of utilization of bureau services. Upon failure of any company to pay its lawful proportion of said expense within thirty (30) days after the same is due and payable, the Rating Bureau may refuse to furnish its service to such delinquent member, and shall report such delinquency to the Commissioner of Insurance, who for such delinquency may suspend or revoke the license of such delinquent company. The bureau shall establish equitable fees for its services sufficient to cover the operations required under [Section 83-2-1](#) et seq.

§ 83-3-11. Funds provided by assessment against companies.

It shall be the duty of the Rating Bureau to provide a fund sufficient to enable it to inspect every risk specifically rated, to make a written survey of such risks, to pay the salary or expense of its officers and employees, and to cover any other expense which may be necessary or proper to enable it to comply with and enforce the provisions of this article. All of the expense fund shall be provided and paid by the fire insurance companies doing business in this state.

§ 83-3-13. Bureau to inspect every risk rated.

The Rating Bureau, through its members and employees, shall inspect every risk specifically

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rated by it on schedule, and make a written survey of such risk, which shall be filed as a permanent record in such Rating Bureau. A copy of such survey shall be furnished to the owner, other person in interest, or the Commissioner of Insurance upon request.

§ 83-3-17. Bureau not to make agreement for placing insurance.

The rating bureau, or any of its officers, shall not make any contract or agreement, express or implied, with any person, insurer, or party insured, that the whole, or any part, of the insurance shall be written or placed with any particular insurer.

§ 83-3-19. Rating Bureau to furnish information to Insurance Commissioner.

The Rating Bureau is required to answer any inquiries that may be made by the Commissioner of Insurance touching its organization, maintenance, operation, or any other matter connected with its transactions; and said commissioner may require the filing of such other information as the commissioner may deem proper. It shall be the duty of such bureau to promptly make reply to such inquiries, in writing, and to furnish the information requested by the Commissioner of Insurance.

§ 83-3-21. Examination of Rating Bureau; reports.

The Commissioner of Insurance shall have the power to examine the Rating Bureau as often as he deems expedient, at the expense of the bureau. The commissioner shall report his findings in writing, which shall be filed in his office and made a part of the annual report of his office; and

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a copy thereof shall be filed with the Attorney General for the information of the legal department of the state.

§ 83-3-23. Bureau not to discriminate in rates.

The Rating Bureau shall not recommend any rate for insurance upon property in this state which discriminates unfairly in the same territorial classification between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazard and having substantially the same degree of protection against fire.

§ 83-3-24. Factors to be considered when rating fire district and grading fire departments.

When rating a municipality or fire district, the Rating Bureau shall consider the mileage, condition and maintenance of the fire truck rather than the age of such fire truck. For the purpose of grading fire departments, the alternative water supply standard shall be two hundred fifty (250) gallons per minute for a sustained period of one (1) hour.

§ 83-11-1. Definitions.

As used in this article:

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(a) "Policy" means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof, delivered or issued for delivery in this state, insuring a single individual, or husband and wife resident of the same household, as named insured and under which the insured vehicles therein designated are of the following types only:

(1) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(2) Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this article shall not apply (i) to any policy issued under an automobile assigned risk plan, (ii) to any policy insuring more than four (4) automobiles, or (iii) to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

(b) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments, and uninsured motorist coverage.

(c) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.

(d) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset.

(e) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate of notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this article be considered as if written for a policy period or term of six (6) months. Any policy written for a term longer than one (1) year or any

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policy with no fixed expiration date shall, for the purpose of this article, be considered as if written for successive policy periods or terms of one (1) year; and such policy may be terminated at the expiration of any annual period upon giving thirty (30) days' notice of cancellation prior to such anniversary date. Such cancellation shall not be subject to any other provisions of this article.

(f) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agents or indirectly under any premium finance plan or extension of credit.

§ 83-11-3. Grounds for cancellation and exceptions.

(1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) nonpayment of premium;

(b) the driver's license or motor vehicle registration of the named insured, or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy, has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date, unless within seven (7) days from the date of any such cancellation or suspension, the insured shall give insurer written notice of such revocation or suspension and shall direct the insurer to exclude from coverage under said policy the person whose license was so suspended or revoked; further use of the insured vehicle by an excluded driver shall be grounds for immediate cancellation of a policy; or

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(c) failure to make timely payment of dues to, or to maintain membership in good standing with, a designated association, corporation, or other organization where the original issue of such policy or renewal was dependent upon such membership.

(2) This section shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

(3) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars (\$100.00) shall not be deemed a cancellation of the coverage or of the policy.

(4) This section shall not apply to nonrenewal.

§ 83-11-5. Notice of cancellation.

No notice of cancellation of a policy to which [Section 83-11-3](#) applies shall be effective unless mailed or delivered by the insurer to the named insured and to any named creditor loss payee at least thirty (30) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation.

This section shall not apply to nonrenewal unless there is a named creditor loss payee.

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§ 83-11-7. Non-renewal.

No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy and to the named creditor loss payee, at least thirty (30) days' advance notice of its intention not to renew. This section shall not apply if there is no named creditor loss payee and:

(a) If the insurer has manifested its willingness to renew, subject to certain specified conditions which are not met by the insured; nor

(b) If the insured has manifested its unwillingness to renew; nor

(c) In case of nonpayment of premium; nor

(d) In case of failure to make timely payment of dues to, or to maintain membership in good standing with, a designated association, corporation or other organization where the original issue of such policy or renewal was dependent upon such membership; provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal, and if a policy shall be

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cancelled as authorized by this article prior to such policy's renewal, such cancellation shall terminate any right of renewal conferred by this article.

§ 83-11-9. Proof of notice.

Proof of mailing of notice of cancellation, or of intention not to renew, or of reasons for cancellation to the named insured by a certificate of mailing, at the address shown in the policy, shall be sufficient proof of notice.

§ 83-11-11. Notice of insured's eligibility for assigned risk plan.

When a policy of automobile liability insurance is cancelled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which [Section 83-11-7](#) applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through the automobile liability assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

§ 83-11-13. Written statement of reasons for cancellation.

Where the reason for cancellation does not accompany or is not included in the notice of cancellation, the insurer shall, upon written request of the named insured mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, specify in

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writing the reason for such cancellation. Such reason shall be mailed or delivered to the named insured within five (5) days after receipt of such request.

§ 83-11-15. Liability for statement of reasons for cancellation.

There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner of insurance or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer or its agents information as to reasons for cancellation, for any statement made by any of them in any written notice of cancellation or in any other communication, oral or written, specifying the reasons for cancellation or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

§ 83-11-17. Appeal from cancellation or nonrenewal.

A named insured who wishes to contest the reason or reasons for a cancellation of a policy which has been in effect for sixty (60) days or more or failure by insurer to give proper notice of nonrenewal as provided hereunder shall, not less than seven (7) working days from the date of receipt of notice of cancellation or receipt of notice of nonrenewal, mail or deliver to the Commissioner of Insurance a written request for a hearing, which request shall state clearly the basis for the appeal and shall be accompanied by a filing fee of Fifteen Dollars (\$15.00).

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

§ 83-11-19. Hearing and order of commissioner.

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

The commissioner or his designated representative who conducted the hearing shall, at the conclusion thereof or not later than two (2) days thereafter, issue his written findings to the parties. If he finds for the named insured, he shall assess the insurer fifteen dollars (\$15.00) to defray the cost of the hearing and shall refund the fifteen dollars (\$15.00) filing fee to the named insured; and he shall either order the insurer to rescind its notice of cancellation or, if the date cancellation is to be effective has elapsed, order the policy reinstated or renewed. Such order shall operate retroactively only to cover a period not to exceed twenty (20) days from the date cancellation otherwise would have been effective, and prospectively from the date on which the order was issued; provided, however, that no policy shall be reinstated or renewed while the named insured is in arrears in payment of premiums on such policy. If the commissioner or his representative finds for the insurer, his written order shall so state and he shall assess the named insured fifteen dollars (\$15.00) and apply the named insured's fifteen dollar (\$15.00) filing fee against the assessment to defray the cost of the hearing. Reinstatement of a policy under this section shall not operate in any way to extend the expiration, termination, or anniversary date provided in the policy. Renewal of a policy shall be for a term of one (1) year from the expiration date of the prior policy, and otherwise shall contain the same coverage, terms, and contractual provisions contained in said prior policy.

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§ 83-11-21. Judicial appeals from commissioner's decisions.

The following procedure shall govern in taking and perfecting appeals from the decision of the commissioner:

(a) Any person who is a party to any hearing before the commissioner, and who is aggrieved by any decision of the commissioner with respect to any hearing before him, shall have the right of appeal to the chancery court of the county of the insured's residence. All such appeals shall be taken and perfected within sixty (60) days from the date of the decision of the commissioner which is the subject of the appeal, and the chancery court to which such appeal is taken may affirm such decision, or reverse and remand the same to the commissioner for further proceedings as justice may require, or dismiss such appeal. All such appeals shall be tried de novo.

(b) Upon the filing with the commissioner of a petition of appeal to the proper chancery court, it shall be the duty of the commissioner, as promptly as possible and in any event within sixty (60) days after approval of the appeal bond, to file with the clerk of said chancery court to which the appeal is taken a copy of the petition for appeal and of the decision appealed from, and the original and one (1) copy of the transcript of the record of the proceedings and evidence before the commission. After the filing of said petition, the appeal shall be perfected by the filing of a bond in the penal sum of one hundred dollars (\$100.00) with two (2) sureties, or with a surety company qualified to do business in Mississippi as surety, conditioned to pay the costs of such appeal, said bond to be approved by the commissioner or by the clerk of the chancery court to which such appeal is taken.

(c) No decision of the commissioner made as a result of a hearing under the provisions of this section shall become final with respect to any party affected and aggrieved by such decision until such party shall have exhausted or shall have had an opportunity to exhaust all of his remedies provided by this section.

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§ 83-11-101. Automobile liability policies to contain "uninsured motorist" and property damage provisions.

(1) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1967, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for bodily injury or death from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the commissioner of insurance; however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of bodily injury liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1980, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for property damage from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the commissioner of insurance; however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of property damage liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

The property damage provision may provide an exclusion for the first two hundred dollars

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(\$200.00) of such property damage; however, the uninsured motorist provision need not insure any liability for property damage, for which loss the policyholder has been compensated by insurance or otherwise.

(3) The insured may reject the property damage liability insurance coverage required by subsection (2) and retain the bodily injury liability insurance coverage required by subsection (1), but if the insured rejects the bodily injury liability coverage he may not retain the property damage liability coverage. No insured may have property damage liability insurance coverage under this section unless he also has bodily injury liability insurance coverage under this section.

§ 83-11-102. Purchase of single-limit, nonstacking uninsured motorist insurance coverage for 10 or more vehicles in lieu of uninsured motorists coverage for each vehicle.

(1) An insured in an automobile liability policy that covers ten (10) or more vehicles may elect to purchase, and an insurer may offer, single-limit, nonstacking uninsured motorist insurance coverage covering all vehicles listed in the policy for a single amount of uninsured motorist coverage. The single uninsured motorist coverage limit must be in an amount of no less than the liability limits required under the Mississippi Motor Vehicle Safety Responsibility Law for ten (10) vehicles combined. No matter how many vehicles are listed in or covered by the policy, the policy shall provide only one (1) single limit of uninsured motorist coverage to an injured person, or for property damage, or both, for any one (1) accident. The single limit of uninsured motorist coverage provided by the single-limit, nonstacking uninsured motorist insurance coverage may, where appropriate, be aggregated with or stacked with uninsured motorist insurance coverage available from other policies.

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(2) In the course of the sale or issuance of single-limit, nonstacking uninsured motorist insurance coverage, insurers shall inform the named insured or applicant, on a form approved by the Department of Insurance, of the limitation on stacking imposed and that such coverage is an alternative to coverage without such limitation, and such form shall be signed by or on behalf of the named insured or applicant. If this form is signed by or on behalf of a named insured or applicant, it is binding upon all persons insured by the uninsured motorist coverage and it shall be presumed that there was an informed, knowing acceptance of such limitation. When the named insured or applicant has initially accepted such limitation on stacking, such acceptance shall apply to any policy from the same insurer, including sister insurers in the same holding company, which renews the coverage, extends the coverage or changes covered vehicles unless and until the named insured requests in writing a change to stackable uninsured motorist coverage. Endorsements to the coverage language that do not change the uninsured motorist coverage language shall not be considered a new policy for purposes of determining whether a new acceptance form is necessary.

§ 83-11-103. Definitions.

As used in this article:

(a) The term "bodily injury" shall include death resulting from such injury.

(b) The term "insured" shall mean the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses, with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies, and a guest in such motor vehicle to which the policy applies, or the personal representative of any of the above. The definition of the term "insured" given in this section shall apply only to the uninsured motorist portion of the policy.

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(c) The term "uninsured motor vehicle" shall mean:

(i) A motor vehicle as to which there is no bodily injury liability insurance; or

(ii) A motor vehicle as to which there is such insurance in existence, but the insurance company writing the same has legally denied coverage thereunder or is unable, because of being insolvent at the time of or becoming insolvent during the twelve (12) months following the accident, to make payment with respect to the legal liability of its insured; or

(iii) An insured motor vehicle, when the liability insurer of such vehicle has provided limits of bodily injury liability for its insured which are less than the limits applicable to the injured person provided under his uninsured motorist coverage; or

(iv) A motor vehicle as to which there is no bond or deposit of cash or securities in lieu of such bodily injury and property damage liability insurance or other compliance with the state financial responsibility law, or where there is such bond or deposit of cash or securities, but such bond or deposit is less than the legal liability of the injuring party; or

(v) A motor vehicle of which the owner or operator is unknown; provided that in order for the insured to recover under the endorsement where the owner or operator of any motor vehicle which causes bodily injury to the insured is unknown, actual physical contact must have occurred between the motor vehicle owned or operated by such unknown person and the person or property of the insured; or

(vi) A motor vehicle owned or operated by a person protected by immunity under the Mississippi Tort Claims Act, [Title 11](#), Chapter 46, Mississippi Code of 1972, if the insured has exhausted all administrative remedies under that chapter.

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No vehicle shall be considered uninsured that is owned by the United States government and against which a claim may be made under the Federal Tort Claims Act, as amended.

§ 83-11-105. Action against owner or operator of uninsured vehicle.

In the event the owner or operator of the uninsured vehicle causing injury or death is known and action is brought against said owner or operator by the named insured as defined by said policy, then a copy of the process served upon the owner or operator shall also be served by the circuit clerk mailing, registered mail, a copy of the process to the insurance company issuing the policy providing the uninsured motorist coverage as prescribed by law.

If the owner or operator of any motor vehicle which causes bodily injury to the insured be unknown, the insured or someone on his behalf, or in the event of a death claim, someone on behalf of the party having such claim in order for the insured to recover under the endorsement, shall report the accident as required by [section 63-15-9](#), Mississippi Code of 1972.

§ 83-11-107. Subrogation.

An insurer paying a claim under the endorsement or provisions required by [Section 83-11-101](#) or [Section 83-11-102](#) shall be subrogated to the rights of the insured to whom such claim was paid against the person causing such injury, death, or damage to the extent that payment was made, including the proceeds recoverable from the assets of the insolvent insurer. The bringing of an action against the unknown owner or operator, or the conclusion of such an action, shall not constitute a bar to the insured if the identity of the owner or operator who caused the injury or damages complained of becomes known, provided that in any action brought against such owner or operator, the insurance company that has previously made payment as a result of the policyholder's claim against such owner or operator shall be mailed a copy of the summons

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issued for the defendant or defendants, and that any recovery against such owner or operator shall be paid to the insurance company to the extent that such insurance company paid the named insured in the action brought against such owner or operator, except that such insurance company shall pay its proportionate part of any reasonable costs and expense incurred in connection therewith, including reasonable attorney's fees.

§ 83-11-109. Arbitration provisions prohibited.

No such endorsement or provisions shall contain a provision requiring arbitration of any claim arising under any such endorsement or provisions. The insured shall not be restricted or prevented in any manner from employing legal counsel or instituting or prosecuting to judgment legal proceedings, but the insured may be required to establish legal liability of the uninsured owner or operator.

§ 83-11-111. Excess insurance coverage.

Any policy which grants the coverage required for motor vehicle liability insurance may also grant any lawful coverage in excess of, or in addition to, the coverage specified for a motor vehicle liability policy, and the excess or additional coverage shall not be subject to the provisions of this article, except as otherwise provided in this article. With respect to a policy which grants this excess or additional coverage, the term "motor vehicle liability policy" as used herein shall apply only to that part of the coverage which is required by this article.

Any binder issued pending the issuance of a motor vehicle liability policy shall be considered as fulfilling the requirements for such policy.

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§ 83-11-201. Citation.

This article shall be known and cited as the "Automobile Club Services Law."

§ 83-11-203. Definitions.

As used in this article:

(a) "Automobile club" shall mean any person who, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to travel and the operation, use, and maintenance of an automobile in the supply of features or services which may include:

(1) such services as community traffic safety services, travel and touring service, theft or reward service, map service, towing service, emergency road service, and legal fee reimbursement service in the defense of traffic offenses, none of which enumerated features or services, if provided by the automobile club itself, shall be subject to the insurance laws of this state;

(2) the purchase of accidental injury and death benefits insurance coverage and the purchase of bail bond coverage, as provided by applicable statutes, by an insurance company authorized to do business in Mississippi; and

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(3) such other features or services not deemed by the commissioner to constitute the business of insurance.

Provided, however, the definition of an automobile club shall not include persons, associations, or corporations whose services are provided predominantly on a reimbursable basis. Such operations shall constitute insurance and be subject to the insurance laws of Mississippi.

(b) "Commissioner" means the commissioner of insurance of the State of Mississippi.

(c) "Club agent" is a person, other than the automobile club itself, who acts or aids in any manner in the solicitation, delivery, or negotiation of any service contract, or of the renewal or continuance thereof. This, however, shall not include any person performing only work of a clerical nature in the office of the automobile club.

(d) "Service contract" means an agreement whereby an automobile club, for a consideration, promises to render, furnish, procure, or reimburse club members specified services.

(e) "Person" means any individual person, firm, company, corporation, partnership, or association.

(f) "Insurance service" means the selling or making available individual or group insurance policies or certificates other than service contracts as a result of membership in or affiliation with an automobile club; such policies, if sold or made available, shall be issued only by an insurance company duly authorized to do business in Mississippi.

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§ 83-11-205. Additional insurance services.

The commissioner may, upon the application of an automobile club, allow such automobile club to provide specific insurance services not enumerated in [section 83-11-203\(a\)\(2\)](#).

§ 83-11-207. Security deposit or bond.

No automobile club shall render or agree to render service without first depositing and thereafter continuously maintaining security in one (1) of the following forms with the commissioner:

(a) The sum of fifteen thousand dollars (\$15,000.00) in cash or fifteen thousand dollars (\$15,000.00) surety bond by a surety company authorized to do business in Mississippi, or fifteen thousand dollars (\$15,000.00) in securities of a type approved by the commissioner and qualified for legal investment by an insurance company authorized to do business in Mississippi.

(b) If any security deposited with the commissioner shall become impaired and shall not be restored within thirty (30) days after written demand by the commissioner, the commissioner shall revoke the certificate of authority of the automobile club or, in the alternative, the commissioner may require such additional security deposit as in his discretion he shall deem necessary to restore adequate securities for the automobile club deposit.

§ 83-11-209. Purposes and conditions of security.

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The security required to be filed by this article shall be for the protection, use, and benefit of any club member, shall be subject to the following conditions, and, if a surety bond, shall be so expressly conditioned that:

(a) The club will faithfully furnish and render to club members any and all of the automobile club services sold or offered for sale by it, and

(b) The club will pay any fines, fees, or penalties imposed upon it pursuant to the provisions of this article.

§ 83-11-211. Members' rights against surety bond.

If a surety bond is filed, any applicant defrauded or injured by any wrongful act, misrepresentation, or failure on the part of the automobile club with respect to the selling or rendering of any of its services may bring suit on such bond in his own name; but the aggregate liability of the surety for all such suits shall, in no event, exceed the sum of such bond.

§ 83-11-213. Rights against cash deposit.

A deposit of cash or securities, in lieu of a surety bond, shall be subject to the conditions applying to the bond and to execution on judgments against the club.

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§ 83-11-215. Approval of name.

The name of the automobile club shall be submitted to the commissioner for approval pursuant to [section 83-11-219](#) before the commencement of business under the provisions of this article. The commissioner shall reject any name so submitted when the proposed name is deceptively similar to that of any other automobile club or other corporation licensed or qualified to do business in this state.

§ 83-11-217. Certificate of authority.

No person shall render or agree to render automobile club service in this state without first obtaining from the commissioner a certificate of authority so to act.

§ 83-11-219. Application for certificate.

An application for an original certificate of authority as an automobile club shall be made to the commissioner in such form and detail as the commissioner shall prescribe and shall have annexed thereto:

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- (a) A copy of its charter as amended, certified, if a foreign company, by the proper public officer of the state or country of domicile;

- (b) A copy of its bylaws, if any, certified by its proper officer;

- (c) A statement of its financial condition, management, and affairs;

- (d) A copy of each form of service agreement, contract, and service brochure it proposes to use in this state;

- (e) If a foreign company, a certificate from the proper public official from its state or country of domicile showing that it is duly organized and is authorized to transact the type of automobile club service which it proposes to transact in Mississippi;

- (f) Other documents or stipulations as the commissioner may reasonably require to evidence compliance with the provisions of the laws of the State of Mississippi;

- (g) A certificate issued by the secretary of state that it has qualified to do business as a corporation in this state, and that it has appointed the commissioner as its attorney to receive service of legal process.

The application shall be accompanied by a fee of one hundred dollars (\$100.00), payable to the State of Mississippi.

§ 83-11-221. Renewal of certificate.

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A certificate of authority duly issued by the commissioner shall be evidence of an automobile club's authority to transact the business of furnishing automobile club service in this state.

A certificate of authority shall continue in force as long as the automobile club is entitled thereto under this article and until suspended or revoked by the commissioner, or terminated at the request of the automobile club; subject, however, to renewal of the certificate by the automobile club each year by:

(a) Payment prior to March 1 of each year, following that in which its original certificate is filed, of a fee of twenty-five dollars (\$25.00), and

(b) due filing by the automobile club of its annual financial statement for the calendar year preceding, as required under [Section 83-11-243](#).

§ 83-11-223. Expiration and reinstatement of certificate.

Certificates of authority shall expire as of midnight on March 31 unless renewed. The commissioner shall promptly notify the automobile club of the occurrence of any failure resulting in impending expiration of its certificate of authority.

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The commissioner may in his discretion upon the automobile club's request, made within three (3) months after expiration, reinstate and renew a certificate of authority which the automobile club had inadvertently permitted to expire, after the automobile club has fully cured all of its failures which resulted in expiration, and upon payment by the automobile club of a fee for reinstatement of fifty dollars (\$50.00). Otherwise, the automobile club shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

§ 83-11-225. Grounds for revocation of certificate.

The commissioner may revoke, suspend, or refuse to continue the certificate of authority of an automobile club whenever, after a hearing and for cause shown, he determines that any of the following circumstances exist:

- (a) The club has violated any provision of this article;

- (b) It is found by the commissioner to be in such financial condition that its further transaction of automobile club service in this state would be hazardous to its members and the automobile club service-buying public in this state, or that it is insolvent;

- (c) It refuses to remove, discharge, or terminate its relationship with a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude;

- (d) It customarily or in the regular course of business compels claimants under its service contracts either to accept less than the amount due them or fewer services, or to bring suit against it to secure full payment of the amount of all services due;

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(e) It conducts its business outside this state in such manner as unjustly to discriminate against or prejudice the interests of the people of this state;

(f) It is affiliated with and is under the same general management or interlocking directorate or ownership as another automobile club which transacts business in this state which does not have a certificate of authority therefor;

(g) It exceeds its charter powers of its certificate of authority;

(h) It refuses to be examined, or if its directors, managing officers, employees, or representatives refuse to submit to examination by the commissioner when required by him, or refuses to perform any legal obligation relative to the examination, the time and place of the examination to be specified by the commissioner.

§ 83-11-227. Solicitation for club not having certificate of authority.

No person shall solicit or aid in the solicitation of another person to purchase a service contract or membership issued by a club not having a certificate of authority procured pursuant to this article.

§ 83-11-229. Service contracts.

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Automobile clubs shall be required to execute service contracts with their members. No service contract shall be executed, issued, or delivered in this state until the form thereof has been approved in writing by the commissioner.

A service contract may be in the form of a written agreement between the automobile club and a member, or it may consist of a completed application, a membership card, and a written description of services to be rendered by the automobile club.

§ 83-11-231. Mandatory information and provisions of contract.

No service contract shall be executed, issued, or delivered in the state unless it contains the following:

(a) The exact corporate or other name of the club.

(b) The exact location of its home office and of its usual place of business in the state, giving street number and city.

(c) A provision that the contract may be canceled at any time by giving written notice thereof by either the club or the holder, and that the holder will, if the dues or membership fee has been paid thereupon, be entitled to a refund of the unused portion of the consideration paid for such contract, calculated on a pro rata basis over the period of the contract, without any deductions, provided that the automobile club may make a reasonable minimum charge.

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(d) A provision plainly specifying: the services promised, that the holder will not be required to pay any sum in addition to the amount specified in the contract for any services thus specified, the territory wherein such services are to be rendered, the date when such service will commence, and a statement in not less than fourteen (14) point modern type at the head of said contract stating, "This is not an insurance contract."

§ 83-11-233. Misrepresentation.

No automobile club or officer or agent thereof shall in any manner misrepresent the terms, benefits, or privileges of any service contract or membership issued or to be issued by it.

§ 83-11-235. Effect of non-complying contract.

Any service contract or membership made, issued, or delivered contrary to any provision of this article shall, nevertheless, be valid and binding on the club.

§ 83-11-237. Notice of appointment of sales agent.

(1) An automobile club operating in this state pursuant to a certificate of authority issued hereunder shall, within thirty (30) days of the date of appointment, file with the commissioner a

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notice of appointment of a club agent by an automobile club to sell memberships in the automobile club to the public. This notification shall be upon such form as the commissioner may prescribe, shall contain the name, address, age, sex, and social security number of such club agent, and also contain proof satisfactory to the commissioner that such applicant is of good reputation and that he has received training from the club or is otherwise qualified in the field of automobile club service contracts and the laws of this state pertaining thereto. Upon termination of any club agent's appointment by an automobile club, such automobile club shall, within thirty (30) days thereafter, notify the commissioner of such termination.

(2) The registration fee for club agents shall be five dollars (\$5.00) annually, and such registration shall be renewable on April 1 of each year unless sooner revoked or suspended.

§ 83-11-239. Revocation of agent's registration.

The commissioner may suspend, revoke, or refuse to renew any club agent's registration for any of the following causes:

- (a) If the club agent violated any of the provisions or requirements of this article;

- (b) If the club agent has misappropriated, converted to his own use, or has illegally withheld monies required to be held in the fiduciary capacity;

- (c) If the club agent has materially misrepresented the terms or effect of any contract or has engaged in any fraudulent transaction;

- (d) If in the conduct of his affairs he has shown himself to be incompetent, untrustworthy, or a

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source of injury and loss to the automobile club service-buying public;

(e) If the club agent has been convicted after registration of a crime involving moral turpitude.

§ 83-11-241. Hearing on revocation.

No club agent's registration shall be suspended or revoked by the commissioner without providing an opportunity to be heard and to produce evidence in his own behalf.

83-11-243. Financial statements.

Each authorized automobile club shall annually, before March 1, file with the commissioner a true statement of its financial condition, transactions, and affairs as of December 31 preceding. The statement shall contain such information as may be reasonably required by the commissioner, and shall be verified by the oaths of at least two (2) of the automobile club's principal officers.

The commissioner may suspend or revoke the certificate of authority of any automobile club failing to file its annual statement when due or during any extension of time therefor which the commissioner, for good cause, may grant.

§ 83-11-245. Violations.

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Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

§ 83-11-247. Monies to be deposited.

All monies collected by the commissioner under any provisions of this article shall be deposited in the general treasury.

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§ 83-11-501. Requirement that repairs be made at particular shop prohibited; insurer's payment of lowest fair amount in geographic or trade area.

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No insurer may require as a condition of payment of a claim that repairs to a damaged vehicle, including glass repairs or replacements, must be made by a particular contractor or motor vehicle repair shop; provided, however, the most an insurer shall be required to pay for the repair of the vehicle or repair or replacement of the glass is the lowest amount that such vehicle or glass could be properly and fairly repaired or replaced by a contractor or repair shop within a reasonable geographical or trade area of the insured.

§ 83-11-503. Advertisement to pay insured's deductibles prohibited.

No person selling or engaged in the sale of automobile replacement glass shall advertise to pay all or part of an insured's deductible under an insurance policy.

§ 83-11-551. Addition of name of business repairing automobile or lienholder as payee on check.

(1) In cases in which there is not a total loss, when there are one or more lienholders shown in the policy or confirmed in writing by the insured before the loss, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in [Section 83-11-1](#), shall add as a payee on the check, in addition to the name of the insured, the name of the business or other entity repairing the automobile or the name of the lienholder or lienholders.

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(2) In cases of a total loss, when there are one or more lienholders (a) shown in the policy, (b) confirmed in writing by the insured before the loss, or (c) shown on the vehicle title recorded with the Mississippi State Tax Commission, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in [Section 83-11-1](#), shall add as a payee on the check, in addition to the name of the insured, the name of the lienholder or lienholders.

(3) If the insured disputes the existence of any lien, it is the insured's responsibility to have the liens released. When payment is made to a lienholder, the lienholder shall pay any balance owed to the debtor within thirty (30) days after receipt of the check. However, in the case of a total loss, the insurer may issue separate checks to the lienholder and to the insured for the amount of each party's financial interest in the vehicle. This section shall not apply to the repair or replacement of glass in the vehicle.

§ 83-13-1. Reinsurance.

Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks assumed by it; but such reinsurance, unless effected with an insurer authorized to issue policies in this state and subject to the payment of the tax thereon, shall not operate to permit any reduction of taxes through reinsurance effected with an insurer not authorized to issue policies in this state.

§ 83-13-3. Liabilities and reserves.

To determine the liability upon the contracts of an insurance company, other than life and real

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estate title insurance, and thence the amount such company shall h

ld as a reserve for reinsurance, the commissioner shall take the actual unearned portion of the premiums written in its policies.

§ 83-13-5. Amount of insurance.

No insurance company shall knowingly issue any fire insurance policy upon property within this state for an amount which, together with any existing insurance thereon, exceeds a fair value of the property, nor for a longer term than five years. When buildings and structures are insured against loss by fire and, situated within this state, are totally destroyed by fire, the company shall not be permitted to deny that the buildings or structures insured were worth at the time of the issuance of the policy the full value upon which the insurance is calculated, and the measure of damages shall be the amount for which the buildings and structures were insured. No insurance company or agent thereof shall be permitted to attach a three-quarter value clause to insurance of this kind, and any fire insurance company or agent thereof who violates this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than two hundred (\$200.00) dollars nor more than one thousand (\$1,000.00) dollars for each offense.

§ 83-13-7. Mortgagees protected in order of priority.

When, by an agreement with the assured or by the terms of a fire insurance policy taken out by a mortgagor, the whole or any part of the loss thereon is payable to the mortgagee or mortgagees of the property for their benefit, the company shall, upon satisfactory proof of the rights and title of the parties, in accordance with such terms and agreement, pay all mortgagees protected by such policy in the order of their priority of claim, as their claims shall appear, not beyond the amount of which the company is liable. Such payments shall be, to the extent thereof, payments and satisfaction of the liabilities of the company under such policy.

§ 83-13-9. Mortgage clause.

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Each fire insurance policy on buildings taken out or renewed on or after July 1, 1989, by a mortgagor or grantor in a deed of trust shall have attached or shall contain substantially the following mortgage clause, viz:

Loss or damage, if any, under this policy, shall be payable to (here insert the name of the party), as _____ mortgagee (or trustee), as _____ interest may appear, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; and in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same. The mortgagee (or trustee) shall notify this company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void. This company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for thirty (30) days after notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this company shall have the right on like notice to cancel this agreement. In case of any other insurance upon the within described property, this company shall not be liable under this policy for a greater proportion of any loss or damage sustained than the sum hereby insured bears to the whole amount of insurance on said property issued to or held by any party or parties having an insurable interest therein, whether as owner, mortgagee, or otherwise. Whenever this company shall pay the mortgagee (or trustee) any sum for loss or damage under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all security held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of _____ claim. Nothing in the foregoing prescribed form shall be construed to in any manner modify the

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provisions of [Section 83-13-5](#).

§ 83-13-10. Restrictions on disclosure of expiration date of insurance on mortgaged property.

(1) When a real property deed of trust or mortgage or a lending agreement in connection with a loan on real property provides that a mortgagor or borrower shall furnish insurance upon the mortgaged property, the mortgagee, assignee or creditor shall not disclose expiration dates or other policy information to other persons or parties, directly or indirectly, and such other persons or parties shall not request the disclosure of such information, so as to enable any person or party to solicit said insurance or any renewal thereof, without first obtaining the written consent of the policyholder for such disclosure to be made when the mortgagee, assignee or creditor has been advised in writing by the insurer or its agent that the insurance on the property will be cancelled or will not be renewed.

(2) Willful violation of this section by any mortgagee, assignee or creditor, or by other persons or parties who may request the disclosure of such information from such mortgagee, assignee or creditor, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation.

§ 83-13-11. Conditions to be stated in full.

In all insurance against loss by fire the condition of insurance shall be stated in full, and the rules and bylaws of the company shall not be considered as a warranty or a part of the contract except so far as they are incorporated in full into the policy and are not in conflict with this chapter.

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§ 83-13-13. Proof of loss.

In case of destruction or damage of property by fire where the same is insured against fire, it shall be the duty of the insurance company or companies liable for such loss, within a reasonable time after receiving notice thereof, to furnish to the insured proper blanks upon which to make the required proof of such loss, with full directions as to what proof is required to secure the payment of the policy. If the insurance company fails to comply with this section, the failure of the insured to make proper proof of loss prior to the suit shall be no defense to a suit upon the policy, and in all cases the insured shall have a reasonable time in which to make such proof after the blanks and directions are received.

§ 83-13-17. Industrial fire insurance policies.

(1) Industrial fire insurance policies are defined as policies issued by companies which write fire insurance through weekly premium agents operating on the debit agency system and which meet the other requirements of this section. Any such policy with limits in excess of Fifteen Hundred Dollars (\$1500.00) may be written by such weekly premium agents operating on a debit system or by any agent qualified and licensed to write fire insurance in the State of Mississippi, and in the case of policies over Fifteen Hundred Dollars (\$1500.00) written by agents other than weekly premium agents operating on a debit system, premiums may be collected as much as six (6) months in advance on the basis of filings made and approved by the Commissioner of Insurance as otherwise provided in this title. On all other industrial fire policies in the State of Mississippi, carriers and agents shall not collect premiums for more than four (4) months in advance.

The limit of risk of all industrial fire insurance policies issued as such in the State of Mississippi shall not exceed Forty Thousand Dollars (\$40,000.00) on any one (1) dwelling risk of fire and

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allied lines, nor Twenty Thousand Dollars (\$20,000.00) on the contents risk of fire and allied lines on any one (1) dwelling, nor Twenty Thousand Dollars (\$20,000.00) on the risk of real or personal property loss resulting from burglary or theft.

(2) The Commissioner of Insurance shall generally supervise and regulate the operation of industrial fire insurance and allied lines.

§ 83-13-19. Unauthorized companies denied access to courts.

No action shall be maintained by any insurance company in any court in the state upon any policy or contract of fire insurance issued upon any property situated in the state by any company, association, partnership, individual, or individuals that have not been authorized to transact such insurance business in this state.

§ 83-13-21. Information required of insurers in case of fire losses.

(1) The State Chief Deputy Fire Marshal, the Commissioner of Insurance or any other authorized law enforcement authority charged with the responsibility of investigating a fire loss of real or personal property which may have resulted from a fire of incendiary origin may require, in writing, any insurance company insuring the loss under investigation to release any information in its possession which is pertinent to such a loss. The information shall include, but is not limited to:

(a) Any insurance policy relevant to a fire loss under investigation and any application for such

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a policy;

(b) Policy premium payment records;

(c) History of previous claims made by the insured for fire loss; and

(d) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant information or evidence.

(2) In the absence of malice any insurance company or agent thereof who furnishes information on its behalf shall be immune from liability for damages in a civil action arising by virtue of compliance with the provisions of this section.

(3) As used in this chapter, "insurance company" shall include the Mississippi Insurance Underwriting Association.

(4) Any insurance company providing information to an authorized agency pursuant to subsection (1) of this section, or any owner, insured tenant or resident of property which is the subject of a report, shall have the right to request of such agency relevant information in accordance with [Section 45-11-1](#).

(5) Any insurance company that willfully violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00) and the Commissioner of Insurance may revoke the license of such company to transact the business of insurance in this state.

§ 83-13-23. Insurer required to pay volunteer fire department for protecting property

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insured by insurer.

Any insurance company shall pay to the responsible volunteer fire department a minimum of One Hundred Dollars (\$100.00) for each initial response to save from destruction by fire any structures which are located in areas rated as Class 9 or 10 and which are insured by that insurance company.

§ 83-13-25. Form to be used by fire departments for minimum payments from insurers.

The Commissioner of Insurance shall prepare a uniform form to be used by fire departments for the minimum payments. All insurance companies doing business in the state shall accept the form authorized by the commissioner.

§ 83-15-1. Formation of company.

Companies may be formed in the same manner provided in this chapter for the purposes of abstracting title to real estate, furnishing information in relation thereto, and insuring owners and others interested therein against loss by reason of incumbrances and defective titles. Such companies shall not be subject to the provisions of this chapter except as regards the manner of their formation as follows, to wit: Any company, before it shall issue any policy of insurance or guaranty, shall file with the insurance commissioner a certified copy of the record of the certificate of its organization in the office of the secretary of state, and shall obtain from the commissioner of insurance his certificate that it has complied with the laws applicable to it and is authorized to do such business. Every corporation which issues policies of title insurance or

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guaranty shall, on or before the first day of March of each year, file in the office of the insurance commissioner a statement such as he may require, of its condition and of its affairs for the year ending on the preceding thirty-first of December, signed and sworn to by its president, secretary, treasurer, or one of its directors; and for neglect to file such annual statement shall be liable to the same penalties as are imposed upon insurance companies generally.

§ 83-15-3. License; continuous agent certificate.

The commissioner shall annually license such companies as issue policies of title insurance or contracts of guaranty and issue continuous agent certificates as prescribed in [Sections 83-5-73](#) and [83-17-5](#), Mississippi Code of 1972, and shall have the same power and authority to visit and examine such companies as he has in the case of domestic insurance companies. But persons licensed as fire insurance agents and persons who are practicing attorneys at law may act as agent for any such company without additional license.

§ 83-15-5. Capital requirements.

(1) A corporation created as herein provided shall not issue any title insurance policy until it has capital of not less than One Hundred Fifty Thousand Dollars (\$150,000.00) and surplus of not less than Seventy-five Thousand Dollars (\$75,000.00). The total amount of any policy issued by such corporation without reinsurance shall not exceed fifty percent (50%) of the capital and surplus of the company, as reflected by its latest statement to the commissioner. In transactions where a primary risk is carried by another title insurance company, a domestic title insurance company may issue its reinsurance or coinsurance for an amount not exceeding its capital and surplus.

(2) A corporation created as herein provided shall deposit with the State Treasurer fifty percent (50%) of its capital stock, either in cash or in such bonds or securities in which the company is authorized by law to invest its funds. Upon such deposit and evidence, by affidavit or otherwise,

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satisfactory to the Commissioner of Insurance that the capital and surplus is all paid in and that the company is the actual and unqualified owner of the securities representing the paid-up capital and surplus, he shall issue to the company his certificate authorizing it to transact business in this state.

§ 83-15-7. Reserve for losses.

A corporation created as provided in this chapter shall establish and maintain a reserve for losses in an amount which shall be not less than (1) ten per cent (10%) of the amount of all premiums received by the corporation on and after January 1, 1952, or (2) fifty thousand dollars (\$50,000.00) whichever is the lesser.

§ 83-15-9. Reserve for unearned premiums and reinsurance.

A corporation created as provided in this chapter shall establish, segregate and maintain, in addition to the reserve for losses as provided in [Section 83-15-7](#), a reserve for unearned premiums and reinsurance during the period hereinafter provided, which shall at all times and for all purposes be deemed and shall constitute unearned portions of the original premiums and shall be charged as a reserve liability of such corporation in determining its financial condition. The assets constituting the unearned premium reserve shall be withdrawn from the use by the corporation for its general purposes, shall be impressed with a trust for the benefit of the corporation's title insurance policyholders, and shall be available for reinsurance of title insurance policies in the event of the insolvency of the corporation. The income from such unearned premium reserve shall be included in the general income of the corporation and may be used by such corporation for any lawful corporate purposes. The unearned premium reserve of every corporation shall be cumulative and shall consist of:

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(a) An amount equal to the unearned premium reserve previously required to be held pursuant to [Section 83-15-9](#) as of March 4, 1977;

(b) The amount of all additions required to be made to such reserve by this section; and less

(c) The withdrawals from such reserve as required by this section.

On the last day of each month after March 4, 1977, each corporation shall add to its unearned premium reserve, with respect to each title insurance policy or contract or reinsurance agreement issued by it, a sum equal to ten percent (10%) of all premiums received during such month. The amounts set aside as additions to such unearned premium reserve shall be deducted in determining the net income of the corporation. Upon the expiration of one hundred eighty (180) months after the month of the issuance of each title insurance policy, contract or reinsurance agreement that portion of the assets of the unearned premium reserve attributable to said title insurance policy, contract or reinsurance agreement shall be released and withdrawn from said reserve, shall no longer constitute part of said reserve, shall be included in the income of the corporation, and may then be used by the corporation for any lawful corporate purposes.

§ 83-15-11. State and political subdivisions may secure title insurance.

The State of Mississippi, its agencies, special districts, counties, municipalities, commissions, and other public bodies authorized by law to acquire real estate, or an interest in real estate, hereafter acquiring real estate or an interest in real estate are hereby authorized, in their discretion, to secure the protection of title insurance from companies qualified to do business in this state.

The action of any such public body which heretofore has secured the protection of such title

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insurance is hereby ratified, approved, and confirmed.

The authority hereby conferred to such public bodies by this section shall be limited to real estate or an interest in real estate hereafter acquired by such public bodies in the furtherance of any BAWI, port, housing, industrial program, or other development authorized by law.

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§ 83-17-1. Agent defined.

Whenever used in this chapter, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Agent" means an insurance producer as defined in this section.

(b) "Nonactive agent" means an individual who is retired, disabled or has not obtained from the Commissioner of Insurance a current continuous certificate. A nonactive agent shall not solicit new business or service existing businesses, but may receive renewal commissions.

(c) "Supervising general agent" refers to and includes any person, partnership, association or corporation having authority to serve as trustees, managers or administrators, except attorneys at law, for such licensed insurance companies or their insureds in the handling of insurance programs underwritten by such licensed insurance companies, or in which they may be participating.

(d) "Excess risk" means all or any portion of an insurance risk or contract of annuity for which application is made to an agent and which exceeds the amount of insurance or annuity which will be provided by the insurer for which such agent is licensed.

(e) "Rejected risk" means an insurance risk or annuity contract for which application has been made to an agent and which insurance or annuity contract is declined by the insurer for which such agent is licensed.

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(f) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(g) "Commissioner" means the Commissioner of Insurance of the State of Mississippi.

(h) "Controlled business" means policies of insurance to be issued to a producer, agent or to his relatives, business associates, employers or employees, or in which they or either of them have an interest. No license shall be granted or renewed to any agent or producer until the applicant certifies with the Commissioner of Insurance that the applicant shall in good faith engage in the insurance business as agent or producer, and that he is not seeking a license for the purpose of acquiring or saving commissions, premiums or other valuable considerations on "controlled business." A violation of this paragraph shall be deemed to be probable if the commissioner finds that during any twenty-four-month period aggregate commissions or other compensations accruing in favor of the applicant with respect to his own interests or those of his family, relatives, employers, employees or business associates, as provided herein, have exceeded or will exceed thirty-five percent (35%) of the aggregate amount of commissions accruing to him as agent or his agency during such period of time. Nothing herein contained shall prohibit the licensing under a limited license as to motor vehicle physical damage insurance, any person employed by or associated with a motor vehicle sales agency with respect to insurance on a motor vehicle sold, serviced or financed by it. Whenever employment is terminated of any such person employed by or associated with any such agency, the Commissioner of Insurance shall be notified, and the license shall be cancelled immediately. It is further provided that the provisions of this paragraph likewise shall not apply with respect to sales of insurance by a lender or its affiliate covering the insurable interest of the lender.

§ 83-17-3. Personal liability.

An insurance agent shall be personally liable on all contracts of insurance unlawfully made by

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or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state.

§ 83-17-5. Agent certificate; notification of nonrenewal required.

Every agent of any insurance company, fraternal order or association authorized to do business in this state shall be required to obtain from the Commissioner of Insurance a certificate under the seal of his office showing that the company for which he or she is licensed to do business in this state, and that he or she is an agent of said company and duly authorized to do business for it. Such certificate shall remain valid as long as the insurance company, fraternal order or association pays to the commissioner an annual certificate fee to continue the authorization. The insurance company, fraternal order or association must notify the agent within thirty (30) days if the authority is nonrenewed or cancelled.

§ 83-17-7. Commission to unauthorized agent unlawful. [Repealed effective July 1, 2010].

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

It shall be lawful, however, for an insurance company or any insurance agent to pay, directly or

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indirectly, to the surviving spouse or heirs of a deceased licensed insurance agent in this state any commissions or other valuable consideration to which the deceased agent would be entitled, whether such surviving spouse or heir is or is not a licensed agent.

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

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

The provisions of this section shall stand repealed from and after July 1, 2010.

§ 83-17-13. Penalty for signing blank policy.

It shall be unlawful for any agent of a fire insurance company, or of any other insurance company which is required to have its policies signed by a resident agent, to sign any blank policy of insurance. Upon satisfactory proof that any agent has violated the provisions of this section, the commissioner shall revoke such agent's license for all companies for not less than three nor more than six months for the first offense, and for one year for the second offense.

§ 83-17-19. Penalty for soliciting without license.

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Every person who, either as principal or agent or pretending to be such, shall solicit, examine, or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, or shall receive, collect, or transmit any premiums of insurance, or shall do any other act in the soliciting, making, or executing of any contract of insurance of any kind otherwise than this chapter permits shall be deemed guilty of a misdemeanor and, on conviction, shall pay a fine of not less than two hundred dollars nor more than five hundred dollars, or be imprisoned not less than one nor more than two years, or both, in the discretion of the court.

§ 83-17-21. Policies to be written through licensed agents.

No fire, fire marine, accident, health, employers' liability, steam boiler, plate glass, fidelity, surety, burglary, or other insurance company except life insurance companies, not incorporated under the laws of this state authorized to transact business herein shall make, write, place, or cause to be made, written, or placed any policy, duplicate policy, or contract of insurance of any kind or character or any general or floating policy upon persons or property in this state, except after the risk has been approved, in writing, by an agent, regularly commissioned and licensed to transact insurance business herein, who shall countersign all policies or contracts of insurance so issued. The provisions of this section shall not apply to individual firms and corporations indemnifying themselves through reciprocal contracts, and not employing local agents. No provision of this section is intended, or shall be so intended, as to direct insurance covering the rolling stock of railroad corporations, or property in transit while in the possession and custody of railroad corporations or other common carriers. The written approval and countersignature of licensed agents may be in facsimile when used solely in connection with personal accident insurance covering travel, issued through the medium of policy dispensing machines; however, land travel insurance so issued may not be issued for a period longer than seven (7) days from the date of issue. The written approval and countersignature of licensed agents may also be in facsimile when authorization is given by the agent in writing to an insurer for which the agent is certified to do business pursuant to [Section 83-17-5](#). The use of facsimile countersignatures shall not modify any of the other requirements of this section. Any authorization for a facsimile

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countersignature may be canceled by the agent in writing and is automatically canceled upon the death, termination or nonrenewal of the agent.

§ 83-17-25. Duration of privilege licenses.

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

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

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

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

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

§ 83-17-37. Expiration of license; application for renewal.

(1) Each license issued to a producer shall expire on the mandated renewal date following the date of issue, unless prior thereto it is revoked or suspended by the commissioner.

(2) Each producer shall file an application for renewal of license on the form and in the manner prescribed by the commissioner for such purpose. Upon the filing of such application for renewal of license and the payment of the required fees, the current license shall continue to be in force until the renewal license is issued by the commissioner or until the commissioner has refused for cause to issue such renewal license, as provided in [Section 83-17-71](#), and has given notice of such refusal in writing to the producer.

§ 83-17-39. Examination of applicants; classification of applicants; textbooks and learning materials.

(1) Each applicant for a license to act as a producer within this state shall submit to a personal written examination to determine his competence to act as a producer and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such written examination shall be required of:

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- (a) An applicant for a renewal license unless the commissioner determines that such examination is necessary to establish the competency of the applicant, or unless a license had not been effective as to such applicant within one (1) year preceding the date of filing the application;
- (b) An applicant who is a ticket-selling agent of a railroad or steamship company, carrier by air, or public bus carrier who shall act as a producer or solicitor in the sale of accident insurance tickets to individuals;
- (c) An applicant who shall be licensed to act only as a producer with respect to life, health and accident insurance on borrowers or debtors commonly known as credit life, health and accident insurance;
- (d) In the discretion of the commissioner, an applicant whose license to do business or act as a producer in this state was suspended less than one (1) year prior to the date of application;
- (e) An applicant who is an agent of a fraternal benefit society exclusively;
- (f) An applicant who is exempt from examination under the provisions of [Section 83-17-67](#); and
- (g) An applicant who shall be licensed to act only as a producer with respect to property insurance on borrowers or debtors commonly known as credit property insurance.

(2) The commissioner may establish rules and regulations with respect to the classification of applicants according to the type of insurance contracts to be effected by them if licensed as producers, and with respect to the scope, type and conduct of written examinations to be given pursuant to this section, and the times and places within this state for the holding of such examinations. Such rules and regulations, if established, shall classify applicants for purposes of

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this section as follows:

- (a) Those desiring to write life insurance;
- (b) Those desiring to write accident and health insurance, other than industrial accident and health insurance;
- (c) Those desiring to write industrial accident and health insurance;
- (d) Those desiring to write any combination of two (2) or more of the above classifications; and
- (e) Those of such other classification as, in the opinion of the commissioner, are necessary or appropriate.

Examination shall be prepared and given in those subjects only which pertain to the classification or classifications which the applicant desires to write, and no applicant shall be required to take an examination on a subject or subjects pertaining to any other classification.

The rules and regulations of the commissioner, if established, shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examination in each classification designated by the commissioner pursuant to this section. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher, or may consist of matter prepared at the direction of the commissioner and distributed to applicants upon request therefor and payment of the reasonable cost thereof. If textbooks, manuals or other materials shall have been designated or prepared by the commissioner pursuant to this section, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials.

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§ 83-17-41. Licensing by type or kind of insurance; sanctions for selling type or kind of insurance for which not properly licensed.

The commissioner may, from time to time, make reasonable groupings into type, types or kinds of insurance that may be lawfully written in this state, for the purpose of prescribing reasonable written examinations for producer and solicitor licenses for each group respectively, and for the issuance of limited licenses. Any such licensed producer or solicitor who shall attempt to write any type of business or seek a brokerage commission on a type of business for which he is not properly licensed and authorized shall, after investigation of all circumstances and proper notice of hearing, be subject to hearing for revocation or suspension of the license.

§ 83-17-43. Certificate of appointment [Repealed effective November 1, 2009].

(1) In addition to all other license requirements, examinations for qualifications and fees established and imposed by law, all insurance solicitors shall file with the Commissioner of Insurance, in a form to be prescribed by the commissioner, an application for certificate of appointment as solicitor, signed by an insurance producer who proposes to employ such solicitor and signed and accepted by such solicitor, and shall pay to the commissioner a fee of Two Dollars (\$2.00) annually for the issuance of a certificate of appointment under seal of his office, showing the name of such solicitor, the name of an insurance producer or agency for which such individual is licensed to solicit business, and that such insurance producer or insurance agency is duly licensed. Such certificate of appointment issued by the commissioner shall be cancelled by him at any time upon request of the insurance producer or agency named therein, and shall automatically expire and terminate at the time that the solicitor's employment by, and connection with, the producer or agency named on such certificate terminates.

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(2) No person shall act as an insurance solicitor for any insurance producer or agency without first securing from the commissioner the certificate of appointment designating the agency for which he is acting as solicitor, and paying the commissioner the fee herein provided. No person shall, at the same time, act as insurance solicitor for more than one (1) insurance producer or agency.

§ 83-17-45. Prohibited acts; liability.

(1) No producer or other persons shall, within this state, solicit, procure, receive or forward applications for insurance or annuities, or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any contract of insurance or annuity for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

(2) Any producer or any other person who violates the provisions of this section shall be liable for the full amount of any loss sustained on any contract of life, health or accident insurance or annuity made by or through him, directly or indirectly, with any insurer not authorized to do business in this state and, in addition, for any premium taxes which may become due under any law of this state by reason of such contract.

§ 83-17-47. Commissioner's subpoena power.

The Commissioner of Insurance shall have the power to administer oaths and affirmations, issue subpoenas and order the attendance and testimony of witnesses and the production of papers, books and documents. Upon the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commissioner of Insurance may invoke the aid of any court of the state of general jurisdiction. The court thereupon may order such person to

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comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

§ 83-17-51. Purpose and scope of article.

The purpose of this article is to provide the qualifications and procedures required for the licensing of insurance producers. This article does not apply to excess and surplus lines agents and brokers licensed under [Sections 83-21-17](#) through [83-21-31](#) except as provided in [Sections 83-17-65](#) and [83-17-79\(2\)](#), or to domestic title insurance companies and their agents licensed under [Sections 83-15-1](#) through [83-15-11](#), except as provided in [Section 83-17-75](#).

§ 83-17-53. Definitions.

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal

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place of business and is licensed to act as an insurance producer.

(d) "Insurance" means any of the lines of authority in [Section 83-19-1](#).

(e) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(f) "Insurer" means that as defined in [Section 83-6-1](#).

(g) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(h) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(i) "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

(j) "Limited lines insurance" means those lines of insurance defined in [Section 83-19-1](#), Class 1(b), (e), (p) and (q) and [Section 83-19-1](#), Class 2(d), [Section 83-17-63](#) (1) (h), (i), (j), (k) or any other line of insurance that the commissioner deems necessary to recognize for the purposes of complying with [Section 83-17-65\(5\)](#).

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(k) "Limited lines producer" means a person authorized by the commissioner to sell, solicit or negotiate limited lines insurance.

(l) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(m) "Person" means an individual or a business entity.

(n) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(o) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(p) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

(q) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

(r) "Uniform application" means the current version of the NAIC uniform application for resident and nonresident producer licensing.

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§ 83-17-55. License required to sell, solicit or negotiate insurance; requirements for issuing license to partnership.

(1) A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this article.

(2) No license shall be issued to a partnership unless all the partners thereof satisfy the same requirements in every respect for an individual producer provided for in this article.

§ 83-17-57. Exemptions from licensing requirement.

(1) Nothing in this article shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

(2) A license as an insurance producer shall not be required of the following:

(a) An officer, director or employee of an insurer or of an insurance producer, if the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(i) The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these and are only indirectly related to the sale, solicitation or

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negotiation of insurance; or

(ii) The officer, director or employee's function relates to underwriting, loss control or inspection of insurance; or

(iii) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(b) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance or for the purpose of enrolling individuals under plans or issuing certificates under plans or otherwise assisting in administering plans; or who performs administrative services related to mass marketed property and casualty insurance where no commission is paid to the person for the service;

(c) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risk or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

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(e) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, if the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(f) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, if that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission.

§ 83-17-59. Examination.

(1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt under [Section 83-17-67](#) or [Section 83-17-39](#). The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

(2) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable examination fee.

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(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

§ 83-17-61. Application requirements.

(1) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(a) Is at least eighteen (18) years of age;

(b) Has not committed any act that is a ground for denial, suspension or revocation set forth in [Section 83-17-71](#);

(c) Where required by the commissioner, has completed a prelicensing course of study for the lines of authority for which the person has applied;

(d) Has paid the fees set forth in [Section 27-15-87](#); and

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(e) Has successfully passed the examinations for the liens of authority for which the person has applied.

(2) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner shall find that:

(a) The business entity has paid the fees set forth in [Section 27-15-85](#); and

(b) The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

(3) The commissioner may require any documents reasonably necessary to verify the information contained in an application.

(4) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the commissioner.

§ 83-17-63. Qualification for license in certain lines of authority; license to remain in effect absent revocation, suspension, or failure to pay annual fee; reinstatement and renewal; waiver of renewal requirements due to extenuating circumstances; information to be included on license; change of address.

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(1) Unless denied licensure under [Section 83-17-71](#), persons who have met the requirements of [Sections 83-17-59](#) and [83-17-61](#), shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(a) Life: insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(b) Accident and health or sickness: insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(c) Property: insurance coverage for the direct or consequential loss or damage to property of every kind.

(d) Casualty: insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(e) Variable life and variable annuity products: insurance coverage provided under variable life insurance contracts and variable annuities.

(f) Personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(g) Credit: limited line credit insurance.

(h) Car rental: limited line insurance offered, sold or solicited in connection with and incidental

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to the rental of rental cars, whether at the rental office or preselection of coverage in master, corporate or individual agreements that is nontransferrable, applies only to the rental car that is subject of the rental agreement and is limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period;

(iv) Roadside assistance and emergency sickness protection insurance; or

(v) Any other coverage designated by the Commissioner of Insurance.

(i) Crop insurance: limited line insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

(j) Surety: limited line insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. For purpose of limited line licensing, surety does not include Surety Bail Bonds.

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(k) Travel: limited line insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

(l) Any other line of insurance permitted under state laws or regulations.

(2) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in [Section 27-15-87](#) is paid and education requirements for resident individual producers are met by the due date.

(3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. The penalty for such late renewal shall be in compliance with [Section 27-15-215](#).

(4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances, including, but not limited to, a long-term medical disability may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(5) The license shall contain the licensee's name, address, personal identification number and the date of issuance, the lines of authority, the expiration date and any other information the commissioner deems necessary.

(6) Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the commissioner of a change in legal name or address shall result in a penalty under [Section 83-17-71](#).

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(7) In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioner s (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the commissioner and the nongovernmental entity may deem appropriate.

§ 83-17-65. Nonresident licenses.

(1) Unless denied licensure pursuant to [Section 83-17-71](#), a nonresident person shall receive a nonresident producer license if:

(a) The person is currently licensed as a resident and is in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by [Section 27-15-87](#);

(c) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to his or her home state, or a completed uniform application; and

(d) The person's home state awards nonresident producer licenses to residents of this state on the same basis.

(2) The commissioner may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

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(3) A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.

(4) Notwithstanding any other provision of this article, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license in accordance with subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of [Sections 83-21-17 through 83-21-31](#).

(5) Notwithstanding any other provision of this article, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines under [Section 83-17-63\(1\)](#) (a) through (f).

§ 83-17-67. Individuals licensed in another state; exemption from prelicensing education or examination; 90-day application deadline.

(1) An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records, maintained by the National Association of Insurance

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Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(2) A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee in accordance with [Section 83-17-61](#). No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the commissioner determines otherwise by regulation.

§ 83-17-69. Temporary license.

(1) The commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty (180) days without requiring an examination if the commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business.

(b) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

(c) To the designee of a licensed insurance producer entering active service in the Armed Forces of the United States of America; or

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(d) In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of this license.

(2) The commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

§ 83-17-71. Violations; penalties; judicial review.

(1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation and such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund" for any one or more of the following causes:

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

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

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

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

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

- (f) Having been convicted of a felony;

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

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

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

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

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

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

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

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

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

(3) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

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

(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this article and [Title 83](#), Mississippi Code of 1972, against any person who is under investigation for or charged with a violation of this article or [Title 83](#).

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Mississippi Code of 1972, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(6) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a producer within one (1) year from the effective date of such revocation or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

§ 83-17-73. Licensing required before individual may accept commission for selling.

(1) An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(2) A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(3) Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.

(4) An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate [Section 83-17-7](#) or any other

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applicable provision of [Title 83](#), Mississippi Code of 1972.

§ 83-17-75. Appointment of producer as agent of insurer.

(1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the commissioner, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

(3) Upon receipt of the notice of appointment, the commissioner shall verify within a reasonable time not to exceed thirty (30) days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the commissioner shall notify the insurer within five (5) days of its determination.

(4) An insurer shall pay an appointment fee, in the amount and method of payment set forth in [Section 83-5-73](#) for each insurance producer appointed by the insurer.

(5) An insurer shall remit, in a manner prescribed by the commissioner, a renewal appointment fee in the amount set forth in [Section 83-5-73](#).

(6) Before the issuance of a license or certificate of authority, the commissioner shall require the company requesting appointment of the applicant as producer for the first time to furnish a

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certificate to the commissioner, verified by an executive officer or managing general or special agent of such company, that the company has duly investigated the character and record of such person and has satisfied itself that such person is of good moral character and is qualified, fit and trustworthy to act as its producer. The Commissioner of Insurance may at any time require any company to obtain a credit report on a producer if the commissioner deems such request advisable. Should such credit report reflect information regarding an offense or violation in relation to which the Department of Insurance has taken action, such information shall not render the applicant ineligible for a license if applicant has complied with the order of the commissioner regarding such offense.

§ 83-17-77. Notification of termination of insurance business relationship; termination procedure; immunity from civil liability absent actual malice; confidential and privileged information.

(1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in [Section 83-17-71](#) or the insurer has knowledge the producer was found by a court government body or self-regulatory organization authorized by law to have engaged in any of the activities in [Section 83-17-71](#). Upon the written request of the commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(2) An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in [Section 83-17-71](#) shall notify the commissioner within thirty (30) days following the effective date of the termination using a format prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

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(3) The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a format acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (1) of this section had the insurer then known of its existence.

(4) (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in [Section 83-17-71](#), the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.

(5) (a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the commissioner or an organization of which the commissioner is a member and that compiles the information and makes it available to other commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided under this section or any information relating to any statement that may be requested in writing by the commissioner from an insurer or producer or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the commissioner if the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(b) In any action brought against a person that may have immunity under paragraph (a) of this

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subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(6) (a) Any documents, materials or other information in the control or possession of the Department of Insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer or obtained by the commissioner in an investigation under this section shall be confidential by law and privileged, shall not be subject to the Public Records Act, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(b) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties under this article, the commissioner:

(i) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries and with state, federal and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

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(ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(iii) May enter into agreements governing sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (c) of this subsection.

(e) Nothing in this article shall prohibit the commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to the Public Records Act to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

(7) An insurer, the authorized representative of the insurer or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with all applicable statutes.

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§ 83-17-79. Reciprocity.

(1) The commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by [Section 83-17-65](#), if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(2) A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

§ 83-17-81. Producer to report to commissioner any administrative or criminal action initiated against producer.

(1) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report

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shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

§ 83-17-83. Appellate review.

Any person aggrieved by any action or decision of the Commissioner of Insurance under the provisions of this article may appeal therefrom, within thirty (30) days after receipt of notice thereof, to the Circuit Court of the First Judicial District of Hinds County by certiorari in the manner provided by law. Such appeal shall be without supersedeas, except that the court may grant supersedeas as otherwise provided by law where the license is revoked. The court shall have the authority and jurisdiction to hear the appeal and render its decision in regard thereto in termtime or vacation.

§ 83-17-85. Inquisitorial and subpoena power of commissioner.

For the purpose of making such investigations as he may deem necessary for the proper administration of this article, the commissioner shall have inquisitorial powers and shall be empowered to subpoena witnesses and examine them under oath, provided that all testimony, documents, and other evidence required to be submitted to the commissioner pursuant to this article shall be privileged and shall not be admissible as evidence in any other proceeding.

§ 83-17-87. Regulations.

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The commissioner may, in accordance with Section 25-43-1 et seq., promulgate reasonable regulations as are necessary or proper to carry out the purposes of this article.

§ 83-17-89. Severability.

If any provisions of this article, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the article, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

§ 83-17-251. Completion of approved prelicensing and continuing educational courses; exemptions from prelicensing educational requirements; number of classroom hours required; exemptions from continuing educational requirements.

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

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

(a) An individual that is exempt from taking the written examination as provided in [Section 83-](#)

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[17-39\(1\)](#) and [Section 83-17-67](#).

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

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

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

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

(f) Limited lines insurance producer and limited lines credit insurance producer as defined in [Section 83-17-53](#).

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

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

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

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

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

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

(d) Nonactive agents as defined in [Section 83-17-1](#).

§ 83-17-253. Prelicensing educational and continuing educational program requirements; establishment of standards for evaluating programs.

(1) To qualify for credit towards satisfaction of the requirements of this section, an educational program must be a formal program of learning which contributes directly to the professional competence of the licensee and such program must meet the standards outlined herein for prelicensing educational and continuing educational programs. The subject of each course must be approved for the lines of insurance for which the licensee is granted educational credit.

(2) Formal programs requiring attendance or self-study may be considered for credit if the required fees are paid and they meet the standards set forth by the commissioner. Course approval shall be valid for twenty-four (24) months from the date of issuance of approval.

(3) Continuing educational credit shall be allowed for service as an instructor of certified

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programs at any program for which participants are eligible to receive continuing educational credit. Credit for such service shall be awarded on the first presentation only unless a program has been substantially revised.

(4) Courses for prelicensing and continuing educational credit shall not be advertised or offered unless they have been approved by the commissioner or his designated advisory committee.

(5) The commissioner may grant exceptions to the requirements of this article for extenuating circumstances.

(6) The commissioner specifically reserves the right to approve or disapprove credit for prelicensing education and continuing education claimed under this section.

(7) The Commissioner of Insurance may require any original publisher or provider to submit all material to be used in his or her program to the Department of Insurance or his designee for review.

(8) All providers shall maintain a record of persons attending each course for not less than five (5) years and shall provide certificates of completion with hours earned to students upon their successful completion of each course. The certificate shall bear the course identification number as assigned by the Commissioner of Insurance or his designee.

(9) The Commissioner of Insurance may, in his discretion, designate an independent evaluation educational service to evaluate and administer education programs, subject to his direction and approval. The evaluation fee charged by such educational service shall be paid by the applicant to the service.

§ 83-17-255. Prelicensing and continuing educational advisory committee; membership; quorum.

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(1) A prelicensing and continuing educational advisory committee, comprised of at least three (3) but not more than seven (7) individuals, may be appointed by and shall serve at the pleasure of the Commissioner of Insurance to advise the commissioner concerning prelicensing and continuing educational standards. Each committee member shall agree to serve a minimum of two (2) years. The chairman of the committee shall be appointed by and shall serve at the pleasure of the commissioner.

(2) A majority of those present at any meeting of the educational advisory committee shall be a quorum for purposes of performing the duties of the committee under this section.

(3) The committee may advise the commissioner on program content and exceptions as permitted under this section.

(4) The committee shall be available to consider other related matters as the commissioner may assign.

§ 83-17-257. Certification of attendance and completion of prelicensing and continuing educational programs; exceptions.

(1) Educational providers shall submit proof of each attendee's successful completion of approved prelicensing and continuing educational programs to the Commissioner of Insurance in an electronic format approved by the commissioner within thirty (30) days of the course completion.

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(2) The commissioner may grant exceptions to the requirements of this section for reasonable and just causes.

(3) The responsibility for establishing whether a particular course or other program for which credit is claimed is acceptable and meets the continuing educational requirements as set forth in this section rests solely on the licensee.

§ 83-17-259. Commissioner of Insurance may grant exception or extension of time.

The Commissioner of Insurance, upon written request, may grant exception to or extend the time in which a licensee must comply with the continuing educational requirements of this section for reasons of poor health, military service or other reasonable and just causes.

§ 83-17-261. Failure of agent to meet educational requirements; penalties.

(1) Any individual failing to meet the requirements of this section and who has not been granted an extension of time within which to comply or who has submitted to the Commissioner of Insurance a false or fraudulent certificate of compliance shall be subject to suspension or revocation of all licenses issued for any kind or kinds of insurance. The individual shall be notified of his right to a hearing. No further license shall be issued to such person for any kind or kinds of insurance until such time as the person has demonstrated to the satisfaction of the

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commissioner that he or she has complied with all requirements of this section and all other laws applicable thereto.

(2) The Commissioner of Insurance may suspend, revoke or refuse to renew a course provider's authority to offer courses for any of the following causes:

(a) Advertising that a course is approved before the commissioner has granted such approval in writing;

(b) Submitting a course outline with material inaccuracies, either in length, presentation time or topic content;

(c) Presenting or using unapproved material in providing an approved course;

(d) Failing to conduct a course for the full time specified in the approval request submitted to the commissioner;

(e) Preparing and distributing certificates of attendance or completion before the course has been approved;

(f) Issuing certificates of attendance or completion before the completion of the course;

(g) Failing to issue certificates of attendance or completion to any licensee who satisfactorily completes a course;

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(h) Failing to notify promptly the Commissioner of Insurance of suspected or known improper activities; or

(i) Any violation of state law.

(3) A course provider is responsible for the activities of persons conducting, supervising, instructing, proctoring, monitoring, moderating, facilitating or in any way responsible for the conduct of any of the activities associated with the course.

(4) In addition, the Commissioner of Insurance may require any of the following upon a finding of a violation of this section:

(a) Refunding all course tuition and fees to licensees;

(b) Providing licensees with a suitable course to replace the course that was found in violation; or

(c) Withdrawal or approval of courses sponsored by such a provider for a period determined by the commissioner.

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§ 83-17-1. Agent defined.

Whenever used in this chapter, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

- (a) "Agent" means an insurance producer as defined in this section.

- (b) "Nonactive agent" means an individual who is retired, disabled or has not obtained from the Commissioner of Insurance a current continuous certificate. A nonactive agent shall not solicit new business or service existing businesses, but may receive renewal commissions.

- (c) "Supervising general agent" refers to and includes any person, partnership, association or corporation having authority to serve as trustees, managers or administrators, except attorneys at law, for such licensed insurance companies or their insureds in the handling of insurance programs underwritten by such licensed insurance companies, or in which they may be participating.

- (d) "Excess risk" means all or any portion of an insurance risk or contract of annuity for which application is made to an agent and which exceeds the amount of insurance or annuity which will be provided by the insurer for which such agent is licensed.

- (e) "Rejected risk" means an insurance risk or annuity contract for which application has been made to an agent and which insurance or annuity contract is declined by the insurer for which such agent is licensed.

- (f) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

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(g) "Commissioner" means the Commissioner of Insurance of the State of Mississippi.

(h) "Controlled business" means policies of insurance to be issued to a producer, agent or to his relatives, business associates, employers or employees, or in which they or either of them have an interest. No license shall be granted or renewed to any agent or producer until the applicant certifies with the Commissioner of Insurance that the applicant shall in good faith engage in the insurance business as agent or producer, and that he is not seeking a license for the purpose of acquiring or saving commissions, premiums or other valuable considerations on "controlled business." A violation of this paragraph shall be deemed to be probable if the commissioner finds that during any twenty-four-month period aggregate commissions or other compensations accruing in favor of the applicant with respect to his own interests or those of his family, relatives, employers, employees or business associates, as provided herein, have exceeded or will exceed thirty-five percent (35%) of the aggregate amount of commissions accruing to him as agent or his agency during such period of time. Nothing herein contained shall prohibit the licensing under a limited license as to motor vehicle physical damage insurance, any person employed by or associated with a motor vehicle sales agency with respect to insurance on a motor vehicle sold, serviced or financed by it. Whenever employment is terminated of any such person employed by or associated with any such agency, the Commissioner of Insurance shall be notified, and the license shall be cancelled immediately. It is further provided that the provisions of this paragraph likewise shall not apply with respect to sales of insurance by a lender or its affiliate covering the insurable interest of the lender.

§ 83-17-3. Personal liability.

An insurance agent shall be personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state.

§ 83-17-5. Agent certificate; notification of nonrenewal required.

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Every agent of any insurance company, fraternal order or association authorized to do business in this state shall be required to obtain from the Commissioner of Insurance a certificate under the seal of his office showing that the company for which he or she is licensed to do business in this state, and that he or she is an agent of said company and duly authorized to do business for it. Such certificate shall remain valid as long as the insurance company, fraternal order or association pays to the commissioner an annual certificate fee to continue the authorization. The insurance company, fraternal order or association must notify the agent within thirty (30) days if the authority is nonrenewed or cancelled.

§ 83-17-7. Commission to unauthorized agent unlawful. [Repealed effective July 1, 2010].

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

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

It shall be lawful for an insurance agent, agency or affiliate to pay a referral fee to any unlicensed employee of the agent, agency or affiliate when the employee refers a prospective

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insured to the licensed agent or agency. The referral fee shall be a one-time nominal fee of a fixed dollar amount for each referral customer. The payment of any referral fee shall not depend on whether the referral results in a sale of any insurance products. Furthermore, the referral fee shall not be based on a percentage of any premiums or commissions collected by the licensed agent. The referral fee shall not be paid, either directly or indirectly, to the prospective insured.

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

The provisions of this section shall stand repealed from and after July 1, 2010.

§ 83-17-13. Penalty for signing blank policy.

It shall be unlawful for any agent of a fire insurance company, or of any other insurance company which is required to have its policies signed by a resident agent, to sign any blank policy of insurance. Upon satisfactory proof that any agent has violated the provisions of this section, the commissioner shall revoke such agent's license for all companies for not less than three nor more than six months for the first offense, and for one year for the second offense.

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§ 83-17-19. Penalty for soliciting without license.

Every person who, either as principal or agent or pretending to be such, shall solicit, examine, or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, or shall receive, collect, or transmit any premiums of insurance, or shall do any other act in the soliciting, making, or executing of any contract of insurance of any kind otherwise than this chapter permits shall be deemed guilty of a misdemeanor and, on conviction, shall pay a fine of not less than two hundred dollars nor more than five hundred dollars, or be imprisoned not less than one nor more than two years, or both, in the discretion of the court.

§ 83-17-21. Policies to be written through licensed agents

No fire, fire marine, accident, health, employers' liability, steam boiler, plate glass, fidelity, surety, burglary, or other insurance company except life insurance companies, not incorporated under the laws of this state authorized to transact business herein shall make, write, place, or cause to be made, written, or placed any policy, duplicate policy, or contract of insurance of any kind or character or any general or floating policy upon persons or property in this state, except after the risk has been approved, in writing, by an agent, regularly commissioned and licensed to transact insurance business herein, who shall countersign all policies or contracts of insurance so issued. The provisions of this section shall not apply to individual firms and corporations indemnifying themselves through reciprocal contracts, and not employing local agents. No provision of this section is intended, or shall be so intended, as to direct insurance covering the rolling stock of railroad corporations, or property in transit while in the possession and custody of railroad corporations or other common carriers. The written approval and countersignature of licensed agents may be in facsimile when used solely in connection with personal accident insurance covering travel, issued through the medium of policy dispensing machines; however, land travel insurance so issued may not be issued for a period longer than seven (7) days from the date of issue. The written approval and countersignature of licensed agents may also be in facsimile when authorization is given by the agent in writing to an insurer for which the agent is certified to do business pursuant to [Section 83-17-5](#). The use of facsimile countersignature shall not modify any of the other requirements of this section. Any authorization for a facsimile countersignature may be canceled by the agent in writing and is automatically canceled upon the death, termination or

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nonrenewal of the agent

§ 83-17-25. Duration of privilege licenses.

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

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

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

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

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

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§ 83-17-37. Expiration of license; application for renewal.

(1) Each license issued to a producer shall expire on the mandated renewal date following the date of issue, unless prior thereto it is revoked or suspended by the commissioner.

(2) Each producer shall file an application for renewal of license on the form and in the manner prescribed by the commissioner for such purpose. Upon the filing of such application for renewal of license and the payment of the required fees, the current license shall continue to be in force until the renewal license is issued by the commissioner or until the commissioner has refused for cause to issue such renewal license, as provided in [Section 83-17-71](#), and has given notice of such refusal in writing to the producer.

§ 83-17-39. Examination of applicants; classification of applicants; textbooks and learning materials.

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(1) Each applicant for a license to act as a producer within this state shall submit to a personal written examination to determine his competence to act as a producer and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such written examination shall be required of:

(a) An applicant for a renewal license unless the commissioner determines that such examination is necessary to establish the competency of the applicant, or unless a license had not been effective as to such applicant within one (1) year preceding the date of filing the application;

(b) An applicant who is a ticket-selling agent of a railroad or steamship company, carrier by air, or public bus carrier who shall act as a producer or solicitor in the sale of accident insurance tickets to individuals;

(c) An applicant who shall be licensed to act only as a producer with respect to life, health and accident insurance on borrowers or debtors commonly known as credit life, health and accident insurance;

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(d) In the discretion of the commissioner, an applicant whose license to do business or act as a producer in this state was suspended less than one (1) year prior to the date of application;

(e) An applicant who is an agent of a fraternal benefit society exclusively;

(f) An applicant who is exempt from examination under the provisions of [Section 83-17-67](#);
and

(g) An applicant who shall be licensed to act only as a producer with respect to property insurance on borrowers or debtors commonly known as credit property insurance.

(2) The commissioner may establish rules and regulations with respect to the classification of applicants according to the type of insurance contracts to be effected by them if licensed as producers, and with respect to the scope, type and conduct of written examinations to be given pursuant to this section, and the times and places within this state for the holding of such examinations. Such rules and regulations, if established, shall classify applicants for purposes of this section as follows:

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(a) Those desiring to write life insurance;

(b) Those desiring to write accident and health insurance, other than industrial accident and health insurance;

(c) Those desiring to write industrial accident and health insurance;

(d) Those desiring to write any combination of two (2) or more of the above classifications; and

(e) Those of such other classification as, in the opinion of the commissioner, are necessary or appropriate.

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Examination shall be prepared and given in those subjects only which pertain to the classification or classifications which the applicant desires to write, and no applicant shall be required to take an examination on a subject or subjects pertaining to any other classification.

The rules and regulations of the commissioner, if established, shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examination in each classification designated by the commissioner pursuant to this section. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher, or may consist of matter prepared at the direction of the commissioner and distributed to applicants upon request therefor and payment of the reasonable cost thereof. If textbooks, manuals or other materials shall have been designated or prepared by the commissioner pursuant to this section, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials.

§ 83-17-41. Licensing by type or kind of insurance; sanctions for selling type or kind of insurance for which not properly licensed.

The commissioner may, from time to time, make reasonable groupings into type, types or kinds of insurance that may be lawfully written in this state, for the purpose of prescribing reasonable written examinations for producer and solicitor licenses for each group respectively, and for the issuance of limited licenses. Any such licensed producer or solicitor who shall attempt to write

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any type of business or seek a brokerage commission on a type of business for which he is not properly licensed and authorized shall, after investigation of all circumstances and proper notice of hearing, be subject to hearing for revocation or suspension of the license.

§ 83-17-43. Certificate of appointment [Repealed effective November 1, 2009].

(1) In addition to all other license requirements, examinations for qualifications and fees established and imposed by law, all insurance solicitors shall file with the Commissioner of Insurance, in a form to be prescribed by the commissioner, an application for certificate of appointment as solicitor, signed by an insurance producer who proposes to employ such solicitor and signed and accepted by such solicitor, and shall pay to the commissioner a fee of Two Dollars (\$2.00) annually for the issuance of a certificate of appointment under seal of his office, showing the name of such solicitor, the name of an insurance producer or agency for which such individual is licensed to solicit business, and that such insurance producer or insurance agency is duly licensed. Such certificate of appointment issued by the commissioner shall be cancelled by him at any time upon request of the insurance producer or agency named therein, and shall automatically expire and terminate at the time that the solicitor's employment by, and connection with, the producer or agency named on such certificate terminates.

(2) No person shall act as an insurance solicitor for any insurance producer or agency without first securing from the commissioner the certificate of appointment designating the agency for which he is acting as solicitor, and paying the commissioner the fee herein provided. No person shall, at the same time, act as insurance solicitor for more than one (1) insurance producer or agency.

§ 83-17-45. Prohibited acts; liability.

(1) No producer or other persons shall, within this state, solicit, procure, receive or forward

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applications for insurance or annuities, or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any contract of insurance or annuity for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

(2) Any producer or any other person who violates the provisions of this section shall be liable for the full amount of any loss sustained on any contract of life, health or accident insurance or annuity made by or through him, directly or indirectly, with any insurer not authorized to do business in this state and, in addition, for any premium taxes which may become due under any law of this state by reason of such contract.

§ 83-17-47. Commissioner's subpoena power.

The Commissioner of Insurance shall have the power to administer oaths and affirmations, issue subpoenas and order the attendance and testimony of witnesses and the production of papers, books and documents. Upon the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commissioner of Insurance may invoke the aid of any court of the state of general jurisdiction. The court thereupon may order such person to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

§ 83-18-1. Definitions.

As used in this chapter unless the context otherwise requires:

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(a) "Administrator" or "third party administrator" or "TPA" means a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, or residents of another state from offices in this state, in connection with life or health insurance coverage or annuities, except any of the following:

(i) An employer on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of such employer;

(ii) A union on behalf of its members;

(iii) An insurer which is authorized to transact insurance in this state with respect to a policy lawfully issued and delivered in and pursuant to the laws of this state or another state;

(iv) An agent or broker licensed to sell life or health insurance in this state, whose activities are limited exclusively to the sale of insurance;

(v) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) A trust and its trustees, agents and employees acting pursuant to such trust established in conformity with 29 U.S.C. Section 186;

(vii) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account which meets the requirements of Section

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401(f) of the Internal Revenue Code;

(viii) A credit union or a financial institution which is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance agents or authorized insurers in connection with loan payments;

(ix) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized collection if the company does not adjust or settle claims;

(x) A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities;

(xi) An adjuster licensed by this state whose activities are limited to adjustment of claims;

(xii) A person who acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization; or

(xiii) A person licensed as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such license.

(b) "Affiliate" or "affiliated" means any entity or person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

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

(d) "Insurance" or "insurance coverage" means any coverage offered or provided by an insurer.

(e) "Insurer" means any person undertaking to provide life or health insurance coverage in this state. For the purposes of this chapter, insurer includes a licensed insurance company, a prepaid hospital or medical care plan, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of insurance subject to state insurance regulation. Insurer does not include a bona fide employee benefit plan established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974.

(f) "Underwrites" or "underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer; the overall planning and coordinating of an insurance program; and the ability to procure bonds and excess insurance.

§ 83-18-3. License required to act as administrator; penalties; application; renewal of license; bonding requirements; revocation of license; fines; rules and regulations.

(1) No person shall act as or hold himself out to be an administrator in this state, other than an adjuster licensed in this state for the kinds of business for which he is acting as an adjuster, unless he shall hold a license as an administrator issued by the Mississippi Commissioner of Insurance. Failure to hold such a license shall subject the administrator to a fine of not less than

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One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). Such license shall be issued by the commissioner to an administrator unless the commissioner, after due notice and hearing, shall have determined that the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation or has had a previous application for an insurance license denied for cause within five (5) years.

(2) All applications shall be accompanied by a fee of Two Hundred Dollars (\$200.00). The license is renewable annually on the date of issue. A request for renewal must be accompanied by a renewal fee of One Hundred Dollars (\$100.00). Prior to the issuance or renewal of the license of any administrator, a fidelity bond in a form and amount as determined by the commissioner shall be obtained by the licensee.

(3) After notice and hearing, the commissioner may revoke a license or fine an administrator not more than Five Hundred Dollars (\$500.00), or both, or the commissioner may suspend such license or fine such administrator not more than Five Hundred Dollars (\$500.00), or both, upon finding that either the administrator violated any of the requirements of this chapter or the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation.

(4) The Commissioner of Insurance may promulgate rules and regulations which are necessary to accomplish the purposes of this chapter.

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(5) In addition to the reasons specified in this section, the commissioner shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in [Section 93-11-153](#). The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by [Section 93-11-157](#) or [93-11-163](#), as the case may be. Actions taken by the board in suspending a license when required by [Section 93-11-157](#) or [93-11-163](#) are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by [Section 93-11-157](#) or [93-11-163](#) shall be taken in accordance with the appeal procedure specified in [Section 93-11-157](#) or [93-11-163](#), as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of [Section 93-11-157](#) or [93-11-163](#) and any provision of this chapter, the provisions of [Section 93-11-157](#) or [93-11-163](#), as the case may be, shall control.

(6) Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with [Section 93-11-64](#), Mississippi Code of 1972.

§ 83-18-5. Written agreement between administrator and insurer or employer; termination of agreement.

(1) No administrator shall act as such without a written agreement between the administrator and the insurer or employer, and such written agreement shall be retained as part of the official records of both the insurer or employer and the administrator for the duration of the agreement and for five (5) years thereafter. The agreement shall contain all provisions required by this statute, except insofar as those requirements do not apply to the functions performed by the

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administrator.

(2) The written agreement shall include a statement of duties which the administrator is expected to perform on behalf of the insurer or employer and the lines, classes or types of insurance for which the administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting or other standards pertaining to the business underwritten by such insurer.

(3) The insurer, employer or administrator may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute regarding the cause for termination of the written agreement. The insurer must fulfill any lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the insurer and the administrator.

§ 83-18-7. Payments to administrator deemed received by insurer; payments to administrator not deemed paid to insured or claimant until received by insured or claimant.

If an insurer utilizes the services of an administrator, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured party shall be deemed to have been received by the insurer, and the payment of return premiums or claim payments forwarded by the insurer to the administrator shall not be deemed to have been paid to the insured party or claimant until such payments are received by the insured party or claimant. Nothing in this section limits any right of the insurer against the administrator resulting from the failure of the administrator to make payments to the insurer, insured parties or claimants.

§ 83-18-9. Record keeping requirements.

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(1) Every administrator shall maintain and make available to the insurer or employer complete books and records of all transactions performed on behalf of the insurer or employer. The books and records shall be maintained in accordance with prudent standards of insurance record keeping and must be maintained for a period of not less than five (5) years from the date of their creation.

(2) The commissioner shall have access to books and records maintained by an administrator for the purposes of examination, audit and inspection. Any trade secrets contained in such books and records, including the identity and addresses of policyholders and certificate holders, shall be kept confidential, except that the commissioner may use such information in any proceeding instituted against the administrator.

(3) The insurer or employer shall own the records generated by the administrator pertaining to the insurer; however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insured parties, claimants, and the insurer.

(4) In the event the insurer or employer and the administrator cancel their agreement, notwithstanding the provisions of subsection (1) of this section, the administrator may, by written agreement with the insurer or employer, transfer all records to a new administrator rather than retain them for five (5) years. In such cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection (1) of this section.

§ 83-18-11. Advertising by administrator.

An administrator may use only such advertising pertaining to the business underwritten by an

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insurer as has been approved in writing by the insurer in advance of its use.

§ 83-18-13. Responsibilities of insurer utilizing services of administrator.

(1) If an insurer utilizes the services of an administrator, the insurer shall be responsible for determining the benefits, premium rates, underwriting criteria and claims payment procedures applicable to such coverage and for securing reinsurance, if any. The rules pertaining to these matters must be provided, in writing, by the insurer to the administrator. The responsibilities of the administrator as to any of these matters shall be set forth in the written agreement between the administrator and the insurer.

(2) It is the sole responsibility of the insurer or employer to provide for competent administration of its programs.

(3) In cases where an administrator benefits for more than one hundred (100) certificate holders on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the administrator. At least one (1) such review shall be an on-site audit of the operations of the administrator.

§ 83-18-15. Administrator's duties as fiduciary for insurer.

(1) All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers, and the return of premiums received from that insurer or insurers, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally insured financial institution. The

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written agreement between the administrator and the insurer shall provide for the administrator to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business underwritten by the insurer.

(2) If charges or premiums deposited in a fiduciary account have been collected on behalf of or for one or more insurers, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each insurer. The administrator shall keep copies of all the records, and upon request of an insurer, shall furnish the insurer with copies of the records pertaining to such deposits and withdrawals.

(3) The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from such account shall be made as provided in the written agreement between the administrator and the insurer. The written agreement shall address, but not be limited to, the following:

(a) Remittance to an insurer entitled to remittance;

(b) Deposit in an account maintained in the name of the insurer;

(c) Transfer to and deposit in a claims-paying account, with claims to be paid as provided in subsection (4);

(d) Payment to a group policyholder for remittance to the insurer entitled to such remittance;

(e) Payment to the administrator of its commissions, fees or charges; and

(f) Remittance of return premium to the person or persons entitled to such return premium.

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(4) All claims paid by the administrator from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer.

§ 83-18-17. Administrator's compensation not to be contingent on claim experience.

(1) An administrator shall not enter into any agreement or understanding with an insurer in which the effect is to make the amount of the administrator's commissions, fees or charges contingent upon savings effected in the adjustment, settlement and payment of losses covered by the insurer's obligations. This provision shall not prohibit an administrator from receiving performance-based compensation for providing hospital or other auditing services.

(2) This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.

§ 83-18-19. Disclosure requirements of administrator.

(1) When the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer to covered individuals advising them of the identity of, and relationship among, the administrator, the policyholder and the insurer.

(2) When an administrator collects funds, the reason for collection of each item must be identified to the insured party and each item must be shown separately from any premium. Additional charges may not be made for services to the extent the services have been paid for by

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the insurer.

(3) The administrator shall disclose to the insurer or employer all charges, fees and commissions received from all services in connection with the provision of administrative services for the insurer, including any fees or commissions paid by insurers providing reinsurance.

§ 83-18-21. Administrator to deliver written notices from insurer promptly.

Any policies, certificates, booklets, termination notices or other written communications delivered by the insurer to the administrator for delivery to insured parties or covered individuals shall be delivered by the administrator promptly after receipt of instructions from the insurer to deliver them.

§ 83-18-23. Certificate of authority required to act as administrator; application; additional requirements; exceptions.

(1) No person shall act as, or offer to act as, or hold himself out to be an administrator in this state without a valid certificate of authority as an administrator issued by the commissioner.

(2) Applicants to be an administrator shall make an application to the commissioner upon a form to be furnished by the commissioner. The application shall include or be accompanied by the following information and documents:

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- (a) All basic organizational documents of the administrator, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement and other applicable documents and all amendments to such documents;
- (b) The bylaws, rules, regulations or similar documents regulating the internal affairs of the administrator;
- (c) The names, addresses, official positions and professional qualifications of the individuals who are responsible for the conduct of affairs of the administrator; including all members of the board of directors, board of trustees, executive committee or other governing board or committee; the principal officers in the case of a corporation or the partners or members in the case of a partnership or association; shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the administrator; and any other person who exercises control or influence over the affairs of the administrator;
- (d) Annual financial statements or reports for the two (2) most recent years which prove that the applicant is solvent and such information as the commissioner may require in order to review the current financial condition of the applicant;
- (e) A statement describing the business plan including information on staffing levels and activities proposed in this state and nationwide. The plan must provide details setting forth the administrator's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping and underwriting;
- (f) If the applicant will be managing the solicitation of new or renewal business, proof that it employs or has contracted with an agent licensed by this state for solicitation and taking of applications. Any applicant which intends to directly solicit insurance contracts or to otherwise act as an insurance agent must provide proof that it has a license as an insurance agent in this state;

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(g) Such other pertinent information as may be required by the commissioner.

(3) The applicant shall make available for inspection by the commissioner copies of all contracts with insurers or other persons utilizing the services of the administrator.

(4) The commissioner may refuse to issue a certificate of authority if the commissioner determines that the administrator, or any individual responsible for the conduct of affairs of the administrator as defined in subsection (2)(c) of this section, is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator license denied or revoked for cause by any state.

(5) A certificate of authority issued under this section shall remain valid, unless surrendered, suspended or revoked by the commissioner, for so long as the administrator continues in business in this state and remains in compliance with this chapter.

(6) An administrator is not required to hold a certificate of authority as an administrator in this state if all of the following conditions are met:

(a) The administrator is not soliciting business as an administrator in this state;

(b) In the case of any group policy or plan of insurance serviced by the administrator, the lesser of five percent (5%) or one hundred (100) certificate holders reside in this state.

(7) An administrator shall immediately notify the commissioner of any material change in its ownership, control or other fact or circumstance affecting its qualification for a certificate of authority in this state.

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(8) No bonding shall be required by the commissioner of any administrator whose business is restricted solely to benefit plans which are either fully insured by an authorized insurer or which are bona fide employee benefit plans established by an employer or any employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974.

§ 83-18-25. Waiver of application requirements where administrator certified in another state.

Upon request from an administrator, the commissioner may waive the application requirements of subsection (2) of [Section 83-18-23](#) if the administrator has a valid certificate of authority as an administrator issued in a state which has standards for administrators that are at least as stringent as those contained in the model statute for third party administrators of the National Association of Insurance Commissioners.

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§ 83-18-27. Annual report of administrators.

(1) Each administrator shall file an annual report for the preceding calendar year with the commissioner on or before March 1 of each year, or within such extension of time therefor as the commissioner for good cause may grant. The report shall be in the form and contain such matters as the commissioner prescribes and shall be verified by at least two (2) officers of the administrator.

(2) The annual report shall include the complete names and addresses of all insurers with which the administrator had an agreement during the preceding fiscal year.

(3) At the time of filing its annual report, the administrator shall pay a filing fee as required by the commissioner.

§ 83-18-29. Suspension or revocation of certificate of authority; fine in lieu of suspension or revocation.

(1) The certificate of authority of an administrator shall be suspended or revoked if the commissioner finds that the administrator:

(a) Is in an unsound financial condition;

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(b) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or

(c) Has failed to pay any judgment rendered against it in this state within sixty (60) days after the judgment has become final.

(2) The commissioner may, in his or her discretion, suspend or revoke the certificate of authority of an administrator if the commissioner finds that the administrator:

(a) Has violated any lawful rule or order of the commissioner or any provision of the insurance laws of this state;

(b) Has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to such examination, when required by the commissioner;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

(d) Is affiliated with or under the same general management or interlocking directorate or ownership as another administrator or insurer which unlawfully transacts business in this state without having a certificate of authority;

(e) At any time fails to meet any qualification for which issuance of the certificate could have been refused had such failure then existed and been known to the department;

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(f) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld; or

(g) Is under suspension or revocation in another state.

(3) The commissioner may, in his or her discretion and without advance notice or hearing thereon, immediately suspend the certificate of any administrator if the commissioner finds that one or more of the following circumstances exist:

(a) The administrator is insolvent or impaired;

(b) A proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the administrator has been commenced in any state;

(c) The financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state.

(4) If the commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under this chapter, the commissioner may, in lieu of such suspension or revocation, impose a fine upon the administrator.

§ 83-18-101. Short title.

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[Sections 83-18-101](#) through [83-18-111](#) may be cited as the Managing General Agents Act.

§ 83-18-103. Definitions.

As used in [Sections 83-18-101](#) through 83-18-111:

(a) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

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(b) "Insurer" means any person, firm, association or corporation duly licensed in this state as an insurance company as defined in [Section 83-5-1](#), Mississippi Code of 1972.

(c) "Managing general agent" means any person, firm, association or corporation who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer (including the management of a separate division, department or underwriting office) and acts as an agent for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one (1) quarter or year together with one or more of the following: (i) adjusts or pays claims in excess of an amount determined by the commissioner; or (ii) negotiates reinsurance on behalf of the insurer.

Notwithstanding the above, the following persons shall not be considered as a managing general agent for the purposes of [Sections 83-18-101](#) through 83-18-111:

(i) An employee of the insurer;

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(ii) A United States manager of the United States branch of an alien insurer;

(iii) An underwriting manager which, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to the holding company regulatory act, and whose compensation is not based on the volume of premiums written; or

(iv) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

(d) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

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§ 83-18-105. License required to act as managing general agent; bonding requirement; rules and regulations.

(1) No person, firm, association or corporation shall act in the capacity of a managing general agent with respect to risks located in this state for an insurer licensed in this state unless such person is a licensed producer in this state.

(2) No person, firm, association or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as a producer in this state (such license may be a nonresident license) under [Sections 83-18-101](#) through [83-18-111](#).

(3) The commissioner may require a bond in an amount acceptable to him for the protection of the insurer. The commissioner may require the managing general agent to maintain an errors and omissions policy.

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(4) The commissioner may adopt reasonable rules and regulations to implement [Sections 83-18-101](#) through [83-18-111](#).

§ 83-18-107. Written contract required to place business with insurer; minimum contents

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(b) The managing general agent will render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(c) All funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three (3) months estimated claims payments and allocated loss adjustment expenses.

(d) Separate records of business written by the managing general agent shall be maintained. The insurer shall have access and right to copy all accounts and records related to its business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts and records of the managing general agent in a form usable to the commissioner.

(e) The contract may not be assigned in whole or part by the managing general agent.

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(f) Appropriate underwriting guidelines including:

(i) The maximum annual premium volume;

(ii) The basis of the rates to be charged;

(iii) The types of risks which may be written;

(iv) Maximum limits of liability;

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(v) Applicable exclusions;

(vi) Territorial limitations;

(vii) Policy cancellation provisions; and

(viii) The maximum policy period.

The insurer shall have the right to cancel or nonrenew any policy of insurance subject to the applicable laws and regulations.

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(g) If the contract permits the managing general agent to settle claims on behalf of the insurer:

(i) All claims must be reported to the company in a timely manner.

(ii) A copy of the claim file shall be sent to the insurer at its request or as soon as it becomes known that the claim:

(A) Has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the company, whichever is less;

(B) Involves a coverage dispute;

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(C) May exceed the managing general agent's claims settlement authority;

(D) Is open for more than six (6) months; or

(E) Is closed by payment of an amount set by the commissioner or an amount set by the company, whichever is less.

(h) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(2) All claim files shall be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer such files shall become the sole property of the insurer or its estate; the managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

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(3) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(4) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits shall not be paid to the managing general agent until one (1) year after they are earned for property insurance business and five (5) years after they are earned on casualty business and not until the profits have been verified pursuant to [Section 83-18-109](#).

(5) The managing general agent shall not:

(a) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in

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effect, the coverages and amounts or percentages that may be reinsured and commission schedules;

(b) Commit the insurer to participate in insurance or reinsurance syndicates;

(c) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed;

(d) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent (1%) of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;

(e) Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

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(f) Permit its subproducer to serve on the insurer's board of directors;

(g) Jointly employ an individual who is employed with the insurer; or

(h) Appoint a submanaging general agent.

§ 83-18-109. Duties and responsibilities of insurer with respect to each managing general agent it does business with; acts of managing general agent considered acts of insurer.

(1) The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which it has done business.

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(2) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

(3) The insurer shall periodically (at least semiannually) conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

(5) Within thirty (30) days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of such appointment or termination to the commissioner. Notices of appointment of a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act and any other information the commissioner may request.

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(6) An insurer shall review its books and records each quarter to determine if any producer as defined by [Section 83-18-103](#) has become, by operation of [Section 83-18-103](#), a managing general agent as defined in that section. If the insurer determines that a producer has become a managing general agent pursuant to the above, the insurer shall promptly notify the producer and the commissioner of such determination and the insurer and producer must fully comply with the provisions of [Sections 83-18-101](#) and [83-18-111](#) within thirty (30) days.

(7) An insurer shall not appoint to its board of directors an officer, director, employee, subproducer or controlling shareholder of its managing general agent. This subsection shall not apply to relationships governed by the Insurance Holding Company Act or, if applicable, the Broker Controlled Insurer Act.

(8) The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer.

§ 83-18-111. Penalties for violations; judicial review; rights of policyholders and others not restricted.

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(1) If the commissioner finds after a hearing conducted in accordance with [Section 83-6-39](#), Mississippi Code of 1972, that any person has violated [Sections 83-18-101](#) through [83-18-111](#), the commissioner may order:

(a) For each separate violation, a penalty in an amount not to exceed Five Hundred Dollars (\$500.00);

(b) Revocation or suspension of the producer's license; and

(c) The managing general agent to reimburse the insurer, the rehabilitator or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this act committed by the managing general agent.

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(2) The decision, determination or order of the commissioner pursuant to subsection (1) shall be subject to judicial review pursuant to [Section 83-6-41](#), Mississippi Code of 1972.

(3) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in the insurance law.

(4) Nothing contained in this act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants and auditors.

§ 83-19-1. Classifications of insurance companies.

Insurance companies may be formed for the following classifications:

Class 1. Fire and Casualty.

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(a) *Fire and Allied Lines*. Coverage protecting against loss to real or personal property from damage caused by the peril of fire, lightning, windstorm and hail, sprinkler and water damage, smoke, explosion, riot, riot attending strike, civil commotion, aircraft, vehicle and business interruption caused by one of the above.

(b) *Industrial Fire*. Limited coverage protecting against loss to real or personal property from damage caused by the peril of fire, lightning, windstorm and hail, sprinkler and water damage, smoke, explosion, riot, riot attending strike, civil commotion, aircraft, vehicle, burglary, theft and business interruption caused by one of the above.

(c) *Casualty/Liability*. Coverage protecting the insured against legal liability resulting from negligence, carelessness or a failure to act causing property damage or personal injury to others. Coverage may include burglary and theft.

(d) *Fidelity*. A bond covering an employer's loss resulting from an employee's dishonest act.

(e) *Surety*. A three-party agreement where the insurer agrees to pay a second party (the obligee) or make complete an obligation in response to the default, acts or omissions of a third party (the principal).

(f) *Workers' Compensation*. Coverage for an employer's liability for injuries, disability or death to persons in their employment, without regard to fault, as prescribed by state workers' compensation laws.

(g) *Boiler and Machinery*. Coverage for the failure of boilers, machinery and electrical equipment.

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(h) *Plate Glass*. Coverage for the cost of replacement and incidental cost of building glass due to breakage or application of chemicals to glass.

(i) *Aircraft*. Coverage for aircraft (hull) and contents; aircraft owner's and manufacturer's liability to passengers, airports and other third parties.

(j) *Inland Marine*. Coverage for inland transportation exposures, property in transit, held by a bailee, scheduled, bridges and tunnels.

(k) *Ocean Marine*. Coverage for ocean and inland water transportation exposures; goods or cargoes; ships or hulls.

(l) *Automobile Physical Damage/Automobile Liability*. Coverage protecting against loss to owner's vehicle, personal injury and damage to property of others.

(m) *Homeowners/Farmowners*. A package policy covering real and personal property, liability and theft.

(n) *Guaranty*. An indemnity contract under which loss is payable upon proof of occurrence of financial loss to an insured claimant, obligee or indemnitee as a result of failure to perform a financial obligation.

(o) *Mortgage Guaranty*. Coverage indemnifying a lender from loss when a borrower fails to meet required mortgage payments.

(p) *Title*. Coverage protecting the insured against risk resulting from defective titles or invalidity or adverse claim to title.

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(q) *Trip Accident and Baggage.* Coverage protecting the insured against risk resulting from accidental death; loss or damage to personal effects carried as baggage in connection with transportation provided by a common carrier.

(r) *Legal.* Coverage protecting the insured against the risk resulting from the cost of legal services.

(s) *Credit Property.* Insurance against loss of or damage to personal property purchased through a credit transaction or used as collateral for a credit transaction.

Class 2. Life.

(a) *Life.* Insurance contract for the payment of endowments or annuities, or make and enter into such other contracts conditioned upon the continuance or cessation of human life.

(b) *Accident and Health.* Individual or group policy or contract of insurance against loss resulting from sickness or bodily injury, including dental care expenses resulting from sickness or bodily injury, or death by accident, or accidental means, or both.

(c) *Credit Life, Credit Accident and Health.* Insurance on the life of a debtor in connection with a specific loan or other credit transactions; insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(d) *Industrial Life, Industrial Accident and Health.* Limited insurance coverage protecting the

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insured in case of death, bodily injury or disability.

(e) *Variable Contracts*. Contract which provides for variable life insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such contract.

(f) *Life (Burial)*. A limited life contract for payment of the burial expenses of the insured.

Class 3. Fraternal.

(a) *Fraternal*. Coverage for the mutual benefit of fraternal members and their beneficiaries and not for profit or which limits its membership to a secret fraternity having a lodge system and representative form of government. Benefits may be paid in case of death, disability, funeral expenses, monuments or tombstones.

(b) *Larger Fraternal*. Coverage for the mutual benefit of larger fraternal members and their beneficiaries and not for profit or which limits its membership to a secret fraternity having a lodge system and representative form of government. Benefits may be paid in case of death, endowment, annuity, temporary or permanent disability; hospital, medical or nursing; funeral, monument or tombstone and such other benefits as authorized for life insurers. For purposes of this paragraph (b), "larger fraternal" means those fraternal societies that have more than Thirty Thousand Dollars (\$30,000.00) in total annual written premiums.

Class 4. Burial. Insurance coverage protecting the insured against the risk resulting from the cost of burial expenses.

Class 5. Home Warranty. A contract or agreement, designated as a service contract, maintenance agreement, extended warranty or any similar term, whereby a person for a

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specified period of time indemnifies the warranty holder for a predetermined fee against the cost of repair or replacement.

§ 83-19-3. Insurance of apparatus.

All insurance companies authorized to transact fire insurance business in this state may, in addition to the business which they are now authorized by law to do, insure sprinklers, pumps, and other apparatus erected or put in position for the purpose of extinguishing fires, against damage, loss, or injury resulting from accidental causes other than fire; and also insure any property which such companies are authorized to insure against loss or damage by fire against damage, loss, or injury by water or otherwise, resulting from the accidental breaking off or injury to sprinklers, pumps, or other apparatus arising from causes other than fire.

§ 83-19-5. Expiration of charters under special acts.

Domestic insurance companies, incorporated by special acts, whose charters are subject to limitation of time shall, after such limitation expires, continue to be bodies corporate, subject to all general laws applicable to such companies. No domestic insurance company hereafter organized shall issue policies until, upon examination of the commissioner, his deputy, or examiner, it is found to have complied with the laws of the state, nor until it has obtained from the commissioner a certificate setting forth that fact and authorizing it to issue policies.

§ 83-19-7. Expiration of charters under general insurance laws.

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Domestic insurance companies incorporated under the general insurance laws whose charters are subject to limitation of time and who shall, after such limitation expires, continue to do business for ninety (90) days after March 6, 1956, shall be deemed to have accepted an extension of the time of life of such insurance corporation to a full period of ninety-nine (99) years from the date of the original charter thereof.

Such insurance corporation shall continue in existence as a de jure corporation as fully and completely as if the charter thereof had been thus amended prior to the end of the original period of fifty (50) years.

Likewise, whenever the period of existence of a domestic insurance company heretofore created for a period of fifty (50) years shall expire hereafter, if such corporation shall continue to do business thereafter for a period of ninety (90) days, the same shall operate as an acceptance of an extension of time of the life of such insurance corporation to a full period of ninety-nine (99) years from the date of the original charter thereof, and such insurance corporation shall continue in existence as a de jure corporation as fully and completely as if the charter thereof had been thus amended prior to the end of the original period of fifty (50) years.

Provided, however, that the provisions of this section shall in no way, shape, form, or fashion abate or nullify any suit or claim of whatsoever kind or nature accrued prior to March 6, 1956.

§ 83-19-9. Powers.

Corporations created under the provisions of this chapter shall have all the powers and

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privileges enjoyed by corporations created under the general corporation laws of this state, and may issue shares of stock of different classes, within the limits fixed by law, and may fix the relative rights and liability of the holders of each class of stock.

§ 83-19-11. Organization of insurance companies.

The procedure for organizing such a corporation shall be as follows: The proposed incorporators, a majority of whom must be residents of the state and not less than three (3), shall subscribe articles of association setting forth their intention to form a corporation; its proposed name, which must be approved by the commissioner and must not so closely resemble the name of an existing corporation doing business under the laws of this state as to be likely to mislead the public; the class or classes of insurance it proposes to transact and on what business plan or principle; the place within the state of its location; and, if on the stock plan, the amount of its capital stock. The words "insurance company" must be a part of the title of any such corporation.

§ 83-19-13. Bylaws.

Any such company may adopt bylaws for the conduct of its business not repugnant to law or to its charter, and shall therein provide for the election of a minimum of three (3) directors. The bylaws may provide for the division of its board of directors into two (2), three (3) or four (4) classes and the election thereof at its annual meetings in such manner as that the members of one (1) class only shall retire and their successors be chosen each year. Vacancies in any such class may be filled by election by the board for the unexpired term.

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§ 83-19-15. Organizational meeting.

The first meeting for the purpose of organization shall be called by a notice signed by one or more of the subscribers to the articles of association, stating the time, place, and purposes of the meeting, a copy whereof shall, seven (7) days at least before the appointed time, be given to each subscriber, or left at his usual place of business or residence, or duly mailed to his post office address. Whoever gives such notice shall make affidavit thereof, which shall include a copy of the notice and be entered upon the records of the corporation. At such first meeting, including any adjournment thereof, an organization shall be effected by the choice of a temporary clerk, who shall be sworn to correctly keep and record the proceedings of the meeting, by the adoption of bylaws, and by the election of directors and such other officers as the bylaws may require; but at such first meeting no person shall be elected director who has not signed the articles of association. The temporary clerk shall record the proceedings until and including the choice and qualification of the secretary. The directors so chosen shall elect a president, secretary, and other officers who, under the bylaws, they are authorized to choose. The offices of president and treasurer shall not be held by the same individual.

§ 83-19-16. Commissioner of Insurance to be notified of changes in officers or directors.

Every domestic insurer shall notify the Commissioner of Insurance in writing of any change in the officers or directors of the insurer either before or immediately after such change becomes effective. The notice shall include biographical affidavits on the new officers or directors in the format developed by the commissioner.

§ 83-19-19. Certificate of organization.

The president, secretary, and majority of the directors shall forthwith make, sign, and swear to a certificate setting forth a copy of the articles of association, with the names of the subscribers

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thereto, the date of the first meeting, and of any adjournment thereof, and shall submit such certificate and the records of the corporation to the insurance commissioner, who shall examine the same and may require such other evidence as he may deem necessary.

§ 83-19-21. License fees; deposit into Insurance Department Fund.

If it appears that the requirements of the law herein have been complied with, the commissioner shall collect a fee of Two Hundred Dollars (\$200.00), to be paid into the Special Fund in the State Treasury designated as the "Insurance Department Fund" and shall certify the fact and his approval of the articles of association, by endorsement thereon. The commissioner shall also collect a fee of Fifty Dollars (\$50.00) for any amendment filed thereon and such fee shall be deposited into the "Insurance Department Fund."

§ 83-19-27. Examination of financial ability, condition, and affairs.

It shall be the duty of the commissioner of insurance of this state to make an examination of the financial ability, condition, and affairs of each domestic insurance company of this state, within twelve (12) months from the date upon which such domestic insurance company commences to do business in this state, and thereafter regular examinations of the financial ability, condition, and affairs of such domestic insurance companies shall be made as herein provided, and is now provided.

§ 83-19-29. New companies to file financial statement each quarter for two years.

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It shall be the further duty of the Commissioner of Insurance of this state to require each domestic insurance company to file with the Department of Insurance a sworn financial statement of the company each quarter after it commences to do business, for a period of two (2) years. The statement shall be filed on and in accordance with the NAIC Quarterly Statement Blank and Instructions as well as the NAIC Accounting Practices and Procedures Manual. After the expiration of the two-year period, the annual statement otherwise required by statute will be sufficient unless the Commissioner of Insurance deems it advisable to require a more frequent filing of a financial statement.

§ 83-19-31. Capital required for various classes of companies.

(1) No corporation so formed shall transact any other business than that specified in its charter and articles of association. Companies so formed must meet the following capital and surplus requirements:

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(a) Single-line companies so formed to write a classification listed in paragraphs (a) through (n) in [Section 27-15-83](#), the minimum capital requirement shall be Four Hundred Thousand Dollars (\$400,000.00) and the surplus shall be a minimum of Six Hundred Thousand Dollars (\$600,000.00).

(b) Multi-line companies so formed to write a combination of the classifications listed in paragraphs (a) through (n) in [Section 27-15-83](#), the minimum capital requirement shall be Six Hundred Thousand Dollars (\$600,000.00) and the surplus shall be a minimum of Nine Hundred Thousand Dollars (\$900,000.00).

(c) Companies so formed for the purpose of transacting the business of life insurance on the industrial plan may organize with a minimum capital of One Hundred Thousand Dollars (\$100,000.00) and a minimum surplus of Fifty Thousand Dollars (\$50,000.00).

An industrial life insurer shall be limited to the following:

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1. A life insurance policy, in the aggregate value of Five Thousand Dollars (\$5,000.00) in death benefits, exclusive of multiple indemnity benefits.

2. A disability policy in the aggregate benefits of Sixty Dollars (\$60.00) per week.

3. A policy providing benefits for dismembered and broken limbs and/or loss of eyesight in the aggregate of Five Thousand Dollars (\$5,000.00) per policy year.

4. A policy which provides benefits for the payment for or furnishing of hospitalization, drugs, attending physicians and surgical costs in the aggregate of Three Thousand Five Hundred Dollars (\$3,500.00) per policy year.

(d) All mutual and reciprocal companies shall possess at the time of initial license and maintain thereafter a surplus, after deductions for services, in an amount equal to the capital and surplus requirements of a stock company writing similar lines of insurance.

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(e) If at any time the surplus of such domestic company or association shall be less than the minimum surplus noted above, such company or association shall be considered impaired; and it shall be the duty of the officers of such company or association to report any such impairment of surplus to the State Commissioner of Insurance in writing within ten (10) days after such impairment occurs. When any such impairment is reported, or if the Commissioner of Insurance should determine that the company is operating in an impaired condition, the commissioner may suspend the certificate of authority and license of such domestic insurance company or association to do business in this state until such company shall raise or increase its surplus to the minimum amount required herein.

(2) Any domestic company qualifying under the foregoing sections shall deposit with the State Treasurer fifty percent (50%) of its capital stock, either in cash or in such bonds or securities in which such company is authorized by law to invest its funds. Upon such deposit and evidence, by affidavit or otherwise, satisfactory to the Insurance Commissioner that the capital and surplus is all paid in and that the company is the actual and unqualified owner of the securities representing the paid-up capital and surplus, he shall issue to such company his certificate authorizing it to transact business in this state.

The provisions of this section as to the minimum requirements as to paid-up capital stock and cash surplus shall not become effective until January 1, 1988, concerning any domestic company which was authorized to do business and was writing business in this state on July 1, 1985.

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Notwithstanding any other provision of law, the securities qualified for deposit under this section may be deposited with a clearing corporation or held in the Federal Reserve book-entry system. Securities deposited with a clearing corporation or held in the Federal Reserve book-entry system and used to meet the deposit requirements set forth in this section shall be under the control of the Insurance Commissioner and shall not be withdrawn by the insurance company without the approval of the Insurance Commissioner. Any insurance company holding securities in such manner shall provide to the Insurance Commissioner evidence issued by its custodian or member bank through which such insurance company has deposited such securities in a clearing corporation or through which such securities are held in the Federal Reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or member bank, and that the records of the custodian, other participant or member bank reflect that such securities are held subject to the order of the Insurance Commissioner.

(3) No insurance company, including any mutual insurance company, organized under the laws of this state and transacting business in this state shall expose itself to loss on any one (1) risk or hazard to an amount exceeding ten percent (10%) of its paid-up capital and surplus unless the excess is reinsured in some other company duly authorized to transact similar business in this state or as otherwise provided in the insurance code. For purposes of this subsection, the terms "risk" and "hazard" apply to the subject matter of any one (1) insurance policy and not to any one (1) peril.

(4) The Commissioner of Insurance may require additional capital and surplus based on the type, nature or volume of business transacted.

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§ 83-19-33. Capital stock payment.

The capital stock shall be paid in cash within twelve (12) months from the date of charter or certificate of organization, unless the commissioner of insurance on proper showing shall grant additional time for the completion of the sale and payment of said stock; and no certificate of full shares shall be issued until paid for in full. No policies shall be issued until an amount equal to the minimum required by law shall have been paid into the company and a license to engage in business has been issued by the commissioner of insurance.

§ 83-19-35. Commissioner to approve the price per share of stock.

The commissioner of insurance shall approve the price per share of stock to be issued by a domestic insurance company upon the filing of a prospectus or brochure by the company. Said prospectus or brochure shall show the total number of shares authorized, and the number of shares to be issued at a specified price, and shall contain in large print the wording "This stock is purely speculative." The above provisions shall also apply to any stock subscribed to under escrow agreement at any organizational meeting.

§ 83-19-35. Commissioner to approve the price per share of stock.

Insurance Regulations

The commissioner of insurance shall approve the price per share of stock to be issued by a domestic insurance company upon the filing of a prospectus or brochure by the company. Said prospectus or brochure shall show the total number of shares authorized, and the number of shares to be issued at a specified price, and shall contain in large print the wording "This stock is purely speculative." The above provisions shall also apply to any stock subscribed to under escrow agreement at any organizational meeting.

§ 83-19-39. Escrow deposits.

The par value of each share and fifty per cent (50%) of the amount allocated to surplus shall be deposited in escrow in a bank in the State of Mississippi, jointly payable to the commissioner of insurance and the company, which deposit shall remain in escrow until sufficient funds are raised to permit the licensing of the company, or returned to the stockholders in lieu of such licensing.

§ 83-19-41. No stock to be placed on option.

The commissioner of insurance shall examine the charter and bylaws of each company applying for license to do business under the domestic insurance company laws to determine that no stock is placed on option. It shall be unlawful for any domestic insurance company to declare a stock dividend within five (5) years from date of incorporation.

§ 83-19-43. Qualification of certain stock sales with securities exchange commission.

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Any insurance company formed under the laws of the State of Mississippi, whose organizers or incorporators consist of one or more nonresidents of the State of Mississippi, shall, in addition to having the approval of the commissioner of insurance of all stock sales, likewise qualify the sale of stock in such company with the securities exchange commission

§ 83-19-45. Organization through sale of stock in holding company prohibited.

No insurance company shall be organized through the sale of stock in a holding or investment company.

§ 83-19-47. Violation to invalidate organization of company.

Any violation of the provisions in [Sections 83-19-33](#) to [83-19-45](#) shall invalidate the organization of any proposed domestic insurance company, either prior to or following its licensing by the insurance department.

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§ 83-19-49. License fees.

The licensing fees applicable to domestic insurance companies and stock salesmen shall be as provided in [Section 83-5-19](#), Mississippi Code of 1972.

§ 83-19-51. Investment of funds by domestic insurance companies.

(1) A domestic insurance company may invest its capital, surplus, and other funds, or certain parts thereof, in the following:

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(a) Bonds or other evidence of indebtedness of the United States, of any state of the United States, of the Dominion of Canada, or of any province thereof.

(b) Bonds or other evidence of indebtedness of any county, city, town, village, school district, municipal district, or other civil district within the United States or the Dominion of Canada.

(c) Bonds or notes secured by mortgages or deeds of trust upon unencumbered real estate in the United States or Dominion of Canada worth at least thirty-three and one-third percent ($33\frac{1}{3}\%$) more than the amount loaned thereon, and may also loan upon the security of improved unencumbered real property in any state, provided the security be eligible for insurance and be insured under provisions of the National Housing Act and any amendments thereto. Where improvements on the land constitute a part of the value on which the loan is made, the improvements shall be insured against fire and tornado for the benefit of the mortgagee, in an amount not less than the difference between seventy-five percent (75%) of the value of the land and the amount of the loan. For the purposes of this paragraph (c), real estate shall not be deemed to be encumbered within the meaning of this section by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights in walls, or other comparable or similar instruments, rights, restrictions, and covenants, nor by reason of building restrictions or restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner, provided such lease and the notes for rent given thereunder be assigned by the lessor to the company.

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(d) Bonds, notes, or other evidences of indebtedness which are secured by mortgages, security deeds, vendor's liens, or deeds of trust upon leasehold estates having an unexpired term of twenty-five (25) years or longer in improved unencumbered real estate in the United States worth at least thirty-three and one-third percent ($33\frac{1}{3}\%$) more than the amount loaned thereon. For the purposes of this paragraph (d), the real estate on which such leasehold estate exists shall not be deemed to be encumbered within the meaning of this section by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights in walls, or other comparable or similar instruments, rights, restrictions, and covenants, nor by reason of building restrictions or restrictive covenants.

(e) In bankers' acceptances and bills of exchange of the kinds and maturities made eligible by law for rediscount with Federal Reserve banks, provided that the same are accepted by a bank or trust company incorporated under the laws of the United States, of this commonwealth, or by any other bank or trust company which is a member of the Federal Reserve system. However, not more than ten percent (10%) of the admitted assets shall be so invested.

(f) Stock in Federal Home Loan Bank, or bonds, debentures, notes, or other evidences of indebtedness, or the preferred or guaranteed stock or shares of any solvent institution created or existing under the laws of the United States, of any state thereof, of the Dominion of Canada, or of any province thereof, if such institution, or in the case of guaranteed bonds, debentures, notes, or other evidences of indebtedness, or guaranteed stocks or shares, the guaranteeing institution, during each of any three (3) years, including the last two (2) years, of the five (5) years next preceding such investment, shall have earned a sum applicable to dividends equal, at least, to four percent (4%) upon the par value (or, in the case of stock or shares having no par value, then upon the value upon which such stock was issued) of all its capital stock or shares outstanding in each of such three (3) years. No life insurance company shall invest in its own stock and may not invest more than ten percent (10%) of its total assets in the preferred or guaranteed stock or bonds of any one (1) corporation, as above described.

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(g) Loans upon the pledge of any of the securities herein authorized.

(h) In adequately secured equipment trust certificates or other adequately secured instruments evidencing an interest in equipment wholly or partly within the United States, and a right to receive determined portions or rental, purchase or other fixed obligatory payments for the use or purchase of such equipment, provided that not more than five percent (5%) of its total assets be so invested.

(i) The common capital stock of any bank or trust company which is a member of the Federal Deposit Insurance Corporation and has earned no less than five percent (5%) on its total capital accounts for each of the preceding three (3) years, not to exceed, however, ten percent (10%) of the actually issued and outstanding common capital stock of any one (1) such bank or trust company; or a building and loan association which is a member of the Federal Savings and Loan Insurance Association and has earned no less than five percent (5%) on its total capital accounts for each of the preceding three (3) years, not to exceed, however, ten percent (10%) of the actually issued and outstanding common capital stock of any one (1) such building and loan association; provided that not more than five percent (5%) of the assets of such domestic company shall be so invested at any time in common stock of either banks or trust companies, or building and loan associations, or in an aggregate of the two (2).

Provided, however, no domestic insurance company may acquire common stock in any bank or building and loan association in this state when such acquisition will cause the aggregate of

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such stock held by any domestic insurance company or companies to exceed fifteen percent (15%) of the common stock of such bank or building and loan association.

(j) A life insurance company may also purchase for its own benefit any policy of life insurance or other obligation of the company and claims of the holders thereof, and may lend to the holders of its life insurance policies sums not exceeding in any case the reserve value of the policy at the time the loan is made and, for the payment of any such loan, the policy and all profits thereon shall be pledged.

(k) A company doing business in a foreign country may invest the funds required to meet its obligations in such country and, in conformity to the laws thereof, in the same kinds of securities in such foreign country that such company is allowed by law to invest in the United States.

(l) Bonds or other evidences of indebtedness of the Inter-American Development Bank.

(m) Cash or deposits in checking or savings accounts, under certificates of deposit or in any other form, or other certificates or evidence of indebtedness from solvent banks and trust companies and in savings accounts, certificates of deposit or similar certificates or evidences of

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deposits in solvent savings and loan associations and building and loan associations.

(n) Construction loans, repurchase agreement transactions, standby mortgage loan commitments, electronic, computer or data processing equipment investments, financial risk limiting and balancing transactions, including put and call options purchased solely for legitimate financial futures hedging, nonspeculative purposes if these transactions are traded upon a contract market designated and regulated by a federal agency.

(o) Bonds or other evidences of indebtedness of the African Development Bank.

(p) Any other investment expressly authorized by law.

(2) Any domestic company may invest an amount not to exceed ten percent (10%) of its total admitted assets and to further increase such authority by an additional four percent (4%) provided such four percent (4%) investments are made in the State of Mississippi without regard to the limitations of any other subsection of this section or of any other act or acts regulating or governing the investments of domestic companies.

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(3) Any domestic company may invest an amount not to exceed ten percent (10%) of its admitted assets in common shares of solvent corporations incorporated under the laws of any of the states among the United States of America without regard to the restrictions in, and notwithstanding the provisions of, any other subsection of this section or of any other act or acts regulating or governing the investments of domestic companies; provided, however, that the solvent corporation, during each of any three (3) years, including the last two (2) years, of the five (5) years next preceding such investment, shall have earned a sum applicable to dividends equal, at least, to four percent (4%) upon the par value (or, in the case of stock or shares having no par value, then upon the value upon which such stock was issued) of all of its capital stock or shares outstanding in each of such three (3) years. No life insurance company shall invest more than five percent (5%) of its admitted assets in common shares of any one (1) corporation as hereinbefore provided.

Conflict of interest. Provided, however, no domestic insurance company shall under this section acquire common stock in any company where the officers or directors of the insurance company, individually or collectively, hold an interest in excess of ten percent (10%) of the company in which the common stock is acquired. For the purpose of this limitation, interest is defined as actual ownership, ownership in the name of a trustee, ownership in the name of a relative within the third degree, ownership in the name of an owned or controlled corporation or business, or ownership in the form of an option.

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Provided, further, no officer or director of the insurance company shall either directly or indirectly derive any profit or revenue from stock purchases under the above subsection, either in the form of commissions, brokerage, or the outright sale of shares of stock to the insurance company.

(4) No amount at any time shall be loaned from any funds or investments described herein to any stockholder, officer or director of the company; provided, however, this subsection shall not prohibit any person from obtaining a loan or exercising other contractual rights pursuant to the provisions of a policy or contract for insurance to which the person is a party or otherwise has the legal right to exercise such contractual rights.

(5) Notwithstanding the provisions of this section, the commissioner may, after notice and hearing, order a company to limit or withdraw from certain investments, or discontinue certain investment practices, to the extent that the commissioner finds that such investments or investment practices endanger the solvency of the company.

(6) No loan or investment, except loans on the security of life insurance policies, shall be made by any such company unless the same shall have been authorized by the board of directors or by a committee thereof charged with the duty of supervising loans or investments, and no company shall enter into any agreement to withhold from sale any of its securities or property; but the disposition of its assets shall at all times be within the control of the company.

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Nothing in this law shall prohibit a company from accepting in good faith, to protect its interest, securities or property other than herein referred to, in payment of or to secure debts due or to become due the company.

(7) Nothing in this section shall be construed as affecting any investment existing on April 27, 1966; and this section shall not repeal [Sections 43-33-301](#) through [43-33-307](#) of the Mississippi Code of 1972.

§ 83-19-53. Investment to finance buildings for General Services Administration

A domestic insurance company may invest its funds in financing the construction of public buildings and improvements for the use of the United States of America through the General Services Administration pursuant to the provisions of Title I, Public Law 519, 83rd Congress, known as the Public Buildings Purchase Contract Act of 1954 (68 Stat. 518), as amended by Public Law 150, 84th Congress (69 Stat. 297), and Public Law 667, 84th Congress (70 Stat. 510), which amends the Public Buildings Act of 1949, Public Law 105, 81st Congress, approved June 16, 1949 (63 Stat. 176), and all laws amendatory thereof or supplemental thereto; and to that end may acquire, hold and convey real estate and other property and make and enter into any and all contracts and agreements deemed necessary or advisable by it to carry out the purposes of this section and protect the interests of such company; provided, however, that repayment of the loans and advances for such construction, with interest thereon, shall be obligations of or guaranteed by the United States of America.

This section is cumulative to and shall not repeal any other statutes of this state dealing with the investment of funds or the acquisition, holding, and conveyance of property by a domestic insurance company.

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§ 83-19-55. Real estate holdings.

A domestic company may acquire, hold, and convey real estate for the purposes and in the manner only following:

- (a) The buildings in which it has its principal office and the land on which it stands.
- (b) Such as shall be requisite for its convenient accommodation in the transaction, enlargement, and advancement of its business.
- (c) Such as shall have been acquired for the accommodation of its business.
- (d) Such real estate as it may purchase or hold for the production of income. It may improve or otherwise develop in any manner such real estate and the improvements thereon, and may own, maintain, manage, collect and receive income from, and sell or convey the same. Said real estate described in paragraphs (a), (b), (c) and (d) shall not exceed in value, as evidenced by its original purchase price including any encumbrances thereon, 15% of the assets of such company, unless the company file with the commissioner application for permission to exceed said proportion, stating its reasons therefor, and obtain his certificate approving the same.
- (e) Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted for money due.
- (f) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

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(g) Such as it shall have purchased at sales on judgments, decrees or mortgages obtained or made for debts.

All real estate specified in paragraphs (c), (e), (f) and (g) of this section shall be sold by the company and disposed of within five years after it shall have acquired the title to the same, unless the company obtain the certificate of the commissioner that its interests will suffer materially from a forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in such certificate. The company may, however, elect to consider property acquired as specified in paragraphs (c), (e), (f) and (g) as real estate for the production of income, as defined in paragraph (d). Such election shall be evidenced by a written notice thereof to the commissioner, and, where such election is made, property so acquired shall be subject to the limitation of 15% of the company's assets, as defined in paragraph (d), and shall not be required to be sold within said five-year period.

§ 83-19-57. Capital impairment.

When the net assets of a company do not amount to more than three fourths of its original paid-up capital, it may make good its capital to the original amount by assessment of its stock, and shall not write any new business until same is made good or reduced to minimum amount required by this chapter. If such company shall not, within three months after notice from the commissioner to that effect, make good its capital as aforesaid or reduce the same, its authority to transact new business of insurance will be revoked by said commissioner.

§ 83-19-59. Application to increase or reduce capital stock.

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The commissioner shall, upon application, examine the proceedings of domestic companies to increase or reduce their capital stock and, when found conformable to law shall indorse certificates thereof and shall issue certificates of authority to such company to transact business upon such increased or reduced capital. He shall not allow stockholders' obligations of any description as part of the assets or capital of any insurance company unless the same are secured by competent collateral.

§ 83-19-61. Increase of capital stock.

Any such company having a paid-up capital, as required by law, may increase its capital stock by a vote of its stockholders, and issue certificates for the additional shares, which may be paid for in cash or in such installments as the company may determine. Such certificates shall show on their face the amount actually paid (unless paid in full), and no capital shall be advertised except the amount actually paid. The company shall, within thirty days after authorizing such increase of capital, report the fact to the commissioner, setting forth the amount of such increase and the amount of same to be paid in cash. If the commissioner finds that the facts conform to the law, he shall indorse his approval thereon; and upon filing such certificate so indorsed with the secretary of state and paying a fee of five dollars for filing and recording the same, the company may continue to dispose of such authorized increase as has not been disposed of, and to transact business upon the capital as thus increased. As soon as the whole of such authorized increase has been placed or disposed of, the company shall report the fact to the commissioner; and if not disposed of in six months from the date of the first report herein required, a report shall then be made of the transactions to that date.

§ 83-19-63. Reduction of capital stock.

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When the capital stock of a company is impaired, such company may, upon a vote of the majority of the stock represented at a meeting called for that purpose, reduce its capital stock and the number of shares thereof to an amount not less than the minimum sum required by law. No part of its assets and property shall be distributed to its stockholders, but shall remain as surplus fund. Within ten days after such meeting, the company shall submit to the commissioner a certificate setting forth the proceedings thereof, the amount of such reduction, and the assets and liabilities of the company, signed and sworn to by its president, secretary, and a majority of its directors. The commissioner shall examine the facts in the case and, if the same conform to law and in his judgment the proposed reduction may be made without prejudice to the public, he shall indorse his approval upon the certificate. Upon filing the certificate so indorsed in the office of the secretary of state and paying a fee of five dollars for the filing and recording thereof, the company may transact business upon the basis of such reduced capital as though the same were its original capital. Its charter shall be deemed to be amended to conform thereto, and the secretary of state shall issue his certificate to that effect. Such company may, by a majority vote of its directors after such reduction, require the return of the original certificates of stock held by each stockholder in exchange for new certificates it may issue in lieu thereof for such number of shares as each stockholder is entitled to in the proportion that the reduced capital bears to the original.

§ 83-19-65. Dividends.

No stock company shall make a dividend, either in cash or stock certificates, except from its actual net surplus computed as required by law in its annual statements. Nor shall any company which has ceased to do new business of insurance divide any portion of its assets, except surplus, to its stockholders until it shall have performed or cancelled its policy obligations.

§ 83-19-67. Regulation of management contracts.

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Any management contract between a domestic insurer and another person, as defined in [Section 83-6-1\(f\)](#), shall be filed and subject to review and final approval of the State Insurance Department.

§ 83-19-69. Certain contracts prohibited in another state.

Subject to the exceptions set forth herein, no domestic insurer shall enter into a contract of insurance upon the life or person of a resident of any other state, or covering property or risks located in any other state, unless such insurer is authorized pursuant to the laws of such other state to do business therein.

The following constitute the exceptions to the foregoing provisions of this section:

(a) Life insurance contracts entered into where the prospective insured is personally present in a state in which the insurer is authorized to do business when he signs the application.

(b) Issuance of certificates under any lawfully transacted group life, group accident, group health, or other group disability policy, where the master policy is entered into in a state in which the insurer is authorized to do business.

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(c) Contracts made pursuant to a pension or retirement plan of an employer, when such contracts are applied for in a state where the employer is personally present or doing business and the insurer is authorized to do business.

(d) The renewal, reinstatement, conversion, or continuance in force with or without modification of contracts otherwise lawfully entered into and which were not originally executed in violation of this section, where the terms of such policy as originally executed leave no option as to renewal, reinstatement, or continuance in force to the insurer, but vest such rights in the insured alone.

(e) Reinsurance contracts entered into upon request from companies in other states covering risks in other states, provided such companies requesting reinsurance are licensed in the states in which the risks are located.

Any company wilfully violating this section shall be subject to suspension of its license to do business in this state for a period of not more than one (1) year, after ten (10) days' notice in writing and hearing by the commissioner of insurance.

§ 83-10-75. Penalty for failure to report impairment of surplus.

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results, the executive officers, secretary, treasurer, and directors of such company shall each be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

§ 83-19-77. Exceptions to surplus requirements.

[Sections 83-19-75](#) and [83-19-77](#) shall not be construed as applicable to fraternal, benevolent, or burial associations, or any other organization not specifically named in the foregoing schedule.

§ 83-19-79. "Equity security" defined.

The term "equity security" when used in [Sections 83-19-79](#) to [83-19-97](#) means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner of insurance shall deem to be of similar

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nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

§ 83-19-81. Statements of ownership of equity securities.

Every person who is directly or indirectly the beneficial owner of more than ten per cent (10%) of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance within ten (10) days after he becomes such beneficial owner, director, or officer, a statement in such form as the commissioner of insurance may prescribe of the amount of all equity securities of such company of which he is the beneficial owner; and within ten (10) days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner of insurance a statement in such form as the commissioner of insurance may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

§ 83-19-83. Recovery of profit realized from certain purchase or sale of equity security.

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six (6) months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six (6) months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company, if the company shall fail or refuse to bring such suit within sixty (60) days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two (2) years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not beneficial owner both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner of insurance by rules and regulations may exempt as not comprehended within the purpose of this section.

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§ 83-19-85. Prohibition of certain sales of equity security.

It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (i) does not own the security sold, or (ii) if owning the security, does not deliver it against such sale within twenty (20) days thereafter, or does not within five (5) days after such sale deposit it in the mails or other usual channels of transportation. No person shall be deemed to have violated this section if he proves that, notwithstanding the exercise of good faith, he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

§ 83-19-87. Certain purchases or sales of equity securities excepted.

The provisions of [Section 83-19-83](#) shall not apply to any purchase and sale, or sale and purchase, and the provisions of [Section 83-19-85](#) shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The commissioner of insurance may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

§ 83-19-89. Certain arbitrage transactions excluded.

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The provisions of [Sections 83-19-81](#) to [83-19-85](#) shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner of insurance may adopt in order to carry out the purposes of [Sections 83-19-79](#) to [83-19-97](#).

§ 83-19-91. Solicitation of proxies, consents, or authorizations.

It shall be unlawful for any person, in contravention of such rules and regulations as the commissioner of insurance may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security of a domestic stock insurance company.

§ 83-19-93. Transmission of security information.

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Unless proxies, consents, or authorizations in respect of an equity security of a domestic stock insurance company are solicited by or on behalf of the management of such company from the holders of record of such security in accordance with the rules and regulations prescribed under [Section 83-19-91](#) prior to any annual or other meeting of the holders of such security, such company shall, in accordance with such rules and regulations as the commissioner of insurance may prescribe as necessary or appropriate in the public interest or for the protection of investors, if required thereby, file with the commissioner of insurance and transmit to all holders of record of such security information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

§ 83-19-95. Provisions inapplicable to certain equity securities.

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§ 83-19-97. Commissioner to make rules and regulations.

The commissioner of insurance shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by [Sections 83-19-81 to 83-19-93](#), and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of [Sections 83-19-81, 83-19-83, 83-19-85, 83-19-91, and 83-19-93](#) imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner of insurance, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.