By: Representative Williams-Barnes

To: Insurance

HOUSE BILL NO. 985

AN ACT TO BRING FORWARD SECTION 83-2-3, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE DETERMINATION FOR COMPLIANCE OF RATES FOR PROPERTY AND CASUALTY INSURANCE AND REQUIRES THE COMMISSIONER OF INSURANCE TO ESTABLISH UNIFORM POLICY LANGUAGE REGARDING APPLICABILITY OF HURRICANE DEDUCTIBLES AND FORM OF NOTICE UNDER CERTAIN HOMEOWNER'S INSURANCE POLICIES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 83-2-3, Mississippi Code of 1972, is brought forward as follows:

83-2-3. (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 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.

(e) The commissioner shall establish by regulation uniform policy language regarding the applicability of hurricane deductibles and the form of notice to be provided to an insured under a homeowner's insurance policy by an insurer utilizing a hurricane deductible program or programs. The term "hurricane," for the purpose of a hurricane deductible program, means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Mississippi:

(i) Beginning at the time a hurricane watch or hurricane warning is issued for any part of Mississippi by the National Hurricane Center of the National Weather Service;

(ii) Continuing for the time period during which the hurricane conditions exist anywhere in Mississippi; and

(iii) Ending twenty-four (24) hours following the termination of the last hurricane watch or hurricane warning issued for any part of Mississippi by the National Hurricane Center of the National Weather Service.

(3) To ensure the most appropriate use of state resources with respect to the engagement of actuarial services for the review of rate filings under this chapter, the commissioner may adopt rules and regulations to establish the criteria and procedures for determining when a rate filing should be submitted to an actuary for review.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.