

By: Representatives Bennett, Crawford, Eure, Guice, Haney, Ladner, Patterson, Read, Upshaw, Williams-Barnes, Zuber To: Judiciary A; Insurance

HOUSE BILL NO. 449

1 AN ACT TO PROVIDE THAT, IN ANY ACTION FOR DAMAGES BY THE
2 POLICYHOLDER AGAINST A PROPERTY AND CASUALTY INSURER UNDER AN "ALL
3 PERILS" COVERAGE POLICY, THE INSURER HAS THE BURDEN OF PROOF AS TO
4 THE APPLICATION OF ANY EXCLUSION IN THE POLICY; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** (1) In any civil action against a property and
8 casualty insurer by the policyholder under an insurance policy
9 purporting to provide "all perils" coverage that alleges the
10 failure of the insurer to pay a lawful claim made under the
11 policy, the insurer bears the burden of proving by a preponderance
12 of the evidence that any exclusion in the policy applies to the
13 claim or loss at issue in the cause of action.

14 (2) The provisions of this section shall apply to any action
15 filed on or after July 1, 2012, without regard to the date that
16 the cause of such action may have accrued.

17 **SECTION 2.** This act shall take effect and be in force from
18 and after July 1, 2012.

