

By: Representative Peranich

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 563

1 AN ACT TO REQUIRE THE COMMISSIONER OF INSURANCE TO ESTABLISH  
2 THE MISSISSIPPI HOMEOWNERS INSURANCE POLICYHOLDER BILL OF RIGHTS;  
3 TO PROVIDE THAT, IN ANY ACTION FOR DAMAGES BY THE POLICYHOLDER  
4 AGAINST AN INSURER UNDER A HOMEOWNERS POLICY, THE INSURER HAS THE  
5 BURDEN OF PROOF AS TO THE APPLICATION OF ANY EXCLUSION IN THE  
6 POLICY AND ANY EXCEPTION TO OR OTHER AVOIDANCE OF COVERAGE BY THE  
7 INSURER; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The Commissioner of Insurance shall promulgate  
10 reasonable rules and regulations establishing a "Mississippi  
11 Homeowners Insurance Policyholder Bill of Rights" that sets forth  
12 rights that Mississippi policyholders have with respect to their  
13 homeowners personal lines residential insurance property coverage,  
14 including renters/tenants insurance and mobile home/manufactured  
15 housing property coverage. The Mississippi Homeowners Insurance  
16 Policyholder Bill of Rights must include a provision establishing  
17 reasonable time frames for the processing and payment of  
18 homeowners insurance claims. In addition to the rights that are  
19 specified by the commissioner and the provision regarding  
20 reasonable time frames, the Mississippi Homeowners Insurance  
21 Policyholder Bill of Rights must include the following provisions:

22 (a) Unless based on sound actuarial principles, an  
23 insurance company may not treat a policyholder differently from  
24 other individuals of the same class and essentially the same  
25 hazard when evaluating a claim.

26 (b) If an insurer intends to increase a policyholder's  
27 premium by ten percent (10%) or more upon renewal, the insurer  
28 must send the policyholder written notice of the rate increase at



29 least thirty (30) days before the renewal date, or the policy  
30 shall renew at the same rate and coverage.

31 (c) If a policyholder sues to recover under the  
32 insurance policy, the insurance company has the burden of proof as  
33 to the application of any exclusion in the policy and any  
34 exception to or other avoidance of coverage claimed by the  
35 insurer.

36 **SECTION 2.** No homeowners personal lines residential  
37 insurance policy, including renters/tenants insurance and mobile  
38 home/manufactured housing property coverage, shall be delivered,  
39 issued for delivery or renewed in this state unless a copy of the  
40 Mississippi Homeowners Insurance Policyholder Bill of Rights, as  
41 promulgated by the Commissioner of Insurance, is included with the  
42 policy.

43 **SECTION 3.** (1) In any civil action against a property and  
44 casualty insurer under an insurance policy providing homeowners  
45 personal lines residential insurance property coverage, including  
46 renters/tenants insurance and mobile home/manufactured housing  
47 property coverage, by the policyholder under the policy for  
48 failure of the insurer to pay a lawful claim made under the  
49 policy, including any damages related to the failure to pay, the  
50 insurer has the burden of proving by a preponderance of evidence  
51 that any exclusion in the policy, and any exception to or other  
52 avoidance of coverage by the insurer, applies to the cause of  
53 action.

54 (2) The provisions of this section shall apply to any action  
55 filed on or after July 1, 2010, regardless of the date that the  
56 cause of such action may have accrued.

57 **SECTION 4.** This act shall take effect and be in force from  
58 and after July 1, 2010.

