

MISSISSIPPI

Department of Insurance



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REGULATION NO. 88-101
RULES OF PRACTICE AND PROCEDURE
BEFORE THE
MISSISSIPPI INSURANCE DEPARTMENT

SECTION

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SECTION I. Statutory Authority.

This Regulation is promulgated by the Commissioner of Insurance pursuant to the requirements of Mississippi Code Annotated, Section 25-43-5 and in accordance with the Mississippi Administrative Procedures Law. Some provisions of this Regulation are promulgated pursuant to the requirements of Mississippi Code Annotated, Section 25-61-5.

SECTION II. Purposes.

Mississippi Code Annotated, Section 25-43-5 of the Mississippi Administrative Procedures Law (the "Administrative Procedures Law") requires each agency of state government to (1) adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests, and (2) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including all requirements respecting the filing of applications for any license and the licensing procedure employed by the agency and the method whereby persons desiring notice of

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pending applications may obtain such notice and request an opportunity to be heard. The purpose of this Regulation is to comply with the requirements of the Administrative Procedures Law. Some provisions of the Regulation are intended to comply with the requirements of Mississippi Code Annotated, Section 25-61-5 of the Mississippi Public Records Act of 1983.

SECTION III. Applicability.

This Regulation shall be of general applicability and shall apply in all cases except to the extent a statute of the State of Mississippi provides otherwise.

SECTION IV. Definitions.

A. DEPARTMENT — The Insurance Department of the State of Mississippi.

B. COMMISSIONER -- The Insurance Commissioner of the State of Mississippi.

C. PERSON — Any individual, partnership, corporation, association, reciprocal, exchange, inter-insurer, fraternal benefit society, insurer, company, society, syndicate, business trust, or any public or private organization of any character.

D. PARTY — Any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Department proceeding.

E. RULE -- Any Department statement of general applicability and effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice of the Department.

F. RULE-MAKING — The process for the formulation, amendment, or repeal of a rule.

G. ORDER — The final disposition of the Department in any matter other than rule-making and includes licensing and ratemaking in which the Department is required by law to make its determination after notice and hearing.

H. ADJUDICATION — The process of formulation of an order.

I. HEARING — A proceeding for consideration or presentation of evidence, facts and matters for adjudication and decision under the Insurance Code.

J. LICENSE — Any Department permit, certificate, approval, registration or similar form of permission or record required by law, except a charter, an agent's certificate of authority and an insurance company's certificate of compliance.

K. LICENSING — The Departmental process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

L. APPLICATION — The request for authority for an action or an issuance by the Commissioner or the Department.

M. CHARTER — The corporate charter of any corporation formed under the laws of Mississippi for the purpose of becoming an Insurer.

N. CERTIFICATE OF AUTHORITY — When used with respect to an insurance agent, a certificate issued by the Commissioner pursuant to Miss. Code Ann. Section 83-17-5. When used with respect to a foreign insurer, a certificate issued by the Commissioner pursuant to Miss. Code Ann. Section 83-21-1.

O. INSURANCE — A contract of insurance as defined in Miss. Code Ann. Section 83-5-5.

P. INSURER — A "company" or "insurance company" as defined in Miss. Code Ann. Section 83-5-5.

Q. EXAMINATION — A test, whether oral, written, or both, to determine the capacity of an applicant to be an agent, broker, solicitor or adjuster.

R. INSURANCE CODE — Mississippi Code Annotated, Title 83.

S. CONTESTED CASE — A proceeding, including but not restricted to rate-making, price-fixing and licensing in which the legal rights, duties or privileges of a party are required by law to be determined by the Department after an opportunity for a hearing, other than disciplinary proceedings or Department action involving only employees of the Department.

T. CERTIFICATE OF COMPLIANCE — A certificate issued by the Commissioner to a domestic insurer pursuant to Miss. Code Ann. Section 83-19-5.

SECTION V. General Matters; Matters Pertaining to all Proceedings.

A. DESCRIPTION OF DEPARTMENT —

The Insurance Department generally regulates all insurance companies and their agents doing business in the State of Mississippi. The Department's responsibilities include the following: granting or withholding of charters, certificates of authority, certificates of compliance and licenses; approving policies, proxies, and advertising

material; conducting hearings on rates and other matters affecting the regulation of the insurance industry in this state; administering and collecting surplus lines premium taxes; receiving and examining at least annually reports and financial statements from all insurance companies authorized to do business in this state; and preparing annual reports of the Insurance Commissioner.

The Commissioner has the further responsibility for the promulgation of rules and regulations concerning the activities of insurance companies and insurance agents engaged in the business of insurance in this State. The Insurance Department is composed of several divisions: Licensing; Financial Examination; Actuarial; Consumer Complaints; Claims and Legal.

The Insurance Department of the State of Mississippi also houses the State Fire Marshal's Office. The Commissioner of Insurance is by virtue of his office the State Fire Marshal and conducts investigations into all fires of a suspicious nature and administers the Mobile Home Regulatory Act, which establishes quality and safety standards for the mobile home industry in this state.

B. OFFICE AND HOURS -- The Office of the Department is located at Suite 1804, Walter Sillers State Office Building, 550 High Street, in Jackson, Mississippi. The office shall be open during business hours each day, Saturday, Sunday, and holidays excepted. The mailing address of the Department is P. O. Box 79, Jackson, Mississippi 39205, and its telephone number is (601) 359-3569.

C. CUSTODY OF RECORDS -- The Commissioner shall have custody of the Seal and official records and shall be responsible for the maintenance and custody of the files and records of the Department including the transcripts of testimony and exhibits with all papers and requests filed in proceedings, the minutes of all actions taken by the Department and all of its findings, determinations, reports, opinions, orders, rules, regulations, and approved forms.

D. PUBLIC FILING -- No Department rule, regulation, directive, order or decision shall be valid or effective against any person or party, nor may it be invoked by the Department for any purpose, until it has been filed and made available for public inspection. This provision shall not apply in favor of any person or party with actual knowledge of an agency rule, regulation, bulletin, directive, interpretation, order, decision, or opinion.

E. AVAILABILITY OF RECORDS --

1. Except as limited by Mississippi Code Annotated, Sections 25-61-9 and 25-61-11 and any other applicable Statutory restriction, all records of the Department are public and shall be made available for inspection or for copying at the office of the Department.

2. Prior to arrival at the Department, a member of the public should specify the documents he wishes to view and should schedule a reasonable time for viewing so that the Department can locate the documents prior to the individual's arrival and have them ready at the pre-arranged time. Documents shall be viewed only at the Department's offices. Documents shall not be removed from folders by any member of the public.

3. Anyone wishing copies of any document must in writing clearly indicate which document is desired. Copies shall be made under the supervision of the Department personnel. The Department shall prepare an invoice reflecting the fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records. The fees shall be collected by the Department in advance of complying with the request.

4. All copy requests shall be filled or denied within fourteen (14) working days from the date of request for the production of such records. Requests granted shall be filled in the order in which they are received. Denials by the Department for a request for access to or copies of public records shall be in writing and shall contain a statement of the specific reasons for the denial.

F. APPROVED FORMS -- The Department of Insurance has approved and uses various forms in its dealing with the public. Copies of these forms may be obtained by contacting the Department.

G. EXAMINATION, INQUIRY OR INVESTIGATION -- The Department may, by order of the Commissioner, through one or more of its members especially authorized, conduct at its office in Jackson, Mississippi, or in any part of the State of Mississippi, or elsewhere any examination, inquiry, or investigation, hearing, or other proceeding necessary to perform its duties and functions.

H. AUTHENTICATION -- All orders, notices, and other actions of the Department shall be authenticated or signed by the Commissioner or such other person as may be authorized by him.

I. NOTICE -- Upon order of the Commissioner, the Department shall issue all notices of hearings and other process as may be directed by the Commissioner.

J. FORM AND SIZE OF PAPERS AND PLEADINGS -- All papers filed with the Department and all exhibits to pleadings and testimony of witnesses shall be printed or typewritten with a clear margin of at least two inches at the top, if typewritten, on one side of the paper only and as far as practicable on paper 8 1/2 x 14 inches (except where exhibits may require a larger sheet).

K. AMENDMENT — The Commissioner may, in his discretion, require any document, filing, pleading or petition to be made more specific and may allow, or of his own motion require, amendments or corrections, or he may cause to be supplied any omissions.

L. COMPUTATION OF TIME -- In computing the time within which an act must be performed, the first day shall be excluded and the last day shall be included but if the last day shall fall on a Saturday, Sunday or a legal holiday, then the next business day shall be construed as the last day.

M. INTERVENTION -- In any proceeding the Commissioner may permit any person authorized to complain to the Department to intervene and to be heard as an original party.

N. NEW PARTIES -- The Commissioner may in any proceeding order that any person whose interest will be affected by any orders be made a party to the proceedings. All parties shall be entitled to have notice of hearings and proceedings and be heard in person or by attorney.

SECTION VI. Licensing of Agents.

A. DEPARTMENT - AUTHORITY AND CONTROL — The Department has authority and control over the issuance, grant, denial, refusal, suspension, revocation, expiration, termination, continuance, and renewal of licenses for all insurance agents, brokers, solicitors and adjusters operating in Mississippi.

B. LICENSE MUST BE RETURNED TO COMMISSIONER -- Upon suspension or revocation of a license, it shall be forthwith delivered to the Commissioner.

C. NOTICE AND HEARING REQUIRED -- Notice and hearing in accordance with this Regulation are required before the suspension, revocation, or refusal of a license may be effected. Suspension, refusal or revocation of a license must be for certain statutory causes.

D. EXPIRATION - WHEN EFFECTED--When a licensee has made a timely and sufficient application for renewal or a new license, with reference to any activity of a continuing nature, the license does not expire until application has been determined. When application is denied or the terms of a new license are limited, then the license expires the last day for review of any Department Order or at a later date if so fixed by a court.

E. VOLUNTARY SURRENDER - In the event an agent voluntarily surrenders his license to the Commissioner, the Commissioner shall deem that surrender a revocation.

E. REQUIREMENTS FOR APPOINTING LIFE, HEALTH AND ACCIDENT, AND HOSPITAL AGENTS.

1. Agents' privilege tax licenses and company Certificates of Authority expire the last day of each year and are renewable as of January 1st.
2. Agents required to take the Examination must:
 - (a) Obtain the proper registration form.
 - (b) Complete the registration form and return it to the testing authority along with the examination fee.
 - (c) Obtain the appropriate study manual.
3. Appointment of new agent (one not currently holding a state privilege tax license):
 - (a) The insurance agent's application (Form: Life #2) must be completed in its entirety, notarized, and endorsed by the sponsoring insurance company.
 - (b) Privilege tax payments (license fees) must be tendered to the Department in the amounts set forth in M.C.A. Sections 27-15-93 and 27-15-95 (1972).
 - (c) A copy of the examination results must be forwarded to the Department's Licensing Division.
 - (d) Question 15 of the application must be completed indicating compliance with the forty (40) hour pre-licensing requirements.
 - (e) Life Requisition Form No. 1 must be completed in its entirety.
 - (f) Certificate of Authority fees for local agents and general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
 - (g) If the applicant has been licensed in another state within the past three (3) years, a letter of clearance from the Insurance Department of the state issuing such license must accompany the application for licensing.

4. Appointment of Currently Licensed Life, Health, and Accident, and Hospital Agents:

- (a) Life Requisition Form No. 1 must be completed in its entirety.
- (b) Certificate of Authority fees for local or soliciting agents and for general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
- (c) The Requisition Form must contain the agent's and company's identification numbers or it will be returned.
- (d) Requisition Forms must be signed by an officer of the company or an individual authorized by company letter which has been filed with the Department.

5. Requirements for Licensing Non-Resident Agents:

- (a) Insurance agent's application (Form: Life No. 2) must be completed in its entirety, notarized, and endorsed by the sponsoring company.
- (b) The applicant must attach an original/current certification from the Insurance Department of the applicant's domiciliary state or, in the alternative, complete page four (4) of the application.
- (c) Question fifteen (15) of the application must be completed indicating compliance with the forty (40) hour pre-licensing requirement.
- (d) The privilege tax payment (license fee) must be tendered to the Department in the amounts set forth in M.C.A. Sections 27-15-93 and 27-15-95 (1972).
- (e) Life Requisition Form No. 1 must be completed.
- (f) Certificate of Authority fees for local or soliciting agents and general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).

6. Requirements for adding Variable Contracts to current license:

- (a) The applicant must be previously licensed for the life line of insurance.

- (b) The Variable Contracts Application (VA-1) must be completed.
 - (c) A copy of the applicant's NASD examination results must be submitted to the Department.
 - (d) Life Requisition Form No. 1 must be completed in its entirety.
 - (e) Certificate of Authority fees for local or soliciting agents and general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
 - (f) Non-resident agents must attach a letter of certification to their application form.
7. Agents listed below are not required to take the Examination:
- (a) Non-resident agents.
 - (b) Credit life, health and accident agents.
 - (c) Agents of a fraternal benefit society.
 - (d) Ticket-selling agents (trip accident).
 - (e) Agents who held a license within two (2) years preceding the date of filing the application.
 - (f) Variable contracts agents who are qualified as life agents.
8. Requirements for Licensing of Managing General Agents:
- (a) The application for Supervising General Agent (Form G.A.1) must be completed in its entirety.
 - (b) The privilege tax payment (license fee) for a corporation must be tendered to the Department in the amounts set forth in M.C.A. Section 27-15-85 (1972); privilege tax payment (license fee) for an unincorporated entity or individual must be tendered to the Department in the amounts set forth in M.C.A. Section 27-15-89 (1972).
 - (c) Attached to the application must be a letter of appointment from each insurance company listed on the application. The letter must be signed by an officer of the company or an individual authorized by a company letter filed with the Department. The letter must provide complete information as to the functions the general agent will perform.

(d) This license does not entitle the agent or corporation to directly solicit from the public. The license is issued to a manager, trustee, or administrator who serves in an administrative capacity in behalf of insurance companies listed on the application.

(e) This license is available to residents and non-residents.

9. Requirements for Licensing Professional Corporations:

(a) An application for licensing of corporations as soliciting agents for life, health and accident (Form 3) must be completed in its entirety.

(b) The privilege tax payment (license fee) must be tendered to the Department in the amounts set forth in M.C.A. Section 27-15-93 (1972).

(c) A copy of the corporate charter which has been filed with the Secretary of State's Office must be attached to the application.

(d) This license entitles only Mississippi resident corporations to solicit life, health and accident coverages. (Any corporation incorporated under the Mississippi Business Corporation Statutes is not eligible for this license).

(e) All shareholders must be licensed agents and the agents' identification numbers must be provided to the Department.

NOTE: The corporate name will usually include "P. A.", "Ltd.", or "Chartered" designations as opposed to "Inc.", E.g.- Mutual Insurance Service, P.A.

10. Requesting Letter of Certification (When Mississippi agent is applying for a license in another state):

(a) List the agent's complete name and identification number.

(b) The fee for use of the Department Seal must be tendered to the Department in the amount set forth in M.C.A. Section 83-5-73 (1972).

(c) Enclose a self-addressed postage paid envelope.

11. Requesting Letter of Clearance (when Mississippi agent moves to another state):

- (a) A letter must be signed by the agent requesting that his Mississippi license be cancelled with the effective date of cancellation indicated therein. (The company cannot make this request).
- (b) The agent must return his Mississippi license to the Department.
- (c) The fee for use of the Department seal must be tendered to the Department in the amount set forth in M.C.A. Section 83-5-73 (1972).
- (d) Enclose a self-addressed postage paid envelope.

12. Cancellation of Certificate of Authority:

- (a) A form must be signed by an officer of the company or someone authorized by the company to appoint and terminate agents in Mississippi. Only original signatures may appear on the form forwarded to the Department. The Department will furnish a suggested form to be used for cancelling agents.
- (b) The original or a copy of the current Certificate of Authority you desire cancelled must be enclosed with the form.
- (c) If the Department's form is not used, you must list the agent's home address and the reason for and date of termination. The identification number for both the company and the agent must also be listed.

13. A Licensed Agent must promptly notify the Commissioner of Insurance in writing of any change in his resident address.

F. REQUIREMENTS FOR APPOINTING ALL PROPERTY AND CASUALTY AGENTS AND SOLICITORS

1. Resident agents' privilege tax licenses and company Certificates of Authority expire the last day of February and are renewable as of March first (1st).
2. Agents Required to take the Examination:
 - (a) Obtain the proper registration form.
 - (b) Complete the registration form and return it to the testing authority along with the examination fee.

- (c) Obtain the appropriate study manual.
3. Appointment of New Agent (one not currently holding a state privilege tax license):
- (a) All agents and solicitors for property and/or casualty insurance must complete an application for a privilege license in its entirety which must be notarized and endorsed by the sponsoring company.
 - (b) Privilege tax payments (license fees) must be tendered to the Department in the amounts set forth in M.C.A. Sections 27-15-87 and 27-15-91 (1972).
 - (c) A copy of the examination result must be forwarded to the Department's licensing division.
 - (d) Requisition Form FC2 must be completed in its entirety.
 - (e) Certificate of Authority fees for local agents and general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
 - (f) If an applicant has been licensed in another state within the past three (3) years, a letter of clearance from the Insurance Department of the State issuing such license must accompany the application for licensing.
4. Appointment of currently licensed resident Property and Casualty Agents:
- (a) Requisition Form FC2 must be completed in its entirety.
 - (b) Certificate of Authority fees for local or soliciting agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
 - (c) The requisition form must contain the identification number of both the agent and the company.
5. Requirements for licensing non-resident agents:
- (a) An application for a non-resident agent's license must be completed in its entirety.
 - (b) The applicant must attach an original/current letter of certification from the Insurance Department of the applicant's domiciliary state or complete Page 2 of the application.
 - (c) The privilege tax payment (license fee) is retaliatory.

- (d) Non-resident agents are not issued certificates of authority; they represent only the companies listed on their application. No acknowledgment will be returned to the company when the license is issued. Verification of issuance of the license must be obtained from the agent.
- (e) Additional companies may be added or previous companies deleted by submitting a letter to the Department signed by an officer of the company or an authorized individual.
- (f) All non-resident property and casualty agents' licenses expire one year from the date of issuance. A computer printed renewal application will be mailed to the agent's resident address approximately one month prior to the expiration date of the license.

6. Requirements for Licensing Title Agents:

- (a) Requisition Form No. FC2 must be completed by the applicant.
- (b) The agent's complete address must be listed under the agency name.
- (c) Certificate of Authority fees for local or soliciting agents and for general, district agents or managers must be tendered to the Department in the amounts set forth in M.C.A. Section 83-5-73 (1972).
- (d) If the applicant is not licensed as a fire and casualty agent or a practicing attorney at law, he must submit an application for a Land Title License and the proper fee along with the above.

7. Requirements for Licensing Legal Insurance Agents:

- (a) The application form for an individual agent must be completed.
- (b) The privilege tax payment (license fee) must be tendered to the Department in the amounts set forth in M.C.A. Section 83-49-47 (1972).
- (c) No Certificates of Authority are required for Legal Insurance Agents.

8. Requirements for Licensing Managing General Agents:

- (a) The application for Supervising General Agents (Form G.A.1) must be completed in its entirety.
- (b) The privilege tax payment (license fee) for a corporation must be tendered to the Department in the amounts set forth in M.C.A. Section 27-15-85 (1972); privilege tax

payment (license fee) for an unincorporated entity or individual must be tendered to the Department in the amounts set forth in M.C.A. Section 27-15-89 (1972).

- (c) Attached to the application must be a letter of appointment from each insurance company listed on the application. The letter must be signed by an officer of the company or an individual authorized by a company letter filed with the Department. The letter must provide complete information as to the functions the general agent will perform.
- (d) The license does not entitle the agent or corporation to directly solicit from the public. The license is issued to a manager, trustee, or administrator who serves in an administrative capacity on behalf of insurance companies listed on the application.
- (e) The license is available to residents and non-residents.

9. Requirements for Licensing a Resident Property and Casualty Incorporated Agency:

- (a) An application for the licensing of a resident property and casualty incorporated agency must be completed in its entirety.
- (b) An application for a privilege license must be completed in its entirety by each agent or solicitor associated with the new incorporated agency. The application must be endorsed in Section II by a multi-line insurance company.
- (c) A Requisition Form No. F&C 2 and Certificate of Authority fees must be forwarded to the Department by the insurance company.
- (d) A complete copy of the corporate charter filed with the Secretary of State's Office must be forwarded to the Department.
- (e) The privilege tax (license fee) for the agency is determined by the population of the municipality in which the agency is located. The fees must be tendered to the Department as set forth in M.C.A. Section 27-15-85.
- (f) A copy of the corporate minutes verifying the election of officers for the 'no-tax' agent's license must be forwarded to the Department.

10. Appointment of New Solicitor (one not currently holding a state privilege tax license):

- (a) Section one (1) of the application must be completed by all agents and solicitors. The application must be notarized and endorsed in Section III by the sponsoring agency. This sub-section does not apply to life, health and accident and burial agents.
- (b) The privilege tax payment (license fee) must be tendered to the Department in the amounts set forth in M.C.A. Sections 27-15-87 and 27-15-91 (1972).
- (c) A copy of the exam results must be forwarded to the Department.
- (d) The Certificates of Appointment fee must be tendered to the Department in the amounts set forth in M.C.A. Section 83-17-217 (1972).
- (e) If the applicant has been licensed in another state within the past three (3) years, a letter of clearance from the Insurance Department of the State issuing such license must accompany the application for licensing.

11. Cancellation of Certificate of Authority:

- (a) A form must be signed by an officer of the Company or someone authorized by the company to sign on its behalf. Only original signatures may appear on the form forwarded to the Department. The Department will furnish a suggested form to be used in cancelling Certificates of Authority.
- (b) The original or a copy of the current Certificate of Authority you desire cancelled must be enclosed with the form.
- (c) If the Department's form is not used, you must list the agent's name, address, and the reason for and date of termination. The identification number for both the company and the agent must also be listed.

12. Requesting Letter of Certification (when a Mississippi agent is applying for a license in another state):

- (a) The agent's complete name and identification number must be listed.
- (b) The fee for use of the Department seal must be tendered to the Department in the amount set forth in M.C.A. Section 83-5-73 (1972).
- (c) Enclose a self-addressed postage paid envelope.

13. Requesting Letter of Clearance (when a Mississippi agent moves to another state):

- (a) A letter must be signed by the agent requesting that his Mississippi license be cancelled with the effective date of cancellation indicated therein. (The company cannot make this request).
- (b) The agent must return his Mississippi license to the Department.
- (c) The fee for use of the Department seal must be tendered to the Department in the amount set forth in M.C.A. Section 83-5-73 (1972).
- (d) Enclose a self-addressed postage paid envelope.

SECTION VII. Licensing of Insurers

A. DEPARTMENT - AUTHORITY AND CONTROL -- The Department has authority and control over the issuance, grant, denial, refusal, suspension, revocation, expiration, termination, continuance, and renewal of licenses, certificates of authority and certificates of compliance for all insurers.

B. LICENSE MUST BE RETURNED TO COMMISSIONER -- Upon suspension or revocation of a license, a certificate of authority or certificate of compliance, it shall be forthwith delivered to the Commissioner.

C. NOTICE AND HEARING REQUIRED -- Notice and hearing in accordance with this Regulation are required before the suspension, revocation of a license, certificate of authority or certificate of compliance may be effected. Suspension, refusal or revocation of a license, certificate of authority or certificate of compliance must be for certain statutory causes.

D. EXPIRATION - WHEN EFFECTED -- When an insurer has made a timely and sufficient application for renewal or a new license, certificate of authority or certificate of compliance, with reference to any activity of a continuing nature, the license, certificate of authority or certificate of compliance does not expire until application has been determined. When application is denied or the terms of a new license, certificate of authority or certificate of compliance are limited, then the license, certificate of authority or certificate of compliance expires the last day for review of any Department Order or at a later date if so fixed by a court.

E. DOMESTIC INSURERS -- Domestic insurers may become licensed and obtained a certificate of compliance by complying with all statutory requirements, including but not limited to those of Title 83, Chapter 19 of the insurance code, completing and filing with the Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained by contacting the Department.

F. FOREIGN INSURERS — Foreign insurers may become licensed and obtain a certificate of authority by complying with all statutory requirements, including but not limited to those of Title 83, Chapter 21 of the insurance code, and completing and filing with the Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained by contacting the Department.

G. NON-ADMITTED AND ALIEN INSURERS — Insurers may be considered for placement on the Department's eligible list of non-admitted insurers by complying with all statutory requirements, including but not limited to Section 83-21-17 of the insurance code, and completing and filing with the Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained by contacting the Department.

H. ANNUAL FILINGS -- Admitted insurers must annually complete and file with the Department all necessary forms and any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained by contacting the Department.

SECTION VIII. Notice.

A. MATTERS APPLICABLE TO EVERY NOTICE OF THE DEPARTMENT

1. Notices shall be effective only when in writing, signed by the Commissioner or by his attorney.
2. Every notice shall state its effective date.
3. Every notice shall concisely state:
 - (a) Its intent and purpose;
 - (b) The grounds on which it is based; and
 - (c) The provisions of the statutes pursuant to which action is taken or proposed to be taken; but failure to so designate all applicable provisions shall not deprive the Commissioner of the right to rely thereon.
4. A notice may be given by service upon or delivery to the person to be notified or by mailing it, postage prepaid, addressed to such person at his home or at his principal place of business as last on record in the Department.

B. NOTICE - RULES AND RULE-MAKING -- Prior to adoption, amendment or repeal of any rule, the Department shall give notice.

1. Notice of at least thirty (30) days of the intended action is required.

2. Notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time, the place and the manner in which interested persons may present their views thereon.

3. Notice shall be filed with the office of the Secretary of State of the State of Mississippi and mailed by the Commissioner to any person specified by law and to all persons who may have made timely request of the Commissioner for advance notice of rule-making proceedings.

4. Notice may be published in such newspapers of general daily circulation and in such insurance publications as the Department may select.

C. NOTICE - EMERGENCY RULES AND RULEMAKING --

1. If the Commissioner finds that an imminent peril to the public health, safety or welfare require adoption of a rule upon fewer than thirty (30) days' notice and states in writing its reasons for that finding, the Commissioner may proceed without prior notice of hearing or upon an abbreviated notice and hearing that it finds practicable to adopt an emergency rule.

2. The rule may be effective for a period of not longer than one hundred twenty (120) days, renewable once for a period not exceeding ninety (90) days, but the adoption of an identical rule under Subsection B. is not precluded.

D. ADOPTION OF RULES — Notice of the adoption of a rule or rules is accomplished by the Department filing a certified copy of such rule or rules with the Office of the Secretary of State of Mississippi.

1. The rules are effective thirty (30) days after such filing (except that if a later date is required by statute or specified in the Rule, the later date is the effective date).

2. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing with the Office of the Secretary of State of Mississippi, or at a stated date less than thirty (30) days thereafter if the Commissioner finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The Commissioner shall file with the rule his findings and a brief statement of the reasons therefor. The Commissioner shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

E. NOTICE - ADJUDICATION —

1. All parties shall be afforded an opportunity for hearing at any adjudication after reasonable notice.

2. Notice shall contain:

(a) Statement of the time, place and nature of hearing.

(b) Statement of the legal authority and jurisdiction for hearing.

- (c) A short, plain statement of the matters of law and fact asserted.

3. Reasonable notice for adjudication shall be no less than ten (10) days.

F. NOTICE - EX PARTE COMMUNICATIONS -- In any case of adjudication, neither members of the Department nor employees (including Examiners under the director and control of the Department) shall communicate (directly or indirectly) with any person or party as to any issue of fact, or with any party or his representative, as to any issue of law, except upon notice and opportunity for all parties to participate. (This situation possibly will arise when the Commissioner, a Deputy, or an employee of the Department is assigned to render a decision or to make final or proposed findings of fact or conclusions of law in a case of Adjudication.)

1. A Department member may communicate with other members of the Department.

2. A Department member may have the aid and advice of one or more personal assistants.

G. NOTICE - HEARING -- Notice of hearings is obtained by duly served pleadings.

H. NOTICE - DECISIONS OR ORDERS -- Parties shall be served either personally or by mail with a copy of any decision or order.

I. NOTICE - LICENSES --

1. When the grant, denial or renewal of a license must, by law, be only upon notice with an opportunity for hearing - notice shall be the same as is required for Adjudication (See Subsection E).

2. Notice - License - Revocation - Suspension - Annulment - Withdrawal - Unlawful Unless Notice Given.

(a) No revocation, suspension, annulment, or withdrawal of license is lawful unless prior to the institution of Department proceedings the Department gave notice by mail to the licensee of facts or conduct which warrant the intended action.

(b) The notice must contain a statement of the facts or conduct warranting the intended action.

(c) The licensee is entitled to an opportunity to show compliance with all lawful requirements for retention of his license.

SECTION IX. Rules and Rule-Making.

A. Within the thirty (30) day period as specified under Section VIII (B)(1) of this regulation, all interested persons may submit written data concerning proposed rules to the Commissioner. Upon the

expiration of said thirty (30) day notice period, the Commissioner shall hold a public hearing to afford all interested persons the opportunity to submit testimony and evidence and to give opinions, make comments, suggestions or objections concerning the proposed regulation.

1. The time and place of the public hearing shall be specified in the Notice pursuant to the requirements of Section VIII(B) of this regulation.

2. The public hearing shall be presided over by the Commissioner or someone duly appointed by the Commissioner to appear on his behalf.

3. Statutory provisions governing formal hearings and adjudicatory proceedings will not apply to informal rule action proceedings described in this regulation. The presiding representative shall determine all procedural questions not governed by this regulation and has the authority to limit the number of witnesses and to impose such time and presentation limitations as deemed reasonable. Any public hearing held pursuant to Section 9 of this regulation will be a non-adversary, fact-finding proceeding, and any rule action taken need not be based exclusively on the record of such hearing.

4. Any person interested may attend the hearing, with or without counsel. Any hearing participant may introduce oral testimony through such witnesses as the presiding representative shall permit.

5. The obtaining and use of witnesses is the responsibility of the parties attending the hearing. All witnesses shall be present on their own volition, but any person appearing as a witness may be questioned by any hearing participant and the presiding representative.

6. The presiding representative has the authority to exclude data or materials deemed to be improper or irrelevant. Formal rules of evidence shall not apply.

7. A court reporter for any transcription of the testimony offered at a public hearing pursuant to this section will not be provided by the Department of Insurance, and if an appeal from the decision of this Department is anticipated, it will be necessary that the appealing party provide his own method of preserving the record.

8. All timely comments will be considered in taking any final rule action. All rule actions proposed pursuant to this regulation shall be effective upon the Department's provision of the final version of the rule or statement of repeal thereof to the office of the Secretary of State. However, no rule shall become effective prior to the time limits imposed by M.C.A. Section 25-43-9 (1972). Any party having timely commented adversely to the proposed rule action may seek review of the final rule action in a court of proper jurisdiction.

9. Any person aggrieved by any act of the Commissioner of Insurance with regard to the adoption, amendment or repeal of any rule, may file a petition for review of an adverse ruling within five (5) days

after receipt of notice thereof in the case of those interested persons who have made timely requests of the Insurance Department for advance notice of the Insurance Department's rule-making procedure and ten (10) days for all other interested persons.

10. Except as otherwise provided by law, the Commissioner of Insurance shall issue a decision on all petitions for review of adverse rulings no later than ten (10) days after the date of a filing of any exceptions.

11. The person acting as Clerk of the Department of Insurance shall keep a rule action docket ledger in which he shall enter the docket number of each proposed rule action, the date of the giving of notice, a short description of the substance of the proposed rule action, a short description of comments received stating who made the comment and when it was received, a description of the final action taken concerning the proposed rule action, and the effective date of such action.

B. RIGHT OF PETITION -- any person may petition for the issuance, amendment or repeal of any Rule. Within thirty (30) days after submission of a petition the Department shall either deny the petition (stating in writing its reasons for the denial) or shall initiate rule-making proceedings.

SECTION X. Orders.

A. ORDER - EFFECTIVE ONLY IN WRITING -- Orders of the Commissioner shall be effective only when in writing.

B. EFFECTIVE DATE -- Each order shall contain its effective date and shall concisely state its intent or purpose and the grounds and pertinent provision of law on which it is based.

C. ORDER MAY BE EFFECTUATED -- An order may be given by service upon or delivery to the person ordered by mail, postage prepaid, addressed to the person at his home or at his principal place of business as last of record in the Department.

D. ORDER FORMULATED UPON ADJUDICATION -- There shall be an order formulated upon each adjudication made by the Department or the Commissioner, or his deputy or employee.

SECTION XI. Declaratory Order - Rules.

A. PETITION FOR DECLARATORY ORDER -- Any person who alleges a rule, or its possible application, may injure or threaten to injure him, his business or property may file a Petition for a Declaratory Order as to the applicability of any rule to be enforced by the Department.

B. PROMPT DISPOSITION - Such petition shall be promptly considered and a prompt disposition shall be made.

C. STATUS -- Declaratory Orders shall have the same status as orders formulated upon adjudication.

SECTION XII. Declaratory Order - Statutes and Orders.

Applicability of statutes or Department orders as to any person may be determined in the same manner by Declaratory Orders.

SECTION XIII. Adjudication.

A. REASONABLE NOTICE -- All parties shall be afforded opportunity for hearing after reasonable notice.

B. EVIDENCE MAY BE PRESENTED -- Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

C. STIPULATION - SETTLEMENT - CONSENT OR DEFAULT NOT PROHIBITED -- Nothing in these rules shall prohibit informal disposition by stipulation, settlement, consent order or default.

D. RECORD -- The record shall include:

1. All pleadings motions and intermediate rulings;
2. All evidence received or considered, including on request of any party a transcript of all proceedings or any part;
3. A statement of matters officially noticed;
4. Offers of proof, objections and rulings;
5. Proposed findings and exceptions;
6. All staff memoranda or data submitted to the hearing officer in connection with any staff consideration of the matter.

E. FINDINGS OF FACT -- Findings of fact shall be based exclusively on the evidence received or on matters officially noticed by the Commissioner through his personal knowledge and expertise.

SECTION XIV. Adjudication - Decisions.

A. FINAL DECISION -- In every case of adjudication there shall be a final decision, or order, which shall be in writing (or stated in the record).

1. The final decision shall include findings of fact and conclusions of law each separately stated.

2. The findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying evidence supporting the findings.

3. If any party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.

B. SERVICE OF COPY - DECISION -- Parties shall be served either personally or by mail with a copy of any decision or order.

SECTION XV. Hearings.

A. HEARINGS -- In every case of adjudication in cases of revocation or suspension of any license or certificate of authority, and in cases of rule-making, where rules must be made after a hearing, and in all cases where required by the Insurance Code, there shall be a hearing.

B. RIGHT TO COUNSEL -- Any person appearing before the Department or any of its representatives shall have the right to be represented by counsel.

C. IMPARTIALITY -- Every member of the Department present shall conduct himself in an impartial manner and the presiding official may withdraw if he deems himself disqualified. Any party may file an affidavit of personal bias or disqualification which shall be ruled upon by the Department and granted if it is timely, sufficient and filed in good faith.

D. POWER AND DUTIES OF PRESIDING OFFICIAL -- The presiding officer of the hearing shall have power to:

1. Maintain order;
 2. Rule on all questions arising during the course of the hearing;
 3. Permit discovery by deposition or otherwise;
 4. Hold conferences for the settlement or simplification of the issues;
 5. Make (or recommend) decisions;
 6. Generally, regulate and guide the course of the proceedings.
- E. BURDEN OF PROOF -- The proponent of a rule or order shall have the burden of proof.

F. EVIDENCE — Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other evidence, oral or documentary, not privileged, may be received if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

G. OBJECTIONS -- Objections to the introduction of evidence may be made and shall be noted of record.

H. EVIDENCE MAY BE WRITTEN -- When a hearing can be so expedited (and the interests of the parties will not be prejudiced) any part of the evidence may be received in written form.

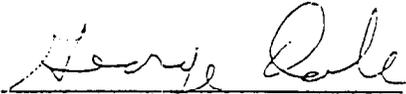
I. CROSS-EXAMINATION — Parties shall have the right to conduct such cross-examination as may be required for a full, true disclosure of the facts.

J. OFFICIAL NOTICE -- Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts peculiarly within the Department's specialized knowledge. Parties shall be notified of material so noticed (including any staff memoranda or data). Parties shall be afforded a reasonable opportunity to show the contrary.

SECTION XVI. Effective Date.

This Regulation shall become effective thirty (30) days after filing with the Office of the Secretary of State.

Promulgated and filed with the Office of the Secretary of State on 2-23, 1988.


George Dale
Commissioner of Insurance

