

Part 5 Chapter 2:(FR 68-1) Filing Regulations

Rule 2.01: General

- A. The Mississippi Insurance Commission meets regularly on the 3rd Friday of each month for the purpose of carrying out their duties in the regulation of rates, rules, and forms for fire, casualty and inland marine insurance. Filings to be considered should contain all information as outlined below, and should be received in the offices of the Commission at least 14 days prior to the Commission Meeting and should be addressed as follows:

Robert G. Gibson, Director
Mississippi Insurance Commission
P O Box 2306
Jackson, Mississippi 39205

- B. In submitting fire, casualty, and/or inland marine forms and rate filings, all insurers and rating organizations shall use the following procedure and all filings must be accompanied by a letter of transmittal, said letter in duplicate and containing the following:
1. The company name and complete mailing address to which correspondence shall be sent.
 2. Complete the Mississippi Worksheet for all rate filings.
 3. A “Re” or “Caption” briefly describing the context of the material filed.
 4. A complete description and explanation of the changes made by the filing. (The mere fact that a similar filing may have been previously approved for another insurer or rating organization will not suffice as an adequate explanation of a filing.)
 5. A statement to identify the form or manual page to be replaced by the filing including previous approval and effective date.
 6. A detailed discussion of the basis upon which the filing is supported. Filings which propose a change in a presently filed rate level should be supplemented by an exhibit or exhibits, where available, showing the company’s experience on a basis which supports the proposed change.
 7. If statistical information is not available to fully support a filing, the company must give a complete explanation of the factors considered to justify the filing.
 8. The proposed “rule of application” or “effective date” which would be used by the company if the filing were approved.

9. If a filing is identical with a filing made by a rating organization or independent filing company, it should be so indicated in the transmittal letter.
10. A statement signed by an authorized representative of the insurer who is familiar with the applicable laws and rules and regulations wherein it is certified that to the best of his knowledge, information and belief, the filings submitted are in compliance in all respects with the provisions of the insurance laws and rules and regulation of this state.

C. Forms Filings.

1. The filings of policy forms and endorsements made by a rating organization whose constitution, articles of association, by-laws or regulations grant control over the forms to be used by its member and subscriber companies will be the filings of such companies; Provided, that each individual company shall also submit all basis policy forms or jackets to the Insurance Commission for approval.
2. Such filings of forms when made, and if not disapproved by The Mississippi Insurance Commission, will be adhered to by all members and subscribers of the rating organization making the filings, and any deviation by them from such accepted filings will be a violation.
3. Except as provided in (a) above, it will be the responsibility of each company so control its filings of forms as to promptly discontinue individual filings of those forms filed in their behalf by a rating organization, and to individually comply with the filing requirements for those forms not filed in their behalf by a rating organization.
4. A company newly taking membership or subscribership in a rating organization will be presumed to be issuing the forms of the rating organization from the effective date of membership or subscribership.
5. A company retiring from membership or subscribership in a rating organization will immediately on retirement meet filing requirements.
6. In order that forms and endorsements which follow the standard provisions filed by rating organizations can be readily recognized as a standard form, all such forms printed for use in Mississippi will bear a recognition designation corresponding to the designation given the standard form by the rating organization.

D. Rates – Classification, Fictitious Grouping.

1. No rate, rating plan or form for fire, inland marine, casualty or surety insurance covering risks in the state shall be unfairly discriminatory.
2. Insurers writing Mississippi risks shall not write fire, casualty, inland marine or surety coverages upon any firm corporation, individual or association of individuals at any preferred rate, coverage, or premium based on any fictitious grouping or classification of risks, and no insurer shall pay dividends or distribute profits to insureds belonging to any fictitious group or classification of risk, and no insured belonging to any fictitious group or classification on a basis more favorable than would be the case if they were insured individually.
3. Any grouping of risks which is not in accord with the classification or grouping of risks recognized by an insurer's approved rate and policy form filings for individual risks and which does not possess the necessary homogeneous characteristics for group rating and classification, and has not been found to be in compliance with the provisions of the Mississippi insurance code by the commissioner of insurance, shall be deemed to be a fictitious grouping.

E. Dividends, Participations.

All fire and casualty insurance contracts issued in Mississippi by a mutual insurer or reciprocal inter-insurance exchange and all participating fire and casualty insurance contracts issued in Mississippi by a capital stock insurer must contain a provision setting forth the fact that dividends may be paid on the policy: Provided; however, that no capital stock insurer shall issue participating policies in Mississippi unless:

1. It has authority in its charter or articles of incorporation to issue participating policies, or
2. The supreme court of its state of domicile has held that a domestic capital stock insurer has inherent authority to issue participating policies, or
3. The attorney general or chief legal official of its state of domicile has ruled that a domestic capital stock insurer has inherent authority to issue participating policies.

F. Individual Risk Rating Plans.

1. Each such plan must be filed with the commission for approval and must specify the kind of insurance, or subdivision or combination thereof, to which the plan applies.
2. Each such plan must establish standards which bear a relationship to the variation in hazard and/or expense to be measured.

3. Any such plan must be applied to all eligible risks, and must be applied by company representatives responsible for underwriting the risk(s) involved.
 4. Each company utilizing such plans must obtain all information necessary to determine the proper application of such plans to any particular risk. Such supporting information shall be retained by the company and made available to the commissioner upon his request.
- G. For the purpose of this regulation “individual risk rating plans” means those plans embodying one or more of the following types of premium modification:
1. Risk Modification- the application of judgment debits and credits to the individual rates otherwise applicable, based on the individual’s risk’s variations in hazard;
 2. Expense Modification- the variation of the premium for an individual risk that corresponds to the variation in the expenses of such risk from the provision for expenses applicable to the entire class of risk;
 3. Experience Modification (Excluding Retrospective Rating Plans)- a variation in the premium for an individual risk that corresponds to that risk’s variation in past loss experience from the provision for losses applicable to that entire class of risk.

Source: Miss. Code Ann. §83-2-1, et seq.(Rev. 2011)

Rule 2.02: Fire and Allied Lines

The Mississippi Fire Rating Law requires that all stock fire insurance companies doing business in this state be members of the Mississippi State Rating Bureau. Non-stock companies may subscribe. Information relative to membership or subscribership should be obtained from Mr. C. B. Egger, Manager, Mississippi State Rating Bureau, P. O. Box 5231, Jackson, Mississippi. Non-stock companies, not electing to subscribe to the bureau, are required to file their rates and schedules with the Mississippi Insurance Commission for approval.

Source: Miss. Code Ann. §83-2-1, et seq.(Rev. 2011)

Rule 2.03: Casualty

The Mississippi Casualty Rating Law follows substantially the Commissioners’ prior-approval-type bill and applies to all casualty lines including all forms of motor vehicle insurance except: “Re-insurance; title insurance, credit insurance; accident and health insurance; or insurance against risks or liability (other than workman’s compensation and employers’ liability) arising out of the ownership, maintenance, or use of aircraft.”

- A. Individual risk rating plans must comply with the following requirements:

1. Each such plan must be filed with the commission for approval and must specify the kind of insurance or subdivision or combination thereof, to which the plan applies.
2. Each such plan must establish standards which bear a relationship to the variation in hazard and/or expense to be measured.
3. Any such plan must be applied to all eligible risks, and must be applied by company representatives responsible for underwriting the risk(s) involved.
4. Each company utilizing such plans must obtain all information necessary to determine the proper application of such plans to any particular risk. Such supporting information shall be retained by the company and made available to the commission upon request.

B. Risks Declined in Normal Market.

When companies issuing casualty insurance in this state write a policy, the premium which results from the fact that the risk cannot contain such coverage in the normal market, the company should submit in duplicate a letter to the Mississippi Insurance Commission requesting approval and attach a signed statement from the insured using the following or wording of similar import:

1. I am unable to obtain (state kind) insurance at normal rates and hereby request the issuance of this policy at rates in excess of normal rates.
2. I have been unable to procure similar insurance at normal rates although my risk has been submitted to at least three (3) other insurance companies authorized to transact such business in Mississippi.
3. (In case of automobile liability insurance) I understand that liability limits sufficient to meet the financial responsibility requirements of the state may be available through the Mississippi Automobile Insurance Plan. (The foregoing statement is not applicable when the policy is issued through the Mississippi Automobile Insurance Plan.)
4. (In the case of workmen's compensation and employers' liability insurance) I understand that I may obtain normal limits of liability insurance through a workmen's compensation and employers' liability assigned risk plan. (The foregoing statement is not applicable when the policy is issued through a Workmen's Compensation and Employer's Liability Assigned Risk Plan.)

5. Each submission should contain limits desired for each coverage together with premium applicable to each.
6. A copy of the daily report should accompany the request.

C. Uninsured Motorist.

The General Acts of the Regular Legislative Session 1966 contain house Bill No. 121 which we call to your attention.

Source: Miss. Code Ann. §83-2-1, et seq. (Rev. 2011)

Rule 2.04: Inland Marine

A. Marine and /or transportation policies may cover under the following conditions:

1. Imports.

Imports may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

An import, as a proper subject, of marine or transportation insurance, shall be deemed to maintain its character as such, so long as the property remains segregated in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States, and shall be deemed to have been completed when such property has been:

- a. sold and delivered by the importer, factor or consignee; or
- b. removed from place of storage and placed on sale as part of importer's stock in trade at a point of sale-distribution; or
- c. delivered for manufacture, processing or change in form to premises of the importer or of another used for any such purposes.

2. Exports.

Exports may be covered wherever the property may be without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this Ruling respecting domestic shipments shall

apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.

3. Domestic Shipments.
 - a. Domestic shipments or consignment, [provided the coverage of the issuing companies includes hazards of transportation] for sale or distribution, exhibit, or trial, or approval or auction, while in transit, while in the custody of others and while being returned, provided that in no event shall the policy cover on premises owned, leased or operated by the consignor.
 - b. Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within the United States, provided that such shipments shall not be covered at manufacturing premises nor after arrival at premises owned, leased or operated by Assured or purchaser.
4. Bridges, Tunnels and Other Instrumentalities of Transportation and Communication (excluding buildings, their improvements and betterments, furniture and furnishings, fixed contents and supplies held in storage.)

The foregoing includes:

- a. Bridges, tunnels, other similar instrumentalities, including auxiliary facilities and equipment attendant thereto.
 - b. Piers, wharves, docks, slips, dry docks and marine railways.
 - c. Pipelines, including on-line propulsion, regulating and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating or conditioning plants.
 - d. Power transmission and Telephone and Telegraph lines, excluding all property at generating, converting or transforming stations, substations and exchanges.
 - e. Radio and Television Communication Equipment in use as such including towers and antennae with auxiliary equipment, and appurtenant electrical operating and control apparatus.
 - f. Outdoor cranes, loading bridges and similar equipment used to load, unload and transport.
5. Personal Property Floater Risks covering individuals and/or generally.
 - a. Personal Effects Floater Policies.

- b. The Personal Property Floater.
 - c. Government Service Floaters.
 - d. Personal Fur Floaters.
 - e. Personal Jewelry Floaters.
 - f. Wedding Present Floaters for not exceeding 90 (ninety) days after the day of the wedding.
 - g. Silverware Floaters.
 - h. Fine Arts Floaters covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit.
 - i. Stamp and Coin Floaters.
 - j. Musical Instrument Floaters. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
 - k. Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use) covering identified property of a mobile or floating nature pertaining to or usual to a household. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
 - l. Installment Sales and Leased Property Policies covering property pertaining to a household and sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest.
 - m. Live Animal Floaters.
6. Commercial Property Floater Risks covering property pertaining to a business, profession or occupation.
- a. Radium Floaters.
 - b. Physicians' and Surgeons' Instrument Floaters. Such policies may include coverage of such furniture, fixtures and tenant Assured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the Assured in the practice of his profession.

- c. Pattern and Die Floaters.
- d. Theatrical Floaters, excluding buildings and their improvements and betterments, and furniture and fixtures that do not travel about with theatrical troupes.
- e. Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records.
- f. Salesmen's Samples Floaters.
- g. Exhibition Policies on property while on exhibition and in transit to or from such exhibitions.
- h. Live Animal Floaters.
- i. Builders' Risk and/or Installation Risks covering interest of owner, seller or contractor, against loss or damage to machinery, equipment, building materials or supplies, being used with and during the course of installation, testing, building, renovating or repairing. Such policies may cover at points or places where work is being performed, while in transit and during temporary storage or deposit, of property designated for and awaiting specific installation, building, renovating or repairing.

Such coverage shall be limited to Builders' Risks or Installation Risks where Perils in addition to Fire and Extended Coverage are to be insured.

If written for account of owner, the coverage shall cease upon completion and acceptance thereof; or if written for account of a seller or contractor the coverage shall terminate when the interest of the seller or contractor ceases.

- j. Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use and snow plows constructed exclusively for highway use), covering identified property of a mobile or floating nature, not on sale or consignment, or in course of manufacture, which has come into custody or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
- k. Property in transit to or from and in the custody of bailees (not owned, controlled or operated by the bailor). Such policies shall not cover bailee's property at his premises.

- l. Installment Sales and Leased Property. Policies covering property sold under conditional contract of sale, partial payment contract, installment sales contract, or leased but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest. This section is not intended to include machinery and equipment under certain "lease-back" contracts.
- m. Garment Contractors Floaters.
- n. Furriers or Fur Storers Customer's Policies (i.e., policies under which certificates or receipts are issued by furriers or fur storers) covering specified articles the property of customers.
- o. Accounts Receivable Policies, Valuable Papers and Records Policies.
- p. Floor Plan Policies, covering property for sale while in possession of dealers under a Floor Plan or any similar plan under which the dealer borrows money from a bank or lending institution with which to pay the manufacturer, provided:
 - i. Such merchandise is specifically identifiable as encumbered to the bank or lending institution.
 - ii. The dealer's right to sell or otherwise dispose of such merchandise is conditioned upon its being released from encumbrance by the bank or lending institution.
 - iii. That such policies cover in transit and do not extend beyond the termination of the dealer's interest.

Provided that such policies shall not cover automobiles or motor vehicles; merchandise for which the dealer's collateral is the stock or inventory as distinguished from merchandise specifically identifiable as encumbered to the lending institution.

- q. Sign and Street Clock Policies, including neon signs, automatic or mechanical signs, street clocks, while in use as such.
- r. Fine Arts Policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit, for account of museums, galleries, universities, businesses, municipalities and other similar interests.
- s. Policies covering personal property which, when sold to the ultimate purchaser, may be covered specifically, by the owner, under Inland marine Policies including:

- i. Musical Instrument Dealers Policies, covering property consisting principally of musical instruments and their accessories. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
- ii. Camera Dealers Policies, covering property consisting principally of cameras and their accessories.
- iii. Furrier's Dealers Policies, covering property consisting principally of furs and fur garments.
- iv. Equipment Dealers Policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor; construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools and similar equipment and accessories therefor; but excluding motor vehicles designed for
- v. Stamp and Coin Dealers covering property of philatelic and numismatic nature.
- vi. Jewelers' Block Policies.
- vii. Fine Arts Dealers.

Such policies may include coverage of money in locked safes or vaults on the Assured's premises. Such policies also may include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies and tenant insureds interest in improvements of buildings.

- t. Wool Growers Floaters.
- u. Domestic Bulk Liquids Policies, covering tanks and domestic bulk liquids stored therein.
- v. Differences in Conditions Coverage excluding fire and extended coverage perils.
- w. Electronic Data Processing Policies.

B. Unless otherwise permitted, nothing in the foregoing shall be construed to permit MARINEOR TRANSPORTATION POLICIES TO COVER:

- 1. Storage of Assured's, merchandise, except as hereinbefore provided.

2. Merchandise in course of manufacture, the property of and on the premises of the manufacturer.
3. Furniture and fixtures and improvements and betterments to buildings.
4. Monies and/or securities in safes, vaults, safety deposit vaults, bank or Assured's premises, except while in the course of transportation.

Source: Miss. Code Ann. §§83-2-1, et seq. (Rev. 2011); 83-5-1, 83-19-1 (Rev. 2011)

Rule 2.05: Reference Filing

For Casualty lines only, companies who are not members of a licensed rating organization may become "Reference Filers" in Mississippi. Forms to accomplish this will be submitted to licensed companies requesting same and contain the following language.

A. Reference Filing Procedure.

The Mississippi Insurance Commission has in effect a Reference Filing Agreement applicable to licensed casualty insurance companies who have no casualty rating bureau affiliation. The purpose of this system is to facilitate action on independent filings and eliminate the unnecessary duplications involved in filing complete bureau manuals with the exception pages for each company.

Any casualty company licensed to do business in Mississippi may make independent filings provided such company is not affiliated with a licensed rating bureau for those coverages.

It is the intent of this office to eliminate the necessity for filing manuals and revisions by soliciting your cooperation, which we believe will expedite the required action upon any filing made to this office.

This system will require the independent filer to notify this office that they are a manual subscriber to a particular rating bureau and will follow the standard manual and subsequent revisions as of the published effective date unless otherwise noted.

Any exception page must be filed as previously required in color and identifiable with the manual rule. Such pages should also be submitted in duplicate.

Rate deviations (variations from manual rates) must be supported as required by law.

This is not a mandatory requirement. If a company wishes to comply with this system, it must do so voluntarily. For that reason, we are attaching an agreement to be completed and returned to this office.

Full Company Name _____

REFERENCE FILING AGREEMENT

The undersigned is a purchaser of the manual service of the Bureau(s) checked below and agrees to accept, by reference, all filings and future revisions of all manuals filed by said Bureau and approved for use in the State of Mississippi. All changes are to become effective for the undersigned simultaneously with the Bureau filing. Nothing herein contained shall effect or abridge the right of the undersigned to file variations to any rates or rules contained in the Bureau manuals.

This agreement shall be effective as of the date it is approved by the Mississippi Insurance Commission and shall remain in full force until either withdrawn by the undersigned or ordered rescinded by the Mississippi Insurance Commission.

_____ Insurance Rating Board
_____ Mutual Insurance Rating Bureau
_____ Surety Association of America

Company _____
By _____
Title _____
Date _____

Source: Miss. Code Ann. §83-2-1, et seq. (Rev. 2011)

Rule 2.06: Deviations

A. Fire.

1. Members or Subscribers of the Mississippi State Rating Bureau desiring to deviate from approved rates of the said bureau may have their request considered by completing in detail the forms furnished by the Commission with carbon copy to the Bureau.
2. Deviations are approved for one year or less and expire annually on May 31. Forms for renewal are automatically mailed to each company in March.

B. Casualty.

1. Companies desiring to deviate from approved rates of casualty bureaus to which they are members or subscribers may have their request considered by completing in detail forms furnished by the Commission.
2. Deviations are approved for one year or less and expire annually on October 31. Forms for renewal are automatically mailed to each company in July.

Source: Miss. Code Ann. § 83-2-1, et seq. (Rev. 2011)

Rule 2.07: House Bill No. 121-

An Act to provide that no automobile liability insurance policy shall be issued unless coverage is provided therein for the protection of the insured against loss caused by an uninsured vehicle; to provide the procedure connected therewith; and for related purposes.

Be it enacted by the legislature of the State of Mississippi.

- A. 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 Act, 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.*¹ The coverage required herein 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 has rejected the coverage in connection with a policy previously issued to him by the same insurer.
- B. As used herein:
1. the term “bodily injury” shall include death resulting here from;
 2. the term “insured” means 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 any of the above; and
 3. the term “uninsured motor vehicle” means a motor vehicle as to which there is:
 - a. no bodily injury liability insurance or bodily injury liability insurance with limits less than the amounts specified in Section 1, but it will be

¹An Act to amend Section 83-11-101, Mississippi Code of 1972, to provide that uninsured motorist coverage limits may be increased, at the option of the insured, to equal the limits of bodily injury liability of the insured; and for related purposes. This act shall take effect and be in force from and after July 1, 1974.

considered uninsured only for that amount between the limit carried and the limit required in Section 1;

- b. 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 is insured within the limits specified in said Section 1; or
- c. 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.

Provided, however, 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. A motor vehicle shall be deemed to be uninsured if the owner or operator thereof be 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.

4. The definition of the term “insured” given in this paragraph shall apply only to the uninsured motorist portion of the policy.

C. 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 8285-04, Mississippi Code of 1942, Recompiled.

D. An insurer paying a claim under the endorsement or provisions required by Section 1 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; provided, that 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 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.

- E. 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 legal proceedings, but the insured may be required to establish legal liability of the uninsured owner or operator.
- F. 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 act. 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 act.

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

Section 7. This act shall take effect and be in force from and after its passage.

Approved: May 18, 1966

Source: Miss. Code Ann. § 83-11-101 (Rev. 2011)