

**ADOPTED**

1 Senators Henson of the 41st and Thompson of the 33rd offered the following amendment:

2 Amend the Senate Health and Human Services Committee substitute to HB 1028 by inserting  
3 after "actions;" on line 10 on page 1 "to require the approval by the Commissioner of  
4 Insurance of all medical malpractice rates, rating plans, rating systems, and underwriting  
5 rules prior to such rates, rating plans, rating systems, and underwriting rules becoming  
6 effective;".

7 By striking line 27 on page 16 and inserting in lieu thereof the following:

8 "conflicting provisions of Title 51 or any other law.

9 **ARTICLE 4**

10 31-46-70.

11 Any domestic, foreign, or alien insurer that is authorized to write medical malpractice  
12 insurance in this state must file with the Commissioner any rate, rating plan, rating system,  
13 or underwriting rule for such insurance. No such rate, rating plan, rating system, or  
14 underwriting rule will become effective, nor may any premium be collected by any insurer  
15 thereunder, unless the filing has been received by the Commissioner in his or her office and  
16 such filing has been approved by the Commissioner within 45 days from the date such  
17 filing was received by the Commissioner. The Commissioner shall be authorized to extend  
18 such 45 day period by no more than 55 days at his or her discretion. The Commissioner  
19 shall either approve or disapprove the filing on or before the conclusion of such period.  
20 If a filing is disapproved, notice of such disapproval order shall be given within 100 days  
21 of receipt of filing by the Commissioner, specifying in what respects such filing fails to  
22 meet the requirements of this chapter. The filer shall be given a hearing upon written  
23 request made within 30 days after the issuance of the disapproval order, and such hearing  
24 shall commence within 30 days after such request unless postponed by mutual consent.  
25 Such hearing, once commenced, may be postponed or recessed by the Commissioner only  
26 for weekends, holidays, or after normal working hours or at any time by mutual consent  
27 of all parties to the hearing. The Commissioner may also, at his or her discretion, recess  
28 any hearing for not more than two recess periods of up to 15 consecutive days each. In  
29 connection with any hearing or judicial review with respect to the approval or disapproval  
30 of such rates, the burden of persuasion shall fall upon the affected insurer or insurers to  
31 establish that the challenged rates are adequate, not excessive, and not unfairly  
32 discriminatory. After such a hearing, the Commissioner must affirm, modify, or reverse

1 his or her previous action within the time period provided in subsection (a) of Code Section  
2 33-2-23 relative to orders of the Commissioner. The requirement of approval or  
3 disapproval of a rate filing by the Commissioner under this subsection shall not prohibit  
4 actions by the Commissioner regarding compliance of such rate filing with the  
5 requirements of Code Section 33-9-4 brought after such approval or disapproval."