

By: Representative Simpson

To: Insurance; Ways and
Means

HOUSE BILL NO. 1269

1 AN ACT TO CREATE THE "MISSISSIPPI CATASTROPHE FUND ACT"; TO
2 PROVIDE DEFINITIONS; TO CREATE THE MISSISSIPPI CATASTROPHE FUND TO
3 BE ADMINISTERED BY THE STATE BOARD OF ADMINISTRATION; TO REQUIRE
4 EACH INSURER WRITING POLICIES IN THIS STATE TO ENTER INTO A
5 CONTRACT WITH THE BOARD WHEREIN THE INSURER RECEIVES REIMBURSEMENT
6 COVERAGE IN EXCHANGE FOR A REIMBURSEMENT PREMIUM PAID TO THE FUND;
7 TO PROVIDE METHODS OF DETERMINING THE AMOUNT OF THE PREMIUM; TO
8 PROVIDE FOR AN ADVISORY COUNCIL TO THE BOARD; AND FOR RELATED
9 PURPOSES.

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

11 SECTION 1. This act shall be known and may be cited as the
12 "Mississippi Catastrophe Fund Act."

13 SECTION 2. The Legislature finds as follows:

14 (a) There is a compelling state interest in maintaining
15 a viable and orderly private sector market for property insurance
16 in this state. To the extent that the private sector is unable to
17 maintain such a market for property insurance statewide, state
18 actions to provide such a viable and orderly market are valid and
19 necessary exercises of public and governmental purpose.

20 (b) As a result of losses from catastrophic natural
21 disasters, many insurers, in order to protect their solvency, find
22 it necessary to reduce their exposure in certain geographic areas.

23 Also, as a result from these losses, world reinsurance capacity
24 has significantly contracted increasing the pressure on insurers
25 to reduce catastrophic exposures.

26 (c) Mortgages require reliable property insurance and
27 the unavailability of such insurance would restrict the orderly
28 growth and development of the state. Also, public health, safety
29 and welfare demand that structures damaged or destroyed in a

30 catastrophe be repaired or reconstructed as soon as possible.

31 (d) A state catastrophe program to provide
32 reimbursement to insurers for a portion of catastrophic natural
33 disaster losses will create additional insurance capacity. It is
34 essential to the functioning of a state catastrophe program in
35 order to increase insurance capacity that revenues received be
36 exempt from federal taxation. It is therefore the intent of the
37 Legislature that such a state program be structured as a state
38 trust fund under the direction and control of the Mississippi
39 State Board of Administration.

40 (e) It is the intent of the Legislature, with the
41 creation of the Mississippi Catastrophe Fund, to advance the
42 state's interest in maintaining insurance capacity and
43 affordability, as well as to mitigate concerns about the impact of
44 a catastrophic event.

45 (f) The creation of the Mississippi Catastrophe Fund is
46 in no way meant to affect the premium taxes now levied on fire
47 insurance policies written on properties in this state under
48 Sections 27-15-103 through 27-15-127.

49 SECTION 3. As used in this act:

50 (a) "Actuarially indicated" means, with respect to
51 premiums paid by insurers for reimbursement provided by the fund,
52 an amount determined by actuarial science principals to be
53 adequate, but not excessive, in the aggregate, to pay current and
54 future obligations and expenses of the fund. This includes
55 amounts if needed to pay debt service on revenue bonds issued
56 under Section 7 of this act. These amounts are determined to
57 reflect each insurer's relative exposure to catastrophe losses.

58 (b) "Covered event" means any one (1) named hurricane
59 declared by the National Hurricane Center causing insured losses
60 in this state or any seismic activity reported by the United
61 States Geographical Survey causing insured losses in this state.

62 (c) "Covered policy" means any insurance policy
63 covering residential property in this state issued by an
64 authorized insurer including joint underwriting associations. It
65 does not include any policy that excludes
66 wind/hurricane/earthquake coverage or any reinsurance agreement.

67 (d) "Losses" means direct incurred losses under covered
68 policies, excluding additional living expense losses and loss
69 adjustment expenses.

70 (e) "Retention" means the amount of losses below which
71 an insurer is not entitled to reimbursement from the fund. The
72 board shall calculate and report to each insurer the retention
73 multiples for that year.

74 (f) "State Board of Administration" means the trustees
75 of the Mississippi Catastrophe Fund to consist of the Governor,
76 the State Auditor, the Treasurer and the Commissioner of Insurance
77 or their designated appointee.

78 SECTION 4. (1) There is hereby created the Mississippi
79 Catastrophe Fund to be administered by the State Board of
80 Administration. Monies in the fund may not be expended, loaned or
81 appropriated except to pay the obligations of the fund. Monies in
82 the fund shall be invested in accordance with state laws.
83 Earnings from all investments shall be retained in the fund.

84 (2) The State Board of Administration may employ or contract
85 staff and professionals as it deems necessary for administration
86 of the fund and may adopt rules as reasonable to implement this
87 act. Rules must conform to and enhance the Legislature's intent
88 of the fund, as stated in Section 2 of this act, to respond to
89 claims for covered events. Rules must contain general provisions
90 so they can be applied with reasonable flexibility so as to
91 accommodate insurers in situations where undue hardship may
92 result. Such flexibility may not in any way impair, override,
93 supersede or constrain the public purpose of the fund and must be
94 consistent with sound insurance practices.

95 SECTION 5. (1) The board shall enter into a contract with
96 each insurer writing covered policies in this state to provide to
97 the insurer the reimbursement coverage in exchange for a
98 reimbursement premium paid to the fund. As a condition of doing
99 business in the state, each insurer shall enter into such a

100 contract.

101 (2) The reimbursement contract shall reimburse the insurer
102 at the level of forty-five percent (45%), seventy-five percent
103 (75%) or ninety percent (90%) of its losses from each covered
104 event over the insurer's determined retention, plus five percent
105 (5%) of the reimbursed losses to cover loss adjustment expenses.
106 Each insurer shall elect the level of payment percentages. All
107 companies in a group must participate at the same level.

108 (3) Any joint underwriting association must elect ninety
109 percent (90%) payment coverage.

110 (4) Reimbursement amounts shall not be reduced by
111 reinsurance paid to the insurer; however, recoveries to insurers
112 from reimbursement under contract and from other sources may not
113 exceed one hundred percent (100%) of insurers losses from covered
114 events. Any amount in excess of one hundred percent (100%) of
115 loss shall be returned to the fund.

116 (5) The reimbursement contract shall provide that all
117 contracts covering a particular year shall not exceed the current
118 balance of the fund together with the maximum amount that the
119 board is able to raise through issuance of revenue bonds under
120 Section 7 of this act. Each insurer must be notified annually of
121 the anticipated borrowing capacity of the fund for the next year,
122 current balance in the fund and insurers' estimated share of total
123 reimbursement premium to be paid to the fund. For all regulatory
124 and reinsurance purposes, an insurer may calculate its projected
125 payout from the fund as its share of the total fund premium for
126 the current contract year multiplied by the sum of the projected
127 year-end fund balance and the anticipated borrowing capacity for
128 that year as reported under this subsection.

129 (6) The contract shall require an insurer to report all
130 losses from covered events December 31 of each year and quarterly
131 thereafter. The contract shall require the board to determine and
132 pay, as soon as practicable after receiving these reports, the

133 initial amount of reimbursement due and any adjustments based on
134 later loss information.

135 (7) The contract shall provide, that in the event of
136 insolvency of an insurer, the fund shall pay directly to the State
137 Guaranty Association, for the benefit of the insurer's
138 policyholders in this state, the net amount of reimbursement money
139 owed to the insurer.

140 SECTION 6. (1) Each reimbursement contract shall require
141 the insurer to annually pay to the fund an actuarially indicated
142 premium for reimbursement.

143 (2) The State Board of Administration shall select an
144 independent consultant to develop a formula for determining
145 actuarially indicated premium to be paid to the fund. The formula
146 shall specify for each limited geographical area or zip code the
147 amount to be paid by an insurer for each One Thousand Dollars
148 (\$1,000.00) of insured value under covered policies in that area.
149 Premiums shall be developed considering the coverage level
150 elected by the insurer and any factors that enhance the actuarial
151 sophistication of rate making for the fund.

152 (3) No later than September 1 of each year, each insurer
153 shall notify the board of its insured values under covered
154 policies by the specified geographical area or zip code. On the
155 basis of these reports, the premium shall be calculated based on
156 the formula adopted as shown herein.

157 (4) In order to provide startup monies for the
158 administration of the fund, each insurer subject to this section
159 shall pay to the fund an advance premium payment of One Thousand
160 Dollars (\$1,000.00) no later than October 1, 1999. The Department
161 of Insurance shall collect the advance premium payments required
162 by this paragraph on behalf of the board. The insurer shall
163 receive a credit against future premiums for the advance payment.

164 SECTION 7. Upon the occurrence of a covered event and a
165 determination that the monies in the fund are insufficient to pay

166 reimbursement at the levels chosen in the reimbursement contracts,
167 the board shall enter into agreements with local governments for
168 the issuance of revenue bonds for the benefit of the fund. The
169 term of the bond may not exceed thirty (30) years.

170 SECTION 8. The board may procure reinsurance from reinsurers
171 for the purpose of maximizing the capacity of the fund.

172 SECTION 9. The State Board of Administration shall appoint a
173 nine-member advisory council that consists of an actuary, a
174 meteorologist, an engineer, a representative of insurers, a
175 representative of insurance agents, a representative of reinsurers
176 and three (3) consumers, who shall also be representatives of
177 other affected professions and industries, to provide the board
178 with information and advice in connection with its duties under
179 this section. Members of the advisory board shall serve at the
180 pleasure of the board and are eligible for per diem and travel
181 expenses as determined by the board.

182 SECTION 10. Any violation of this act or of the rules
183 adopted under this act constitutes a violation of the insurance
184 laws of this state.

185 SECTION 11. Upon the creation of a federal or multistate
186 catastrophic insurance or reinsurance program intended to serve
187 purposes similar to the purpose of the fund created by this act,
188 the board shall make recommendations to the Legislature for
189 coordination with the federal or multistate program, for
190 termination of the fund or for such other actions as it finds
191 appropriate.

192 SECTION 12. This act shall take effect and be in force from
193 and after July 1, 1999.