

By: Representative Rogers (61st)

To: Military Affairs;
AppropriationsCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1448

1 AN ACT TO CREATE THE INDIVIDUAL ASSISTANCE AND EMERGENCY
2 TEMPORARY HOUSING ACT; TO DEFINE CERTAIN TERMS; TO PROVIDE THE
3 GOVERNOR WITH THE POWER TO ACCEPT ASSISTANCE WHENEVER THE
4 PRESIDENT OF THE UNITED STATES HAS DECLARED AN EMERGENCY OR A
5 MAJOR DISASTER; TO PROVIDE FOR THE ADMINISTRATION OF GRANT
6 PROGRAMS; TO PROVIDE FOR THE AMOUNT OF GRANTS; TO PROVIDE FOR A
7 LIMITATION OF TIME FOR THE GOVERNOR TO REQUEST FEDERAL ASSISTANCE;
8 TO AUTHORIZE FEDERAL AND STATE TEMPORARY HOUSING ASSISTANCE; TO
9 PROVIDE FOR THE DESCRIPTION OF TEMPORARY HOUSING; TO PROVIDE
10 CONDITIONS PRECEDENT FOR OBTAINING STATE TEMPORARY HOUSING PROGRAM
11 ASSISTANCE; TO PROVIDE FOR PERIOD OF ELIGIBILITY FOR RECEIVING
12 TEMPORARY HOUSING ASSISTANCE; TO REPEAL SECTIONS 43-41-1 THROUGH
13 43-41-15, SECTIONS 43-41-301 THROUGH 43-41-321 AND SECTION
14 43-41-505, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR FINANCIAL
15 ASSISTANCE AND TEMPORARY HOUSING ASSISTANCE FOR DISASTER EMERGENCY
16 VICTIMS; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** The following shall be codified as Section
19 33-15-201, Mississippi Code of 1972:

20 33-15-201. **Short Title.**

21 This article shall be known and may be cited as the
22 "Individual Assistance and Emergency Temporary Housing Assistance
23 Act."

24 **SECTION 2.** The following shall be codified as Section
25 33-15-202, Mississippi Code of 1972:

26 33-15-202. **Legislative declaration of purpose.**

27 It is the intent of the Legislature and declared to be the
28 policy of the state that funds to meet emergencies or major
29 disasters shall be made available.

30 **SECTION 3.** The following shall be codified as Section
31 33-15-203, Mississippi Code of 1972:

32 33-15-203. **Definitions.**

33 As used in House Bill No. 1448, 2004 Regular Session, the
34 following words shall have the following meanings unless a
35 different meaning clearly appears from the context:

36 (a) "Necessary expense" means the cost of an item or
37 service essential to an individual, family or household to
38 mitigate or overcome an adverse condition caused by an emergency
39 or major disaster.

40 (b) "Serious need" means a requirement for an item or
41 service essential to an individual, family or household to prevent
42 or reduce hardship, injury or loss caused by an emergency or major
43 disaster.

44 (c) "Family" means a social unit, comprised of husband
45 and wife and dependents, if any, or a head of a household, as
46 these terms are defined in the Internal Revenue Code of 1954.

47 (d) "Individual" means a person who is not a member of
48 a family as defined in paragraph (c).

49 (e) "Household" means a dwelling containing a single
50 family or single family and other relatives not otherwise
51 considered family as defined in paragraph (c).

52 (f) "Assistance from other means" means aid, including
53 monetary or in-kind contributions from other governmental
54 programs, insurance, voluntary or charitable organizations or from
55 any sources other than those of the individual, family or
56 household.

57 (g) "The Act" means the Robert T. Stafford Disaster
58 Relief and Emergency Assistance Act (Public Law 93-288, as amended
59 by Public Law 100-707 and Public Law 106-390).

60 (h) "Individuals and households program" (IHP) means
61 the federal assistance available to eligible individuals under a
62 major disaster declaration by the President pursuant to the Robert
63 T. Stafford Disaster Relief and Emergency Assistance Act.

64 (i) "Other Needs Assistance" means that component of
65 the IHP program that provides a grant for individuals that

66 requires the state share twenty-five percent (25%) of the total
67 cost according to Section 408 of the Stafford Act (42 USCS 5174).

68 (j) "Federal regulations" means those regulations
69 published in the Federal Register relating to the specific
70 subject.

71 (k) "Emergency" means any occasion or instance for
72 which, in the determination of the Governor or President, federal
73 assistance is needed to supplement state and local efforts and
74 capabilities to save lives and to protect property and public
75 health and safety, or to lessen or avert the threat of a
76 catastrophe in any part of the United States.

77 (l) "State of emergency" means that a state of
78 emergency has been declared by the Governor pursuant to Section
79 33-15-11(b)(17) to exist as a result of a man-made, technological
80 or natural disaster and the local government has exhausted local
81 resources and requires state assistance.

82 (m) "Federal assistance" means aid to disaster victims
83 or state and local governments by federal agencies under the
84 provisions of the Act.

85 (n) "Major disaster" means any hurricane, tornado,
86 storm, flood, high water, wind-driven water, tidal wave,
87 earthquake, volcanic eruption, landslide, snowstorm, drought,
88 fire, explosions, acts of terrorism or other man-made,
89 technological or natural disaster or catastrophe in the State of
90 Mississippi which, in the determination of the President, causes
91 damage of sufficient severity and magnitude to warrant major
92 disaster assistance under the Federal Disaster Relief and
93 Emergency Assistance Act and beyond emergency services of the
94 state, local governments and disaster relief organizations in
95 alleviating the damage, loss, hardship or suffering caused
96 thereby.

(o) "Director" means the Director of Mississippi
Emergency Management Agency, appointed pursuant to Section
33-15-7.

(p) "Governor's authorized representative" means the
person appointed by the Governor to administer federal disaster
assistance programs on behalf of the state and local governments
and is responsible for the state compliance with the FEMA-State
Agreement.

(q) "State coordinating officer" means the person
appointed by the Governor to act in cooperation with the federal
coordinating officer appointed under Section 303(c) of the Act.

(r) "Temporary housing program" means rental of
existing housing, apartments or commercial lodging provided by
assistance from state government either individually or jointly to
individuals, families or households made homeless by emergency or
major disaster.

(s) "Voluntary organization" means any chartered or
otherwise duly recognized tax-exempt local, state or national
organized group that has provided or may provide services to
states, local governments or individuals in a major disaster or
emergency.

SECTION 4. The following shall be codified as Section
33-15-205, Mississippi Code of 1972:

**33-15-205. Presidential declaration of emergency; power of
Governor to accept assistance.**

Whenever the President of the United States, at the request
of the Governor, has declared an emergency or a major disaster to
exist in this state and the declaration includes a provision for
individual assistance, the Governor is authorized:

(a) To accept a grant by the federal government,
subject to such terms and conditions as may be imposed, including
the required final audit by the State Auditor's Office, upon
determination and with concurrence by the director that financial

130 assistance is essential to meet disaster-related necessary
131 expenses or serious needs of individuals, families or households
132 adversely affected by a major disaster that cannot be otherwise
133 adequately met from other means of assistance.

134 (b) To enter into an agreement with the federal
135 government, or any officer or agency thereof, pledging the state
136 to participate in the funding of the Other Needs Assistance (ONA)
137 program authorized in the Act, in an amount not to exceed
138 twenty-five percent (25%) thereof, and if state funds are not
139 otherwise available to the Governor, to accept an advance of the
140 state share from the federal government to be repaid when the
141 state is able to do so when appropriated for that purpose.

142 **SECTION 5.** The following shall be codified as Section
143 33-15-207, Mississippi Code of 1972:

144 33-15-207. **Filing request for federal assistance.**

145 In order to make federal IHP and ONA available to major
146 disaster victims under House Bill No. 1448, 2004 Regular Session,
147 the Governor must request such assistance from the President of
148 the United States. The Federal Emergency Management Agency must
149 approve such a request and recommend the President of the United
150 States make a major disaster declaration.

151 **SECTION 6.** The following shall be codified as Section
152 33-15-209, Mississippi Code of 1972:

153 33-15-209. **Administration of grant programs.**

154 (1) The director shall develop a plan for the administration
155 and implementation of the IHP and ONA pursuant to subsections
156 408(e) and (f) of the Act to be included in the Mississippi
157 Emergency Operations Plan (MEOP), and it shall include, but not be
158 limited to:

159 (a) Individuals, families or households who incur a
160 necessary expense or serious need in the major disaster area may
161 be eligible for assistance under House Bill No. 1448, 2004 Regular

Session, without regard to their residency in the major disaster area or within the state.

(b) Individuals, families or households otherwise eligible for assistance under House Bill No. 1448, 2004 Regular Session, must obtain flood insurance as required by flood insurance regulations.

(2) Assistance under House Bill No. 1448, 2004 Regular Session, may be made available to meet necessary expense or serious needs by providing essential items or services that cannot be provided from other sources and except those covered by insurance as provided in current federal regulations.

(3) Under House Bill No. 1448, 2004 Regular Session, grants will not be made available for any item or service in the following categories:

(a) Business losses, including farm businesses.

(b) Improvement or additions to real or personal property.

(c) Landscaping.

(d) Real or person property used exclusively for recreations.

(e) Financial obligations incurred prior to the disaster.

(f) Any necessary expense or serious need or portion thereof for which assistance is available from other means but is refused by the individual, family or household.

(g) Should a case arise where it is determined that an individual, family or household has an expense or need not specifically identified as eligible, the state will provide a factual summary and forward it to the regional director, FEMA, for determination prior to making a state commitment.

(4) The director shall also develop a plan for administration and implementation of the Mississippi Temporary

Housing Program (THP) to be included in the MEOP, and it shall include, but not be limited to:

(a) Establishing emergency conditions that warrant program activation.

(b) Developing application procedures and applicant eligibility criteria.

(c) Verifying applicant certification process.

(d) Establishing grant award limits based on fair market rent rates as identified and published by the U.S. Department of Housing and Urban Development.

(e) Maintaining program progress and financial reporting and budget requirements.

SECTION 7. The following shall be codified as Section 33-15-211, Mississippi Code of 1972:

33-15-211. Amount of grants.

(1) In the case of a federally declared disaster, the state cost-share under House Bill No. 1448, 2004 Regular Session, shall be equal to twenty-five percent (25%) of the actual cost of implementing the ONA Program, and shall be made only on the condition that the federal government provides the remaining seventy-five percent (75%) of the ONA grant. In the event of a Governor's state of emergency declaration, the state grant under House Bill No. 1448, 2004 Regular Session, shall be equal to an amount established by the Director of the Mississippi Emergency Management Agency.

(2) An individual, family or household shall not receive a grant or grants under the provisions of House Bill No. 1448, 2004 Regular Session, aggregating more than the amount specified annually by the Federal Emergency Management Agency and published in the Federal Register with respect to any one (1) major disaster declared by the President. In the case of a federally declared disaster, such aggregate amount shall include both state and federal share of the grant. With respect to any one (1) disaster

declared by the Governor's state of emergency, such amount of assistance shall not exceed an amount equal to one-half (1/2) of the amount of the ONA Program specified annually by the Federal Emergency Management Agency and published in the Federal Register and shall include the total amount of rental assistance provided an applicant under the Mississippi Temporary Housing Program.

SECTION 8. The following shall be codified as Section 33-15-213, Mississippi Code of 1972:

33-15-213. **Limitations of time for requesting assistance.**

(1) The time limitation for the Governor to request federal emergency or major disaster assistance shall be in accordance with federal regulations in effect at the time of the emergency or major disaster.

(2) The time limitation for disaster applicants to request assistance and file applications under current federal regulations is sixty (60) days from the date of declaration of disaster by the President. The time limitation for applicants to request state rental assistance under the state THP is thirty (30) days following the declaration of an emergency by the Governor.

SECTION 9. The following shall be codified as Section 33-15-215, Mississippi Code of 1972:

33-15-215. **Federal temporary housing authorized; powers of Governor.**

Whenever disaster conditions arise that affect the lives and safety of a substantial number of residents of the State of Mississippi, and the governing authority of the political subdivision in which the disaster conditions exist makes a request to the Governor for federal major disaster assistance, and the Governor so requests, and the President of the United States declares an emergency or a major disaster to exist in this state, the Governor is authorized:

(a) To arrange with any agency of the United States to provide for temporary housing units to be occupied by disaster

260 victims and to make such units available to any political
261 subdivision of the state.

262 (b) To assist any political subdivision of this state
263 which is the locus of temporary housing units for disaster victims
264 by coordinating with any agency of the United States for such
265 temporary housing to locate and prepare such sites to receive and
266 utilize temporary housing units.

267 (c) Under such regulations as he shall prescribe, to
268 temporarily suspend or modify for not more than sixty (60) days
269 any public health, safety, zoning, transportation (within or
270 across the state) or any other requirement of law or regulation
271 within this state when, by proclamation, he deems such suspension
272 or modification essential for any agency of the United States to
273 provide temporary housing for disaster victims.

274 **SECTION 10.** The following shall be codified as Section
275 33-15-217, Mississippi Code of 1972:

276 33-15-217. **State temporary housing authorized; powers of**
277 **state and political subdivisions.**

278 State Temporary Housing Assistance under House Bill No. 1448,
279 2004 Regular Session, may be made available to those victims of an
280 emergency or localized disaster who, as a result of a state of
281 emergency declared by the Governor, require temporary housing
282 assistance for reasons including, but not limited to, the
283 following:

284 (a) Physical damage to the dwelling to the extent that
285 it has been rendered uninhabitable for a period of no less than
286 three (3) days.

287 (b) The dwelling has been determined uninhabitable as a
288 result of an authorized governmental entity requiring evacuations
289 of an area though the structure may be unharmed. This does not
290 include subsequent condemnations for redevelopment of an area
291 following a disaster.

(c) Impeded access to the dwelling that cannot be quickly alleviated by debris removal even though the structure may be unharmed.

(d) Extended interruption of essential utilities sufficient to constitute a health hazard.

(e) Eviction from a residence by the owner because of the owner's perennial need for housing as a direct result of the disaster.

(f) Eviction from residence by owner because of a financial hardship that is a direct result of the disaster.

(g) Other circumstances that cause temporary housing to be required and that are approved by the director.

SECTION 11. The following shall be codified as Section 33-15-219, Mississippi Code of 1972:

33-15-219. Description of temporary housing.

Temporary housing shall be limited to minimum accommodations necessary for adequate housing for periods longer than that provided through the operation and use of community emergency shelters. Temporary housing accommodations may include, but is not limited to:

(a) Unoccupied, available housing of the United States when made available by the appropriate federal agency.

(b) Mobile homes, travel trailers or other readily fabricated dwellings provided by the appropriate federal agency.

(c) Rental properties when deemed by the appropriate federal agency to be the most economical means available.

(d) Rental properties and apartments or commercial lodging obtained with state temporary housing program grant proceeds.

SECTION 12. The following shall be codified as Section 33-15-221, Mississippi Code of 1972:

33-15-221. Conditions precedent for obtaining state temporary housing program assistance.

When temporary housing assistance is provided based on the guidelines outlined in Section 33-15-217, the following conditions are imposed:

(a) An applicant is expected to expend the grant proceeds to secure adequate temporary housing for purposes stated in his application for assistance. Refusal by the applicant to abide by this provision shall result in his forfeiture of eligibility for additional temporary housing assistance.

(b) Temporary housing assistance proceeds shall not be provided for nor expended for providing minimal home repairs or replacing lost or damaged personal property.

(c) Temporary housing assistance shall not be made available to those individuals, families or households possessing insurance coverage that provides for full cost of alternate living arrangements except when, as determined by the appropriate authority, adequate alternate housing is not readily available or the receipt of insurance benefits are uncertain or inadequate to meet temporary housing needs. Individuals, families or households who qualify for and accept state assistance under the exception shall repay or pledge to repay to the state government, from any insurance proceeds for temporary housing to which they are entitled, an amount equivalent to the fair market value of the housing provided by the state. Temporary housing assistance shall not be made available to any individual, family or household for use as a vacation or recreational residence.

SECTION 13. The following shall be codified as Section 33-15-223, Mississippi Code of 1972:

33-15-223. Period of eligibility for receiving temporary housing assistance.

(1) The period of eligibility for any individual, family or household applicant receiving assistance under the state THP shall be from one (1) to three (3) months determined on the basis of need. Each temporary housing applicant shall endeavor to place

358 himself in adequate alternate housing at the earliest possible
359 time during the period assistance is being provided.

360 (2) Each occupant's eligibility for continued assistance
361 shall be recertified every thirty (30) days. Thereafter, provided
362 no adequate alternate housing exists, assistance shall be
363 continued for another thirty-day period, not to exceed a total of
364 ninety (90) days. All rental assistance is based on the fair
365 market value of rental rates in the applicant's particular area
366 according to the rate schedule published by the U.S. Department of
367 Housing and Urban Development.

368 **SECTION 14.** Sections 43-41-1, 43-41-3, 43-41-5, 43-41-7,
369 43-41-9, 43-41-11, 43-41-13, 43-41-15, 43-41-301, 43-41-303,
370 43-41-305, 43-41-307, 43-41-309, 43-41-311, 43-41-313, 43-41-315,
371 43-41-317, 43-41-319, 43-41-321 and 43-41-505, Mississippi Code of
372 1972, which provide for financial and temporary housing assistance
373 for disaster emergency victims, are hereby repealed.

374 **SECTION 15.** Sections 1 through 13 of this act shall be
375 codified as Article 2, Chapter 15, Title 33, Mississippi Code of
376 1972.

377 **SECTION 16.** This act shall take effect and be in force from
378 and after July 1, 2004.