

By: Senator(s) Carmichael, King

To: Veterans and Military
Affairs

SENATE BILL NO. 3028

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 always 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 The following words wherever used in this article shall,
34 unless a different meaning clearly appears from the context, have
35 the following meanings:

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 PL 100-707 and PL 106-390).

60 (h) "Individuals and households program" means the
61 federal assistance available to eligible individuals under a major
62 disaster declaration by the president pursuant to the Robert T.
63 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 USC 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.

97 (o) "Director" means the Director of Mississippi
98 Emergency Management Agency, appointed pursuant to Section
99 33-15-7.

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

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

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

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

118 **SECTION 4.** The following shall be codified as Section
119 33-15-205, Mississippi Code of 1972:

120 33-15-205. **Presidential declaration of emergency; power of**
121 **Governor to accept assistance.**

122 Whenever the President of the United States, at the request
123 of the Governor, has declared an emergency or a major disaster to
124 exist in this state and the declaration includes Individual
125 Assistance, the Governor is authorized:

126 (a) To accept a grant by the federal government,
127 subject to such terms and conditions as may be imposed, including
128 the required final audit by the State Auditor's Office, upon
129 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 Individual Assistance and Other
146 Needs Assistance available to major disaster victims under this
147 article, the Governor must request such assistance from the
148 President of the United States. The Federal Emergency Management
149 Agency must approve such a request and recommend the President of
150 the United 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 Individuals and Households Program and
156 Other Needs Assistance pursuant to subsections 408(e) and (f) of
157 the Act to be included in the Mississippi Emergency Operations
158 Plan (MEOP), and it shall include, but not be 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 this article without regard to
162 their residency in the major disaster area or within the state.

163 (b) Individuals, families or households otherwise
164 eligible for assistance under this article must obtain flood
165 insurance as required by flood insurance regulations.

166 (2) Assistance under this article may be made available to
167 meet necessary expense or serious needs by providing essential
168 items or services that cannot be provided from other sources and
169 except those covered by insurance as provided in current federal
170 regulations.

171 (3) Under this article grants will not be made available for
172 any item or service in the following categories:

173 (a) Business losses, including farm businesses.

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

176 (c) Landscaping.

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

179 (e) Financial obligations incurred prior to the
180 disaster.

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

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

189 (4) The director shall also develop a plan for
190 administration and implementation of the Mississippi Temporary
191 Housing Program (THP) to be included in the MEOP, and it shall
192 include, but not be limited to:

193 (a) Establishing emergency conditions that warrant
194 program activation.

195 (b) Developing application procedures and applicant
196 eligibility criteria.

197 (c) Verifying applicant certification process.

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

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

203 **SECTION 7.** The following shall be codified as Section
204 33-15-211, Mississippi Code of 1972:

205 33-15-211. **Amount of grants.**

206 (1) In the case of a federally declared disaster, the state
207 cost-share under this article shall be equal to twenty-five
208 percent (25%) of the actual cost of implementing the Other Needs
209 Assistance Program, and shall be made only on the condition that
210 the federal government provides the remaining seventy-five percent
211 (75%) of the ONA grant. In the event of a Governor's state of
212 emergency declaration, the state grant under this article shall be
213 equal to an amount established by the Director of the Mississippi
214 Emergency Management Agency.

215 (2) An individual, family or household shall not receive a
216 grant or grants under the provisions of this article aggregating
217 more than the amount specified annually by the Federal Emergency
218 Management Agency and published in the Federal Register with
219 respect to any one (1) major disaster declared by the President.
220 In the case of a federally declared disaster, such aggregate
221 amount shall include both state and federal share of the grant.
222 With respect to any one (1) disaster declared by the Governor's
223 state of emergency, such amount of assistance shall not exceed an
224 amount equal to one-half (1/2) of the amount of the Other Needs
225 Assistance Program specified annually by the Federal Emergency
226 Management Agency and published in the Federal Register and shall

227 include the total amount of rental assistance provided an
228 applicant under the Mississippi Temporary Housing Program.

229 **SECTION 8.** The following shall be codified as Section
230 33-15-213, Mississippi Code of 1972:

231 33-15-213. **Limitations of time for requesting assistance.**

232 (1) The time limitation for the Governor to request federal
233 emergency or major disaster assistance shall be in accordance with
234 current federal regulations.

235 (2) The time limitation for disaster applicants to request
236 assistance and file applications under current federal regulations
237 is sixty (60) days from the date of declaration of disaster by the
238 President. The time limitation for applicants to request state
239 rental assistance under the State Temporary Housing Program is
240 thirty (30) days following the declaration of an emergency by the
241 Governor.

242 **SECTION 9.** The following shall be codified as Section
243 33-15-215, Mississippi Code of 1972:

244 33-15-215. **Federal temporary housing authorized; powers of
245 Governor.**

246 Whenever disaster conditions arise that affect the lives and
247 safety of a substantial number of residents of the State of
248 Mississippi and the governing authority of the political
249 subdivision wherein said disaster conditions exist makes a request
250 to the Governor for federal major disaster assistance, and the
251 Governor requests, and the President of the United States declares
252 an emergency or a major disaster to exist in this state, the
253 Governor is authorized:

254 (a) To arrange with any agency of the United States to
255 provide for temporary housing units to be occupied by disaster
256 victims and to make such units available to any political
257 subdivision of the state.

258 (b) To assist any political subdivision of this state
259 which is the locus of temporary housing units for disaster victims

260 by coordinating with any agency of the United States for such
261 temporary housing to locate and prepare such sites to receive and
262 utilize temporary housing units.

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

270 **SECTION 10.** The following shall be codified as Section
271 33-15-217, Mississippi Code of 1972:

272 33-15-217. **State temporary housing authorized; powers of**
273 **state and political subdivisions.**

274 State Temporary Housing Assistance under this article may be
275 made available to those victims of an emergency or localized
276 disaster who, as a result of a state of emergency declared by the
277 Governor, require temporary housing assistance for reasons
278 including, but not limited to, the following:

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

282 (b) The dwelling has been determined uninhabitable as a
283 result of an authorized governmental entity requiring evacuations
284 of an area though the structure may be unharmed. This does not
285 include subsequent condemnations for redevelopment of an area
286 following a disaster.

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

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

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

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

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

299 **SECTION 11.** The following shall be codified as Section
300 33-15-219, Mississippi Code of 1972:

301 33-15-219. **Description of temporary housing.**

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

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

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

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

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

316 **SECTION 12.** The following shall be codified as Section
317 33-15-221, Mississippi Code of 1972:

318 33-15-221. **Conditions precedent for obtaining state
319 temporary housing program assistance.**

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

323 (a) An applicant is expected to expend the grant
324 proceeds to secure adequate temporary housing for purposes stated

325 in their application for assistance. Refusal by the applicant to
326 abide by this provision shall result in his forfeiture of
327 eligibility for additional temporary housing assistance.

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

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

345 **SECTION 13.** The following shall be codified as Section
346 33-15-223, Mississippi Code of 1972:

347 33-15-223. Period of eligibility for receiving temporary
348 housing assistance.

349 (1) The period of eligibility for any individual, family or
350 household applicant receiving assistance under the State Temporary
351 Housing Program shall be from one (1) to three (3) months
352 determined on the basis of need. Each temporary housing applicant
353 shall endeavor to place himself in adequate alternate housing at
354 the earliest possible time during the period assistance is being
355 provided.

356 (2) Each occupant's eligibility for continued assistance
357 shall be recertified every thirty (30) days. Thereafter, provided

358 no adequate alternate housing exists, assistance shall be
359 continued for another thirty-day period, not to exceed ninety (90)
360 days. All rental assistance is based on the fair market value of
361 rental rates in the applicant's particular area according to the
362 rate schedule published by the U.S. Department of Housing and
363 Urban Development.

364 **SECTION 14.** Sections 43-41-1, 43-41-3, 43-41-5, 43-41-7,
365 43-41-9, 43-41-11, 43-41-13, 43-41-15, 43-41-301, 43-41-303,
366 43-41-305, 43-41-307, 43-41-309, 43-41-311, 43-41-313, 43-41-315,
367 43-41-317, 43-41-319, 43-41-321 and 43-41-505, Mississippi Code of
368 1972, which provide for financial and temporary housing assistance
369 for disaster emergency victims, are hereby repealed.

370 **SECTION 15.** Sections 1 through 13 of this act shall be
371 codified as Article 2, Chapter 15, Title 33, Mississippi Code of
372 1972.

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