

By: Representatives Compretta, Bentz

To: Sel Cmte on Hurricane Recovery

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1319

1 AN ACT TO PROVIDE THAT ANY INSURER PROVIDING A HOMEOWNERS
2 PROTECTION POLICY, WIND POLICY, WINDSTORM POLICY, HURRICANE
3 POLICY, OR LIKE POLICY FOR A DWELLING LOCATED IN HANCOCK, HARRISON
4 OR JACKSON COUNTIES WHICH EXEMPTS FLOOD DAMAGE FROM COVERAGE,
5 WHETHER OR NOT DRIVEN BY WIND, MUST OBTAIN FROM THE INSURED A
6 STATEMENT OF EXPLANATION OF FLOOD EXCLUSION; TO PROVIDE THAT SUCH
7 STATEMENT MUST BE IN WRITING AND EXECUTED BY THE INSURED IN WHICH
8 THE INSURED ACKNOWLEDGES AN UNDERSTANDING THAT SUCH HOMEOWNERS
9 PROTECTION POLICY DOES NOT PROVIDE FOR FLOOD PROTECTION; TO
10 PROVIDE CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROVISIONS
11 OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** As used in this act, the following words and
14 phrases shall have the meanings ascribed herein unless the context
15 clearly indicates otherwise:

16 (a) "Coastal area" means Hancock, Harrison, and Jackson
17 Counties of the State of Mississippi.

18 (b) "Commissioner" means the State Commissioner of
19 Insurance.

20 (c) "Dwelling" means a structure and land located at
21 the address stated on the insured's policy declaration which is
22 covered under the policy.

23 (d) "Insurer" means an insurance company and any person
24 authorized to represent the insurer with respect to a claim and
25 who is acting within the scope of the person's authority.

26 **SECTION 2.** An insurer providing a homeowners protection
27 policy, wind policy, windstorm policy, hurricane policy, or like
28 policy, for a dwelling located in the coastal area which exempts
29 from coverage damages caused by a flood, including, but not
30 limited to, surface water, storm surge, rising water from a storm,
31 waves, tidal water or overflow of any body of water, or spray from

32 any of these, whether or not driven by wind, shall obtain from the
33 insured a "statement of explanation of flood exclusion." This
34 statement shall be in a written form prescribed by the
35 commissioner and executed by the insured in which the insured
36 acknowledges an understanding that such homeowners protection
37 policy does not provide for flood protection. The statement of
38 explanation of flood exclusion is to explicitly list the above
39 stated terms if such occasions or situations are excluded under
40 the policy. The statement of explanation of flood exclusion is to
41 be separate and apart from the policy and is to be typed in bold
42 print with no smaller than ten-point type. The statement of
43 explanation of flood exclusion is to be executed by the insured
44 before the insured pays the initial premium and is to be obtained
45 at each renewal of the homeowners policy. Execution by the
46 insured is not delegable to the insurer or any representative of
47 the insurer. Failure or refusal of an insured to execute the
48 statement, either at the initial time the policy is purchased or
49 upon the policy's renewal, shall not be grounds for the insurer to
50 cancel the policy. Failure or refusal of an insured to execute
51 the statement upon the policy's renewal shall not constitute a
52 violation of this act on the part of the insurer, provided that
53 the insurer has provided the insured with information explaining
54 that execution of the statement is required under this act at
55 least sixty (60) days before the renewal date.

56 **SECTION 3.** Any insurer required to obtain a statement of
57 explanation of flood exclusion under this act who fails to secure
58 such statement shall be subject to a civil penalty to be assessed
59 by the commissioner for each violation, in an amount to be
60 determined by the commissioner on a case by case basis, but not to
61 exceed Ten Thousand Dollars (\$10,000.00) per violation. Any civil
62 penalty levied and collected by the commissioner shall be
63 deposited into the State General Fund, and any penalty not
64 voluntarily paid may be collected, along with the expenses of

65 collection including attorney's fees, by civil suit brought by the
66 commissioner or the Attorney General. The civil penalties
67 assessed against an insurer under this act may not be included in
68 determining the cost of a premium charged to an insured for any
69 policy as described in Section 2 of this act.

70 **SECTION 4.** This act shall take effect and be in force from
71 and after July 1, 2006.