

By: Representative Compretta

To: Sel Cmte on Hurricane Recovery

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 AND WHICH POLICY EXEMPTS FROM COVERAGE FLOOD  
 5 DAMAGE, WHETHER OR NOT DRIVEN BY WIND, MUST OBTAIN FROM THE  
 6 INSURED A STATEMENT OF EXPLANATION OF FLOOD EXCLUSION; TO PROVIDE  
 7 THAT SUCH STATEMENT MUST BE IN WRITING AND EXECUTED BY THE INSURED  
 8 IN WHICH THE INSURED ACKNOWLEDGES AN UNDERSTANDING THAT SUCH  
 9 HOMEOWNERS PROTECTION POLICY DOES NOT PROVIDE FOR FLOOD  
 10 PROTECTION; TO PROVIDE PENALTIES FOR FAILURE TO COMPLY WITH THE  
 11 PROVISIONS 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) "Dwelling" means a structure and land located at  
 17 the address stated on the insured's policy declaration which is  
 18 covered under the policy.

19 (b) "Insurer" means an insurance company and any person  
 20 authorized to represent the insurer with respect to a claim and  
 21 who is acting within the scope of the person's authority.

22 (c) "Coastal area" means Hancock, Harrison, and Jackson  
 23 Counties of the State of Mississippi.

24 **SECTION 2.** An insurer providing a homeowners protection  
 25 policy, wind policy, windstorm policy, hurricane policy, or like  
 26 policy, for a dwelling located in the coastal area and which  
 27 policy exempts from coverage a flood, including, but not limited  
 28 to, surface water, storm surge, rising water from a storm, waves,  
 29 tidal water or overflow of any body of water, or spray from any of  
 30 these, whether or not driven by wind, shall obtain from the  
 31 insured a "statement of explanation of flood exclusion." This

32 statement shall be in writing and executed by the insured in which  
33 the insured acknowledges an understanding that such homeowners  
34 protection policy does not provide for flood protection. The  
35 statement of explanation of flood exclusion is to explicitly list  
36 the above stated terms if such occasions or situations are  
37 excluded under the policy. The statement of explanation of flood  
38 exclusion is to be separate and apart from the policy and is to be  
39 typed in bold print with no smaller than ten-point type. The  
40 statement of explanation of flood exclusion is to be executed by  
41 the insured before the insured pays the initial premium and is to  
42 be obtained at each renewal of the homeowners policy. Execution  
43 by the insured is not delegable to the insurer or any  
44 representative of the insurer.

45 **SECTION 3.** (1) Any insurer required to obtain a statement  
46 of explanation of flood exclusion under this act who fails to  
47 secure such statement is guilty of a misdemeanor and, upon  
48 conviction thereof, shall be punished by a fine of not more than  
49 One Thousand Dollars (\$1,000.00), or by imprisonment for not more  
50 than one (1) year, or by both such fine and imprisonment. If the  
51 insurer is a corporation, the president, secretary and treasurer  
52 thereof shall be also severally liable to such fine or  
53 imprisonment as herein provided for failure of such corporation to  
54 secure the statement of explanation of flood exclusion; and such  
55 president, secretary and treasurer shall be severally personally  
56 liable, jointly with such corporation, for any damage to said  
57 dwelling from flooding as defined by the homeowners policy that  
58 occurs at any time the statement of explanation of flood exclusion  
59 was not obtained.

60 (2) In addition to the criminal penalties set forth in  
61 subsection (1) of this section, and under the same circumstances,  
62 terms, and conditions as set forth in Section 2 of this act, the  
63 Commissioner of Insurance may assess a civil penalty in an amount  
64 to be determined by the commissioner on a case by case basis, but

65 not to exceed Ten Thousand Dollars (\$10,000.00). Any civil  
66 penalty levied and collected by the Commissioner of Insurance  
67 shall be deposited in the State General Fund, and any penalty not  
68 voluntarily paid may be collected by civil suit brought by the  
69 commissioner or the Attorney General.

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