

By: Representative Baria

To: Insurance

HOUSE BILL NO. 860

1 AN ACT TO AMEND SECTION 83-1-191, MISSISSIPPI CODE OF 1972,  
 2 TO CREATE A SPECIAL FUND FOR THE COMPREHENSIVE HURRICANE DAMAGE  
 3 MITIGATION PROGRAM; TO PROVIDE THAT THE PROGRAM REQUIRE MITIGATION  
 4 TO MEET THE STANDARD OF A "FORTIFIED HOME" IN ACCORDANCE WITH THE  
 5 INSTITUTE FOR BUSINESS AND HOME SAFETY; TO AMEND SECTION 83-21-25,  
 6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SURPLUS LINES TAX  
 7 SHALL BE DEPOSITED INTO THE COMPREHENSIVE HURRICANE DAMAGE  
 8 MITIGATION PROGRAM FUND; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 83-1-191, Mississippi Code of 1972, is  
 11 amended as follows:

12 83-1-191. (1) There is established within the Department of  
 13 Insurance a Comprehensive Hurricane Damage Mitigation Program.  
 14 This section does not create an entitlement for property owners or  
 15 obligate the state in any way to fund the inspection or  
 16 retrofitting of residential property or commercial property in  
 17 this state. \* \* \* There is created within the State Treasury a  
 18 special fund to be known as the "Comprehensive Hurricane Damage  
 19 Mitigation Program Fund" to be directed and administered by the  
 20 Department of Insurance to provide funds for the development and  
 21 implementation of the program created under this section.



22 Unexpended amounts remaining in the fund at the end of a fiscal  
23 year shall not lapse into the General Fund and investment earnings  
24 on amounts in the fund shall be deposited to the credit of the  
25 fund. The program \* \* \* shall develop and implement a  
26 comprehensive and coordinated approach for hurricane damage  
27 mitigation that may include the following:

28 (a) **Cost-benefit study on wind hazard mitigation**  
29 **construction measures.** The performance of a cost-benefit study to  
30 establish the most appropriate wind hazard mitigation construction  
31 measures for both new construction and the retrofitting of  
32 existing construction for both residential and commercial  
33 facilities within the wind-borne debris regions of Mississippi as  
34 defined by the International Building Code. The recommended wind  
35 construction techniques shall be based on both the newly adopted  
36 Mississippi building code sections for wind load design and the  
37 wind-borne debris region. The list of construction measures to be  
38 considered for evaluation in the cost-benefit study shall be based  
39 on scientifically established and sound, but common, construction  
40 techniques that go above and beyond the basic recommendations in  
41 the adopted building codes. This allows residents to utilize  
42 multiple options that will further reduce risk and loss and still  
43 be awarded for their endeavors with appropriate wind insurance  
44 discounts. It is recommended that existing accepted scientific  
45 studies that validate the wind hazard construction techniques  
46 benefits and effects be taken into consideration when establishing



47 the list of construction techniques that homeowners and business  
48 owners can employ. This will ensure that only established  
49 construction measures that have been studied and modeled as  
50 successful mitigation measures will be considered to reduce the  
51 chance of including risky or unsound data that will cost both the  
52 property owner and state unnecessary losses. The cost-benefit  
53 study shall be based on actual construction cost data collected  
54 for several types of residential construction and commercial  
55 construction materials, building techniques and designs that are  
56 common to the region. The study shall provide as much information  
57 as possible that will enhance the data and options provided to the  
58 public, so that homeowners and business owners can make informed  
59 and educated decisions as to their level of involvement. Based on  
60 the construction data, modeling shall be performed on a variety of  
61 residential and commercial designs, so that a broad enough  
62 representative spectrum of data can be obtained. The data from  
63 the study will be utilized in a report to establish tables  
64 reflecting actuarially appropriate levels of wind insurance  
65 discounts (in percentages) for each mitigation construction  
66 technique/combination of techniques. This report will be utilized  
67 as a guide for the Department of Insurance and the insurance  
68 industry for developing actuarially appropriate discounts, credits  
69 or other rate differentials, or appropriate reductions in  
70 deductibles, for properties on which fixtures or construction  
71 techniques demonstrated to reduce the amount of loss in a



72 windstorm have been installed or implemented. Additional data  
73 that will enhance the program, such as studies to reflect property  
74 value increases for retrofitting or building to the established  
75 wind hazard mitigation construction techniques and cost comparison  
76 data collected to establish the value of this program against the  
77 investment required to include the mitigation measures, also may  
78 be provided.

79 (b) **Wind certification and hurricane mitigation**  
80 **inspections.**

81 (i) Home-retrofit inspections of site-built,  
82 residential property, including single-family, two-family,  
83 three-family or four-family residential units, and a set of  
84 representative commercial facilities may be offered to determine  
85 what mitigation measures are needed and what improvements to  
86 existing residential properties are needed to reduce the  
87 property's vulnerability to hurricane damage. A state program may  
88 be established within the Department of Insurance to provide  
89 homeowners and business owners wind certification and hurricane  
90 mitigation inspections. The inspections provided to homeowners  
91 and business owners, at a minimum, must include:

92 1. A home inspection and report that  
93 summarizes the results and identifies corrective actions a  
94 homeowner may take to mitigate hurricane damage.

95 2. A range of cost estimates regarding the  
96 mitigation features.



97                   3. Insurer-specific information regarding  
98 premium discounts correlated to recommended mitigation features  
99 identified by the inspection.

100                   4. A hurricane resistance rating scale  
101 specifying the home's current as well as projected wind resistance  
102 capabilities.

103           This data may be provided by trained and certified inspectors  
104 in standardized reporting formats and forms to ensure all data  
105 collected during inspections is equivalent in style and content  
106 that allows construction data, estimates and discount information  
107 to be easily assimilated into a database. Data pertaining to the  
108 number of inspections and inspection reports may be stored in a  
109 state database for evaluation of the program's success and review  
110 of state goals in reducing wind hazard loss in the state.

111                   (ii) To qualify for selection by the department as  
112 a provider of wind certification and hurricane mitigation  
113 inspections services, the entity shall, at a minimum, and on a  
114 form and in the manner prescribed by the commissioner:

115                   1. Use wind certification and hurricane  
116 mitigation inspectors who:

117                   a. Have prior experience in residential  
118 and/or commercial construction or inspection and have received  
119 specialized training in hurricane mitigation procedures through  
120 the state certified program. In order to qualify for training in  
121 the inspection process, the individual should be either a licensed



122 building code official, a licensed contractor or inspector in the  
123 State of Mississippi, or a civil engineer.

124                   b. Have undergone drug testing and  
125 background checks.

126                   c. Have been certified through a state  
127 mandated training program, in a manner satisfactory to the  
128 department, to conduct the inspections.

129                   d. Have not been convicted of a felony  
130 crime of violence or of a sexual offense; have not received a  
131 first-time offender pardon or nonadjudication order for a felony  
132 crime of violence or of a sexual offense; or have not entered a  
133 plea of guilty or nolo contendere to a felony charge of violence  
134 or of a sexual offense.

135                   e. Submit a statement authorizing the  
136 Commissioner of Insurance to order fingerprint analysis or any  
137 other analysis or documents deemed necessary by the commissioner  
138 for the purpose of verifying the criminal history of the  
139 individual. The commissioner shall have the authority to conduct  
140 criminal history verification on a local, state or national level,  
141 and shall have the authority to require the individual to pay for  
142 the costs of such criminal history verification.

143                   2. Provide a quality assurance program  
144 including a reinspection component.

145                   3. Have data collection equipment and  
146 computer systems, so that data can be submitted electronically to



147 the state's database of inspection reports, insurance  
148 certificates, and other industry information related to this  
149 program. It is mandatory that all inspectors provide original  
150 copies to the property owner of any inspection reports, estimates,  
151 etc., pertaining to the inspection and keep a copy of all  
152 inspection materials on hand for state audits.

153           (c) **Financial grants to retrofit properties.** Financial  
154 grants may be used to encourage single-family, site-built,  
155 owner-occupied, residential property owners or commercial property  
156 owners to retrofit their properties to make them less vulnerable  
157 to hurricane damage.

158           (d) **Education and consumer awareness.** Multimedia  
159 public education, awareness and advertising efforts designed to  
160 specifically address mitigation techniques may be employed, as  
161 well as a component to support ongoing consumer resources and  
162 referral services. In addition, all insurance companies shall  
163 provide notification to their clients regarding the availability  
164 of this program, participation details, and directions to the  
165 state website promoting the program, along with appropriate  
166 contact phone numbers to the state agency administrating the  
167 program. The notification to the clients must be sent by the  
168 insurance company within thirty (30) days after filing their  
169 insurance discount schedules with the Department of Insurance.

170           (e) **Advisory council.** There is created an advisory  
171 council to provide advice and assistance to the program



172 administrator with regard to his or her administration of the  
173 program. The advisory council shall consist of:

174 (i) An agent, selected by the Independent  
175 Insurance Agents of Mississippi.

176 (ii) Two (2) representatives of residential  
177 property insurers, selected by the Department of Insurance.

178 (iii) One (1) representative of homebuilders,  
179 selected by the Home Builders Association of Mississippi.

180 (iv) The Chairman of the House Insurance  
181 Committee, or his designee.

182 (v) The Chairman of the Senate Insurance  
183 Committee, or his designee.

184 (vi) The Executive Director of the Mississippi  
185 Windstorm Underwriting Association, or his designee.

186 (vii) The Director of the Mississippi Emergency  
187 Management Agency, or his designee.

188 Members appointed under subparagraphs (i) and (ii) shall  
189 serve at the pleasure of the Department of Insurance. All other  
190 members shall serve as voting ex officio members. Members of the  
191 advisory council who are not legislators, state officials or state  
192 employees shall be compensated at the per diem rate authorized by  
193 Section 25-3-69, and shall be reimbursed in accordance with  
194 Section 25-3-41, for mileage and actual expenses incurred in the  
195 performance of their duties. Legislative members of the advisory  
196 council shall be paid from the contingent expense funds of their





197 respective houses in the same manner as provided for committee  
198 meetings when the Legislature is not in session; however, no per  
199 diem or expense for attending meetings of the advisory council may  
200 be paid while the Legislature is in session. No advisory council  
201 member may incur per diem, travel or other expenses unless  
202 previously authorized by vote, at a meeting of the council, which  
203 action shall be recorded in the official minutes of the meeting.  
204 Nonlegislative members shall be paid from any funds made available  
205 to the advisory council for that purpose.

206 (f) **Rules and regulations.** The Department of Insurance  
207 may adopt rules and regulations governing the Comprehensive  
208 Hurricane Damage Mitigation Program. The department also may  
209 adopt rules and regulations establishing priorities for grants  
210 provided under this section based on objective criteria that gives  
211 priority to reducing the state's probable maximum loss from  
212 hurricanes. However, rules and regulations adopted shall include  
213 the requirement that mitigation meet the standard of a "FORTIFIED  
214 home" in accordance with the Institute for Business and Home  
215 Safety. \* \* \* Pursuant to this overall goal, the department may  
216 further establish priorities based on the insured value of the  
217 dwelling, whether or not the dwelling is insured by the  
218 Mississippi Windstorm Underwriting Association and whether or not  
219 the area under consideration has sufficient resources and the  
220 ability to perform the retrofitting required.



221 (2) Nothing in this section shall prohibit the Department of  
222 Insurance from entering into an agreement with any other  
223 appropriate state agency to assist with or perform any of the  
224 duties set forth hereunder.

225 (3) This section shall stand repealed from and after July 1,  
226 2018.

227 **SECTION 2.** Section 83-21-25, Mississippi Code of 1972, is  
228 amended as follows:

229 83-21-25. (1) The surplus lines insurance producer shall  
230 report under oath to the Commissioner of Insurance, within thirty  
231 (30) days from the first of January and July of each year, the  
232 amount of gross premiums received by him for such insurance in  
233 nonadmitted insurers, and shall pay to the Commissioner of  
234 Insurance a tax of four percent (4%) thereon. The term "gross  
235 premiums" shall mean the total gross amount of premiums received  
236 on each and every surplus lines insurance contract, less returned  
237 premiums. In default of the payment of any sum which may be due  
238 the state under this law, the Commissioner of Insurance may sue  
239 for the same. The surplus lines insurance producer shall keep a  
240 separate record of all transactions, as herein provided, open at  
241 all times to the inspection of the Commissioner of Insurance. The  
242 surplus lines insurance producer may designate another surplus  
243 lines insurance producer that actually procured the insurance from  
244 the nonadmitted insurer to report and pay, on behalf of the  
245 surplus lines insurance producer, to the Commissioner of Insurance



246 the tax due the state under this law. The surplus lines insurance  
247 producer designated to pay the tax shall be deemed to have the  
248 same obligations and responsibilities for reporting and paying the  
249 tax due the state on the insurance procured from the nonadmitted  
250 insurer as the surplus lines insurance producer who was initially  
251 responsible for reporting and paying the tax, and the Commissioner  
252 of Insurance may sue such surplus lines insurance producer  
253 designated to pay the tax in the event such surplus lines  
254 insurance producer is in default of any sum which is due the state  
255 for which the designated surplus lines insurance producer is  
256 responsible or obligated to pay.

257 (2) \* \* \* The Commissioner of Insurance shall deposit the  
258 tax collected under subsection (1) of this section into the  
259 Comprehensive Hurricane Damage Mitigation Program Fund established  
260 in Section 83-1-191(1).

261 **SECTION 3.** This act shall take effect and be in force from  
262 and after July 1, 2018.

