

By: Senator(s) Rhodes

To: Insurance;  
Appropriations

## SENATE BILL NO. 2405

1       AN ACT TO CREATE THE "MAKE MISSISSIPPI RESILIENT AND STRONG  
2 ACT"; TO ESTABLISH THE MISSISSIPPI WINDSTORM MITIGATION  
3 ASSOCIATION UNDER THE SUPERVISION OF THE MISSISSIPPI INSURANCE  
4 COMMISSIONER; TO PROVIDE SERVICES TO MEMBERS; TO PROMOTE WELFARE  
5 AND ECONOMIC DEVELOPMENT THROUGH STRENGTHENING OF RESIDENTIAL  
6 HOMES AND COMMERCIAL PROPERTIES TO PROTECT AGAINST SEVERE WEATHER;  
7 TO PROVIDE FOR GRANTS TO ASSIST IN STRENGTHENING OF RESIDENTIAL  
8 HOMES AND COMMERCIAL PROPERTIES; TO PROVIDE FOR MEMBERSHIP OF THE  
9 ASSOCIATION; TO PROVIDE ANNUAL REPORTING REQUIREMENTS OF THE  
10 ASSOCIATION; TO PROVIDE FOR THE SUPERVISION OF THE ASSOCIATION BY  
11 THE COMMISSIONER OF INSURANCE; TO PROVIDE FOR ELECTION OF A BOARD  
12 OF DIRECTORS; TO PROVIDE THE POWERS OF THE ASSOCIATION; TO PROVIDE  
13 FOR ASSESSMENTS AGAINST INSURERS TO FUND THE ASSOCIATION; TO  
14 PROVIDE THAT A MEMBER INSURER MAY OFFSET ITS ASSESSMENT AGAINST  
15 ITS PREMIUM, FRANCHISE OR INCOME AS LIABILITY; TO PROVIDE THAT  
16 MEMBER INSURERS SHALL BE IMMUNE FROM ACTS OR OMISSIONS IN THE  
17 PERFORMANCE OF THEIR DUTIES; AND FOR RELATED PURPOSES.

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

19       SECTION 1. This act shall be known and may be cited as the  
20 "Make Mississippi Resilient and Strong Act."

21       SECTION 2. (1) The purpose of this act is to promote the  
22 state's welfare and economic development through the strengthening  
23 of residential homes and commercial properties to protect against  
24 severe weather and to establish a mechanism to allow the  
25 availability of a grant program to encourage single-family,

26 site-built, owner-occupied, residential property owners or  
27 commercial property owners to retrofit their properties to make  
28 them less vulnerable to hurricane, tornado or other catastrophic  
29 windstorm events.

30 (2) To provide this resiliency and economic protection, an  
31 association of member insurers is created to make, subject to  
32 certain limitations, financial grants to retrofit insurable  
33 property to standards adopted by the association.

34 **SECTION 3.** (1) Any person who owns insurable property  
35 located in this state may apply to the association for a grant to  
36 retrofit such insurable property.

37 (2) To obtain grant funds, insurable property shall be  
38 retrofitted to one (1) of the tiered mitigation levels as defined  
39 by the Insurance Institute for Business and Home Safety, or other  
40 mitigation program, or construction technique, that is recommended  
41 by the Mississippi Windstorm Mitigation Coordinating Council and  
42 approved by the association and the commissioner. An insurable  
43 property shall be certified as conforming to the most recent  
44 version of the "fortified roof" standard of the Insurance  
45 Institute for Business and Home Safety only after evaluation and  
46 certification by an Insurance Institute for Business and Home  
47 Safety certified evaluator.

48 (3) Total grants awarded for any insurable property shall  
49 not exceed Fifteen Thousand Dollars (\$15,000.00).

50           **SECTION 4.** As used in this act, the following terms shall  
51   have the meaning ascribed in this section, unless the context  
52   clearly requires otherwise:

53           (a) "Applicant" means any person who submits an  
54   application for a grant award from the association.

55           (b) "Association" means the Mississippi Windstorm  
56   Mitigation Association.

57           (c) "Board" means the board of directors of the  
58   association.

59           (d) "Commissioner" means the Commissioner of Insurance  
60   of this state.

61           (e) "Insurable property" includes single-family  
62   residential and commercial property. "Insurance property" also  
63   includes modular homes satisfying the codes, standards or  
64   techniques as provided in Section 83-75-1 or 83-75-3.

65   Manufactured homes are excluded from "insurable property," except  
66   as expressly provided in Section 83-75-3(3).

67           (f) "Insurance Institute for Business and Home Safety"  
68   means the non-profit scientific research and communications  
69   organization supported by property insurers, reinsurers and  
70   affiliated companies.

71           (g) "Member insurer" means any entity that is  
72   authorized in this state to write property insurance coverage or  
73   provides property insurance coverage in this state including

74 nonadmitted insurers eligible for writing business in this state  
75 or writing business in this state.

76 (h) "Person" means a natural person, trust,  
77 partnership, corporation, limited liability company or any other  
78 business entity.

79 (i) "Premiums" means amounts or considerations (by  
80 whatever name called) received on property insurance policies less  
81 returned premiums thereon and dividends paid or credited to  
82 policyholders on such business.

83 (j) "Property insurance" means the following lines of  
84 coverage as reported on the National Association of Insurance  
85 Commissioners Annual Statement blank for fire, allied lines,  
86 homeowners, commercial multiproperty nonliability and earthquake  
87 insurance.

88 (k) "Retrofit" means to make changes to an existing  
89 building to resist loss due to hurricane, tornado or other  
90 catastrophic windstorm events.

91 **SECTION 5.** (1) There is created a nonprofit legal entity to  
92 be known as the Mississippi Windstorm Mitigation Association. All  
93 member insurers shall be and remain members of the association, as  
94 a condition of their authority to transact insurance business in  
95 this state. The association shall perform its functions under a  
96 plan of operation established and approved under Section 10 of  
97 this act and shall exercise its powers through a board of  
98 directors established under Section 6 of this act.

99 (2) The association shall come under the immediate  
100 supervision of the commissioner and shall be subject to the  
101 applicable provisions of the insurance laws of this state.  
102 Meetings or records of the association may be opened to the public  
103 upon majority vote of the board of directors of the association.

104        **SECTION 6.**    (1) The board of directors of the association  
105        shall consist of not less than five (5) nor more than nine (9)  
106        member insurers serving terms as established in the plan of  
107        operation. The members of the board shall be selected by member  
108        insurers subject to the approval of the commissioner. Vacancies on  
109        the board shall be filled for the remaining period of the term by  
110        a majority vote of the remaining board members, subject to the  
111        approval of the commissioner. To select the initial board of  
112        directors, and initially organize the association, the  
113        commissioner shall give notice to all member insurers of the time  
114        and place of the organizational meeting. At the organizational  
115        meeting each member insurer shall be entitled to one (1) vote in  
116        person or by proxy. If the board of directors is not selected  
117        within sixty (60) days after notice of the organizational meeting,  
118        the commissioner may appoint the initial board of directors.

119 (2) In approving selections or in appointing members to the  
120 board, the commission shall consider, among other things, whether  
121 all member insurers are fairly represented.

122 (3) Members of the board may be reimbursed from the assets  
123 of the association for actual and necessary expenses incurred by



124 them as members of the board of directors, but members of the  
125 board shall not otherwise be compensated by the association for  
126 their services.

127       **SECTION 7.** (1) In addition to the rights and powers  
128 elsewhere in this act, the association may:

129               (a) Enter into such contracts as are necessary or  
130 proper to carry out the provisions and purposes of this act;

131               (b) Sue or be sued, including taking any legal actions  
132 necessary or proper to recover or collect assessments due the  
133 association under Section 8 of this act and to settle claims or  
134 potential claims against it;

135               (c) Borrow money to affect the purposes of this act;  
136 any notes or other evidence of indebtedness of the association not  
137 in default shall be legal investments for domestic insurers and  
138 may be carried as admitted assets;

139               (d) Employ or retain such persons as are necessary or  
140 appropriate to handle the financial transactions of the  
141 association, and to perform such other functions as become  
142 necessary or proper under this act;

143               (e) Take such legal action as may be necessary or  
144 appropriate to:

145                       (i) Avoid the payment of improper grants or any  
146 other expenditures by the association;

147                       (ii) Recover any amounts erroneously or improperly  
148 paid by the association;



(iii) Recover any amounts paid by the association as a result of mistake of fact or law; and/or

(iv) Recover other amounts due the association;

(f) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(g) Request information from a person seeking a grant association in order to aid the association in

determining its obligations under this act with respect to the person, and the person shall promptly comply with the request; and

(n) Take other necessary or appropriate action to discharge its duties and obligations under this act or to exercise its powers under this act.

(2) The association may join an organization of one or more state associations of similar purposes, to further the uses and administer the powers and duties of the association.

(3) The board of directors of the association shall have discretion and may exercise a reasonable business judgment to determine the means by which the association is to provide the benefits of this act in an economical and efficient manner.

(4) Venue in a suit against the association arising under the act shall be in Hinds County, Mississippi. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this act.

**SECTION 8.** (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association,



174 the board of directors shall assess the member insurers at such  
175 time and for such amounts as the board finds necessary not to  
176 exceed the sum of Ten Million Dollars (\$10,000,000.00) in each  
177 calendar year. Assessments shall be due not less than thirty (30)  
178 days after prior written notice to member insurers and shall  
179 accrue interest at twelve percent (12%) per annum on and after the  
180 due date.

181 (2) The assessments against member insurers shall be in the  
182 proportion that the premiums received on business in this state by  
183 each assessed member insurer for the three (3) most recent  
184 calendar years for which information is available preceding the  
185 year in which the assessment is made bears to such premiums  
186 received on business in this state for such calendar years by all  
187 assessed member insurers; however, a minimum assessment of Five  
188 Hundred Dollars (\$500.00) shall be assessed to each member  
189 insurer. Except for the minimum assessment, the assessment to a  
190 member insurer may not exceed one-half of one percent (0.5%) of  
191 that member insurer's average annual premiums received in this  
192 state during the three (3) calendar years preceding the year in  
193 which the assessment is made.

194 Computation of assessments under this subsection shall be  
195 made with a reasonable degree of accuracy, recognizing that exact  
196 determinations may not always be possible.

197 (3) The association may abate or defer, in whole or in part,  
198 the assessment of a member insurer if, in the opinion of the

199 board, payment of the assessment would endanger the ability of the  
200 member insurer to fulfill its contractual obligations. In the  
201 event an assessment against a member insurer is abated, or  
202 deferred, in whole or in part, the amount by which such assessment  
203 is abated or deferred may be assessed against the other member  
204 insurers in a manner consistent with the basis for assessments set  
205 forth in this section. Once the conditions that caused a deferral  
206 have been removed or rectified, the member insurer shall pay all  
207 assessments that were deferred pursuant to a repayment plan  
208 approved by the association.

209 (4) The board may, by an equitable method as established in  
210 the plan of operation, refund to member insurers, in proportion to  
211 the contribution of each insurers, the amount by which the assets  
212 of the association exceed the amount the board finds is necessary  
213 to carry out the purposes of the association. A reasonable amount  
214 may be retained by the association to provide funds for the  
215 continuing expenses of the association and for future grant  
216 awards.

217 (5) The association shall issue to each insurer paying an  
218 assessment under this act a certificate of contribution, in a form  
219 prescribed by the commissioner, for the amount of the assessment  
220 so paid. All outstanding certificates shall be of equal dignity  
221 and priority without reference to amounts or dates of issue. A  
222 certificate of contribution may be shown by the insurer in its

223 financial statement as an asset in such form and for such amount,  
224 if any, and period of time as the commissioner may approve.

225 (6) (a) A member insurer that wishes to protest all or part  
226 of an assessment shall pay when due the full amount of the  
227 assessment.

228 Payment shall be accompanied by a statement in writing that  
229 the payment is made under protest and setting forth a brief  
230 statement of the grounds for the protest.

231 (b) Within sixty (60) days following the payment of an  
232 assessment under protest by a member insurer, the association  
233 shall notify the member insurer in writing of its determination  
234 with respect to the protest unless the association notifies the  
235 member insurer that additional time is required to resolve the  
236 issues raised by the protest.

237 (c) Within thirty (30) days after a final decision has  
238 been made, the association shall notify the protesting member  
239 insurer in writing of that final decision. Within sixty (60) days  
240 of receipt of notice of the final decision, the protesting insurer  
241 may appeal that final action to the commissioner.

242 (d) In the alternative to rendering a final decision,  
243 the association may refer protests to the commissioner for a final  
244 decision, with or without a recommendation from the association.

245 (e) If the protest or appeal on the assessment is  
246 upheld, the amount paid in error or excess shall be returned to

247 the member insurer. Interest on a refund due a protesting member  
248 shall be paid at the rate actually earned by the association.

249 (7) The association may request information of member  
250 insurers in order to aid in the exercise of its power under this  
251 section and member insurers shall promptly comply with a request.

252 **SECTION 9.** (1) Member insurers may offset against its  
253 (premium, franchise or income) tax liability (or liabilities) to  
254 this state an assessment described in Section 8 of this act to the  
255 extent of twenty percent (20%) of the amount of such assessment,  
256 if any, for each year over the next five (5) succeeding years.  
257 However, if the offset is less than twenty percent (20%), any  
258 unused balanced may be carried over to any succeeding year until  
259 such time as the offset provided herein is fully used. In the  
260 event a member insurer should cease doing business, all uncredited  
261 assessment may be credited against its (premium, franchise or  
262 income) tax liability (or liabilities) for the year it ceases  
263 doing business.

264 (2) Any sums which are acquired by refund, pursuant to  
265 Section 8(6) of this act, from the association by member insurers  
266 and which have theretofore been offset against (premium, franchise  
267 or income) taxes as provided in subsection (1) of this section,  
268 shall be paid by such insurers to this state in such manner as the  
269 tax authorities may require. The association shall notify the  
270 commissioner that such refunds have been made.

271           **SECTION 10.** (1) (a) The association shall submit to the  
272 commissioner a plan of operation and any amendments thereto  
273 necessary or suitable to assure the fair, reasonable and equitable  
274 administration of the association. The plan of operation and any  
275 amendments thereto shall become effective upon the commissioner's  
276 written approval or unless it has not been disapproved within  
277 thirty (30) days.

278           (b) If the association fails to submit a suitable plan  
279 of operation within one hundred eighty (180) days following the  
280 effective date of this act, or if at any time thereafter the  
281 association fails to submit suitable amendments to the plan, the  
282 commissioner shall, after notice and hearing, adopt and promulgate  
283 such reasonable rules as are necessary or advisable to effectuate  
284 the provisions of this act. Such rules shall continue in force  
285 until modified by the commissioner or superseded by a plan  
286 submitted by the association and approved by the commissioner.

287           (2) All member insurers shall comply with the plan of  
288 operation.

289           (3) The plan of operation shall, in addition to requirements  
290 enumerated elsewhere in this act:

291           (a) Establish the procedures whereby all the power and  
292 duties of the association under this act will be performed;  
293           (b) Establish procedures for handling the assets of the  
294 association;



295 (c) Establish the amount and method of reimbursing  
296 members of the board of directors under Section 6 of this act;

297 (d) Establish the procedures by which grant  
298 applications may be filed with the association and establish  
299 acceptable forms of proof of eligibility to receive grant funds;

300 (e) Establish or adopt mitigation standards required to  
301 be achieved and certifications required to be obtained in order to  
302 receive grant funds;

303 (f) Establish regular places and times for meetings  
304 including telephone conference calls of the board of directors;

305 (g) Establish procedures for records to be kept of all  
306 financial transactions of the association, its agents and the  
307 board of directors;

308 (h) Establish the procedures whereby selection of the  
309 board of directors will be made and submitted to the commissioner;

310 (i) Establish any additional procedures for assessments  
311 under Section 8 of this act;

312 (j) Contain additional provisions necessary or proper  
313 for the execution of the powers and duties of the association;

314 (k) Establish procedures whereby a director may be  
315 removed for cause, including in the case where a member insurer  
316 director becomes an impaired or insolvent insurer;

317 (l) Require the board of directors to establish a  
318 policy and procedures for addressing conflicts of interests.



319        **SECTION 11.** (1) In addition to the duties and powers  
320    enumerated elsewhere in this act, the commissioner shall upon  
321    request of the board of directors, provide the association with a  
322    statement of the premiums in this state for each member insurer.

323        (2) The commissioner may suspend or revoke, after notice and  
324    hearing, the license or certificate of authority to transact  
325    business in this state of any member insurer which fails to pay an  
326    assessment when due or fails to comply with the plan of operation.

327        As an alternative, the commissioner may levy a forfeiture on  
328    any member insurer which fails to pay an assessment when due. The  
329    forfeiture shall not exceed five percent (5%) of the unpaid  
330    assessment per month, but no forfeiture shall be less than One  
331    Hundred Dollars (\$100.00) per month.

332        (3) A final action of the board of directors or the  
333    association may be appealed to the commissioner by an insurer if  
334    the appeal is taken within thirty (30) days of its receipt of  
335    notice of the final action being appealed. A final action or  
336    order of the commissioner shall be subject to judicial review in a  
337    court of competent jurisdiction in accordance with the laws of  
338    this state that apply to the actions or orders of the  
339    commissioner.

340        **SECTION 12.** The association shall be subject to examination  
341    and regulation by the commissioner. The board of directors shall  
342    submit to the commissioner, each year not later than one hundred  
343    fifty (150) days after the association's fiscal year, a financial



344 report in a form approved by the commissioner and a report of its  
345 activities during the preceding fiscal year.

346       Upon the request of a member insurer, the association shall  
347 provide the member insurer with a copy of the report.

348       **SECTION 13.** The association shall be exempt from payment of  
349 all fees and all taxes levied by this state or any of its  
350 subdivisions, except taxes levied on real property.

351       **SECTION 14.** There shall be no liability on the part of and  
352 no cause of action of any nature shall arise against any member  
353 insurer or its agents or employees, the association or its agents  
354 or employees, members of the board of directors, or the  
355 commissioner or his representatives, for any action or omission by  
356 them in the performance of their powers and duties under this act.  
357 This indemnity shall extend to the participation in any  
358 organization of one or more other state associations of similar  
359 purposes and to any such organization and its agents or employees.

360       **SECTION 15.** The commissioner may, upon notice and  
361 opportunity for all interested persons to be heard, promulgate and  
362 publish rules, regulations and orders which are necessary to the  
363 accomplishment of the provisions of this act.

364       **SECTION 16.** This act shall take effect and be in force from  
365 and after July 1, 2025.

