

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



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

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

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

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

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

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

(h) 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 other state associations of similar purposes, to further the purposes 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,



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

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

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

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



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

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

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



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

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

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

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

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

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

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



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

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

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

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



SECTION 10.

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

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

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

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

(a) Establish the procedures whereby all the power and duties of the association under this act will be performed;

(b) Establish procedures for handling the assets of the 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.



SECTION 11.

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

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

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

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

SECTION 12.

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



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

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

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

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

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

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

