

By: Representatives Janus, Zuber, Simpson,
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To: Sel Cmte on Hurricane
Recovery

HOUSE BILL NO. 1427

1 AN ACT TO PROVIDE THAT RATE FILINGS FOR RESIDENTIAL PROPERTY
2 INSURANCE MUST INCLUDE DISCOUNTS, CREDITS OR OTHER RATE
3 DIFFERENTIALS FOR PROPERTIES ON WHICH CONSTRUCTION TECHNIQUES THAT
4 HAVE BEEN DEMONSTRATED TO REDUCE THE AMOUNT OF LOSS IN A WINDSTORM
5 HAVE BEEN INSTALLED OR IMPLEMENTED; TO ESTABLISH A PROGRAM BY
6 WHICH HOMEOWNERS MAY OBTAIN AN EVALUATION OF THE WIND RESISTANCE
7 OF THEIR HOMES WITH RESPECT TO PREVENTING DAMAGE FROM HURRICANES,
8 TOGETHER WITH A RECOMMENDATION OF REASONABLE STEPS THAT MAY BE
9 TAKEN TO UPGRADE THEIR HOMES TO BETTER WITHSTAND HURRICANE FORCE
10 WINDS; TO ESTABLISH WITHIN THE DEPARTMENT OF INSURANCE A
11 COMPREHENSIVE HURRICANE DAMAGE MITIGATION PROGRAM, WHICH SHALL
12 CONSIST OF A COST-BENEFIT STUDY ON WIND HAZARD MITIGATION
13 CONSTRUCTION MEASURES, WIND CERTIFICATION AND HURRICANE MITIGATION
14 INSPECTIONS, FINANCIAL GRANTS TO RETROFIT PROPERTIES, EDUCATION
15 AND CONSUMER AWARENESS EFFORTS, AND AN ADVISORY COUNCIL; AND FOR
16 RELATED PURPOSES.

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

18 **SECTION 1.** (1) Effective July 1, 2007, a rate filing for
19 residential property insurance must include actuarially reasonable
20 discounts, credits or other rate differentials, or appropriate
21 reductions in deductibles, for properties on which fixtures or
22 construction techniques demonstrated to reduce the amount of loss
23 in a windstorm have been installed or implemented. The fixtures
24 or construction techniques shall include, but not be limited to,
25 fixtures or construction techniques that enhance roof strength,
26 roof covering performance, roof-to-wall strength,
27 wall-to-floor-to-foundation strength, opening protection, and
28 window, door and skylight strength. Credits, discounts or other
29 rate differentials for fixtures and construction techniques that
30 meet the minimum requirements of the International Residential
31 Code or the International Building Code must be included in the
32 rate filing. All insurance companies must make a rate filing that
33 includes the credits, discounts or other rate differentials by
34 January 1, 2008. By January 1, 2009, the Department of Insurance

35 shall reevaluate the discounts, credits, other rate differentials
36 and appropriate reductions in deductibles for fixtures and
37 construction techniques that meet the minimum requirements of the
38 International Residential Code or the International Building Code,
39 based upon actual experience or any other loss relativity studies
40 available to the department. The department shall determine the
41 discounts, credits, other rate differentials and appropriate
42 reductions in deductibles that reflect the full actuarial value of
43 that revaluation, which may be used by insurers in rate filings.

44 (2) (a) A rate filing for residential property insurance
45 made on or before the implementation of paragraph (b) may include
46 rate factors that reflect the manner in which building code
47 enforcement in a particular jurisdiction addresses the risk of
48 wind damage. However, that rate filing also must provide for
49 variations from those rate factors on an individual basis based on
50 an inspection of a particular structure by a licensed home
51 inspector, which inspection may be at the cost of the insured.

52 (b) A rate filing for residential property insurance
53 made more than one hundred fifty (150) days after approval by the
54 department of a building code rating factor plan submitted by a
55 statewide rating organization shall include positive and negative
56 rate factors that reflect the manner in which building code
57 enforcement in a particular jurisdiction addresses risk of wind
58 damage. The rate filing shall include variations from standard
59 rate factors on an individual basis based on inspection of a
60 particular structure by a licensed home inspector. If an
61 inspection is requested by the insured, the insurer may require
62 the insured to pay the reasonable cost of the inspection. This
63 paragraph applies to structures constructed or renovated after the
64 implementation of this paragraph.

65 (c) The premium notice shall specify the amount by
66 which the rate has been adjusted as a result of this subsection
67 and also shall specify the maximum possible positive and negative

68 adjustments that are approved for use by the insurer under this
69 subsection.

70 (3) A rate filing made on or after July 1, 2007, for mobile
71 homeowner's insurance must include appropriate discounts, credits
72 or other rate differentials for mobile homes constructed to comply
73 with American Society of Civil Engineers Standard ANSI/ASCE 7-88,
74 adopted by the United States Department of Housing and Urban
75 Development, and that also comply with all applicable tie-down
76 requirements provided by state law.

77 (4) The Legislature finds that separate consideration and
78 notice of hurricane or windstorm insurance premiums will assist
79 consumers by providing greater assurance that hurricane or
80 windstorm insurance premiums are lawful and by providing more
81 complete information regarding the components of property
82 insurance premiums. Effective July 1, 2007, a rate filing for
83 residential property insurance shall be separated into two (2)
84 components: rates for hurricane or windstorm coverage and rates
85 for all other coverages. A premium notice reflecting a rate
86 implemented on the basis of such a filing shall separately
87 indicate the premium for hurricane coverage and the premium for
88 all other coverages. As used in this subsection:

89 (a) "Hurricane coverage" means coverage for loss or
90 damage caused by the peril of windstorm during a hurricane. The
91 term includes ensuing damage to the interior of a building, or to
92 property inside a building, caused by rain, snow, sleet, hail,
93 sand or dust if the direct force of the windstorm first damages
94 the building, causing an opening through which rain, snow, sleet,
95 hail, sand, or dust enters and causes damage.

96 (b) "Windstorm" for purposes of paragraph (a) means
97 wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or
98 resulting from a hurricane that results in direct physical loss or
99 damage to property.

100 (c) "Hurricane" for purposes of paragraphs (a) and (b)
101 means a storm system that has been declared to be a hurricane by
102 the National Hurricane Center of the National Weather Service.

103 (5) In order to provide an appropriate transition period, an
104 insurer, in its sole discretion, may implement an approved rate
105 filing for residential property insurance over a period of years.
106 An insurer electing to phase in its rate filing must provide an
107 informational notice to the department setting out its schedule
108 for implementation of the phased-in rate filing.

109 (6) An insurer may not write a residential property
110 insurance policy without providing hurricane or windstorm
111 coverage, as defined in subsection (4) of this section. This
112 subsection does not apply with respect to risks located in the
113 Coast area that are eligible for coverage by the Mississippi
114 Windstorm Underwriting Association established under Section
115 83-34-1 et seq.

116 (7) Any rate filing that is based in whole or part on data
117 from a computer model may not exceed fifteen percent (15%) unless
118 there is a public hearing.

119 (8) An insurer may implement appropriate discounts or other
120 rate differentials of up to ten percent (10%) of the annual
121 premium to mobile home owners who provide to the insurer evidence
122 of a current inspection of tie-downs for the mobile home,
123 certifying that the tie-downs have been properly installed and are
124 in good condition.

125 (9) (a) It is the intent of the Legislature to provide a
126 program by which homeowners may obtain an evaluation of the wind
127 resistance of their homes with respect to preventing damage from
128 hurricanes, together with a recommendation of reasonable steps
129 that may be taken to upgrade their homes to better withstand
130 hurricane force winds.

131 (b) To the extent that funds are provided for this
132 purpose, the Legislature authorizes the establishment of a program

133 to be administered by the Mississippi Windstorm Underwriting
134 Association for homeowners insured in the Coast area as defined in
135 Section 83-34-1 et seq.

136 (c) The program may provide grants to homeowners, for
137 the purpose of providing homeowner applicants with funds to
138 conduct an evaluation of the integrity of their homes with respect
139 to withstanding hurricane force winds, recommendations to retrofit
140 the homes to better withstand damage from those winds, and the
141 estimated cost to make the recommended retrofits.

142 (d) The department shall establish by rule standards to
143 govern the quality of the evaluation, the quality of the
144 recommendations for retrofitting, the eligibility of the persons
145 conducting the evaluation, and the selection of applicants under
146 the program. In establishing the standards, the department shall
147 consult with the State Department of Audit to minimize the
148 possibility of fraud or abuse in the evaluation and retrofitting
149 process, and to ensure that funds spent by homeowners acting on
150 the recommendations achieve positive results.

151 (e) The Mississippi Windstorm Underwriting Association
152 shall identify areas of this state with the greatest wind risk to
153 residential properties and recommend annually to the department
154 priority target areas for those evaluations and inclusion with the
155 associated residential construction mitigation program.

156 (f) Discounts must be used without any modifications,
157 unless they are supported by detailed alternative studies.

158 **SECTION 2.** There is established within the Department of
159 Insurance a Comprehensive Hurricane Damage Mitigation Program.
160 This section does not create an entitlement for property owners or
161 obligate the state in any way to fund the inspection or
162 retrofitting of residential property or commercial property in
163 this state. Implementation of this program is subject to the
164 availability of funds that may be appropriated by the Legislature
165 for this purpose. The program shall develop and implement a

166 comprehensive and coordinated approach for hurricane damage
167 mitigation that shall include the following:

168 (a) **Cost-benefit study on wind hazard mitigation**
169 **construction measures.** The performance of a cost-benefit study to
170 establish the most appropriate wind hazard mitigation construction
171 measures for both new construction and the retrofitting of
172 existing construction for both residential and commercial
173 facilities within the wind borne debris regions of Mississippi.
174 The recommended wind construction techniques shall be based on
175 both the newly adopted Mississippi building code sections for wind
176 load design and the wind borne debris region. The list of
177 construction measures to be considered for evaluation in the
178 cost-benefit study shall be based on scientifically established
179 and sound, but common, construction techniques that go above and
180 beyond the basic recommendations in the adopted building codes.
181 This allows residents to utilize multiple options that will
182 further reduce risk and loss and still be awarded for their
183 endeavors with appropriate wind insurance discounts. It is
184 recommended that existing accepted scientific studies that
185 validate the wind hazard construction techniques benefits and
186 effects be taken into consideration when establishing the list of
187 construction techniques that homeowners and business owners can
188 employ. This will ensure that only established construction
189 measures that have been studied and modeled as successful
190 mitigation measures will be considered to reduce the chance of
191 including risky or unsound data that will cost both the property
192 owner and state unnecessary losses. The cost-benefit study shall
193 be based on actual construction cost data collected for both
194 several types of residential construction and commercial
195 construction materials, building techniques and designs that are
196 common to the region. The study shall provide as much information
197 as possible that will enhance the data and options provided to the
198 public, so that homeowners and business owners can make informed

199 and educated decisions as to their level of involvement. Based on
200 the construction data, modeling shall be performed on a variety of
201 residential and commercial designs, so that a broad enough
202 representative spectrum of data can be obtained. A report shall
203 be provided that will establish tables of data reflecting
204 actuarially reasonable levels of wind insurance discounts (in
205 percentages) for each mitigation construction
206 technique/combination of techniques. Additional data that will
207 enhance the program, such as studies to reflect property value
208 increases for retrofitting or building to the established wind
209 hazard mitigation construction techniques and cost comparison data
210 collected to establish the value of this program against the
211 investment required to include the mitigation measures, also shall
212 be provided.

213 (b) **Wind certification and hurricane mitigation**
214 **inspections.** (i) Home-retrofit inspections of site-built,
215 residential property, including single-family, two-family,
216 three-family or four-family residential units, and for a set of
217 representative commercial facilities shall be offered to determine
218 what mitigation measures are needed and what improvements to
219 existing residential properties are needed to reduce the
220 property's vulnerability to hurricane damage. A state program
221 will be established within the Department of Insurance to provide
222 homeowners and business owners wind certification and hurricane
223 mitigation inspections. The inspections provided to homeowners
224 and business owners, at a minimum, must include:

225 1. A home inspection and report that
226 summarizes the results and identifies corrective actions a
227 homeowner may take to mitigate hurricane damage.

228 2. A range of cost estimates regarding the
229 mitigation features.

230 3. Insurer-specific information regarding
231 premium discounts correlated to recommended mitigation features

232 identified by the inspection.

233 4. A hurricane resistance rating scale
234 specifying the home's current as well as projected wind resistance
235 capabilities.

236 This data shall be provided by trained and certified
237 inspectors in standardized reporting formats and forms regardless
238 of the insurer involved with the property owner to ensure all data
239 collected during inspections is equivalent in style and content
240 that allows construction data, estimates and discount information
241 to be easily assimilated into a database. It also ensures
242 consistency of the program information for the consumers when
243 dealing with more than one (1) insurance company for the
244 comparison of services or when changing policies. Data pertaining
245 to the number of inspections, inspection reports and consumers
246 participating in the program shall be stored in a state database
247 for evaluation of the program's success and review of state goals
248 in reducing wind hazard loss in the state.

249 (ii) To qualify for selection by the department as
250 a provider of wind certification and hurricane mitigation
251 inspections services, the entity shall, at a minimum:

252 1. Use wind certification and hurricane
253 mitigation inspectors who:

254 a. Have prior experience in residential
255 and/or commercial construction or inspection and have received
256 specialized training in hurricane mitigation procedures through
257 the state certified program. In order to qualify for training in
258 the inspection process, the individual should be either a licensed
259 building code official, a licensed contractor in the State of
260 Mississippi, or a civil engineer with a professional engineering
261 license.

262 b. Have undergone drug testing and
263 background checks.

264 c. Have been certified through a state

265 mandated training program, in a manner satisfactory to the
266 department, to conduct the inspections.

267 2. Provide a quality assurance program
268 including a reinspection component.

269 3. Have data collection equipment and
270 computer systems, so that data can be submitted electronically to
271 the state's database of inspection reports, insurance
272 certificates, and other industry information related to this
273 program. It is mandatory that all inspectors provide original
274 copies to the property owner of any inspection reports, estimates,
275 etc., pertaining to the inspection and keep a copy of all
276 inspection materials on hand for state audits.

277 (c) **Financial grants to retrofit properties.** Financial
278 grants may be used to encourage single-family, site-built,
279 owner-occupied, residential property owners or commercial property
280 owners to retrofit their properties to make them less vulnerable
281 to hurricane damage.

282 (i) To be eligible for a grant, a residential
283 property must:

284 1. Have been granted a homestead exemption
285 under Mississippi law.

286 2. Be a dwelling with an insured value of
287 Five Hundred Thousand Dollars (\$500,000.00) or less.

288 3. Have undergone an acceptable wind
289 certification and hurricane mitigation inspection.

290 A residential property that is part of a multi-family
291 residential unit may receive a grant only if all homeowners
292 participate and the total number of units does not exceed four
293 (4).

294 (ii) All grants must be matched on a
295 dollar-for-dollar basis for a total of Ten Thousand Dollars
296 (\$10,000.00) for the mitigation project with the state's
297 contribution not to exceed Five Thousand Dollars (\$5,000.00).

298 (iii) The program shall create a process in which
299 mitigation contractors agree to participate and seek reimbursement
300 from the state and homeowners select from a list of participating
301 contractors. All mitigation must be based upon the securing of
302 all required local permits and inspections. Mitigation projects
303 are subject to random reinspection of up to at least ten percent
304 (10%) of all projects.

305 (iv) Matching fund grants also shall be made
306 available to local governments and nonprofit entities for projects
307 that will reduce hurricane damage to single-family, site-built,
308 owner-occupied, residential property.

309 (v) Grants may be used for the following
310 improvements:

- 311 1. Roof deck attachment;
- 312 2. Secondary water barrier;
- 313 3. Roof covering;
- 314 4. Bracing gable ends;
- 315 5. Reinforcing roof-to-wall connections;
- 316 6. Opening protection; and
- 317 7. Exterior doors, including garage doors.

318 (vi) Low-moderate income homeowners, as defined in
319 regulations of the United States Department of Housing and Urban
320 Development, who otherwise meet the requirements of subparagraphs
321 (i) and (iii) are eligible for a grant of up to Five Thousand
322 Dollars (\$5,000.00) and are not required to provide a matching
323 amount to receive the grant. Those grants shall be used to
324 retrofit single-family, site-built, owner-occupied, residential
325 properties in order to make them less vulnerable to hurricane
326 damage.

327 (d) **Education and consumer awareness.** Multimedia
328 public education, awareness and advertising efforts designed to
329 specifically address mitigation techniques shall be employed, as
330 well as a component to support ongoing consumer resources and

331 referral services. In addition, all insurance companies shall
332 provide notification to their clients regarding the availability
333 of this program, participation details, and directions to the
334 state Web site promoting the program, along with appropriate
335 contact phone numbers to the state agency administrating the
336 program. The notification to the clients must be sent by the
337 insurance company within thirty (30) days of filing their
338 insurance discount schedules with the Department of Insurance.

339 (e) **Advisory council.** There is created an advisory
340 council to provide advice and assistance to the program
341 administrator with regard to his or her administration of the
342 program. The advisory council shall consist of:

343 (i) A representative of lending institutions,
344 selected by the Department of Insurance from a list of at least
345 three (3) persons recommended by the Mississippi Bankers
346 Association.

347 (ii) A representative of residential property
348 insurers, selected by department from a list of at least three (3)
349 persons recommended by the Professional Insurance Agents
350 Association of Mississippi.

351 (iii) A representative of home builders, selected
352 by the department from a list of at least three (3) persons
353 recommended by the Mississippi Homebuilders Association.

354 (iv) One (1) faculty member of a state university,
355 selected by the department, who is an expert in
356 hurricane-resistant construction methodologies and materials.

357 (v) Two (2) members of the House of
358 Representatives, selected by the Speaker of the House of
359 Representatives.

360 (vi) Two (2) members of the Senate, selected by
361 the Lieutenant Governor.

362 (vii) The Executive Director of the Mississippi
363 Windstorm Underwriting Association.

364 (viii) The Director of the Mississippi Emergency
365 Management Agency.

366 Members appointed under subparagraphs (i) through (iv) shall
367 serve at the pleasure of the Department of Insurance. Members
368 appointed under subparagraphs (v) and (vi) shall serve at the
369 pleasure of the appointing officers. All other members shall
370 serve as voting ex officio members. Members of the advisory
371 council shall serve without compensation but may receive
372 reimbursement as provided in Section 25-3-41 for per diem and
373 travel expenses incurred in the performance of their official
374 duties.

375 (f) **Federal funding.** The Department of Insurance shall
376 use its best efforts to obtain grants or funds from the federal
377 government to supplement the financial resources of the program.

378 (g) **Rules and regulations.** The Department of Insurance
379 shall adopt rules and regulations governing the Comprehensive
380 Hurricane Damage Mitigation Program. The department also shall
381 adopt rules and regulations establishing priorities for grants
382 provided under this section based on objective criteria that gives
383 priority to reducing the state's probable maximum loss from
384 hurricanes. However, pursuant to this overall goal, the
385 department may further establish priorities based on the insured
386 value of the dwelling, whether or not the dwelling is insured by
387 Mississippi Windstorm Underwriting Association and whether or not
388 the area under consideration has sufficient resources and the
389 ability to perform the retrofitting required.

390 **SECTION 3.** This act shall take effect and be in force from
391 and after July 1, 2007.