

By: Senator(s) DeLano

To: Insurance;
Appropriations

SENATE BILL NO. 2782

1 AN ACT TO AMEND SECTION 27-7-1001, MISSISSIPPI CODE OF 1972,
2 TO DEFINE CERTAIN TERMS RELATED TO CATASTROPHE SAVINGS ACCOUNTS,
3 INCLUDING DISASTER MITIGATION EXPENSES AND DISASTER RECOVERY
4 EXPENSES; TO AMEND SECTION 27-7-1003, MISSISSIPPI CODE OF 1972, TO
5 CLARIFY THAT THE LIMITS ON THE TOTAL AMOUNT THAT MAY BE
6 CONTRIBUTED TO A CATASTROPHE SAVINGS ACCOUNT IS AN ANNUAL LIMIT;
7 TO AMEND SECTION 27-7-1005, MISSISSIPPI CODE OF 1972, TO CLARIFY
8 THAT CATASTROPHE SAVINGS ACCOUNTS MAY BE USED FOR QUALIFIED
9 DISASTER MITIGATION EXPENSES; TO AMEND SECTION 83-1-191,
10 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI
11 COMPREHENSIVE HURRICANE AND WIND DAMAGE MITIGATION PROGRAM TRUST
12 FUND SHALL FUND THE COMPREHENSIVE HURRICANE AND WIND DAMAGE
13 MITIGATION PROGRAM; TO ADD "WIND" TO THE MISSISSIPPI COMPREHENSIVE
14 HURRICANE DAMAGE MITIGATION PROGRAM; TO DELETE THE REPEALER; TO
15 CREATE A SPECIAL FUND IN THE STATE TREASURY TO BE DESIGNATED AS
16 THE "MISSISSIPPI COMPREHENSIVE HURRICANE AND WIND DAMAGE
17 MITIGATION PROGRAM TRUST FUND; TO AMEND SECTION 83-2-33,
18 MISSISSIPPI CODE OF 1972, TO PROVIDE FUNDS FOR THE MISSISSIPPI
19 COMPREHENSIVE HURRICANE AND WIND DAMAGE MITIGATION PROGRAM; TO
20 TRANSFER FIVE MILLION DOLLARS FROM THE SURPLUS LINES ASSOCIATION
21 TO THE MISSISSIPPI COMPREHENSIVE HURRICANE AND WIND DAMAGE
22 MITIGATION PROGRAM TRUST FUND; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 27-7-1001, Mississippi Code of 1972, is
25 amended as follows:

26 27-7-1001. As used in this article, the following terms
27 shall have the meanings as defined in this section:



28 (a) "Catastrophe savings account" means a regular
29 savings account or money market account established by an
30 insurance policyholder who is a state income taxpayer (i) to pay
31 an insurance deductible under an insurance policy that covers the
32 taxpayer's legal residence that covers hurricane, flood, windstorm
33 or other catastrophic event damage, (ii) to pay for catastrophic
34 event damage to the taxpayer's legal residence that is not covered
35 by the policy of insurance that covers the taxpayer's legal
36 residence for such damage after the deductible under such policy
37 has been paid, or (iii) to pay self-insured losses for the
38 taxpayer's legal residence from a hurricane, flood, windstorm, or
39 other catastrophic event, or (iv) to pay qualified disaster
40 mitigation expenses. The account must be labeled as a
41 "catastrophe savings account" in order to qualify as a catastrophe
42 savings account for the purposes of this article. A taxpayer may
43 establish only one (1) catastrophe savings account and shall
44 specify that the purpose of the account is to cover the aggregate
45 amount of insurance policy deductibles and other uninsured
46 portions of risks of loss from a hurricane, flood, windstorm or
47 other catastrophic event or disaster mitigation expenses.

48 (b) "Catastrophic event" means windstorms, cyclones,
49 earthquakes, hurricanes, ice storms, tornadoes, high winds, flood,
50 hail and force majeure, and similar perils not normally among
51 those covered under most property casualty insurance policies, but
52 obtainable through the purchase of wind, wind and hail, flood, or



53 storm or windstorm coverage, or any combination of those
54 coverages. The term "catastrophic event" also includes any event
55 or occurrence for which a Presidential declaration of disaster or
56 declaration of disaster by the Governor is issued.

57 (c) "Disaster mitigation expenses" means expenses for
58 any of the following with respect to the taxpayer's legal
59 residence:

60 (i) Tornado-safe rooms manufactured or constructed
61 in accordance with FEMA 320 or FEMA 361 guidance or tornado
62 shelters manufactured or constructed in accordance with the
63 National Storm Shelter/International Code Council 500 standard.

64 (ii) Opening protection, including impact and wind
65 resistance windows, exterior doors and garage doors.

66 (iii) Reinforcement of roof-to-wall and
67 floor-to-wall connection for wind or seismic activity.

68 (iv) Roof covering for impact, fire, or high wind
69 resistance.

70 (v) Cripple and shear walls to resist seismic
71 activity.

72 (vi) Flood resistance building materials.

73 (vii) Elevating structures and utilities above
74 base flood elevation.

75 (viii) Fire resistance exterior wall
76 assemblies/systems.

77 (ix) Lightning protection systems.



78 (x) Whole home standby generators.

79 (xi) Any activity specified by the Commissioner of
80 Insurance as appropriate to mitigate the risks of future hazards
81 (including earthquake, flood, hail, wind, hurricane, sinkhole,
82 lightning, power outage, tornado, wildfire and other natural
83 disasters.

84 (d) "Disaster recovery expenses" means with respect to
85 the taxpayer's legal residence, any expense incurred to replace or
86 repair catastrophic event-related uninsured personal property
87 losses totaling One Thousand Dollars (\$1,000.000) or greater.

88 (e) "Qualified catastrophe expenses" means disaster
89 mitigation expenses and disaster recovery expenses.

90 **SECTION 2.** Section 27-7-1003, Mississippi Code of 1972, is
91 amended as follows:

92 27-7-1003. (1) Except as otherwise provided in Section
93 27-7-1005, the amounts contributed to a catastrophe savings
94 account in accordance with subsection (3) of this section,
95 interest income earned on a catastrophe savings account, and
96 distributions from a catastrophe savings account shall be excluded
97 from the taxable gross income of the account holder under Section
98 27-7-15.

99 (2) A catastrophe savings account is not subject to
100 attachment, levy, garnishment, or legal process in this state,
101 provided that no funds in an account are derived from or the



102 result of a fraudulent conveyance making contributions to the
103 account.

104 (3) The total amount that may be contributed annually to a
105 catastrophe savings account shall not exceed any of the following:

106 (a) In the case of an individual whose qualified
107 insurance deductible is less than or equal to One Thousand Dollars
108 (\$1,000.00), the amount of Two Thousand Dollars (\$2,000.00).

109 (b) In the case of an individual whose qualified
110 insurance deductible is greater than One Thousand Dollars
111 (\$1,000.00), the amount equal to the lesser of Fifteen Thousand
112 Dollars (\$15,000.00) or twice the amount of the taxpayer's
113 qualified insurance deductible.

114 (c) In the case of a self-insured individual who
115 chooses not to obtain insurance on his or her legal residence, the
116 amount of Three Hundred Fifty Thousand Dollars (\$350,000.00), but
117 in no event may the amount contributed exceed the value of the
118 taxpayer's legal residence.

119 (4) If a taxpayer contributes in excess of the limits
120 provided in subsection (3) of this section, the taxpayer shall
121 withdraw the amount of the excess contributions and include that
122 amount in the taxable gross income of the taxpayer in the year of
123 withdrawal.

124 **SECTION 3.** Section 27-7-1005, Mississippi Code of 1972, is
125 amended as follows:



126 27-7-1005. (1) A distribution from a catastrophe savings
127 account shall be included in the taxable gross income of the
128 taxpayer unless the amount of the distribution is used to pay
129 qualified catastrophe expenses or qualified disaster expenses.

130 (2) No amount of a distribution shall be included in the
131 taxable gross income of the taxpayer if the qualified catastrophe
132 expenses and qualified disaster expenses of the taxpayer during
133 the taxable year are equal to or greater than the aggregate
134 distributions during the taxable year.

135 (3) If the aggregate distributions exceed the qualified
136 catastrophe expenses and qualified disaster expenses during the
137 taxable year, the amount otherwise included in the taxable gross
138 income of the taxpayer shall be reduced by the amount of the
139 distributions for qualified catastrophe expenses and qualified
140 disaster expenses.

141 (4) (a) The tax paid under Section 27-7-5 that is
142 attributable to a taxable distribution shall be increased by two
143 and one-half percent (2-1/2%) of the amount of the distribution
144 that is includable in the taxable gross income of the taxpayer.

145 (b) The additional tax imposed by this subsection does
146 not apply if either of the following apply:

147 (i) The taxpayer no longer owns a legal residence
148 that qualifies for homestead exemption under Section 27-33-1 et
149 seq.; or



150 (ii) The distribution is from a catastrophe
151 savings account conforming with Section 27-7-1003(3)(c) and is
152 made on or after the date on which the taxpayer attains the age of
153 seventy (70) years.

154 (5) If a taxpayer who owns a catastrophe savings account
155 dies, the amount of money in his or her account shall be included
156 in the taxable gross income of the person who receives the
157 account, unless that person is the surviving spouse of the
158 taxpayer. Upon the death of the surviving spouse, the amount of
159 money in the account shall be included in the taxable gross income
160 of the person who receives the account. The additional tax
161 imposed in subsection (4) of this section does not apply to a
162 distribution from the account upon the death of the taxpayer or
163 the surviving spouse.

164 **SECTION 4.** Section 83-1-191, Mississippi Code of 1972, is
165 amended as follows:

166 83-1-191. (1) There is established within the Department of
167 Insurance a Comprehensive Hurricane and Wind Damage Mitigation
168 Program. This section does not create an entitlement for property
169 owners or obligate the state in any way to fund the inspection or
170 retrofitting of residential property or commercial property in
171 this state. * * * The Mississippi Comprehensive Hurricane and
172 Wind Damage Mitigation Trust Fund, upon appropriation from the
173 legislature, shall fund this program. The Department of Insurance
174 may contract with a third party vendor to administer this program



175 and may expend up to ten percent (10%) of the monies in the fund
176 for the administration and management of the fund and carrying out
177 the purposes of this section. The program may develop and
178 implement a comprehensive and coordinated approach for hurricane
179 and wind damage mitigation that may include the following:

180 (a) **Cost-benefit study on wind hazard mitigation**
181 **construction measures.** The performance of a cost-benefit study to
182 establish the most appropriate wind hazard mitigation construction
183 measures for both new construction and the retrofitting of
184 existing construction for both residential and commercial
185 facilities within the wind-borne debris regions of Mississippi as
186 defined by the International Building Code. The recommended wind
187 construction techniques shall be based on both the newly adopted
188 Mississippi building code sections for wind load design and the
189 wind-borne debris region. The list of construction measures to be
190 considered for evaluation in the cost-benefit study shall be based
191 on scientifically established and sound, but common, construction
192 techniques that go above and beyond the basic recommendations in
193 the adopted building codes. This allows residents to utilize
194 multiple options that will further reduce risk and loss and still
195 be awarded for their endeavors with appropriate wind insurance
196 discounts. It is recommended that existing accepted scientific
197 studies that validate the wind hazard construction techniques
198 benefits and effects be taken into consideration when establishing
199 the list of construction techniques that homeowners and business



200 owners can employ. This will ensure that only established
201 construction measures that have been studied and modeled as
202 successful mitigation measures will be considered to reduce the
203 chance of including risky or unsound data that will cost both the
204 property owner and state unnecessary losses. The cost-benefit
205 study shall be based on actual construction cost data collected
206 for several types of residential construction and commercial
207 construction materials, building techniques and designs that are
208 common to the region. The study shall provide as much information
209 as possible that will enhance the data and options provided to the
210 public, so that homeowners and business owners can make informed
211 and educated decisions as to their level of involvement. Based on
212 the construction data, modeling shall be performed on a variety of
213 residential and commercial designs, so that a broad enough
214 representative spectrum of data can be obtained. The data from
215 the study will be utilized in a report to establish tables
216 reflecting actuarially appropriate levels of wind insurance
217 discounts (in percentages) for each mitigation construction
218 technique/combination of techniques. This report will be utilized
219 as a guide for the Department of Insurance and the insurance
220 industry for developing actuarially appropriate discounts, credits
221 or other rate differentials, or appropriate reductions in
222 deductibles, for properties on which fixtures or construction
223 techniques demonstrated to reduce the amount of loss in a
224 windstorm have been installed or implemented. Additional data



225 that will enhance the program, such as studies to reflect property
226 value increases for retrofitting or building to the established
227 wind hazard mitigation construction techniques and cost comparison
228 data collected to establish the value of this program against the
229 investment required to include the mitigation measures, also may
230 be provided.

231 (b) **Wind certification and hurricane mitigation**
232 **inspections.**

233 (i) Home-retrofit inspections of site-built,
234 residential property, including single-family, two-family,
235 three-family or four-family residential units, and a set of
236 representative commercial facilities may be offered to determine
237 what mitigation measures are needed and what improvements to
238 existing residential properties are needed to reduce the
239 property's vulnerability to hurricane or wind damage. A state
240 program may be established within the Department of Insurance to
241 provide homeowners and business owners wind certification and
242 hurricane mitigation inspections. The inspections provided to
243 homeowners and business owners, at a minimum, must include:

244 1. A home inspection and report that
245 summarizes the results and identifies corrective actions a
246 homeowner may take to mitigate hurricane or wind damage.

247 2. A range of cost estimates regarding the
248 mitigation features.



249 3. Insurer-specific information regarding
250 premium discounts correlated to recommended mitigation features
251 identified by the inspection.

252 4. A hurricane resistance rating scale
253 specifying the home's current as well as projected wind resistance
254 capabilities.

255 This data may be provided by trained and certified inspectors
256 in standardized reporting formats and forms to ensure all data
257 collected during inspections is equivalent in style and content
258 that allows construction data, estimates and discount information
259 to be easily assimilated into a database. Data pertaining to the
260 number of inspections and inspection reports may be stored in a
261 state database for evaluation of the program's success and review
262 of state goals in reducing wind hazard loss in the state.

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

267 1. Use wind certification and hurricane
268 mitigation inspectors who:

269 a. Have prior experience in residential
270 and/or commercial construction or inspection and have received
271 specialized training in hurricane and wind mitigation procedures
272 through the state certified program. In order to qualify for
273 training in the inspection process, the individual should be



274 either a licensed building code official, a licensed contractor or
275 inspector in the State of Mississippi, or a civil engineer.

276 b. Have undergone drug testing and
277 background checks.

278 c. Have been certified through a state
279 mandated training program, in a manner satisfactory to the
280 department, to conduct the inspections.

281 d. Have not been convicted of a felony
282 crime of violence or of a sexual offense; have not received a
283 first-time offender pardon or nonadjudication order for a felony
284 crime of violence or of a sexual offense; or have not entered a
285 plea of guilty or nolo contendere to a felony charge of violence
286 or of a sexual offense.

287 e. Submit a statement authorizing the
288 Commissioner of Insurance to order fingerprint analysis or any
289 other analysis or documents deemed necessary by the commissioner
290 for the purpose of verifying the criminal history of the
291 individual. The commissioner shall have the authority to conduct
292 criminal history verification on a local, state or national level,
293 and shall have the authority to require the individual to pay for
294 the costs of such criminal history verification.

295 2. Provide a quality assurance program
296 including a reinspection component.

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



299 the state's database of inspection reports, insurance
300 certificates, and other industry information related to this
301 program. It is mandatory that all inspectors provide original
302 copies to the property owner of any inspection reports, estimates,
303 etc., pertaining to the inspection and keep a copy of all
304 inspection materials on hand for state audits.

305 (c) **Financial grants to retrofit properties.** Financial
306 grants may be used to encourage single-family, site-built,
307 owner-occupied, residential property owners or commercial property
308 owners to retrofit their properties to make them less vulnerable
309 to hurricane and wind damage.

310 (d) **Education and consumer awareness.** Multimedia
311 public education, awareness and advertising efforts designed to
312 specifically address mitigation techniques may be employed, as
313 well as a component to support ongoing consumer resources and
314 referral services. In addition, all insurance companies shall
315 provide notification to their clients regarding the availability
316 of this program, participation details, and directions to the
317 state website promoting the program, along with appropriate
318 contact phone numbers to the state agency administrating the
319 program. The notification to the clients must be sent by the
320 insurance company within thirty (30) days after filing their
321 insurance discount schedules with the Department of Insurance.

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



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

326 (i) An agent, selected by the Independent
327 Insurance Agents of Mississippi.

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

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

332 (iv) The Chairman of the House Insurance
333 Committee, or his designee.

334 (v) The Chairman of the Senate Insurance
335 Committee, or his designee.

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

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

340 Members appointed under subparagraphs (i) and (ii) shall
341 serve at the pleasure of the Department of Insurance. All other
342 members shall serve as voting ex officio members. Members of the
343 advisory council who are not legislators, state officials or state
344 employees shall be compensated at the per diem rate authorized by
345 Section 25-3-69, and shall be reimbursed in accordance with
346 Section 25-3-41, for mileage and actual expenses incurred in the
347 performance of their duties. Legislative members of the advisory
348 council shall be paid from the contingent expense funds of their



349 respective houses in the same manner as provided for committee
350 meetings when the Legislature is not in session; however, no per
351 diem or expense for attending meetings of the advisory council may
352 be paid while the Legislature is in session. No advisory council
353 member may incur per diem, travel or other expenses unless
354 previously authorized by vote, at a meeting of the council, which
355 action shall be recorded in the official minutes of the meeting.
356 Nonlegislative members shall be paid from any funds made available
357 to the advisory council for that purpose.

358 (f) **Rules and regulations.** The Department of Insurance
359 may adopt rules and regulations * * * necessary for the
360 administration and implementation of the Comprehensive Hurricane
361 and Wind Damage Mitigation Program. * * *

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

366 * * *

367 **SECTION 5.** There is created in the State Treasury a special
368 fund to be designated as the "Mississippi Comprehensive Hurricane
369 and Wind Damage Mitigation Program Trust Fund." The Legislature
370 may appropriate that amount necessary to fulfill the obligations
371 created under this section from the State General Fund to such
372 special fund. Furthermore, the Commissioner of Insurance may
373 apply for any federal or private grants that will provide funds



374 for this program. Unexpended amounts remaining in the fund at the
375 end of a fiscal year shall not lapse into the State General Fund,
376 and any interest earned on amounts in the fund shall be deposited
377 to the credit of the fund.

378 **SECTION 6.** Section 83-2-33, Mississippi Code of 1972, is
379 amended as follows:

380 83-2-33. All property and casualty insurance companies doing
381 business in this state shall contribute annually, at such times as
382 the Insurance Commissioner shall determine, in proportion to their
383 gross premiums collected within the State of Mississippi during
384 the preceding year, to a special fund in the State Treasury to be
385 known as the * * * Mississippi Comprehensive Hurricane and Wind
386 Damage Mitigation Program Trust Fund. The commissioner is hereby
387 authorized to employ such actuarial and other assistance as shall
388 be necessary to carry out the duties of the department; and such
389 employees shall be under the authority and direction of the
390 Insurance Commissioner. The amount to be contributed annually to
391 the fund shall be fixed each year by the Insurance Commissioner at
392 a percentage of the gross premiums so collected during the
393 preceding year. However, a minimum assessment of One Hundred
394 Dollars (\$100.00) shall be charged to each licensed property and
395 casualty insurance company regardless of the gross premium amount
396 collected during the preceding year.

397 The total contributions collected for the * * * Mississippi
398 Comprehensive Hurricane and Wind Damage Mitigation Program Trust



399 Fund shall not exceed the sum of * * * One Million Five Hundred
400 Thousand Dollars (\$1,500,000.00) in each fiscal year.

401 * * *

402 From and after July 1, 2016, no state agency shall charge
403 another state agency a fee, assessment, rent or other charge for
404 services or resources received by authority of this section.

405 **SECTION 7.** The State Fiscal Officer shall transfer the sum
406 of Five Million Dollars (\$5,000,000.00) from the Mississippi
407 Surplus Lines Association to the Mississippi Comprehensive
408 Hurricane and Wind Damage Mitigation Program Trust Fund.

409 **SECTION 8.** This act shall take effect and be in force from
410 and after July 1, 2024.

