

By: Representative Ford (54th)

To: Insurance;  
Appropriations CCOMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1534

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

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

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

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



owners or commercial property owners to retrofit their properties to make them less vulnerable to hurricane, tornado or other catastrophic windstorm events.

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

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

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

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



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

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

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

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

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

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

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

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



73 insurers eligible for writing business in this state or writing  
74 business in this state.

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

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

81 (j) "Property insurance" means the following lines of  
82 coverage as reported on the National Association of Insurance  
83 Commissioners Annual Statement blank for fire, allied lines,  
84 homeowners, commercial multi property non-liability and earthquake  
85 insurance.

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

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



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

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

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

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



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

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

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

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

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

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

141               (e) Take such legal action as may be necessary or  
142 appropriate to:

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

145                       (ii) Recover any amounts erroneously or improperly  
146 paid by the association;



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

(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



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

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

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

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

239 (e) If the protest or appeal on the assessment is upheld,  
240 the amount paid in error or excess shall be returned to the member  
241 insurer. Interest on a refund due a protesting member shall be paid  
242 at the rate actually earned by the association.

243 (7) The association may request information of member insurers  
244 in order to aid in the exercise of its power under this section and  
245 members 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 balance 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 subsection (6) of Section 8 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.



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

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

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

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

286               (b) Establish procedures for handling the assets of the  
287 association;

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

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

293               (e) Establish or adopt mitigation standards required to  
294 be achieved and certifications required to be obtained in order to  
295 receive grant funds;



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

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

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

(i) Establish any additional procedures for assessments  
under Section 8 of this act.

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

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

(l) Require the board of directors to establish a 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 and the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER), 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 of Insurance may promulgate rules and regulations as necessary to effectuate the provisions of this act.

**SECTION 16.**

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

