

By: Representatives Compretta, Guice, Upshaw To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1406

1 AN ACT TO REQUIRE HANCOCK, HARRISON, JACKSON AND PEARL RIVER  
2 COUNTIES TO ENFORCE WIND AND FLOOD MITIGATION REQUIREMENTS OF  
3 CERTAIN NATIONALLY RECOGNIZED CODES AND STANDARDS; TO PROVIDE THAT  
4 THE BOARD OF SUPERVISORS OF ANY SUCH COUNTY AND/OR THE GOVERNING  
5 AUTHORITIES OF ANY MUNICIPALITY WITHIN A COUNTY, UPON RESOLUTION  
6 DULY ADOPTED AND ENTERED UPON ITS MINUTES, MAY CHOOSE NOT TO BE  
7 SUBJECT TO THE CODE REQUIREMENTS IMPOSED UNDER THIS ACT; TO AMEND  
8 SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972, IN  
9 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
10 PURPOSES.

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

12 **SECTION 1.** (1) The counties of Jackson, Harrison, Hancock  
13 and Pearl River, including all municipalities therein, shall  
14 enforce, on an emergency basis, all the wind and flood mitigation  
15 requirements prescribed by:

16 (a) The 2003 International Residential Code, as  
17 modified in this section, and the 2003 International Building  
18 Code, as supplemented; and

19 (b) The Guidelines for Hurricane Resistant Construction  
20 as published by the Institute for Business & Home Safety, 2005,  
21 and the Federal Emergency Management Agency (FEMA) Coastal  
22 Construction Guidelines for Flooding.

23 (2) Except as otherwise provided in subsection (4) of this  
24 section, emergency wind and flood building requirements imposed in  
25 this section shall remain in force until the county board of  
26 supervisors or municipal governing authorities, as the case may  
27 be, adopts the latest editions of both the International Building  
28 Code and the International Residential Code, as modified by this  
29 section, as minimum mandatory codes. Except as otherwise provided  
30 in subsection (4) of this section, the wind and flood mitigation  
31 requirements imposed by this section shall be enforced by the

32 county board of supervisors or municipal governing authorities, as  
33 the case may be.

34 (3) (a) For the purposes of this section, the International  
35 Building Code shall be amended as follows: Structural framing  
36 members of Type V construction shall be constructed of termite  
37 resistant materials in any area where Formosan termites are known  
38 to be present.

39 (b) For the purposes of this section, International  
40 Residential Code 2003 R301.2.1.1 (Design Criteria) shall be  
41 amended as follows:

42 (i) Item 2, the Southern Building Code Congress  
43 International, Standard for Hurricane Resistant Residential  
44 Construction (SSTD 10), shall be replaced by the Institute for  
45 Business & Home Safety, Guidelines for Hurricane Resistant  
46 Construction, 2005.

47 (ii) Item 6, the Florida Concrete and Products  
48 Association, Guide to Concrete Masonry Residential Construction in  
49 High Wind Areas, shall be added.

50 (iii) Item 7, Institute for Business & Home  
51 Safety, Optional Code-plus Fortified for Safer Living®, shall be  
52 added.

53 (iv) Item 8, Federal Alliance for Same Homes,  
54 Optional Code-plus Blueprint for Safety™ shall be added.

55 (v) Structural framing members shall be  
56 constructed of termite resistant materials in any area where  
57 Formosan termites are known to be present.

58 (4) The provisions of this section shall go into effect  
59 thirty (30) days from the effective date of this act. However,  
60 within ninety (90) days after the provisions of this section go  
61 into effect, the board of supervisors of a county and/or the  
62 governing authorities of any municipality within a county, upon  
63 resolution duly adopted and entered upon its minutes, may choose  
64 not to be subject to the code requirements under this section.

65           **SECTION 2.** Section 19-5-9, Mississippi Code of 1972, is  
66 amended as follows:

67           19-5-9. The construction codes published by a nationally  
68 recognized code group which sets minimum standards and has the  
69 proper provisions to maintain up-to-date amendments are adopted as  
70 minimum standard guides for building, plumbing, electrical, gas,  
71 sanitary, and other related codes in Mississippi. Any county  
72 within the State of Mississippi, in the discretion of the board of  
73 supervisors, may adopt building codes, plumbing codes, electrical  
74 codes, sanitary codes, or other related codes dealing with general  
75 public health, safety or welfare, or a combination of the same,  
76 within but not exceeding the provisions of the construction codes  
77 published by nationally recognized code groups, by order or  
78 resolution in the manner prescribed in this section, but those  
79 codes so adopted shall apply only to the unincorporated areas of  
80 the county. However, those codes shall not apply to the erection,  
81 maintenance, repair or extension of farm buildings or farm  
82 structures, except as may be required under the terms of the  
83 "Flood Disaster Protection Act of 1973" and shall apply to a  
84 master planned community as defined in Section 19-5-10, only to  
85 the extent allowed in Section 19-5-10. The provisions of this  
86 section shall not be construed to authorize the adoption of any  
87 code which applies to the installation, repair or maintenance of  
88 electric wires, pipelines, apparatus, equipment or devices by or  
89 for a utility rendering public utility services, required by it to  
90 be utilized in the rendition of its duly authorized service to the  
91 public. Before any such code shall be adopted, it shall be either  
92 printed or typewritten and shall be presented in pamphlet form to  
93 the board of supervisors at a regular meeting. The order or  
94 resolution adopting the code shall not set out the code in full,  
95 but shall merely identify the same. The vote or passage of the  
96 order or resolution shall be the same as on any other order or  
97 resolution. After its adoption, the code or codes shall be

98 certified to by the president and clerk of the board of  
99 supervisors and shall be filed as a permanent record in the office  
100 of the clerk who shall not be required to transcribe and record  
101 the same in the minute book as other orders and resolutions.

102 All provisions of this section shall apply to amendments and  
103 revisions of the codes mentioned in this section. The provisions  
104 of this section shall be in addition and supplemental to any  
105 existing laws authorizing the adoption, amendment or revision of  
106 county orders, resolutions or codes.

107 Any code adopted under the provisions of this section shall  
108 not be in operation or force until sixty (60) days have elapsed  
109 from the adoption of same; however, any code adopted for the  
110 immediate preservation of the public health, safety and general  
111 welfare may be effective from and after its adoption by a  
112 unanimous vote of the members of the board. Within five (5) days  
113 after the adoption or passage of an order or resolution adopting  
114 that code or codes the clerk of the board of supervisors shall  
115 publish in a legal newspaper published in the county the full text  
116 of the order or resolution adopting and approving the code, and  
117 the publication shall be inserted at least three (3) times, and  
118 shall be completed within thirty (30) days after the passage of  
119 the order or resolution.

120 Any person or persons objecting to the code or codes may  
121 object in writing to the provisions of the code or codes within  
122 sixty (60) days after the passage of the order or resolution  
123 approving same, and if the board of supervisors adjudicates that  
124 ten percent (10%) or more of the qualified electors residing in  
125 the affected unincorporated areas of the county have objected in  
126 writing to the code or codes, then in such event the code shall be  
127 inoperative and not in effect unless adopted for the immediate  
128 preservation of the public health, safety and general welfare  
129 until approved by a special election called by the board of  
130 supervisors as other special elections are called and conducted by

131 the election commissioners of the county as other special  
132 elections are conducted, the special election to be participated  
133 in by all the qualified electors of the county residing in the  
134 unincorporated areas of the county. If the voters approve the  
135 code or codes in the special election it shall be in force and in  
136 operation thereafter until amended or modified as provided in this  
137 section. If the majority of the qualified electors voting in the  
138 special election vote against the code or codes, then, in such  
139 event, the code or codes shall be void and of no force and effect,  
140 and no other code or codes dealing with that subject shall be  
141 adopted under the provisions of this section until at least two  
142 (2) years thereafter.

143 After any such code shall take effect the board of  
144 supervisors is authorized to employ such directors and other  
145 personnel as the board, in its discretion, deems necessary and to  
146 expend general county funds or any other funds available to the  
147 board to fulfill the purposes of this section.

148 For the purpose of promoting health, safety, morals or the  
149 general welfare of the community, the governing authority of any  
150 municipality, and, with respect to the unincorporated part of any  
151 county, the governing authority of any county, in its discretion,  
152 are empowered to regulate the height, number of stories and size  
153 of building and other structures, the percentage of lot that may  
154 be occupied, the size of the yards, courts and other open spaces,  
155 the density or population, and the location and use of buildings,  
156 structures and land for trade, industry, residence or other  
157 purposes, but no permits shall be required except as may be  
158 required under the terms of the "Flood Disaster Protection Act of  
159 1973" for the erection, maintenance, repair or extension of farm  
160 buildings or farm structures outside the corporate limits of  
161 municipalities.

162 The authority granted in this section is cumulative and  
163 supplemental to any other authority granted by law.

164 Notwithstanding any provision of this section to the  
165 contrary, any code adopted by a county before or after April 12,  
166 2001, is subject to the provisions of Section 41-26-14(10).

167 Notwithstanding any provision of this section to the  
168 contrary, the Boards of Supervisors of Hancock, Harrison, Jackson  
169 and Pearl River Counties shall enforce the requirements imposed  
170 under Section 1 of this act as provided in such section.

171 **SECTION 3.** Section 21-19-25, Mississippi Code of 1972, is  
172 amended as follows:

173 21-19-25. Any municipality within the State of Mississippi  
174 may, in the discretion of its governing authorities, adopt  
175 building codes, plumbing codes, electrical codes, gas codes,  
176 sanitary codes, or any other codes dealing with general public  
177 health, safety or welfare, or a combination of the same, by  
178 ordinance, in the manner prescribed in this section. Before any  
179 such code shall be adopted, it shall be either printed or  
180 typewritten, and it shall be presented in pamphlet form to the  
181 governing authorities of the municipality at a regular meeting.  
182 The ordinance adopting the code shall not set out the code in  
183 full, but shall merely identify the same. The vote on passage of  
184 the ordinance shall be the same as on any other ordinances. After  
185 its adoption, the code shall be certified to by the mayor and  
186 clerk of the municipality, and shall be filed as a permanent  
187 record in the office of the clerk, who shall not be required to  
188 transcribe and record the same in the ordinance book as other  
189 ordinances. It shall not be necessary that the ordinance adopting  
190 the code or the code itself be published in full, but notice of  
191 the adoption of the code shall be given by publication in some  
192 newspaper of the municipality for one (1) time, or if there be no  
193 such newspaper, by posting at three (3) or more public places  
194 within the corporate limits, a notice in substantially the  
195 following form:

196 Notice is given that the city (or town or village)  
197 of \_\_\_\_\_, on the (give date of ordinance adopting  
198 code), adopted (state type of code and other information  
199 serving to identify the same) code.

200 All the provisions of this section shall apply to amendments  
201 and revisions of the code mentioned in this section. Any code  
202 adopted in accordance with this section shall not be in force for  
203 one (1) month after its passage, unless the municipal authorities  
204 in the ordinance authorize to the contrary. The provisions of  
205 this section shall be in addition and supplemental to any existing  
206 laws authorizing the adoption, amendment or revision of municipal  
207 ordinances or codes.

208 Notwithstanding any provision of this section to the  
209 contrary, any code adopted by a municipality before or after April  
210 12, 2001, is subject to the provisions of Section 41-26-14(10).

211 Notwithstanding any provision of this section to the  
212 contrary, the governing authorities of each municipality in  
213 Hancock, Harrison, Jackson and Pearl River Counties shall enforce  
214 the requirements imposed under Section 1 of this act as provided  
215 in such section.

216 The provisions of this section shall apply to all  
217 municipalities of this state, whether operating under the code  
218 charter, a special charter, commission form, or other form of  
219 government.

220 **SECTION 4.** This act shall take effect and be in force from  
221 and after its passage.