

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

HOUSE BILL NO. 1406
(As Passed the House)

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 and the
17 2003 International Building Code, as supplemented; and

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

22 (2) Except as otherwise provided in subsection (4) of this
23 section, emergency wind and flood building requirements imposed in
24 this section shall remain in force until the county board of
25 supervisors or municipal governing authorities, as the case may
26 be, adopts as minimum mandatory codes the latest editions of all
27 or any part of any of the codes described in subsection (3) of
28 this section. Except as otherwise provided in subsection (4) of
29 this section, the wind and flood mitigation requirements imposed
30 by this section shall be enforced by the county board of

31 supervisors or municipal governing authorities, as the case may
32 be.

33 (3) A county board of supervisors or municipal governing
34 authorities, as the case may be, may adopt as minimum codes the
35 latest editions of all or any part of any of the following:

36 (a) International Building Code and the standards
37 referenced in that code for regulation of construction within
38 these counties. The appendices of that code may be adopted as
39 needed, but the specific appendix or appendices must be referenced
40 by name or letter designation at the time of adoption. For the
41 purposes of this subsection, the International Building Code shall
42 be amended as follows: Structural framing members of Type V
43 construction shall be constructed of termite resistant materials
44 in any area where Formosan termites are known to be present.

45 (b) International Residential Code (IRC) and the
46 standards referenced in that code are included for regulation of
47 construction within these counties. The appendices of that code
48 may be adopted as needed, but the specific appendix or appendices
49 must be referenced by name or letter designation at the time of
50 adoption, with the exception of Appendix J, Existing Buildings and
51 Structures, which is hereby adopted by this reference. For the
52 purposes of this subsection, International Residential Code 2003
53 R301.2.1.1 (Design Criteria) shall be amended as follows:

54 (i) Item 2, the Southern Building Code Congress
55 International, Standard for Hurricane Resistant Residential
56 Construction (SSTD 10), shall be replaced by the Institute for
57 Business & Home Safety, Guidelines for Hurricane Resistant
58 Construction, 2005.

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

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

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

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

70 (c) Uniform Mechanical Code and the standards
71 referenced in that code for regulation of construction within
72 these counties. The appendices of that code may be adopted as
73 needed, but the specific appendix or appendices must be referenced
74 by name or letter designation at the time of adoption.

75 (d) Uniform Plumbing Code and the standards referenced
76 in that code for regulation of construction within these counties.
77 The appendices of that code may be adopted as needed, but the
78 specific appendix or appendices must be referenced by name or
79 letter designation at the time of adoption.

80 (e) National Fuel Gas Code and the standards referenced
81 in that code for regulation of construction within these counties.
82 The appendices of that code may be adopted as needed, but the
83 specific appendix or appendices must be referenced by name or
84 letter designation at the time of adoption.

85 (f) National Electric Code and the standards referenced
86 in that code for regulation of construction within these counties.
87 The appendices of that code may be adopted as needed, but the
88 specific appendix or appendices must be referenced by name or
89 letter designation at the time of adoption.

90 (g) National Fire Protection Association Code and the
91 standards referenced in that code for regulation of construction
92 within these counties. The appendices of that code may be adopted
93 as needed, but the specific appendix or appendices must be
94 referenced by name or letter designation at the time of adoption.

95 (4) The provisions of this section shall go into effect
96 thirty (30) days from the effective date of this act. However,
97 within ninety (90) days after the provisions of this section go
98 into effect, the board of supervisors of a county and/or the
99 governing authorities of any municipality within a county, upon
100 resolution duly adopted and entered upon its minutes, may choose
101 not to be subject to the code requirements imposed under
102 subsection (1) of this section.

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

105 19-5-9. The construction codes published by a nationally
106 recognized code group which sets minimum standards and has the
107 proper provisions to maintain up-to-date amendments are adopted as
108 minimum standard guides for building, plumbing, electrical, gas,
109 sanitary, and other related codes in Mississippi. Any county
110 within the State of Mississippi, in the discretion of the board of
111 supervisors, may adopt building codes, plumbing codes, electrical
112 codes, sanitary codes, or other related codes dealing with general
113 public health, safety or welfare, or a combination of the same,
114 within but not exceeding the provisions of the construction codes
115 published by nationally recognized code groups, by order or
116 resolution in the manner prescribed in this section, but those
117 codes so adopted shall apply only to the unincorporated areas of
118 the county. However, those codes shall not apply to the erection,
119 maintenance, repair or extension of farm buildings or farm
120 structures, except as may be required under the terms of the
121 "Flood Disaster Protection Act of 1973" and shall apply to a
122 master planned community as defined in Section 19-5-10, only to
123 the extent allowed in Section 19-5-10. The provisions of this
124 section shall not be construed to authorize the adoption of any
125 code which applies to the installation, repair or maintenance of
126 electric wires, pipelines, apparatus, equipment or devices by or
127 for a utility rendering public utility services, required by it to

128 be utilized in the rendition of its duly authorized service to the
129 public. Before any such code shall be adopted, it shall be either
130 printed or typewritten and shall be presented in pamphlet form to
131 the board of supervisors at a regular meeting. The order or
132 resolution adopting the code shall not set out the code in full,
133 but shall merely identify the same. The vote or passage of the
134 order or resolution shall be the same as on any other order or
135 resolution. After its adoption, the code or codes shall be
136 certified to by the president and clerk of the board of
137 supervisors and shall be filed as a permanent record in the office
138 of the clerk who shall not be required to transcribe and record
139 the same in the minute book as other orders and resolutions.

140 All provisions of this section shall apply to amendments and
141 revisions of the codes mentioned in this section. The provisions
142 of this section shall be in addition and supplemental to any
143 existing laws authorizing the adoption, amendment or revision of
144 county orders, resolutions or codes.

145 Any code adopted under the provisions of this section shall
146 not be in operation or force until sixty (60) days have elapsed
147 from the adoption of same; however, any code adopted for the
148 immediate preservation of the public health, safety and general
149 welfare may be effective from and after its adoption by a
150 unanimous vote of the members of the board. Within five (5) days
151 after the adoption or passage of an order or resolution adopting
152 that code or codes the clerk of the board of supervisors shall
153 publish in a legal newspaper published in the county the full text
154 of the order or resolution adopting and approving the code, and
155 the publication shall be inserted at least three (3) times, and
156 shall be completed within thirty (30) days after the passage of
157 the order or resolution.

158 Any person or persons objecting to the code or codes may
159 object in writing to the provisions of the code or codes within
160 sixty (60) days after the passage of the order or resolution

161 approving same, and if the board of supervisors adjudicates that
162 ten percent (10%) or more of the qualified electors residing in
163 the affected unincorporated areas of the county have objected in
164 writing to the code or codes, then in such event the code shall be
165 inoperative and not in effect unless adopted for the immediate
166 preservation of the public health, safety and general welfare
167 until approved by a special election called by the board of
168 supervisors as other special elections are called and conducted by
169 the election commissioners of the county as other special
170 elections are conducted, the special election to be participated
171 in by all the qualified electors of the county residing in the
172 unincorporated areas of the county. If the voters approve the
173 code or codes in the special election it shall be in force and in
174 operation thereafter until amended or modified as provided in this
175 section. If the majority of the qualified electors voting in the
176 special election vote against the code or codes, then, in such
177 event, the code or codes shall be void and of no force and effect,
178 and no other code or codes dealing with that subject shall be
179 adopted under the provisions of this section until at least two
180 (2) years thereafter.

181 After any such code shall take effect the board of
182 supervisors is authorized to employ such directors and other
183 personnel as the board, in its discretion, deems necessary and to
184 expend general county funds or any other funds available to the
185 board to fulfill the purposes of this section.

186 For the purpose of promoting health, safety, morals or the
187 general welfare of the community, the governing authority of any
188 municipality, and, with respect to the unincorporated part of any
189 county, the governing authority of any county, in its discretion,
190 are empowered to regulate the height, number of stories and size
191 of building and other structures, the percentage of lot that may
192 be occupied, the size of the yards, courts and other open spaces,
193 the density or population, and the location and use of buildings,

194 structures and land for trade, industry, residence or other
195 purposes, but no permits shall be required except as may be
196 required under the terms of the "Flood Disaster Protection Act of
197 1973" for the erection, maintenance, repair or extension of farm
198 buildings or farm structures outside the corporate limits of
199 municipalities.

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

202 Notwithstanding any provision of this section to the
203 contrary, any code adopted by a county before or after April 12,
204 2001, is subject to the provisions of Section 41-26-14(10).

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

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

211 21-19-25. Any municipality within the State of Mississippi
212 may, in the discretion of its governing authorities, adopt
213 building codes, plumbing codes, electrical codes, gas codes,
214 sanitary codes, or any other codes dealing with general public
215 health, safety or welfare, or a combination of the same, by
216 ordinance, in the manner prescribed in this section. Before any
217 such code shall be adopted, it shall be either printed or
218 typewritten, and it shall be presented in pamphlet form to the
219 governing authorities of the municipality at a regular meeting.
220 The ordinance adopting the code shall not set out the code in
221 full, but shall merely identify the same. The vote on passage of
222 the ordinance shall be the same as on any other ordinances. After
223 its adoption, the code shall be certified to by the mayor and
224 clerk of the municipality, and shall be filed as a permanent
225 record in the office of the clerk, who shall not be required to
226 transcribe and record the same in the ordinance book as other

227 ordinances. It shall not be necessary that the ordinance adopting
228 the code or the code itself be published in full, but notice of
229 the adoption of the code shall be given by publication in some
230 newspaper of the municipality for one (1) time, or if there be no
231 such newspaper, by posting at three (3) or more public places
232 within the corporate limits, a notice in substantially the
233 following form:

234 Notice is given that the city (or town or village)
235 of _____, on the (give date of ordinance adopting
236 code), adopted (state type of code and other information
237 serving to identify the same) code.

238 All the provisions of this section shall apply to amendments
239 and revisions of the code mentioned in this section. Any code
240 adopted in accordance with this section shall not be in force for
241 one (1) month after its passage, unless the municipal authorities
242 in the ordinance authorize to the contrary. The provisions of
243 this section shall be in addition and supplemental to any existing
244 laws authorizing the adoption, amendment or revision of municipal
245 ordinances or codes.

246 Notwithstanding any provision of this section to the
247 contrary, any code adopted by a municipality before or after April
248 12, 2001, is subject to the provisions of Section 41-26-14(10).

249 Notwithstanding any provision of this section to the
250 contrary, the governing authorities of each municipality in
251 Hancock, Harrison, Jackson and Pearl River Counties shall enforce
252 the requirements imposed under Section 1 of this act as provided
253 in such section.

254 The provisions of this section shall apply to all
255 municipalities of this state, whether operating under the code
256 charter, a special charter, commission form, or other form of
257 government.

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