

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

HOUSE BILL NO. 1406
(As Sent to Governor)

1 AN ACT TO REQUIRE JACKSON, HARRISON, HANCOCK, STONE AND PEARL
2 RIVER COUNTIES, AND MUNICIPALITIES LOCATED THEREIN, TO ENFORCE
3 WIND AND FLOOD MITIGATION REQUIREMENTS OF CERTAIN NATIONALLY
4 RECOGNIZED CODES AND STANDARDS; TO PROVIDE THAT THE BOARD OF
5 SUPERVISORS OF ANY SUCH COUNTY AND/OR THE GOVERNING AUTHORITIES OF
6 ANY MUNICIPALITY WITHIN A COUNTY, UPON RESOLUTION DULY ADOPTED AND
7 ENTERED UPON ITS MINUTES, MAY CHOOSE NOT TO BE SUBJECT TO SUCH
8 CODE REQUIREMENTS; TO REQUIRE SUCH COUNTIES AND MUNICIPALITIES TO
9 ADOPT CERTAIN NATIONALLY RECOGNIZED BUILDING AND RESIDENTIAL
10 CODES; TO CREATE THE MISSISSIPPI BUILDING CODES COUNCIL AND
11 PROVIDE FOR ITS MEMBERSHIP; TO PROVIDE THAT COUNTIES AND
12 MUNICIPALITIES MAY ADOPT CODES ESTABLISHED BY THE MISSISSIPPI
13 BUILDING CODES COUNCIL; TO EXEMPT FARM STRUCTURES AND CERTAIN
14 OTHER BUILDINGS, FACILITIES AND MANUFACTURED HOUSING FROM THE
15 PROVISIONS OF THIS ACT; TO AMEND SECTIONS 19-5-9 AND 21-19-25,
16 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
17 ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) The counties of Jackson, Harrison, Hancock,
20 Stone and Pearl River, including all municipalities therein, shall
21 enforce, on an emergency basis, all the wind and flood mitigation
22 requirements prescribed by the 2003 International Residential Code
23 and the 2003 International Building Code, as supplemented.

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

34 (3) (a) A county board of supervisors or municipal
35 governing authorities, as the case may be, described in subsection
36 (1) of this section shall adopt as minimum codes the latest
37 editions of the following:

38 (i) International Building Code and the standards
39 referenced in that code for regulation of construction within
40 these counties. The appendices of that code may be adopted as
41 needed, but the specific appendix or appendices must be referenced
42 by name or letter designation at the time of adoption.

43 (ii) International Residential Code (IRC) and the
44 standards referenced in that code are included for regulation of
45 construction within these counties. The appendices of that code
46 may be adopted as needed, but the specific appendix or appendices
47 must be referenced by name or letter designation at the time of
48 adoption, with the exception of Appendix J, Existing Buildings and
49 Structures, which is hereby adopted by this reference.

50 (b) In addition to any other codes required under this
51 section, a county board of supervisors or municipal governing
52 authorities, as the case may be, described in subsection (1) of
53 this section may adopt the latest editions of any of the
54 following:

55 (i) Codes established by the Mississippi Building
56 Code Council.

57 (ii) Other codes addressing matters such as
58 electrical, plumbing, mechanical, fire and fuel gas.

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

67 SECTION 2. (1) There is hereby created the Mississippi
68 Building Codes Council. Each member of the council shall be
69 appointed by the executive director of his respective professional
70 association unless otherwise stated herein. Each member shall
71 serve for a term of three (3) years and until a successor is
72 appointed and qualifies. No person who has previously been
73 convicted of a felony in this state or any other state may be
74 appointed to the council. The council shall consist of twenty-six
75 (26) members composed of:

76 (a) One (1) representative of the American Institute of
77 Architects of Mississippi;

78 (b) Three (3) representatives of the Home Builders
79 Association of Mississippi;

80 (c) One (1) representative of the Associated General
81 Contractors of Mississippi;

82 (d) One (1) representative of the Associated Builders
83 and Contractors of Mississippi;

84 (e) One (1) representative of the American Council of
85 Engineering Companies of Mississippi;

86 (f) Two (2) representatives of the Building Officials
87 Association of Mississippi;

88 (g) One (1) disabled person to be appointed by the
89 Governor;

90 (h) One (1) representative of the property/casualty
91 insurance industry to be appointed by the Governor;

92 (i) One (1) representative of the Mississippi Municipal
93 League;

94 (j) One (1) representative of the Mississippi
95 Manufactured Housing Association;

96 (k) One (1) representative of the electrical industry
97 who is a master electrician to be appointed by the American
98 Subcontractors Association;

99 (1) One (1) representative of the mechanical or gas
100 industry who is a master mechanic to be appointed by the American
101 Subcontractors Association;

102 (m) One (1) representative of the plumbing industry who
103 is a master plumber to be appointed by the American Subcontractors
104 Association;

105 (n) One (1) representative of the Mississippi Fire
106 Chiefs Association;

107 (o) One (1) representative of the Mississippi
108 Association of Supervisors;

109 (p) One (1) representative of the Mississippi Minority
110 Contractors Association to be appointed by the Governor;

111 (q) One (1) representative of the Energy Division,
112 Mississippi Development Authority, to serve ex officio, nonvoting;

113 (r) One (1) person representing the consumer who shall
114 have no interest in the construction industry to be appointed by
115 the Governor;

116 (s) The Mississippi State Fire Marshal, or his
117 designee, to serve ex officio, nonvoting;

118 (t) The Executive Director of the State Board of
119 Professional Geologists, or his designee, to serve ex officio,
120 nonvoting; and

121 (u) Three (3) representatives selected by the
122 Mississippi Gulf Coast Building and Construction Trade Council.

123 (2) A vacancy must be filled in the manner of the original
124 appointment for the unexpired portion of the term.

125 (3) The State Fire Marshal shall convene the first meeting
126 of the council within ninety (90) days of the effective date of
127 this act and shall act as temporary chairman until the council
128 elects from its members a chairman and vice chairman. The council
129 shall adopt regulations consistent with this act. A meeting may
130 be called by the chairman on his own initiative and must be called
131 by him at the request of three (3) or more members of the council.

132 Each member must be notified by the chairman in writing of the
133 time and place of the meeting at least seven (7) days before the
134 meeting. Fourteen (14) members constitute a quorum. Each meeting
135 is open to the public. An official decision of the council may be
136 made only by a vote of at least two-thirds (2/3) of those members
137 in attendance at the meeting.

138 (4) The council shall adopt by reference and amend only the
139 latest editions of the following as discretionary statewide
140 minimum codes:

141 (a) International Building Code and the standards
142 referenced in that code for regulation of construction within this
143 state. The appendices of that code may be adopted as needed, but
144 the specific appendix or appendices must be referenced by name or
145 letter designation at the time of adoption.

146 (b) International Residential Code (IRC) and the
147 standards referenced in that code are included for regulation of
148 construction within this state. The appendices of that code may
149 be adopted as needed, but the specific appendix or appendices must
150 be referenced by name or letter designation at the time of
151 adoption, with the exception of Appendix J, Existing Buildings and
152 Structures, which is hereby adopted by this reference.

153 (c) Other codes addressing matters such as electrical,
154 plumbing, mechanical, fire and fuel gas.

155 (5) The initial code or codes adopted by this council under
156 the provisions of this section shall be completed no later than
157 July 1, 2007.

158 **SECTION 3.** A county board of supervisors or municipal
159 governing authorities, as the case may be, may adopt as minimum
160 codes, any proposed codes established and promulgated by the
161 Mississippi Building Codes Council. Any codes adopted by a board
162 of supervisors or municipal governing authorities under this
163 section shall be enforced by the board of supervisors or municipal
164 governing authorities, as the case may be.

165 **SECTION 4.** (1) For purposes of this section, "farm
166 structure" means a structure that is constructed on a farm, other
167 than a residence or a structure attached to it, for use on the
168 farm, including, but not limited to, barns, sheds and poultry
169 houses, but not public livestock areas. For purposes of this
170 section, "farm structure" does not include a structure originally
171 qualifying as a "farm structure" but later converted to another
172 use.

173 (2) The governing body of a county or municipality shall not
174 enforce that portion of any building code established and/or
175 imposed under Sections 1 through 3 of this act that regulates the
176 construction or improvement of a farm structure.

177 (3) The provisions of this section do not apply unless,
178 before constructing or improving a farm structure, the person
179 owning the property on which the structure is to be constructed
180 files an affidavit with the county or municipal official
181 responsible for enforcing the building code stating that the
182 structure is being constructed as a farm structure. The affidavit
183 must include a statement of purpose or intended use of the
184 proposed structure or addition.

185 (4) This section does not affect the authority of the
186 governing body of a county or municipality to issue building
187 permits before an affidavit for the construction or improvement of
188 a farm structure is filed under subsection (3) of this section.

189 **SECTION 5.** (1) The governing authority of any county or
190 municipality shall not enforce any portion of any building codes
191 established and/or imposed under Sections 1 through 3 of this act
192 that regulates the construction or improvement of industrial
193 facilities that are engaged in activities designated as
194 manufacturing (sectors 31-33), utilities (sector 22),
195 telecommunications (sector 517), bulk stations and materials
196 (sector 422710), crude oil pipelines (sector 486110), refined
197 petroleum products pipelines (sector 486910), natural gas

198 pipelines (sector 486210), other pipelines (sector 486990) and
199 natural gas processing plants (sector 211112), under the North
200 American Industry Classification System (NAICS).

201 (2) The governing authority of any county or municipality
202 shall not enforce any portion of any building codes established
203 and/or imposed under Sections 1 through 3 of this act which
204 regulates the construction or improvement of buildings located on
205 nonpublic fairgrounds or the construction or improvement of
206 buildings located on the Neshoba County Fairgrounds in Neshoba
207 County, Mississippi.

208 (3) The governing authority of any county or municipality
209 shall not enforce any portion of any building codes established
210 and/or imposed under Sections 1 through 3 of this act which
211 regulates the construction or improvement of a private unattached
212 outdoor recreational structure, such as a hunting or fishing camp.

213 (4) The governing authority of any county or municipality
214 shall not enforce any portion of any building codes established
215 and/or imposed under Sections 1 through 3 of this act which
216 regulates the construction or improvement of manufactured housing
217 built according to the Federal Manufactured Home Construction and
218 Safety Standards Act.

219 **SECTION 6.** Section 19-5-9, Mississippi Code of 1972, is
220 amended as follows:

221 19-5-9. The construction codes published by a nationally
222 recognized code group which sets minimum standards and has the
223 proper provisions to maintain up-to-date amendments are adopted as
224 minimum standard guides for building, plumbing, electrical, gas,
225 sanitary, and other related codes in Mississippi. Any county
226 within the State of Mississippi, in the discretion of the board of
227 supervisors, may adopt building codes, plumbing codes, electrical
228 codes, sanitary codes, or other related codes dealing with general
229 public health, safety or welfare, or a combination of the same,
230 within but not exceeding the provisions of the construction codes

231 published by nationally recognized code groups, by order or
232 resolution in the manner prescribed in this section, but those
233 codes so adopted shall apply only to the unincorporated areas of
234 the county. However, those codes shall not apply to the erection,
235 maintenance, repair or extension of farm buildings or farm
236 structures, except as may be required under the terms of the
237 "Flood Disaster Protection Act of 1973" and shall apply to a
238 master planned community as defined in Section 19-5-10, only to
239 the extent allowed in Section 19-5-10. The provisions of this
240 section shall not be construed to authorize the adoption of any
241 code which applies to the installation, repair or maintenance of
242 electric wires, pipelines, apparatus, equipment or devices by or
243 for a utility rendering public utility services, required by it to
244 be utilized in the rendition of its duly authorized service to the
245 public. Before any such code shall be adopted, it shall be either
246 printed or typewritten and shall be presented in pamphlet form to
247 the board of supervisors at a regular meeting. The order or
248 resolution adopting the code shall not set out the code in full,
249 but shall merely identify the same. The vote or passage of the
250 order or resolution shall be the same as on any other order or
251 resolution. After its adoption, the code or codes shall be
252 certified to by the president and clerk of the board of
253 supervisors and shall be filed as a permanent record in the office
254 of the clerk who shall not be required to transcribe and record
255 the same in the minute book as other orders and resolutions.

256 All provisions of this section shall apply to amendments and
257 revisions of the codes mentioned in this section. The provisions
258 of this section shall be in addition and supplemental to any
259 existing laws authorizing the adoption, amendment or revision of
260 county orders, resolutions or codes.

261 Any code adopted under the provisions of this section shall
262 not be in operation or force until sixty (60) days have elapsed
263 from the adoption of same; however, any code adopted for the

264 immediate preservation of the public health, safety and general
265 welfare may be effective from and after its adoption by a
266 unanimous vote of the members of the board. Within five (5) days
267 after the adoption or passage of an order or resolution adopting
268 that code or codes the clerk of the board of supervisors shall
269 publish in a legal newspaper published in the county the full text
270 of the order or resolution adopting and approving the code, and
271 the publication shall be inserted at least three (3) times, and
272 shall be completed within thirty (30) days after the passage of
273 the order or resolution.

274 Any person or persons objecting to the code or codes may
275 object in writing to the provisions of the code or codes within
276 sixty (60) days after the passage of the order or resolution
277 approving same, and if the board of supervisors adjudicates that
278 ten percent (10%) or more of the qualified electors residing in
279 the affected unincorporated areas of the county have objected in
280 writing to the code or codes, then in such event the code shall be
281 inoperative and not in effect unless adopted for the immediate
282 preservation of the public health, safety and general welfare
283 until approved by a special election called by the board of
284 supervisors as other special elections are called and conducted by
285 the election commissioners of the county as other special
286 elections are conducted, the special election to be participated
287 in by all the qualified electors of the county residing in the
288 unincorporated areas of the county. If the voters approve the
289 code or codes in the special election it shall be in force and in
290 operation thereafter until amended or modified as provided in this
291 section. If the majority of the qualified electors voting in the
292 special election vote against the code or codes, then, in such
293 event, the code or codes shall be void and of no force and effect,
294 and no other code or codes dealing with that subject shall be
295 adopted under the provisions of this section until at least two
296 (2) years thereafter.

297 After any such code shall take effect the board of
298 supervisors is authorized to employ such directors and other
299 personnel as the board, in its discretion, deems necessary and to
300 expend general county funds or any other funds available to the
301 board to fulfill the purposes of this section.

302 For the purpose of promoting health, safety, morals or the
303 general welfare of the community, the governing authority of any
304 municipality, and, with respect to the unincorporated part of any
305 county, the governing authority of any county, in its discretion,
306 are empowered to regulate the height, number of stories and size
307 of building and other structures, the percentage of lot that may
308 be occupied, the size of the yards, courts and other open spaces,
309 the density or population, and the location and use of buildings,
310 structures and land for trade, industry, residence or other
311 purposes, but no permits shall be required except as may be
312 required under the terms of the "Flood Disaster Protection Act of
313 1973" for the erection, maintenance, repair or extension of farm
314 buildings or farm structures outside the corporate limits of
315 municipalities.

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

318 Notwithstanding any provision of this section to the
319 contrary, any code adopted by a county before or after April 12,
320 2001, is subject to the provisions of Section 41-26-14(10).

321 Notwithstanding any provision of this section to the
322 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,
323 Stone and Pearl River Counties shall enforce the requirements
324 imposed under Section 1 of this act as provided in such section.

325 **SECTION 7.** Section 21-19-25, Mississippi Code of 1972, is
326 amended as follows:

327 21-19-25. Any municipality within the State of Mississippi
328 may, in the discretion of its governing authorities, adopt
329 building codes, plumbing codes, electrical codes, gas codes,

330 sanitary codes, or any other codes dealing with general public
331 health, safety or welfare, or a combination of the same, by
332 ordinance, in the manner prescribed in this section. Before any
333 such code shall be adopted, it shall be either printed or
334 typewritten, and it shall be presented in pamphlet form to the
335 governing authorities of the municipality at a regular meeting.
336 The ordinance adopting the code shall not set out the code in
337 full, but shall merely identify the same. The vote on passage of
338 the ordinance shall be the same as on any other ordinances. After
339 its adoption, the code shall be certified to by the mayor and
340 clerk of the municipality, and shall be filed as a permanent
341 record in the office of the clerk, who shall not be required to
342 transcribe and record the same in the ordinance book as other
343 ordinances. It shall not be necessary that the ordinance adopting
344 the code or the code itself be published in full, but notice of
345 the adoption of the code shall be given by publication in some
346 newspaper of the municipality for one (1) time, or if there be no
347 such newspaper, by posting at three (3) or more public places
348 within the corporate limits, a notice in substantially the
349 following form:

350 Notice is given that the city (or town or village)
351 of _____, on the (give date of ordinance adopting
352 code), adopted (state type of code and other information
353 serving to identify the same) code.

354 All the provisions of this section shall apply to amendments
355 and revisions of the code mentioned in this section. Any code
356 adopted in accordance with this section shall not be in force for
357 one (1) month after its passage, unless the municipal authorities
358 in the ordinance authorize to the contrary. The provisions of
359 this section shall be in addition and supplemental to any existing
360 laws authorizing the adoption, amendment or revision of municipal
361 ordinances or codes.

362 Notwithstanding any provision of this section to the
363 contrary, any code adopted by a municipality before or after April
364 12, 2001, is subject to the provisions of Section 41-26-14(10).

365 Notwithstanding any provision of this section to the
366 contrary, the governing authorities of each municipality in
367 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall
368 enforce the requirements imposed under Section 1 of this act as
369 provided in such section.

370 The provisions of this section shall apply to all
371 municipalities of this state, whether operating under the code
372 charter, a special charter, commission form, or other form of
373 government.

374 **SECTION 8.** This act shall take effect and be in force from
375 and after its passage.