

By: Senator(s) Robertson

To: Insurance

SENATE BILL NO. 2806

1 AN ACT TO ENACT THE "BUILDING A SAFER AND STRONGER
2 MISSISSIPPI ACT"; TO STATE PUBLIC POLICY FOR BUILDING CODES; TO
3 REQUIRE MUNICIPALITIES AND COUNTIES TO ENFORCE THE BUILDING CODES
4 PROVIDED IN THIS ACT; TO AUTHORIZE AGREEMENTS WITH OTHER
5 GOVERNMENTAL ENTITIES TO PROVIDE SERVICES REQUIRED BY THIS ACT; TO
6 REQUIRE THE APPOINTMENT OF A COUNCIL CERTIFIED BUILDING OFFICIAL;
7 TO REQUIRE CERTAIN COASTAL COUNTIES TO ADOPT AND ENFORCE EMERGENCY
8 WIND AND FLOOD MITIGATION REQUIREMENTS; TO REQUIRE THE MISSISSIPPI
9 BUILDING CODES COUNCIL TO ADOPT CERTAIN NATIONALLY RECOGNIZED
10 CODES AND STANDARDS; TO PROVIDE FOR LOCAL AMENDMENTS TO THE STATE
11 BUILDING CODES; TO CREATE THE MISSISSIPPI BUILDING CODES COUNCIL
12 AND PROVIDE FOR ITS MEMBERSHIP; TO EXEMPT FARM STRUCTURES FROM
13 BUILDING CODE REGULATIONS; TO PROVIDE INJUNCTIVE RELIEF AND CIVIL
14 PENALTIES FOR VIOLATION OF BUILDING CODES OR REGULATIONS; TO
15 REPEAL SECTION 19-5-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
16 FOR THE ADOPTION OF BUILDING CODES BY COUNTIES; TO REPEAL SECTION
17 21-19-25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
18 ADOPTION OF BUILDING CODES BY MUNICIPALITIES; TO REPEAL SECTIONS
19 45-11-101 THROUGH 45-11-111, MISSISSIPPI CODE OF 1972, WHICH
20 AUTHORIZE THE STATE FIRE MARSHAL TO PROMULGATE THE MISSISSIPPI
21 FIRE PREVENTION CODE; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** This act shall be known as the "Building a Safer
24 and Stronger Mississippi Act."

25 **SECTION 2.** (1) The public policy of the State of
26 Mississippi is to maintain reasonable standards of construction in
27 buildings and other structures consistent with the public health,
28 safety and welfare of its citizens.

29 (2) This act is enacted to enable the State of Mississippi
30 to establish a state building code to govern the construction,
31 reconstruction, alteration and repair of buildings and other
32 structures and the installation of mechanical devices and
33 equipment therein, and to require the correction of unsafe
34 conditions in existing buildings. The state building codes shall
35 establish uniform performance standards providing reasonable
36 safeguards for health, safety, welfare, comfort and security of

37 the residents of this state who are occupants and users of
38 buildings, and will provide for the use of modern methods,
39 devices, materials and techniques.

40 (3) To clarify the intent of the Legislature and address
41 questions that might arise or have arisen with respect to
42 provisions of the nationally known codes that have been or are
43 adopted by this act.

44 (4) To further clarify the intent of the Legislature, except
45 as otherwise provided in Section 6 of this act concerning
46 emergency wind and flood mitigation requirements, this act
47 continues to apply to a person who may act under authority of the
48 State Fire Marshal's Office, except that the allocation of
49 inspection duties among local officials is not dictated by this
50 act but remains a matter for the local authority.

51 **SECTION 3.** (1) All municipalities and counties in this
52 state shall enforce building, residential, electrical, plumbing,
53 mechanical, fire and fuel gas codes, hereafter referred to as
54 "state building codes" in this act, relating to the construction,
55 livability, sanitation, erection, installation of equipment,
56 alteration, repair, occupancy, classification or removal of
57 structures located within their jurisdictions and promulgate
58 regulations to implement their enforcement. The municipality and
59 county shall enforce only codes and guidelines provided in this
60 act.

61 (2) To the extent that federal regulations preempt state and
62 local laws, nothing in this act conflicts with the federal
63 Department of Housing and Urban Development regulations regarding
64 manufactured housing construction.

65 (3) In connection with the construction of any building,
66 structure or other improvement to immovable property, neither the
67 performance of any enforcement procedure nor any provision of the
68 state building codes shall constitute or be construed as a
69 warranty or guarantee by a governmental enforcement agency as to

70 durability or fitness, or as a warranty or guarantee by a
71 governmental enforcement official that the building, structure or
72 other improvement to immovable property or any materials,
73 equipment or method or type of construction used therein is or
74 will be free from defects, will perform in a particular manner is
75 fit for a particular purpose, or will last any amount of time.

76 **SECTION 4.** Municipalities and counties may establish
77 agreements with other governmental entities of the state to issue
78 permits and enforce state building codes in order to provide the
79 services required by this act. The council may assist in
80 arranging for municipalities, counties or consultants to provide
81 the services required by this act to other municipalities or
82 counties if a written request from the governing body of the
83 municipality is submitted to the council.

84 **SECTION 5.** Each county shall appoint a council certified
85 building official or contract with other political subdivisions as
86 authorized in Section 4 of this act so that the unincorporated
87 area of the counties is under the jurisdiction of a council
88 certified building official. Each municipality shall appoint a
89 council certified building official or contract for a council
90 certified building official within the municipal limits. Based on
91 the needs established by each municipality or county, the council
92 certified building official may appoint and employ other council
93 certified personnel and assistants necessary to perform the
94 required inspections and technical duties.

95 **SECTION 6.** (1) The counties of Jackson, Harrison, Hancock,
96 George, Stone, Pearl River, Perry and Greene, including all
97 municipalities therein, shall enforce, on an emergency basis, all
98 the wind and flood mitigation requirements prescribed by:

99 (a) The 2003 International Residential Code, as
100 modified in Section 8(1)(b) of this act, and the 2003
101 International Building Code, and as supplemented by,

102 (b) The Guidelines for Hurricane Resistant Construction
103 as published by the Institute for Business & Home Safety, 2005,
104 and the Federal Emergency Management Agency (FEMA) Coastal
105 Construction Guidelines for Flooding.

106 (2) Emergency wind and flood building requirements adopted
107 in this section shall remain in force until the Mississippi
108 Building Codes Council adopts the latest editions of both the
109 International Building Code and the International Residential
110 Code, as modified by this act, as minimum mandatory statewide
111 codes.

112 (3) Except as otherwise provided herein, the emergency wind
113 and flood mitigation requirements adopted by this section shall be
114 enforced pursuant to Section 3 of this act. If municipalities and
115 counties are unable to enforce the emergency wind and flood
116 mitigation requirements prescribed in this section within thirty
117 (30) days of enactment of this act, the Mississippi State Fire
118 Marshal's Office shall enforce them as long as they remain in
119 effect.

120 (4) The provisions of this section shall go into effect
121 thirty (30) days from the effective date of this act for counties
122 and municipalities that have code enforcement procedures in place
123 on the effective date of this act. For those counties and
124 municipalities without code enforcement procedures, the provisions
125 of this section shall be applied no later than ninety (90) days
126 from the effective date of this act.

127 **SECTION 7.** The council shall adopt, modify and promulgate
128 the state building codes referenced in Section 8 of this act in
129 accordance with the Administrative Procedures Law, Section
130 25-43-1.101 et seq. The state building codes shall be updated
131 every three (3) years.

132 **SECTION 8.** (1) The council shall adopt by reference and
133 amend only the latest editions of the following as the statewide
134 minimum codes:

135 (a) International Building Code and the standards
136 referenced in that code for regulation of construction within this
137 state. The appendices of that code may be adopted as needed, but
138 the specific appendix or appendices must be referenced by name or
139 letter designation at the time of adoption. For the purposes of
140 this act, the International Building Code shall be amended as
141 follows: Structural framing members of Type V construction shall
142 be constructed of decay and termite resistant materials.

143 (b) International Residential Code (IRC) and the
144 standards referenced in that code are included for regulation of
145 construction within this state. The appendices of that code may
146 be adopted as needed, but the specific appendix or appendices must
147 be referenced by name or letter designation at the time of
148 adoption, with the exception of Appendix J, Existing Buildings and
149 Structures, which is hereby adopted by this reference. For the
150 purposes of this act, IRC 2003 R301.2.1.1 (Design Criteria) shall
151 be amended as follows:

152 (i) Item 2, the Southern Building Code Congress
153 International, Standard for Hurricane Resistant Residential
154 Construction (SSTD 10), shall be replaced by the Institute for
155 Business & Home Safety, Guidelines for Hurricane Resistant
156 Construction, 2005.

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

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

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

165 (v) Structural framing members shall be
166 constructed of decay and termite resistant materials.

167 (c) International Mechanical Code and the standards
168 referenced in that code for regulation of construction within this
169 state. The appendices of that code may be adopted as needed, but
170 the specific appendix or appendices must be referenced by name or
171 letter designation at the time of adoption.

172 (d) International Plumbing Code and the standards
173 referenced in that code for regulation of construction within this
174 state. The appendices of that code may be adopted as needed, but
175 the specific appendix or appendices must be referenced by name or
176 letter designation at the time of adoption.

177 (e) International Fuel Gas Code and the standards
178 referenced in that code for regulation of construction within this
179 state. The appendices of that code may be adopted as needed, but
180 the specific appendix or appendices must be referenced by name or
181 letter designation at the time of adoption.

182 (f) National Electric Code and the standards referenced
183 in that code for regulation of construction within this state.
184 The appendices of that code may be adopted as needed, but the
185 specific appendix or appendices must be referenced by name or
186 letter designation at the time of adoption.

187 (g) International Fire Code and the standards
188 referenced in that code for regulation of construction within this
189 state. The appendices of that code may be adopted as needed, but
190 the specific appendix or appendices must be referenced by name or
191 letter designation at the time of adoption.

192 (2) Within six (6) months of the effective date of this act,
193 the council shall adopt the latest versions of the codes
194 referenced in this section.

195 (3) The initial code adopted by this council under the
196 provisions of this act shall become effective from and after July
197 1, 2007.

198 **SECTION 9.** (1) Counties and municipalities may adopt
199 amendments to the technical provisions of the state building codes

200 which provide for more stringent requirements than those specified
201 in Section 8 of this act, not more than once every six (6) months.
202 A local government may adopt technical amendments that address
203 local needs if the local governing body determines that there is a
204 need to strengthen the requirements of the state building codes.
205 The determination must be based upon a review of local conditions
206 by the local governing body, which review demonstrates by evidence
207 or data that the geography, population density or climate of the
208 jurisdiction governed by the local governing body exhibits a need
209 to strengthen the state building codes beyond the requirements
210 contained in Section 8 of this act and that the local need is
211 addressed by the proposed amendment.

212 (2) Any amendment to the state building codes adopted by a
213 local government pursuant to this section shall be effective only
214 until the adoption by the council of the new edition of the state
215 building codes every third year. At such time, the council shall
216 review such amendment for consistency with the criteria in Section
217 10 of this act and adopt such amendment as part of the state
218 building codes or rescind the amendment. The council shall
219 immediately notify the respective local government of the
220 rescission of any amendment.

221 (3) A representative of the local government shall
222 immediately notify the council with any local amendments.

223 **SECTION 10.** The council may approve technical amendments to
224 the state building codes once each year for general applicability
225 upon finding that the amendment is more stringent than the
226 requirements of the minimum state building codes. The amendment
227 shall not diminish the health, welfare and life-safety of the
228 general public.

229 **SECTION 11.** (1) There is hereby created the Mississippi
230 Building Codes Council. Each member of the council must be
231 appointed by the Governor for a term of three (3) years and until

232 a successor is appointed and qualifies. The council consists of
233 twenty-two (22) members composed of:

234 (a) A representative of the American Institute of
235 Architects of Mississippi;

236 (b) A representative of the Home Builders Association
237 of Mississippi;

238 (c) A representative of the Associated General
239 Contractors of Mississippi;

240 (d) A representative of the Associated Builders and
241 Contractors of Mississippi;

242 (e) A representative of the American Subcontractors
243 Association of Mississippi;

244 (f) A representative of the American Council of
245 Engineering Companies of Mississippi;

246 (g) A representative of the Building Officials
247 Association of Mississippi;

248 (h) A representative of the general public who is not
249 in the practice of home or commercial safety inspection,
250 construction or building, and who does not have any financial
251 interest in these professions, and who does not have any immediate
252 family member in these professions to serve as an at-large
253 consumer representative;

254 (i) A disabled person;

255 (j) A representative of the property/casualty insurance
256 industry;

257 (k) A representative of the Mississippi Municipal
258 League;

259 (l) A representative of the Mississippi Manufactured
260 Housing Association;

261 (m) A representative of the electrical industry who is
262 a master electrician;

263 (n) A representative of the mechanical or gas industry
264 who is a master mechanic;

265 (o) A representative of the plumbing industry who is a
266 master plumber;

267 (p) A representative of the Mississippi Fire Fighters
268 Association;

269 (q) A representative of the Mississippi Fire Chiefs
270 Association;

271 (r) A representative of the Mississippi Association of
272 Supervisors;

273 (s) A representative of the Mississippi State Fire
274 Marshal (ex officio, nonvoting);

275 (t) A representative of the Mississippi Board of
276 Licensure for Professional Engineers and Surveyors;

277 (u) A representative of the Mississippi State Board of
278 Contractors; and

279 (v) A representative of the Mississippi State Board of
280 Architecture.

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

283 (3) The primary function of the council is to review and
284 adopt the state building codes, provide requirements for training,
285 education and certification of code officials and accept all
286 requests for amendments of the code to determine which amendments,
287 if any, are justified by local conditions and can be enacted after
288 a finding on the record that the modification does not minimize
289 public health, safety and welfare. Certification of code
290 officials shall include the International Code Council's
291 certification programs and the appropriate category or level of
292 certification shall be verified by the council.

293 (4) Each member of the council shall receive mileage,
294 subsistence and per diem as provided for other state boards,
295 committees or commissions for attendance at board meetings called
296 by the chairman.

297 (5) The council shall elect from its members a chairman and
298 vice chairman. The council shall adopt regulations consistent
299 with this act. A meeting may be called by the chairman on his own
300 initiative and must be called by him at the request of three (3)
301 or more members of the council. Each member must be notified by
302 the chairman in writing of the time and place of the meeting at
303 least seven (7) days before the meeting. Fourteen (14) members
304 constitute a quorum. Each meeting is open to the public. An
305 official decision of the council may be made only by a vote of at
306 least two-thirds (2/3) of those members in attendance at the
307 meeting.

308 **SECTION 12.** (1) For purposes of this section, "farm
309 structure" means a structure that is constructed on a farm, other
310 than a residence or a structure attached to it, for use on the
311 farm, including, but not limited to, barns, sheds and poultry
312 houses, but not public livestock areas. For purposes of this
313 section, "farm structure" does not include a structure originally
314 qualifying as a "farm structure" but later converted to another
315 use.

316 (2) The governing body of a county or municipality may not
317 enforce that portion of a nationally recognized building code that
318 regulates the construction or improvement of a farm structure.

319 (3) For residential construction, the standards published by
320 the Federal Emergency Management Agency for the National Flood
321 Insurance Program shall apply.

322 (4) The provisions of this section do not apply unless,
323 before constructing a farm structure, the person owning the
324 property on which the structure is to be constructed files an
325 affidavit with the county or municipal official responsible for
326 enforcing the building code stating that the structure is being
327 constructed as a farm structure. The affidavit must include a
328 statement of purpose or intended use of the proposed structure or
329 addition.

330 (5) This section does not affect the authority of the
331 governing body of a county or municipality to issue building
332 permits before the construction or improvement of a farm
333 structure.

334 **SECTION 13.** (1) For a violation of the building codes or
335 regulations adopted pursuant to this act, the local building
336 officials, municipal or county attorneys or other appropriate
337 authorities of a political subdivision, in addition to other
338 remedies, may apply for injunctive relief, mandamus or other
339 appropriate proceeding. A court may grant temporary injunctive
340 relief upon receipt of a verified complaint of an imminent danger
341 or emergency situation.

342 (2) A person found to be in violation of a building code or
343 regulation adopted pursuant to the provisions of this act must be
344 cited and fined, by civil fine, in an amount not more than Two
345 Hundred Dollars (\$200.00). Before being charged with a second
346 violation, the person must be given seven (7) calendar days to
347 remedy the violation or submit a plan for correcting the
348 violation.

349 (3) A person who fails to correct a violation or submit a
350 plan for correcting a violation within seven (7) calendar days
351 after citation or written notice must be cited and fined, by civil
352 fine, in an amount not to exceed Two Thousand Dollars (\$2,000.00).
353 Each day a violation continues is a separate offense.

354 **SECTION 14.** The provisions of this act are cumulative to
355 other local ordinances and do not limit the authority of counties
356 or municipalities as long as they do not diminish the requirements
357 established in this act.

358 **SECTION 15.** Buildings must be inspected in accordance with
359 the codes in effect for the locality on the date of the issuance
360 of the original building permit, except that:

361 (a) If no date of issuance of original building permit
362 can be found, the date of submission of the completed application
363 to the local authority must be used.

364 (b) If no date of application for, or date of issuance
365 of, building permit is available, the director of the applicable
366 county planning and development service (or similar agency) shall
367 determine the nearest possible date by using available documents,
368 such as transfer of property records, mortgage records, tax
369 records or rent records.

370 **SECTION 16.** Section 19-5-9, Mississippi Code of 1972, which
371 provides for the adoption of building codes by counties, is hereby
372 repealed.

373 **SECTION 17.** Section 21-19-25, Mississippi Code of 1972,
374 which provides for the adoption of building codes by
375 municipalities, is hereby repealed.

376 **SECTION 18.** Sections 45-11-101, 45-11-103, 45-11-105,
377 45-11-107, 45-11-109 and 45-11-111, Mississippi Code of 1972,
378 which authorize the State Fire Marshal to promulgate the
379 Mississippi Fire Prevention Code, are hereby repealed.

380 **SECTION 19.** This act shall take effect and be in force from
381 and after its passage.