

By: Senator(s) Chaney, Hewes, Morgan, Doxey, Albritton, Kirby, Moffatt, Gollott To: Insurance

SENATE BILL NO. 2807

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.

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

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

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

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

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

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

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

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

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

190 (3) The initial code adopted by this council under the
191 provisions of this act shall become effective from and after July
192 1, 2007.

193 **SECTION 9.** (1) Counties and municipalities may adopt
194 amendments to the technical provisions of the state building codes
195 which provide for more stringent requirements than those specified
196 in Section 8 of this act, not more than once every six (6) months.
197 A local government may adopt technical amendments that address
198 local needs if the local governing body determines that there is a
199 need to strengthen the requirements of the state building codes.

200 The determination must be based upon a review of local conditions
201 by the local governing body, which review demonstrates by evidence
202 or data that the geography, population density or climate of the
203 jurisdiction governed by the local governing body exhibits a need
204 to strengthen the state building codes beyond the requirements
205 contained in Section 8 of this act and that the local need is
206 addressed by the proposed amendment.

207 (2) Any amendment to the state building codes adopted by a
208 local government pursuant to this section shall be effective only
209 upon notification to the council. The council shall review such
210 amendment for consistency with the criteria in Section 10 of this
211 act and may consider adopting such amendment as part of the state
212 building codes.

213 **SECTION 10.** The council may approve technical amendments to
214 the state building codes once each year for general applicability
215 upon finding that the amendment is more stringent than the
216 requirements of the minimum state building codes. The amendment
217 shall not diminish the health, welfare and life-safety of the
218 general public.

219 **SECTION 11.** (1) There is hereby created the Mississippi
220 Building Codes Council. Each member of the council must be
221 appointed by the Governor for a term of three (3) years and until
222 a successor is appointed and qualifies. The council consists of
223 twenty-two (22) members composed of:

224 (a) A representative of the American Institute of
225 Architects of Mississippi;

226 (b) A representative of the Home Builders Association
227 of Mississippi;

228 (c) A representative of the Associated General
229 Contractors of Mississippi;

230 (d) A representative of the Associated Builders and
231 Contractors of Mississippi;

- 232 (e) A representative of the American Subcontractors
233 Association of Mississippi;
- 234 (f) A representative of the American Council of
235 Engineering Companies of Mississippi;
- 236 (g) A representative of the Building Officials
237 Association of Mississippi;
- 238 (h) A representative of the general public who is not
239 in the practice of home or commercial safety inspection,
240 construction or building, and who does not have any financial
241 interest in these professions, and who does not have any immediate
242 family member in these professions to serve as an at-large
243 consumer representative;
- 244 (i) A disabled person;
- 245 (j) A representative of the property/casualty insurance
246 industry;
- 247 (k) A representative of the Mississippi Municipal
248 League;
- 249 (l) A representative of the Mississippi Manufactured
250 Housing Association;
- 251 (m) A representative of the electrical industry who is
252 a master electrician;
- 253 (n) A representative of the mechanical or gas industry
254 who is a master mechanic;
- 255 (o) A representative of the plumbing industry who is a
256 master plumber;
- 257 (p) A representative of the Mississippi Fire Fighters
258 Association;
- 259 (q) A representative of the Mississippi Fire Chiefs
260 Association;
- 261 (r) A representative of the Mississippi Association of
262 Supervisors;
- 263 (s) A representative of the Mississippi State Fire
264 Marshal (ex officio, nonvoting);

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

267 (u) A representative of the Mississippi State Board of
268 Contractors; and

269 (v) A representative of the Mississippi State Board of
270 Architecture.

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

273 (3) The primary function of the council is to review and
274 adopt the state building codes, provide requirements for training,
275 education and certification of code officials and accept all
276 requests for amendments of the code to determine which amendments,
277 if any, are justified by local conditions and can be enacted after
278 a finding on the record that the modification does not minimize
279 public health, safety and welfare. Certification of code
280 officials shall include the International Code Council's
281 certification programs and the appropriate category or level of
282 certification shall be verified by the council.

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

287 (5) The council shall elect from its members a chairman and
288 vice chairman. The council shall adopt regulations consistent
289 with this act. A meeting may be called by the chairman on his own
290 initiative and must be called by him at the request of three (3)
291 or more members of the council. Each member must be notified by
292 the chairman in writing of the time and place of the meeting at
293 least seven (7) days before the meeting. Fourteen (14) members
294 constitute a quorum. Each meeting is open to the public. An
295 official decision of the council may be made only by a vote of at
296 least two-thirds (2/3) of those members in attendance at the
297 meeting.

298 **SECTION 12.** (1) For purposes of this section, "farm
299 structure" means a structure that is constructed on a farm, other
300 than a residence or a structure attached to it, for use on the
301 farm, including, but not limited to, barns, sheds and poultry
302 houses, but not public livestock areas. For purposes of this
303 section, "farm structure" does not include a structure originally
304 qualifying as a "farm structure" but later converted to another
305 use.

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

309 (3) For residential construction, the standards published by
310 the Federal Emergency Management Agency for the National Flood
311 Insurance Program shall apply.

312 (4) The provisions of this section do not apply unless,
313 before constructing a farm structure, the person owning the
314 property on which the structure is to be constructed files an
315 affidavit with the county or municipal official responsible for
316 enforcing the building code stating that the structure is being
317 constructed as a farm structure. The affidavit must include a
318 statement of purpose or intended use of the proposed structure or
319 addition.

320 (5) This section does not affect the authority of the
321 governing body of a county or municipality to issue building
322 permits before the construction or improvement of a farm
323 structure.

324 **SECTION 13.** (1) For a violation of the building codes or
325 regulations adopted pursuant to this act, the local building
326 officials, municipal or county attorneys or other appropriate
327 authorities of a political subdivision, in addition to other
328 remedies, may apply for injunctive relief, mandamus or other
329 appropriate proceeding. A court may grant temporary injunctive

330 relief upon receipt of a verified complaint of an imminent danger
331 or emergency situation.

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

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

344 **SECTION 14.** The provisions of this act are cumulative to
345 other local ordinances and do not limit the authority of counties
346 or municipalities as long as they do not diminish the requirements
347 established in this act.

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

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

354 (b) If no date of application for, or date of issuance
355 of, building permit is available, the director of the applicable
356 county planning and development service (or similar agency) shall
357 determine the nearest possible date by using available documents,
358 such as transfer of property records, mortgage records, tax
359 records or rent records.

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

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

366 **SECTION 18.** Sections 45-11-101, 45-11-103, 45-11-105,
367 45-11-107, 45-11-109 and 45-11-111, Mississippi Code of 1972,
368 which authorize the State Fire Marshal to promulgate the
369 Mississippi Fire Prevention Code, are hereby repealed.

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