

By: Senator(s) Chaney, Kirby

To: Insurance

SENATE BILL NO. 2822

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 MUNICIPALITIES AND COUNTIES TO ADOPT AND ENFORCE
8 EMERGENCY WIND AND FLOOD MITIGATION REQUIREMENTS; TO REQUIRE THE
9 MISSISSIPPI BUILDING CODES COUNCIL TO ADOPT CERTAIN NATIONALLY
10 RECOGNIZED CODES AND STANDARDS; TO CREATE THE MISSISSIPPI BUILDING
11 CODES COUNCIL AND PROVIDE FOR ITS MEMBERSHIP; TO EXEMPT FARM
12 STRUCTURES FROM BUILDING CODE REGULATION; TO PROVIDE INJUNCTIVE
13 RELIEF AND CIVIL PENALTIES FOR VIOLATION OF BUILDING CODES OR
14 REGULATIONS; TO REPEAL SECTION 19-5-9, MISSISSIPPI CODE OF 1972,
15 WHICH PROVIDES FOR THE ADOPTION OF BUILDING CODES BY COUNTIES; TO
16 REPEAL SECTION 21-19-25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
17 FOR THE ADOPTION OF BUILDING CODES BY MUNICIPALITIES; TO REPEAL
18 SECTIONS 45-11-101 THROUGH 45-11-111, MISSISSIPPI CODE OF 1972,
19 WHICH AUTHORIZE THE STATE FIRE MARSHAL TO PROMULGATE THE
20 MISSISSIPPI FIRE PREVENTION CODE; AND FOR RELATED PURPOSES.

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

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

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

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

37 buildings, and will provide for the use of modern methods,
38 devices, materials, and techniques.

39 (3) To clarify the intent of the Legislature and address
40 questions that might arise or have arisen with respect to
41 provisions of the nationally known codes that have been or are in
42 place, only those portions or provisions of the nationally known
43 building and safety codes or emergency requirements that relate to
44 building standards and safety are binding upon a state or local
45 governmental entity or agency that adopts the building and safety
46 codes authorized or required by this chapter.

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

54 (5) To secure these purposes, the Mississippi Building Codes
55 Council (council) must certify a person performing building codes
56 enforcement (building official, plan review and inspectors), and
57 this act is necessary to provide for certification.

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

68 (2) To the extent that federal regulations preempt state and
69 local laws, nothing in this chapter conflicts with the federal

70 Department of Housing and Urban Development regulations regarding
71 manufactured housing construction.

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

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

92 **SECTION 6.** (1) All municipalities and counties shall
93 enforce, on an emergency basis, all the wind and flood mitigation
94 requirements prescribed by:

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

98 (b) The Guidelines for Hurricane Resistant Construction
99 as published by the Institute for Business & Home Safety, 2005,
100 and the Federal Emergency Management Agency (FEMA) Coastal
101 Construction Guidelines for Flooding.

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

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

116 **SECTION 7.** (1) The council shall, adopt, modify and
117 promulgate the building codes referenced in Section 8 of this act,
118 provided that:

119 (a) A notice of intention to adopt a code or a new
120 edition of a code must be published in the administrative bulletin
121 as a Notice of General Interest, on web sites published by the
122 State Fire Marshal's Office, and must be provided to each local
123 building department with instructions for its prominent display.

124 (b) The notice must include:

125 (i) The address to which interested persons may
126 submit written comments; and

127 (ii) A period of not less than one hundred eighty
128 days (180) during which comments may be received;

129 (c) Comments must be assigned to a subcommittee of the
130 council, which shall publish Notice of General Interest in the
131 same manner as provided in paragraph (a) setting out the
132 subcommittee's scope of review. The notice must give instructions
133 for filing an intention to appear before or provide evidence or

134 comments to the committee, or both. The subcommittee must be
135 comprised of at least three (3) council members;

136 (d) The subcommittee shall hold at least one (1) public
137 meeting, accept evidence and comments and make a written
138 recommendation to the council. Within one hundred eighty (180)
139 days from the end of the comment period, the council shall adopt,
140 modify or deny the recommendations from the committee. The
141 council may modify or amend the code after a finding on the record
142 that the modifications provide a reasonable degree of public
143 health, safety and welfare;

144 (e) The council shall promulgate modifications to the
145 building codes referenced in Section 8 of this act using the
146 provisions of the Administrative Procedures Act; and

147 (f) The promulgated code becomes effective on the first
148 day of January or July that is more than six (6) months from the
149 effective day of the regulation.

150 (g) The Mississippi State Building Codes shall be
151 updated every three (3) years.

152 **SECTION 8.** (1) The council shall adopt by reference and
153 amend only the latest editions of the following:

154 (a) International Building Code and the standards
155 referenced in that code for regulation of construction within this
156 State. The appendices of that code may be adopted as needed, but
157 the specific appendix or appendices must be referenced by name or
158 letter designation at the time of adoption.

159 (b) International Residential Code (IRC) and the
160 standards referenced in that code are included for regulation of
161 construction within this State. The appendices of that code may
162 be adopted as needed, but the specific appendix or appendices must
163 be referenced by name or letter designation at the time of
164 adoption, with the exception of Appendix J, Existing Buildings and
165 Structures, which is hereby adopted by this reference. For the

166 purposes of this act, IRC R301.2.1.1 (Design Criteria) shall be
167 amended as follows:

168 (i) Item 2, the Southern Building Code Congress
169 International, Standard for Hurricane Resistant Residential
170 Construction (SSTD 10)," shall be replaced by the Institute for
171 Business & Home Safety, Guidelines for Hurricane Resistant
172 Construction, 2005.

173 (ii) Item 6, the American Concrete Institute,
174 Guide to Concrete Masonry Residential Construction in High Wind
175 Areas, shall be added.

176 (iii) Item 7, Institute for Business & Home
177 Safety, Optional Code-plus Fortified for Safer Living ©, shall be
178 added.

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

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

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

191 (e) International Plumbing Code and the standards
192 referenced in that code for regulation of construction within this
193 State. The appendices of that code may be adopted as needed, but
194 the specific appendix or appendices must be referenced by name or
195 letter designation at the time of adoption.

196 (f) International Fuel Gas Code and the standards
197 referenced in that code for regulation of construction within this
198 state. The appendices of that code may be adopted as needed, but

199 the specific appendix or appendices must be referenced by name or
200 letter designation at the time of adoption.

201 (g) National Electric Code.

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

205 **SECTION 9.** (1) There is hereby created the Mississippi
206 Building Codes Council. Each member of the council must be
207 appointed by the Governor for a term of three (3) years and until
208 a successor is appointed and qualifies. The council shall consist
209 of the following sixteen (16) members:

210 (a) A representative of the American Institute of
211 Architects of Mississippi;

212 (b) A representative of the Mississippi Section of
213 ASCE;

214 (c) A representative of the Home Builders Association
215 of Mississippi;

216 (d) A representative of the Mississippi Associated
217 General Contractors;

218 (e) A representative of the Associated Builders and
219 Contractors of Mississippi;

220 (f) A representative of the Building Officials
221 Association of Mississippi;

222 (g) A representative of the Mississippi State Fire
223 Marshal;

224 (h) A representative of the Mississippi Municipal
225 League;

226 (i) A representative of the Mississippi County Managers
227 Association;

228 (j) A representative of the Mississippi Manufactured
229 Housing Association;

230 (k) A representative of the general public who is not
231 in the practice of home or commercial safety inspection,

232 construction or building, and who does not have any financial
233 interest in these professions, and who does not have any immediate
234 family member in these professions to serve as an at-large
235 consumer representative;

236 (l) A disabled person;

237 (m) A representative of the property, casualty
238 insurance industry;

239 (n) A representative of the electrical industry who is
240 a master electrician;

241 (o) A representative of the mechanical or gas industry
242 who is a master mechanic; and

243 (p) A representative of the plumbing industry who is a
244 master plumber;

245 (q) A representative of the Mississippi Economic
246 Council.

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

249 (3) The primary function of the council is to review and
250 adopt the state building codes, provide requirements for training,
251 education and certification of code officials and accept all
252 requests for amendments of the code to determine which amendments,
253 if any, are justified by local conditions and can be enacted after
254 a finding on the record that the modification does not minimize
255 public health, safety and welfare.

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

260 (5) The council shall elect from its members a chairman and
261 vice chairman. The council shall adopt regulations consistent
262 with this chapter. A meeting may be called by the chairman on his
263 own initiative and must be called by him at the request of three
264 (3) or more members of the council. Each member must be notified

265 by the chairman in writing of the time and place of the meeting at
266 least seven (7) days before the meeting. Twelve (12) members
267 constitute a quorum. Each meeting is open to the public. An
268 official decision of the council may be made only by a vote of at
269 least two-thirds (2/3) of those members in attendance at the
270 meeting.

271 SECTION 10. (1) For purposes of this section, "farm
272 structure" means a structure that is constructed on a farm, other
273 than a residence or a structure attached to it, for use on the
274 farm including, but not limited to, barns, sheds, and poultry
275 houses, but not public livestock areas. For purposes of this
276 section, "farm structure" does not include a structure originally
277 qualifying as a "farm structure" but later converted to another
278 use.

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

282 (3) For residential construction, the standards published by
283 the Federal Emergency Management Agency for the National Flood
284 Insurance Program shall apply.

285 (4) The provisions of this section do not apply unless,
286 before constructing a farm structure, the person owning the
287 property on which the structure is to be constructed files an
288 affidavit with the county or municipal official responsible for
289 enforcing the building code stating that the structure is being
290 constructed as a farm structure. The affidavit must include a
291 statement of purpose or intended use of the proposed structure or
292 addition.

293 (5) This section does not affect the authority of the
294 governing body of a county or municipality to issue building
295 permits before the construction or improvement of a farm
296 structure.

297 **SECTION 11.** (1) For a violation of the building codes or
298 regulations adopted pursuant to this act, the local building
299 officials, municipal or county attorneys or other appropriate
300 authorities of a political subdivision, in addition to other
301 remedies, may apply for injunctive relief, mandamus or other
302 appropriate proceeding. A court may grant temporary injunctive
303 relief upon receipt of a verified complaint of an imminent danger
304 or emergency situation.

305 (2) A person found to be in violation of a building code or
306 regulation adopted pursuant to the provisions of this chapter must
307 be cited and fined, by civil fine, in an amount not more than Two
308 Hundred Dollars (\$200.00). Before being charged with a second
309 violation, the person must be given seven (7) calendar days to
310 remedy the violation or submit a plan for correcting the
311 violation.

312 (3) A person who fails to correct a violation or submit a
313 plan for correcting a violation within seven (7) calendar days
314 after citation or written notice must be cited and fined, by civil
315 fine, in an amount not to exceed two thousand dollars. Each day a
316 violation continues is a separate offense.

317 **SECTION 12.** Notwithstanding any other provision of law, the
318 governing body of a county or municipality may impose fees
319 necessary to implement and continue the programs required by this
320 act upon a vote of a simple majority of the governing body unless
321 a super majority vote is required by local ordinance.

322 **SECTION 13.** The provisions of this act are cumulative to
323 other local ordinances and do not limit the authority of counties
324 or municipalities as long as they do not diminish the requirements
325 established in this act.

326 **SECTION 14.** Buildings must be inspected in accordance with
327 the codes in effect for the locality on the date of the issuance
328 of the original building permit, except that:

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

332 (b) If no date of application for, or date of issuance
333 of, building permit is available, the director of the applicable
334 county planning and development service (or similar agency) shall
335 determine the nearest possible date by using available documents,
336 such as transfer of property records, mortgage records, tax
337 records or rent records.

338 **SECTION 15.** Section 19-5-9, Mississippi Code of 1972, which
339 provides for the adoption of building codes by counties, is hereby
340 repealed.

341 **SECTION 16.** Section 21-19-25, Mississippi Code of 1972,
342 which provides for the adoption of building codes by
343 municipalities, is hereby repealed.

344 **SECTION 17.** Sections 45-11-101, 45-11-103, 45-11-105,
345 45-11-107, 45-11-109 and 45-11-111, Mississippi Code of 1972,
346 which authorize the State Fire Marshal to promulgate the
347 Mississippi Fire Prevention Code, are hereby repealed.

348 **SECTION 18.** This act shall take effect and be in force from
349 and after its passage.