

By: Representative Compretta

To: Ways and Means

HOUSE BILL NO. 1448

1 AN ACT TO AMEND SECTION 17-2-1, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE JACKSON, HARRISON, HANCOCK, STONE AND PEARL RIVER
3 COUNTIES, AND ALL MUNICIPALITIES THEREIN, TO ENFORCE WIND AND
4 FLOOD MITIGATION REQUIREMENTS OF CERTAIN NATIONALLY RECOGNIZED
5 CODES AND STANDARDS; TO AMEND SECTION 17-2-3, MISSISSIPPI CODE OF
6 1972, TO REQUIRE ALL MEMBERS OF THE BUILDING CODES COUNCIL TO BE
7 RESIDENTS OF THE STATE OF MISSISSIPPI, AND TO PROVIDE THAT ANY
8 COUNCIL MEMBER WITH UNEXCUSED ABSENCES FOR MORE THAN THREE
9 CONSECUTIVE MEETINGS SHALL BE REPLACED; TO AMEND SECTION 17-2-5,
10 MISSISSIPPI CODE OF 1972, TO REQUIRE COUNTIES AND MUNICIPALITIES
11 THAT ADOPT OR AMEND THEIR EXISTING BUILDING CODES TO ADOPT THE
12 CODES PROMULGATED BY THE MISSISSIPPI BUILDING CODES COUNCIL; TO
13 PROVIDE MANDATORY MINIMUM CONSTRUCTION STANDARDS FOR NEW
14 COMMERCIAL FACILITIES; TO PROVIDE FOR AGREEMENTS BETWEEN
15 MUNICIPALITIES AND COUNTIES FOR ENFORCEMENT OF BUILDING CODES; TO
16 AMEND SECTION 19-5-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH
17 THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 17-2-1, Mississippi Code of 1972, is
20 amended as follows:

21 17-2-1. (1) The counties of Jackson, Harrison, Hancock,
22 Stone and Pearl River, including all municipalities therein, shall
23 enforce, on an emergency basis, all the wind and flood mitigation
24 requirements prescribed by the 2003 International Residential Code
25 and the 2003 International Building Code, as supplemented.

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

34 enforced by the county board of supervisors or municipal governing
35 authorities, as the case may be.

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

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

45 (ii) 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.

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

57 (i) Codes established by the Mississippi Building
58 Code Council.

59 (ii) Other nationally recognized codes addressing
60 matters such as electrical, plumbing, mechanical, fire and fuel
61 gas.

62 (4) The provisions of this section shall go into effect
63 thirty (30) days from the effective date of this chapter.
64 However, within sixty (60) days after the provisions of this
65 section go into effect, the board of supervisors of a county
66 and/or the governing authorities of any municipality within a

67 county, upon resolution duly adopted and entered upon its minutes,
68 may choose not to be subject to the code requirements imposed
69 under this section.

70 **SECTION 2.** Section 17-2-3, Mississippi Code of 1972, is
71 amended as follows:

72 17-2-3. (1) There is hereby created the Mississippi
73 Building Codes Council. Each member of the council shall be
74 appointed by the executive director of his respective professional
75 association unless otherwise stated herein. Each member shall
76 serve for a term of three (3) years and until a successor is
77 appointed and qualifies. No person who has previously been
78 convicted of a felony in this state or any other state may be
79 appointed to the council. All members of the council shall be
80 residents of the State of Mississippi. The council shall consist
81 of twenty-six (26) members composed of:

82 (a) One (1) representative of the American Institute of
83 Architects of Mississippi;

84 (b) Three (3) representatives of the Home Builders
85 Association of Mississippi;

86 (c) One (1) representative of the Associated General
87 Contractors of Mississippi;

88 (d) One (1) representative of the Associated Builders
89 and Contractors of Mississippi;

90 (e) One (1) representative of the American Council of
91 Engineering Companies of Mississippi;

92 (f) Two (2) representatives of the Building Officials
93 Association of Mississippi;

94 (g) One (1) disabled person to be appointed by the
95 Governor;

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

98 (i) One (1) representative of the Mississippi Municipal
99 League;

100 (j) One (1) representative of the Mississippi
101 Manufactured Housing Association;

102 (k) One (1) representative of the electrical industry
103 who is a master electrician to be appointed by the American
104 Subcontractors Association;

105 (l) One (1) representative of the mechanical or gas
106 industry who is a master mechanic to be appointed by the American
107 Subcontractors Association;

108 (m) One (1) representative of the plumbing industry who
109 is a master plumber to be appointed by the American Subcontractors
110 Association;

111 (n) One (1) representative of the Mississippi Fire
112 Chiefs Association;

113 (o) One (1) representative of the Mississippi
114 Association of Supervisors;

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

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

119 (r) One (1) person representing the consumer who shall
120 have no interest in the construction industry to be appointed by
121 the Governor;

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

124 (t) The Executive Director of the State Board of
125 Professional Geologists, or his designee, to serve ex officio,
126 nonvoting; and

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

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

131 (3) Any member with unexcused absences for more than three
132 (3) consecutive meetings shall be replaced by his sponsoring
133 organization;

134 (4) The State Fire Marshal shall convene the first meeting
135 of the council within ninety (90) days of the effective date of
136 this chapter and shall act as temporary chairman until the council
137 elects from its members a chairman and vice chairman. The council
138 shall adopt regulations consistent with this act. A meeting may
139 be called by the chairman on his own initiative and must be called
140 by him at the request of three (3) or more members of the council.
141 Each member must be notified by the chairman in writing of the
142 time and place of the meeting at least seven (7) days before the
143 meeting. Fourteen (14) members constitute a quorum. Each meeting
144 is open to the public. An official decision of the council may be
145 made only by a vote of at least two-thirds (2/3) of those members
146 in attendance at the meeting.

147 (5) The council shall adopt by reference and amend only the
148 latest editions of the following as discretionary statewide
149 minimum codes:

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

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

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

164 (6) The initial code or codes adopted by this council under
165 the provisions of this section shall be completed no later than
166 July 1, 2007.

167 **SECTION 3.** Section 17-2-5, Mississippi Code of 1972, is
168 amended as follows:

169 17-2-5. (1) Any county board of supervisors or municipal
170 governing authorities, as the case may be, that adopts building
171 codes or amends its existing building codes shall adopt as minimum
172 codes any * * * codes established and promulgated by the
173 Mississippi Building Codes Council. Any codes adopted by a board
174 of supervisors or municipal governing authorities under this
175 section shall be enforced by the board of supervisors or municipal
176 governing authorities, as the case may be.

177 (2) Any structure constructed after July 1, 2009, shall
178 comply with and be built according to specifications not less
179 stringent than those adopted by the Mississippi Building Code
180 Council; however, this requirement shall not apply to one- and
181 two-family dwellings with three (3) stories or less, nor to the
182 structures specified in Sections 17-2-7 and 17-2-9.

183 (3) Municipalities and counties may establish agreements
184 with other governmental entities of the state or certified
185 third-party providers to issue permits and enforce state building
186 codes in order to provide the services required by this act. The
187 council may assist in arranging for municipalities, counties or
188 third-party providers to provide the services required by this act
189 to other municipalities or counties if a written request from the
190 governing body of the county or municipality is submitted to the
191 council.

192 (4) A third-party provider shall meet the requirements
193 imposed by the council for certificates of registration.
194 Certified third-party providers shall notify the council of their
195 intention to do business within the state and the council shall
196 maintain a listing of all certified third-party providers.

197 **SECTION 4.** Section 19-5-9, Mississippi Code of 1972, is
198 amended as follows:

199 19-5-9. The construction codes published by a nationally
200 recognized code group which sets minimum standards and has the
201 proper provisions to maintain up-to-date amendments are adopted as
202 minimum standard guides for building, plumbing, electrical, gas,
203 sanitary, and other related codes in Mississippi. Any county
204 within the State of Mississippi, in the discretion of the board of
205 supervisors, may adopt building codes, plumbing codes, electrical
206 codes, sanitary codes, or other related codes dealing with general
207 public health, safety or welfare, or a combination of the same,
208 within but not minimizing the provisions of the construction codes
209 below that of the codes adopted by the Mississippi Building Code
210 Council, by order or resolution in the manner prescribed in this
211 section, but those codes so adopted shall apply only to the
212 unincorporated areas of the county. However, those codes shall
213 not apply to the erection, maintenance, repair or extension of
214 farm buildings or farm structures, except as may be required under
215 the terms of the "Flood Disaster Protection Act of 1973" and shall
216 apply to a master planned community as defined in Section 19-5-10,
217 only to the extent allowed in Section 19-5-10. The provisions of
218 this section shall not be construed to authorize the adoption of
219 any code which applies to the installation, repair or maintenance
220 of electric wires, pipelines, apparatus, equipment or devices by
221 or for a utility rendering public utility services, required by it
222 to be utilized in the rendition of its duly authorized service to
223 the public. Before any such code shall be adopted, it shall be
224 either printed or typewritten and shall be presented in pamphlet
225 form to the board of supervisors at a regular meeting. The order
226 or resolution adopting the code shall not set out the code in
227 full, but shall merely identify the same. The vote or passage of
228 the order or resolution shall be the same as on any other order or
229 resolution. After its adoption, the code or codes shall be

230 certified to by the president and clerk of the board of
231 supervisors and shall be filed as a permanent record in the office
232 of the clerk who shall not be required to transcribe and record
233 the same in the minute book as other orders and resolutions.

234 All provisions of this section shall apply to amendments and
235 revisions of the codes mentioned in this section. The provisions
236 of this section shall be in addition and supplemental to any
237 existing laws authorizing the adoption, amendment or revision of
238 county orders, resolutions or codes.

239 Any code adopted under the provisions of this section shall
240 not be in operation or force until sixty (60) days have elapsed
241 from the adoption of same; however, any code adopted for the
242 immediate preservation of the public health, safety and general
243 welfare may be effective from and after its adoption by a
244 unanimous vote of the members of the board. Within five (5) days
245 after the adoption or passage of an order or resolution adopting
246 that code or codes the clerk of the board of supervisors shall
247 publish in a legal newspaper published in the county the full text
248 of the order or resolution adopting and approving the code, and
249 the publication shall be inserted at least three (3) times, and
250 shall be completed within thirty (30) days after the passage of
251 the order or resolution.

252 Any person or persons objecting to the code or codes may
253 object in writing to the provisions of the code or codes within
254 sixty (60) days after the passage of the order or resolution
255 approving same, and if the board of supervisors adjudicates that
256 ten percent (10%) or more of the qualified electors residing in
257 the affected unincorporated areas of the county have objected in
258 writing to the code or codes, then in such event the code shall be
259 inoperative and not in effect unless adopted for the immediate
260 preservation of the public health, safety and general welfare
261 until approved by a special election called by the board of
262 supervisors as other special elections are called and conducted by

263 the election commissioners of the county as other special
264 elections are conducted, the special election to be participated
265 in by all the qualified electors of the county residing in the
266 unincorporated areas of the county. If the voters approve the
267 code or codes in the special election it shall be in force and in
268 operation thereafter until amended or modified as provided in this
269 section. If the majority of the qualified electors voting in the
270 special election vote against the code or codes, then, in such
271 event, the code or codes shall be void and of no force and effect,
272 and no other code or codes dealing with that subject shall be
273 adopted under the provisions of this section until at least two
274 (2) years thereafter.

275 After any such code shall take effect the board of
276 supervisors is authorized to employ such directors and other
277 personnel as the board, in its discretion, deems necessary and to
278 expend general county funds or any other funds available to the
279 board to fulfill the purposes of this section.

280 For the purpose of promoting health, safety, morals or the
281 general welfare of the community, the governing authority of any
282 municipality, and, with respect to the unincorporated part of any
283 county, the governing authority of any county, in its discretion,
284 are empowered to regulate the height, number of stories and size
285 of building and other structures, the percentage of lot that may
286 be occupied, the size of the yards, courts and other open spaces,
287 the density or population, and the location and use of buildings,
288 structures and land for trade, industry, residence or other
289 purposes, but no permits shall be required except as may be
290 required under the terms of the "Flood Disaster Protection Act of
291 1973" for the erection, maintenance, repair or extension of farm
292 buildings or farm structures outside the corporate limits of
293 municipalities.

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

296 Notwithstanding any provision of this section to the
297 contrary, any code adopted by a county before or after April 12,
298 2001, is subject to the provisions of Section 41-26-14(10).

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

303 **SECTION 5.** This act shall take effect and be in force from
304 and after its passage.