

By: Senator(s) Chaney

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2851

1 AN ACT TO AMEND SECTION 17-2-3, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE ALL MEMBERS OF THE BUILDING CODES COUNCIL TO BE RESIDENTS  
3 OF THE STATE OF MISSISSIPPI, AND TO PROVIDE THAT ANY COUNCIL  
4 MEMBER WITH UNEXCUSED ABSENCES FOR MORE THAN THREE CONSECUTIVE  
5 MEETINGS SHALL BE REPLACED; TO AMEND SECTION 17-2-5, MISSISSIPPI  
6 CODE OF 1972, TO REQUIRE COUNTIES AND MUNICIPALITIES THAT ADOPT OR  
7 AMEND THEIR EXISTING BUILDING CODES TO ADOPT THE CODES PROMULGATED  
8 BY THE MISSISSIPPI BUILDING CODES COUNCIL; TO PROVIDE MANDATORY  
9 MINIMUM CONSTRUCTION STANDARDS FOR NEW COMMERCIAL FACILITIES; TO  
10 PROVIDE FOR AGREEMENTS BETWEEN MUNICIPALITIES AND COUNTIES FOR  
11 ENFORCEMENT OF BUILDING CODES; TO AMEND SECTIONS 17-2-1 AND  
12 19-5-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
13 RELATED PURPOSES.

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

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

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

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

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

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

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

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

53                   (i) Codes established by the Mississippi Building  
54 Code Council.

55                   (ii) Other nationally recognized codes addressing  
56 matters such as electrical, plumbing, mechanical, fire and fuel  
57 gas.

58           (4) The provisions of this section shall go into effect  
59 thirty (30) days from the effective date of this chapter.  
60 However, within sixty (60) days after the provisions of this  
61 section go into effect, the board of supervisors of a county  
62 and/or the governing authorities of any municipality within a  
63 county, upon resolution duly adopted and entered upon its minutes,

64 may choose not to be subject to the code requirements imposed  
65 under this section.

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

68         17-2-3. (1) There is hereby created the Mississippi  
69 Building Codes Council. Each member of the council shall be  
70 appointed by the executive director of his respective professional  
71 association unless otherwise stated herein. Each member shall  
72 serve for a term of three (3) years and until a successor is  
73 appointed and qualifies. No person who has previously been  
74 convicted of a felony in this state or any other state may be  
75 appointed to the council. From and after July 1, 2009, all  
76 members of the council shall be residents of the State of  
77 Mississippi. The council shall consist of twenty-six (26) members  
78 composed of:

79             (a) One (1) representative of the American Institute of  
80 Architects of Mississippi;

81             (b) Three (3) representatives of the Home Builders  
82 Association of Mississippi;

83             (c) One (1) representative of the Associated General  
84 Contractors of Mississippi;

85             (d) One (1) representative of the Associated Builders  
86 and Contractors of Mississippi;

87             (e) One (1) representative of the American Council of  
88 Engineering Companies of Mississippi;

89             (f) Two (2) representatives of the Building Officials  
90 Association of Mississippi;

91             (g) One (1) disabled person to be appointed by the  
92 Governor;

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

95             (i) One (1) representative of the Mississippi Municipal  
96 League;

97           (j) One (1) representative of the Mississippi  
98 Manufactured Housing Association;

99           (k) One (1) representative of the electrical industry  
100 who is a master electrician to be appointed by the American  
101 Subcontractors Association;

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

105           (m) One (1) representative of the plumbing industry who  
106 is a master plumber to be appointed by the American Subcontractors  
107 Association;

108           (n) One (1) representative of the Mississippi Fire  
109 Chiefs Association;

110           (o) One (1) representative of the Mississippi  
111 Association of Supervisors;

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

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

116           (r) One (1) person representing the consumer who shall  
117 have no interest in the construction industry to be appointed by  
118 the Governor;

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

121           (t) The Executive Director of the State Board of  
122 Professional Geologists, or his designee, to serve ex officio,  
123 nonvoting; and

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

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

128           (3) Any member with unexcused absences for more than three  
129 (3) consecutive meetings shall be replaced by his sponsoring  
130 organization.

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

144           (5) The council shall adopt by reference and amend only the  
145 latest editions of the following as discretionary statewide  
146 minimum codes:

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

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

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

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

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

166       17-2-5. (1) Any county board of supervisors or municipal  
167 governing authority, as the case may be, that adopts building  
168 codes or amends its existing building codes shall adopt as minimum  
169 codes any \* \* \* codes established and promulgated by the  
170 Mississippi Building Codes Council. Any codes adopted by a board  
171 of supervisors or municipal governing authority under this section  
172 shall be enforced by the board of supervisors or municipal  
173 governing authority, as the case may be.

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

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

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

190       19-5-9. The construction codes published by a nationally  
191 recognized code group which sets minimum standards and has the  
192 proper provisions to maintain up-to-date amendments are adopted as  
193 minimum standard guides for building, plumbing, electrical, gas,

194 sanitary, and other related codes in Mississippi. Any county  
195 within the State of Mississippi, in the discretion of the board of  
196 supervisors, may adopt building codes, plumbing codes, electrical  
197 codes, sanitary codes, or other related codes dealing with general  
198 public health, safety or welfare, or a combination of the same,  
199 within but not less stringent than the provisions of the codes  
200 adopted by the Mississippi Building Code Council, by order or  
201 resolution in the manner prescribed in this section, but those  
202 codes so adopted shall apply only to the unincorporated areas of  
203 the county. However, those codes shall not apply to the erection,  
204 maintenance, repair or extension of farm buildings or farm  
205 structures, except as may be required under the terms of the  
206 "Flood Disaster Protection Act of 1973," and shall apply to a  
207 master planned community as defined in Section 19-5-10 only to the  
208 extent allowed in Section 19-5-10. The provisions of this section  
209 shall not be construed to authorize the adoption of any code which  
210 applies to the installation, repair or maintenance of electric  
211 wires, pipelines, apparatus, equipment or devices by or for a  
212 utility rendering public utility services, required by it to be  
213 utilized in the rendition of its duly authorized service to the  
214 public. Before any such code shall be adopted, it shall be either  
215 printed or typewritten and shall be presented in pamphlet form to  
216 the board of supervisors at a regular meeting. The order or  
217 resolution adopting the code shall not set out the code in full,  
218 but shall merely identify the same. The vote or passage of the  
219 order or resolution shall be the same as on any other order or  
220 resolution. After its adoption, the code or codes shall be  
221 certified to by the president and clerk of the board of  
222 supervisors and shall be filed as a permanent record in the office  
223 of the clerk who shall not be required to transcribe and record  
224 the same in the minute book as other orders and resolutions.

225 All provisions of this section shall apply to amendments and  
226 revisions of the codes mentioned in this section. The provisions

227 of this section shall be in addition and supplemental to any  
228 existing laws authorizing the adoption, amendment or revision of  
229 county orders, resolutions or codes.

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

243 Any person or persons objecting to the code or codes may  
244 object in writing to the provisions of the code or codes within  
245 sixty (60) days after the passage of the order or resolution  
246 approving same, and if the board of supervisors adjudicates that  
247 ten percent (10%) or more of the qualified electors residing in  
248 the affected unincorporated areas of the county have objected in  
249 writing to the code or codes, then in such event the code shall be  
250 inoperative and not in effect unless adopted for the immediate  
251 preservation of the public health, safety and general welfare  
252 until approved by a special election called by the board of  
253 supervisors as other special elections are called and conducted by  
254 the election commissioners of the county as other special  
255 elections are conducted, the special election to be participated  
256 in by all the qualified electors of the county residing in the  
257 unincorporated areas of the county. If the voters approve the  
258 code or codes in the special election it shall be in force and in  
259 operation thereafter until amended or modified as provided in this



260 section. If the majority of the qualified electors voting in the  
261 special election vote against the code or codes, then, in such  
262 event, the code or codes shall be void and of no force and effect,  
263 and no other code or codes dealing with that subject shall be  
264 adopted under the provisions of this section until at least two  
265 (2) years thereafter.

266 After any such code shall take effect the board of  
267 supervisors is authorized to employ such directors and other  
268 personnel as the board, in its discretion, deems necessary and to  
269 expend general county funds or any other funds available to the  
270 board to fulfill the purposes of this section.

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

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

287 Notwithstanding any provision of this section to the  
288 contrary, any code adopted by a county before or after April 12,  
289 2001, is subject to the provisions of Section 41-26-14(10).

290 Notwithstanding any provision of this section to the  
291 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,

292 Stone and Pearl River Counties shall enforce the requirements  
293 imposed under Section 17-2-1 as provided in such section.

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