

By: Senator(s) Chaney

To: Insurance

SENATE BILL NO. 2851

1 AN ACT TO AMEND SECTION 17-2-1, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE GEORGE COUNTY, AND ANY MUNICIPALITY THEREIN, TO ENFORCE
 3 WIND AND FLOOD MITIGATION REQUIREMENTS OF CERTAIN NATIONALLY
 4 RECOGNIZED CODES AND STANDARDS; TO AMEND SECTION 17-2-3,
 5 MISSISSIPPI CODE OF 1972, TO REQUIRE ALL MEMBERS OF THE BUILDING
 6 CODES COUNCIL TO BE RESIDENTS OF THE STATE OF MISSISSIPPI, AND TO
 7 PROVIDE THAT ANY COUNCIL MEMBER WITH UNEXCUSED ABSENCES FOR MORE
 8 THAN THREE CONSECUTIVE MEETINGS SHALL BE REPLACED; TO AMEND
 9 SECTION 17-2-5, MISSISSIPPI CODE OF 1972, TO REQUIRE COUNTIES AND
 10 MUNICIPALITIES THAT ADOPT OR AMEND THEIR EXISTING BUILDING CODES
 11 TO ADOPT THE CODES PROMULGATED BY THE MISSISSIPPI BUILDING CODES
 12 COUNCIL; TO PROVIDE MANDATORY MINIMUM CONSTRUCTION STANDARDS FOR
 13 NEW COMMERCIAL FACILITIES; TO PROVIDE FOR AGREEMENTS BETWEEN
 14 MUNICIPALITIES AND COUNTIES FOR ENFORCEMENT OF BUILDING CODES; TO
 15 AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972, IN
 16 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

20 17-2-1. (1) The counties of Jackson, George, Harrison,
 21 Hancock, Stone and Pearl River, including all municipalities
 22 therein, shall enforce, on an emergency basis, all the wind and
 23 flood mitigation requirements prescribed by the 2003 International
 24 Residential Code and the 2003 International Building Code, as
 25 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 authority, 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 authority under this section
175 shall be enforced by the board of supervisors or municipal
176 governing authority, 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; provided, however, that this requirement shall not apply
181 to one- and two-family dwellings with three (3) stories or less,
182 nor to the 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 the provision of services required by this
189 act if a written request from the governing authority of the
190 county or municipality is submitted to the council.

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

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

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

229 All provisions of this section shall apply to amendments and
230 revisions of the codes mentioned in this section. The provisions
231 of this section shall be in addition and supplemental to any
232 existing laws authorizing the adoption, amendment or revision of
233 county orders, resolutions or codes.

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

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

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

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

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

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

291 Notwithstanding any provision of this section to the
292 contrary, any code adopted by a county before or after April 12,
293 2001, is subject to the provisions of Section 41-26-14(10).

294 Notwithstanding any provision of this section to the
295 contrary, the Boards of Supervisors of Jackson, George, Harrison,
296 Hancock, Stone and Pearl River Counties shall enforce the
297 requirements imposed under Section 17-2-1 as provided in such
298 section.

299 **SECTION 5.** Section 21-19-25, Mississippi Code of 1972, is
300 amended as follows:

301 21-19-25. Any municipality within the State of Mississippi
302 may, in the discretion of its governing authorities, adopt
303 building codes, plumbing codes, electrical codes, gas codes,
304 sanitary codes, or any other codes dealing with general public
305 health, safety or welfare, or a combination of the same, by
306 ordinance, in the manner prescribed in this section. Before any
307 such code shall be adopted, it shall be either printed or
308 typewritten, and it shall be presented in pamphlet form to the
309 governing authorities of the municipality at a regular meeting.
310 The ordinance adopting the code shall not set out the code in
311 full, but shall merely identify the same. The vote on passage of
312 the ordinance shall be the same as on any other ordinances. After
313 its adoption, the code shall be certified to by the mayor and
314 clerk of the municipality, and shall be filed as a permanent
315 record in the office of the clerk, who shall not be required to
316 transcribe and record the same in the ordinance book as other
317 ordinances. It shall not be necessary that the ordinance adopting
318 the code or the code itself be published in full, but notice of
319 the adoption of the code shall be given by publication in some
320 newspaper of the municipality for one (1) time, or if there be no
321 such newspaper, by posting at three (3) or more public places
322 within the corporate limits, a notice in substantially the
323 following form:

324 Notice is given that the city (or town or village)
325 of _____, on the (give date of ordinance adopting

326 code), adopted (state type of code and other information
327 serving to identify the same) code.

328 All the provisions of this section shall apply to amendments
329 and revisions of the code mentioned in this section. Any code
330 adopted in accordance with this section shall not be in force for
331 one (1) month after its passage, unless the municipal authorities
332 in the ordinance authorize to the contrary. The provisions of
333 this section shall be in addition and supplemental to any existing
334 laws authorizing the adoption, amendment or revision of municipal
335 ordinances or codes.

336 Notwithstanding any provision of this section to the
337 contrary, any code adopted by a municipality before or after April
338 12, 2001, is subject to the provisions of Section 41-26-14(10).

339 Notwithstanding any provision of this section to the
340 contrary, the governing authorities of each municipality in
341 Jackson, George, Harrison, Hancock, Stone and Pearl River Counties
342 shall enforce the requirements imposed under Section 17-2-1 as
343 provided in such section.

344 The provisions of this section shall apply to all
345 municipalities of this state, whether operating under the code
346 charter, a special charter, commission form, or other form of
347 government.

348 **SECTION 6.** This act shall take effect and be in force from
349 and after its passage.