

By: Senator(s) Chaney

To: Insurance

SENATE BILL NO. 2853

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 SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972, IN
 10 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

14 17-2-1. (1) The counties of Jackson, George, Harrison,
 15 Hancock, Stone and Pearl River, including all municipalities
 16 therein, shall enforce, on an emergency basis, all the wind and
 17 flood mitigation requirements prescribed by the 2003 International
 18 Residential Code and the 2003 International Building Code, as
 19 supplemented.

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

30 (3) (a) A county board of supervisors or municipal
 31 governing authorities, as the case may be, described in subsection

32 (1) of this section shall adopt as minimum codes the latest
33 editions of the following:

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

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

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

51 (i) Codes established by the Mississippi Building
52 Code Council.

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

56 (4) The provisions of this section shall go into effect
57 thirty (30) days from the effective date of this chapter.
58 However, within sixty (60) days after the provisions of this
59 section go into effect, the board of supervisors of a county
60 and/or the governing authorities of any municipality within a
61 county, upon resolution duly adopted and entered upon its minutes,
62 may choose not to be subject to the code requirements imposed
63 under this section.

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

66 17-2-3. (1) There is hereby created the Mississippi
67 Building Codes Council. Each member of the council shall be
68 appointed by the executive director of his respective professional
69 association unless otherwise stated herein. Each member shall
70 serve for a term of three (3) years and until a successor is
71 appointed and qualifies. No person who has previously been
72 convicted of a felony in this state or any other state may be
73 appointed to the council. All members of the council shall be
74 residents of the State of Mississippi. The council shall consist
75 of twenty-six (26) members composed of:

76 (a) One (1) representative of the American Institute of
77 Architects of Mississippi;

78 (b) Three (3) representatives of the Home Builders
79 Association of Mississippi;

80 (c) One (1) representative of the Associated General
81 Contractors of Mississippi;

82 (d) One (1) representative of the Associated Builders
83 and Contractors of Mississippi;

84 (e) One (1) representative of the American Council of
85 Engineering Companies of Mississippi;

86 (f) Two (2) representatives of the Building Officials
87 Association of Mississippi;

88 (g) One (1) disabled person to be appointed by the
89 Governor;

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

92 (i) One (1) representative of the Mississippi Municipal
93 League;

94 (j) One (1) representative of the Mississippi
95 Manufactured Housing Association;

96 (k) One (1) representative of the electrical industry
97 who is a master electrician to be appointed by the American
98 Subcontractors Association;

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

102 (m) One (1) representative of the plumbing industry who
103 is a master plumber to be appointed by the American Subcontractors
104 Association;

105 (n) One (1) representative of the Mississippi Fire
106 Chiefs Association;

107 (o) One (1) representative of the Mississippi
108 Association of Supervisors;

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

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

113 (r) One (1) person representing the consumer who shall
114 have no interest in the construction industry to be appointed by
115 the Governor;

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

118 (t) The Executive Director of the State Board of
119 Professional Geologists, or his designee, to serve ex officio,
120 nonvoting; and

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

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

125 (3) Any member with unexcused absences for more than three
126 (3) consecutive meetings shall be replaced by his sponsoring
127 organization.

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

141 (5) The council shall adopt by reference and amend only the
142 latest editions of the following as discretionary statewide
143 minimum codes:

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

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

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

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

161 **SECTION 3.** Section 19-5-9, Mississippi Code of 1972, is
162 amended as follows:
163 19-5-9. The construction codes published by a nationally
164 recognized code group which sets minimum standards and has the
165 proper provisions to maintain up-to-date amendments are adopted as
166 minimum standard guides for building, plumbing, electrical, gas,
167 sanitary, and other related codes in Mississippi. Any county
168 within the State of Mississippi, in the discretion of the board of
169 supervisors, may adopt building codes, plumbing codes, electrical
170 codes, sanitary codes, or other related codes dealing with general
171 public health, safety or welfare, or a combination of the same,
172 within but not exceeding the provisions of the construction codes
173 published by nationally recognized code groups, by order or
174 resolution in the manner prescribed in this section, but those
175 codes so adopted shall apply only to the unincorporated areas of
176 the county. However, those codes shall not apply to the erection,
177 maintenance, repair or extension of farm buildings or farm
178 structures, except as may be required under the terms of the
179 "Flood Disaster Protection Act of 1973," and shall apply to a
180 master planned community as defined in Section 19-5-10 only to the
181 extent allowed in Section 19-5-10. The provisions of this section
182 shall not be construed to authorize the adoption of any code which
183 applies to the installation, repair or maintenance of electric
184 wires, pipelines, apparatus, equipment or devices by or for a
185 utility rendering public utility services, required by it to be
186 utilized in the rendition of its duly authorized service to the
187 public. Before any such code shall be adopted, it shall be either
188 printed or typewritten and shall be presented in pamphlet form to
189 the board of supervisors at a regular meeting. The order or
190 resolution adopting the code shall not set out the code in full,
191 but shall merely identify the same. The vote or passage of the
192 order or resolution shall be the same as on any other order or
193 resolution. After its adoption, the code or codes shall be

194 certified to by the president and clerk of the board of
195 supervisors and shall be filed as a permanent record in the office
196 of the clerk who shall not be required to transcribe and record
197 the same in the minute book as other orders and resolutions.

198 All provisions of this section shall apply to amendments and
199 revisions of the codes mentioned in this section. The provisions
200 of this section shall be in addition and supplemental to any
201 existing laws authorizing the adoption, amendment or revision of
202 county orders, resolutions or codes.

203 Any code adopted under the provisions of this section shall
204 not be in operation or force until sixty (60) days have elapsed
205 from the adoption of same; however, any code adopted for the
206 immediate preservation of the public health, safety and general
207 welfare may be effective from and after its adoption by a
208 unanimous vote of the members of the board. Within five (5) days
209 after the adoption or passage of an order or resolution adopting
210 that code or codes the clerk of the board of supervisors shall
211 publish in a legal newspaper published in the county the full text
212 of the order or resolution adopting and approving the code, and
213 the publication shall be inserted at least three (3) times, and
214 shall be completed within thirty (30) days after the passage of
215 the order or resolution.

216 Any person or persons objecting to the code or codes may
217 object in writing to the provisions of the code or codes within
218 sixty (60) days after the passage of the order or resolution
219 approving same, and if the board of supervisors adjudicates that
220 ten percent (10%) or more of the qualified electors residing in
221 the affected unincorporated areas of the county have objected in
222 writing to the code or codes, then in such event the code shall be
223 inoperative and not in effect unless adopted for the immediate
224 preservation of the public health, safety and general welfare
225 until approved by a special election called by the board of
226 supervisors as other special elections are called and conducted by

227 the election commissioners of the county as other special
228 elections are conducted, the special election to be participated
229 in by all the qualified electors of the county residing in the
230 unincorporated areas of the county. If the voters approve the
231 code or codes in the special election it shall be in force and in
232 operation thereafter until amended or modified as provided in this
233 section. If the majority of the qualified electors voting in the
234 special election vote against the code or codes, then, in such
235 event, the code or codes shall be void and of no force and effect,
236 and no other code or codes dealing with that subject shall be
237 adopted under the provisions of this section until at least two
238 (2) years thereafter.

239 After any such code shall take effect the board of
240 supervisors is authorized to employ such directors and other
241 personnel as the board, in its discretion, deems necessary and to
242 expend general county funds or any other funds available to the
243 board to fulfill the purposes of this section.

244 For the purpose of promoting health, safety, morals or the
245 general welfare of the community, the governing authority of any
246 municipality, and, with respect to the unincorporated part of any
247 county, the governing authority of any county, in its discretion,
248 are empowered to regulate the height, number of stories and size
249 of building and other structures, the percentage of lot that may
250 be occupied, the size of the yards, courts and other open spaces,
251 the density or population, and the location and use of buildings,
252 structures and land for trade, industry, residence or other
253 purposes, but no permits shall be required except as may be
254 required under the terms of the "Flood Disaster Protection Act of
255 1973" for the erection, maintenance, repair or extension of farm
256 buildings or farm structures outside the corporate limits of
257 municipalities.

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

260 Notwithstanding any provision of this section to the
261 contrary, any code adopted by a county before or after April 12,
262 2001, is subject to the provisions of Section 41-26-14(10).

263 Notwithstanding any provision of this section to the
264 contrary, the Boards of Supervisors of Jackson, George, Harrison,
265 Hancock, Stone and Pearl River Counties shall enforce the
266 requirements imposed under Section 17-2-1 as provided in such
267 section.

268 **SECTION 4.** Section 21-19-25, Mississippi Code of 1972, is
269 amended as follows:

270 21-19-25. Any municipality within the State of Mississippi
271 may, in the discretion of its governing authorities, adopt
272 building codes, plumbing codes, electrical codes, gas codes,
273 sanitary codes, or any other codes dealing with general public
274 health, safety or welfare, or a combination of the same, by
275 ordinance, in the manner prescribed in this section. Before any
276 such code shall be adopted, it shall be either printed or
277 typewritten, and it shall be presented in pamphlet form to the
278 governing authorities of the municipality at a regular meeting.
279 The ordinance adopting the code shall not set out the code in
280 full, but shall merely identify the same. The vote on passage of
281 the ordinance shall be the same as on any other ordinances. After
282 its adoption, the code shall be certified to by the mayor and
283 clerk of the municipality, and shall be filed as a permanent
284 record in the office of the clerk, who shall not be required to
285 transcribe and record the same in the ordinance book as other
286 ordinances. It shall not be necessary that the ordinance adopting
287 the code or the code itself be published in full, but notice of
288 the adoption of the code shall be given by publication in some
289 newspaper of the municipality for one (1) time, or if there be no
290 such newspaper, by posting at three (3) or more public places
291 within the corporate limits, a notice in substantially the
292 following form:

293 Notice is given that the city (or town or village)
294 of _____, on the (give date of ordinance adopting
295 code), adopted (state type of code and other information
296 serving to identify the same) code.

297 All the provisions of this section shall apply to amendments
298 and revisions of the code mentioned in this section. Any code
299 adopted in accordance with this section shall not be in force for
300 one (1) month after its passage, unless the municipal authorities
301 in the ordinance authorize to the contrary. The provisions of
302 this section shall be in addition and supplemental to any existing
303 laws authorizing the adoption, amendment or revision of municipal
304 ordinances or codes.

305 Notwithstanding any provision of this section to the
306 contrary, any code adopted by a municipality before or after April
307 12, 2001, is subject to the provisions of Section 41-26-14(10).

308 Notwithstanding any provision of this section to the
309 contrary, the governing authorities of each municipality in
310 Jackson, George, Harrison, Hancock, Stone and Pearl River Counties
311 shall enforce the requirements imposed under Section 17-2-1 as
312 provided in such section.

313 The provisions of this section shall apply to all
314 municipalities of this state, whether operating under the code
315 charter, a special charter, commission form, or other form of
316 government.

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