

By: Representatives Hobgood-Wilkes, Ladner,
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To: County Affairs;
Municipalities

HOUSE BILL NO. 1143

1 AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE PROVISIONS REQUIRING THAT COUNTIES AND
3 MUNICIPALITIES REQUIRE PERMITTING AS A CONDITION TO CONSTRUCTION;
4 TO BRING FORWARD SECTIONS 73-59-1, 73-59-3, 73-59-9 AND 73-59-15,
5 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF LAW REGULATING
6 RESIDENTIAL BUILDERS AND REMODELERS; FOR THE PURPOSES OF POSSIBLE
7 AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 19-5-9, Mississippi Code of 1972, is
10 amended as follows:

11 19-5-9. (1) The construction codes published by a
12 nationally recognized code group which sets minimum standards and
13 has the proper provisions to maintain up-to-date amendments are
14 adopted as minimum standard guides for building, plumbing,
15 electrical, gas, sanitary, and other related codes in Mississippi.
16 Any county within the State of Mississippi, in the discretion of
17 the board of supervisors, may adopt building codes, plumbing
18 codes, electrical codes, sanitary codes, or other related codes
19 dealing with general public health, safety or welfare, or a
20 combination of the same, within but not exceeding the provisions



21 of the construction codes published by nationally recognized code
22 groups, by order or resolution in the manner prescribed in this
23 section, but those codes so adopted shall apply only to the
24 unincorporated areas of the county. However, those codes shall
25 not apply to the erection, maintenance, repair or extension of
26 farm buildings or farm structures, except as may be required under
27 the terms of the "Flood Disaster Protection Act of 1973," and
28 shall apply to a master planned community as defined in Section
29 19-5-10 only to the extent allowed in Section 19-5-10. The
30 provisions of this section shall not be construed to authorize the
31 adoption of any code which applies to the installation, repair or
32 maintenance of electric wires, pipelines, apparatus, equipment or
33 devices by or for a utility rendering public utility services,
34 required by it to be utilized in the rendition of its duly
35 authorized service to the public. Before any such code shall be
36 adopted, it shall be either printed or typewritten and shall be
37 presented in pamphlet form to the board of supervisors at a
38 regular meeting. The order or resolution adopting the code shall
39 not set out the code in full, but shall merely identify the same.
40 The vote or passage of the order or resolution shall be the same
41 as on any other order or resolution. After its adoption, the code
42 or codes shall be certified to by the president and clerk of the
43 board of supervisors and shall be filed as a permanent record in
44 the office of the clerk who shall not be required to transcribe



45 and record the same in the minute book as other orders and
46 resolutions.

47 (2) If the board of supervisors of any county adopts or has
48 adopted construction codes which do not have proper provisions to
49 maintain up-to-date amendments, specifications in such codes for
50 cements used in portland cement concrete shall be superseded by
51 nationally recognized specifications referenced in any code
52 adopted by the Mississippi Building Code Council.

53 (3) All provisions of this section shall apply to amendments
54 and revisions of the codes mentioned in this section. The
55 provisions of this section shall be in addition and supplemental
56 to any existing laws authorizing the adoption, amendment or
57 revision of county orders, resolutions or codes.

58 (4) Any code adopted under the provisions of this section
59 shall not be in operation or force until sixty (60) days have
60 elapsed from the adoption of same; however, any code adopted for
61 the immediate preservation of the public health, safety and
62 general welfare may be effective from and after its adoption by a
63 unanimous vote of the members of the board. Within five (5) days
64 after the adoption or passage of an order or resolution adopting
65 that code or codes the clerk of the board of supervisors shall
66 publish in a legal newspaper published in the county the full text
67 of the order or resolution adopting and approving the code, and
68 the publication shall be inserted at least three (3) times, and



69 shall be completed within thirty (30) days after the passage of
70 the order or resolution.

71 (5) Any person or persons objecting to the code or codes may
72 object in writing to the provisions of the code or codes within
73 sixty (60) days after the passage of the order or resolution
74 approving same, and if the board of supervisors adjudicates that
75 ten percent (10%) or more of the qualified electors residing in
76 the affected unincorporated areas of the county have objected in
77 writing to the code or codes, then in such event the code shall be
78 inoperative and not in effect unless adopted for the immediate
79 preservation of the public health, safety and general welfare
80 until approved by a special election called by the board of
81 supervisors as other special elections are called and conducted by
82 the election commissioners of the county as other special
83 elections are conducted, the special election to be participated
84 in by all the qualified electors of the county residing in the
85 unincorporated areas of the county. If the voters approve the
86 code or codes in the special election it shall be in force and in
87 operation thereafter until amended or modified as provided in this
88 section. If the majority of the qualified electors voting in the
89 special election vote against the code or codes, then, in such
90 event, the code or codes shall be void and of no force and effect,
91 and no other code or codes dealing with that subject shall be
92 adopted under the provisions of this section until at least two
93 (2) years thereafter.



94 (6) After any such code shall take effect the board of
95 supervisors is authorized to employ such directors and other
96 personnel as the board, in its discretion, deems necessary and to
97 expend general county funds or any other funds available to the
98 board to fulfill the purposes of this section.

99 (7) For the purpose of promoting health, safety, morals or
100 the general welfare of the community, the governing authority of
101 any municipality, and, with respect to the unincorporated part of
102 any county, the governing authority of any county, in its
103 discretion, is empowered to regulate the height, number of stories
104 and size of building and other structures, the percentage of lot
105 that may be occupied, the size of the yards, courts and other open
106 spaces, the density or population, and the location and use of
107 buildings, structures and land for trade, industry, residence or
108 other purposes, but no permits shall be required except as may be
109 required under the terms of the "Flood Disaster Protection Act of
110 1973" for the erection, maintenance, repair or extension of farm
111 buildings or farm structures outside the corporate limits of
112 municipalities.

113 (8) The authority granted in this section is cumulative and
114 supplemental to any other authority granted by law.

115 (9) Notwithstanding any provision of this section to the
116 contrary, any code adopted by a county before or after April 12,
117 2001, is subject to the provisions of Section 41-26-14(10).



118 (10) Notwithstanding any provision of this section to the
119 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,
120 Stone and Pearl River Counties shall enforce the requirements
121 imposed under Section 17-2-1 as provided in such section.

122 * * *

123 **SECTION 2.** Section 21-19-25, Mississippi Code of 1972, is
124 amended as follows:

125 21-19-25. (1) Any municipality within the State of
126 Mississippi may, in the discretion of its governing authority,
127 adopt building codes, plumbing codes, electrical codes, gas codes,
128 sanitary codes, or any other codes dealing with general public
129 health, safety or welfare, or a combination of the same, by
130 ordinance, in the manner prescribed in this section. Before any
131 such code shall be adopted, it shall be either printed or
132 typewritten, and it shall be presented in pamphlet form to the
133 governing authority of the municipality at a regular meeting. The
134 ordinance adopting the code shall not set out the code in full,
135 but shall merely identify the same. The vote on passage of the
136 ordinance shall be the same as on any other ordinances. After its
137 adoption, the code shall be certified to by the mayor and clerk of
138 the municipality, and shall be filed as a permanent record in the
139 office of the clerk, who shall not be required to transcribe and
140 record the same in the ordinance book as other ordinances. It
141 shall not be necessary that the ordinance adopting the code or the
142 code itself be published in full, but notice of the adoption of



143 the code shall be given by publication in some newspaper of the
144 municipality for one (1) time, or if there be no such newspaper,
145 by posting at three (3) or more public places within the corporate
146 limits, a notice in substantially the following form:

147 Notice is given that the city (or town or village) of
148 _____, on the (give date of ordinance adopting code), adopted
149 (state type of code and other information serving to identify the
150 same) code.

151 (2) If the governing authority of any municipality adopts or
152 has adopted construction codes which do not have proper provisions
153 to maintain up-to-date amendments, specifications in such codes
154 for cements used in portland cement concrete shall be superseded
155 by nationally recognized specifications referenced in any code
156 adopted by the Mississippi Building Code Council.

157 (3) All the provisions of this section shall apply to
158 amendments and revisions of the code mentioned in this section.
159 Any code adopted in accordance with this section shall not be in
160 force for one (1) month after its passage, unless the municipal
161 authorities in the ordinance authorize to the contrary. The
162 provisions of this section shall be in addition and supplemental
163 to any existing laws authorizing the adoption, amendment or
164 revision of municipal ordinances or codes.

165 (4) Notwithstanding any provision of this section to the
166 contrary, any code adopted by a municipality before or after April
167 12, 2001, is subject to the provisions of Section 41-26-14(10).



168 (5) Notwithstanding any provision of this section to the
169 contrary, the governing authorities of each municipality in
170 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall
171 enforce the requirements imposed under Section 17-2-1 as provided
172 in such section.

173 * * *

174 (* * *6) The provisions of this section shall apply to all
175 municipalities of this state, whether operating under the code
176 charter, a special charter, commission form, or other form of
177 government.

178 **SECTION 3.** Section 73-59-1, Mississippi Code of 1972, is
179 brought forward as follows:

180 73-59-1. For the purposes of this chapter, the following
181 words shall have the meanings ascribed herein:

182 (a) "Board" means the State Board of Contractors
183 created in Section 31-3-3, Mississippi Code of 1972.

184 (b) "Residential builder" means any corporation,
185 partnership or individual who constructs a building or structure
186 for sale for use by another as a residence or who, for a fixed
187 price, commission, fee, wage or other compensation, undertakes or
188 offers to undertake the construction, or superintending of the
189 construction, of any building or structure which is not more than
190 three (3) floors in height, to be used by another as a residence,
191 when the total cost of the undertaking exceeds Fifty Thousand
192 Dollars (\$50,000.00).



193 (c) "Remodeler" means any corporation, partnership or
194 individual who, for a fixed price, commission, fee, wage or other
195 compensation, undertakes or offers to undertake the construction,
196 or superintending of the construction, of improvements to an
197 existing residence when the total cost of the improvements exceeds
198 Ten Thousand Dollars (\$10,000.00).

199 (d) "Residential construction" means any undertaking
200 described in paragraph (b) of this section performed by a
201 residential builder.

202 (e) "Residential improvement" means any undertaking
203 described in paragraph (c) of this section performed by a
204 remodeler.

205 (f) "Active licensee" means any builder or remodeler
206 licensed under this chapter and engaged in building and
207 remodeling.

208 (g) "Inactive licensee" means any builder or remodeler
209 licensed under this chapter and not engaged in building or
210 remodeling.

211 (h) "Construction manager" means any person or entity,
212 other than a residential builder, remodeler or owner, who has a
213 contract or agreement with the owner of the property for
214 residential construction or residential improvement, no matter if
215 that owner himself is the general contractor or a holder of a
216 building permit.



217 (i) "Residential solar contractor" means any person or
218 entity who installs, modifies, maintains, and repairs thermal and
219 photovoltaic solar energy systems.

220 **SECTION 4.** Section 73-59-3, Mississippi Code of 1972, is
221 brought forward as follows:

222 73-59-3. (1) Except as otherwise provided in Section
223 73-59-15 or Section 33-1-39, the following persons or entities
224 shall be licensed by the board annually as an active licensee or
225 inactive licensee, as appropriate:

226 (a) Persons or entities acting in the capacity as a
227 residential builder;

228 (b) Persons or entities acting in the capacity as a
229 residential remodeler;

230 (c) Persons or entities acting in the capacity as a
231 construction manager through a contract or an agreement with the
232 owner of the property being improved or constructed upon;

233 (d) Any subcontractor, of any tier, performing the
234 following work or within the following trade, on any residential
235 construction or residential improvement project, no matter the
236 dollar amount of the construction or improvements:

237 (i) Electrical;

238 (ii) Plumbing;

239 (iii) Mechanical; and/or

240 (iv) Heating, ventilation and/or air conditioning;

241 and



242 (e) Persons or entities acting in the capacity as a
243 residential solar contractor.

244 (2) As a prerequisite to obtaining a license or renewal
245 thereof, each of the persons or entities in subsection (1) of this
246 section shall submit to the board:

247 (a) Proof of workers' compensation insurance, if
248 required by applicable law; however, workers' compensation
249 insurance shall not be required for inactive licensees;

250 (b) A federal employment identification number or
251 social security number.

252 (3) The board may require liability insurance to be licensed
253 under this chapter and it shall be reflected on the certificate of
254 licensure; however, liability insurance shall not be required for
255 inactive licensees.

256 (4) The board shall issue or renew a license to persons or
257 entities required by subsection (1) of this section to be
258 licensed, upon payment to the board of the license fee. The
259 initial license fee shall be Fifty Dollars (\$50.00). The license
260 fee may thereafter be increased or decreased by the board and
261 cannot exceed One Hundred Dollars (\$100.00); however, the receipts
262 from fees collected by the board shall be no greater than the
263 amount required to pay all costs and expenses incurred by the
264 board in enforcing the provisions of this chapter. Twenty-five
265 Dollars (\$25.00) of the fee required by this section which is
266 assessed to residential builders licensed under the provisions of



267 Section 73-59-1 et seq. shall be deposited to the Construction
268 Education Fund created pursuant to Section 31-3-14 and shall be
269 distributed to the Mississippi Housing Institute. The remaining
270 fees collected under this chapter shall be deposited into the
271 special fund in the State Treasury known as the "State Board of
272 Contractors Fund" created pursuant to Section 31-3-17 and shall be
273 used for the administration and enforcement of this chapter and as
274 provided in Section 31-3-14. Amounts in such fund shall not lapse
275 into the State General Fund at the end of a fiscal year. Interest
276 accrued to such fund shall remain in the fund. All expenditures
277 from the special fund shall be by requisition to the Department of
278 Finance and Administration, signed by the executive director of
279 the board and countersigned by the chairman or vice chairman of
280 the board.

281 (5) Except as provided in Section 33-1-39, the license shall
282 expire on the last day of the twelfth month following its issuance
283 or renewal and shall become invalid unless renewed. The board may
284 notify by mail or email every licensee under this chapter of the
285 date of the expiration of his license and the amount of the fee
286 required for renewal of the license for one (1) year. To receive
287 notification by email, a licensee must notify the board of his
288 desire to receive notification by email and provide an email
289 address. Such notice may be mailed or emailed within thirty (30)
290 days prior to the expiration date of the license. The failure on
291 the part of any licensee to renew his license annually in such



292 twelfth month shall not deprive such licensee of the right of
293 renewal, provided that renewal is effected within one hundred
294 eighty (180) days after the expiration date of the license by
295 payment of the license fee plus a penalty of ten percent (10%) of
296 the license fee. A new license required to replace a revoked,
297 lost, mutilated or destroyed license may be issued, subject to the
298 rules of the board, for a charge of not more than Fifty Dollars
299 (\$50.00). An inactive licensee may become an active licensee upon
300 application meeting all the requirements of this section.

301 (6) Any person who is not a resident of the State of
302 Mississippi who desires to perform residential construction or
303 residential improvement shall be licensed to perform such
304 construction or improvement as provided by this chapter.

305 **SECTION 5.** Section 73-59-9, Mississippi Code of 1972, is
306 brought forward as follows:

307 73-59-9. (1) Any person or entity required to have a
308 license under Section 73-59-3(1) who undertakes or attempts to
309 undertake the business of residential construction or improvement
310 without having a valid license as required by this chapter, or who
311 knowingly presents to the board, or files with the board, false
312 information for the purpose of obtaining such license, shall be
313 deemed guilty of a misdemeanor and, upon conviction, shall be
314 fined not less than One Hundred Dollars (\$100.00) and not more
315 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not



316 less than thirty (30) nor more than sixty (60) days in the county
317 jail, or both.

318 (2) Any person or entity required to have a license under
319 Section 73-59-3(1) who does not have the license provided by this
320 chapter at the time construction, building or remodeling services
321 are rendered may not bring any action, either at law or in equity,
322 to enforce any contract for residential building or remodeling or
323 to enforce a sales contract, but instead shall be only permitted
324 to recover as damages actual documented expenses for labor,
325 materials or both, incurred as a result of the construction,
326 building or remodeling services rendered, but only for those
327 expenses which can be shown by clear and convincing evidence.

328 (3) The board shall have the authority to issue a citation
329 and may stop work of a residential builder or remodeler performing
330 work without having a valid license as required by this chapter.

331 **SECTION 6.** Section 73-59-15, Mississippi Code of 1972, is
332 brought forward as follows:

333 73-59-15. (1) This chapter shall not apply to:

334 (a) Agricultural buildings, buildings used for
335 agricultural purposes, buildings constructed as a community
336 effort, or tenant houses;

337 (b) Any person who undertakes construction or
338 improvement on his own residence, or who acts as his own general
339 contractor in the performance of construction or improvement on
340 his own residence;



341 (c) Any person who undertakes residential construction
342 or improvement, or who acts as a general contractor in the
343 performance of residential construction or improvement, or who
344 acts under supervision of the owner-occupant with respect to
345 residential construction or improvement, when the owner of such
346 construction or improvement is related to such person by
347 consanguinity or direct affinity, and the property or improvement
348 will not be for sale, rent, public use or public assembly;

349 (d) The owners of property who supervise, superintend,
350 oversee, direct or in any manner assume charge of the
351 construction, alteration, repair, improvement, movement,
352 demolition, putting up, tearing down or maintenance of any
353 building, railroad, excavation, project, development, improvement,
354 plant facility or any other construction undertaking on such
355 property for use by such owner and which will not be for sale,
356 rent, public use or public assembly;

357 (e) Any contractor holding a valid license or
358 certificate of responsibility for general construction from the
359 board;

360 (f) Any nonresident contractor holding a valid license
361 or certificate of responsibility for building construction;

362 (g) Any person who constructs two (2) single residences
363 or less within a period of one (1) year in any county or
364 municipality which does not require a building permit or any local



365 certification for such construction, provided that the person is
366 not building the residences for sale, profit or remuneration.

367 (2) A person specified in subsection (1)(b) or (c) shall not
368 make more than one (1) application for a permit to construct a
369 single residence or shall not construct more than one (1) single
370 residence within a period of one (1) year. There shall be a
371 rebuttable presumption that such person intends to construct for
372 the purpose of sale, lease, rent or any similar purpose if more
373 than one (1) application is made for a permit to construct a
374 single residence or if more than one (1) single residence is
375 constructed within a period of one (1) year.

376 **SECTION 7.** This act shall take effect and be in force from
377 and after July 1, 2023.

