

By: Senator(s) Suber, Hill

To: County Affairs;  
Municipalities

SENATE BILL NO. 2612  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 19-5-9, MISSISSIPPI CODE OF 1972, TO  
2 ALLOW CERTAIN COUNTIES TO OPT OUT OF REQUIRING PERMITTING AS A  
3 CONDITION TO CONSTRUCTION WITHIN THE UNINCORPORATED AREAS OF A  
4 COUNTY; TO AMEND SECTION 21-19-25, MISSISSIPPI CODE OF 1972, TO  
5 ALLOW CERTAIN MUNICIPALITIES TO OPT OUT OF REQUIRING PERMITTING AS  
6 A CONDITION TO CONSTRUCTION WITHIN THE MUNICIPALITY'S  
7 JURISDICTION; TO AMEND SECTION 73-59-1, MISSISSIPPI CODE OF 1972,  
8 TO INCREASE THE MONETARY THRESHOLD OF IMPROVEMENTS TO AN EXISTING  
9 RESIDENCE A PERSON MUST MEET IN ORDER TO FALL WITHIN THE  
10 DEFINITION OF REMODELER; TO AMEND 73-59-3, MISSISSIPPI CODE OF  
11 1972, TO ESTABLISH AN ALTERNATIVE LICENSURE PROCEDURE FOR THE  
12 STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

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

16 19-5-9. (1) The construction codes published by a  
17 nationally recognized code group which sets minimum standards and  
18 has the proper provisions to maintain up-to-date amendments are  
19 adopted as minimum standard guides for building, plumbing,  
20 electrical, gas, sanitary, and other related codes in Mississippi.  
21 Any county within the State of Mississippi, in the discretion of  
22 the board of supervisors, may adopt building codes, plumbing  
23 codes, electrical codes, sanitary codes, or other related codes



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



49 the office of the clerk who shall not be required to transcribe  
50 and record the same in the minute book as other orders and  
51 resolutions.

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

58 (3) All provisions of this section shall apply to amendments  
59 and revisions of the codes mentioned in this section. The  
60 provisions of this section shall be in addition and supplemental  
61 to any existing laws authorizing the adoption, amendment or  
62 revision of county orders, resolutions or codes.

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



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

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



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

104           (7) For the purpose of promoting health, safety, morals or  
105 the general welfare of the community, the governing authority of  
106 any municipality, and, with respect to the unincorporated part of  
107 any county, the governing authority of any county, in its  
108 discretion, is empowered to regulate the height, number of stories  
109 and size of building and other structures, the percentage of lot  
110 that may be occupied, the size of the yards, courts and other open  
111 spaces, the density or population, and the location and use of  
112 buildings, structures and land for trade, industry, residence or  
113 other purposes, but no permits shall be required except as may be  
114 required under the terms of the "Flood Disaster Protection Act of  
115 1973" for the erection, maintenance, repair or extension of farm  
116 buildings or farm structures outside the corporate limits of  
117 municipalities.

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

120           (9) Notwithstanding any provision of this section to the  
121 contrary, any code adopted by a county before or after April 12,  
122 2001, is subject to the provisions of Section 41-26-14(10).



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

127 (11) Regardless of whether a county adopts or has adopted  
128 codes, as set forth in this section, each and every county in this  
129 state shall require permitting as a condition to construction  
130 within the unincorporated areas of the county \* \* \*; provided,  
131 however, that each county with a population under twenty-two  
132 thousand five hundred (22,500) according to the most recent  
133 federal decennial census may opt out of requiring such permitting  
134 by a majority vote of the board of supervisors made before  
135 December 31, 2023. Such an opt out shall only be effective until  
136 July 1, 2028. If a county is eligible to opt out but does not do  
137 so, or if the county is not eligible to opt out, the required  
138 permits shall contain, on their face, in conspicuous print, (a)  
139 the contractor's material purchase certificate number to the  
140 extent furnished by the Department of Revenue pursuant to Section  
141 27-65-21(3) or the contractor's Taxpayer Identification Number as  
142 furnished by the Internal Revenue Service, and either a copy of  
143 such material purchase certificate furnished by the Department of  
144 Revenue pursuant to Section 27-65-21(3), or a copy of the  
145 contractor's W-9, as the case may be, shall be required to be  
146 provided to the county as part of the prime contractor's  
147 application for such permit, prior to the issuance of such permit,



148 and (b) the contractor's license or certificate of responsibility  
149 number as required by either Section 31-3-14 et seq., 51-5-1 et  
150 seq. or 73-59-1 et seq.

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

153         21-19-25. (1) Any municipality within the State of  
154 Mississippi may, in the discretion of its governing authority,  
155 adopt building codes, plumbing codes, electrical codes, gas codes,  
156 sanitary codes, or any other codes dealing with general public  
157 health, safety or welfare, or a combination of the same, by  
158 ordinance, in the manner prescribed in this section. Before any  
159 such code shall be adopted, it shall be either printed or  
160 typewritten, and it shall be presented in pamphlet form to the  
161 governing authority of the municipality at a regular meeting. The  
162 ordinance adopting the code shall not set out the code in full,  
163 but shall merely identify the same. The vote on passage of the  
164 ordinance shall be the same as on any other ordinances. After its  
165 adoption, the code shall be certified to by the mayor and clerk of  
166 the municipality, and shall be filed as a permanent record in the  
167 office of the clerk, who shall not be required to transcribe and  
168 record the same in the ordinance book as other ordinances. It  
169 shall not be necessary that the ordinance adopting the code or the  
170 code itself be published in full, but notice of the adoption of  
171 the code shall be given by publication in some newspaper of the  
172 municipality for one (1) time, or if there be no such newspaper,



173 by posting at three (3) or more public places within the corporate  
174 limits, a notice in substantially the following form:

175 Notice is given that the city (or town or village) of  
176 \_\_\_\_\_, on the (give date of ordinance adopting code), adopted  
177 (state type of code and other information serving to identify the  
178 same) code.

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

185 (3) All the provisions of this section shall apply to  
186 amendments and revisions of the code mentioned in this section.  
187 Any code adopted in accordance with this section shall not be in  
188 force for one (1) month after its passage, unless the municipal  
189 authorities in the ordinance authorize to the contrary. The  
190 provisions of this section shall be in addition and supplemental  
191 to any existing laws authorizing the adoption, amendment or  
192 revision of municipal ordinances or codes.

193 (4) Notwithstanding any provision of this section to the  
194 contrary, any code adopted by a municipality before or after April  
195 12, 2001, is subject to the provisions of Section 41-26-14(10).

196 (5) Notwithstanding any provision of this section to the  
197 contrary, the governing authorities of each municipality in





198 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall  
199 enforce the requirements imposed under Section 17-2-1 as provided  
200 in such section.

201 (6) Regardless of whether the governing authority of any  
202 municipality adopts or has adopted construction codes, as set  
203 forth in this section, each and every governing authority of any  
204 municipality shall require permitting as a condition to  
205 construction within the municipality's jurisdiction \* \* \*;  
206 provided, however, that each municipality with a population under  
207 seven thousand five hundred (7,500) according to the most recent  
208 federal decennial census may opt out of requiring such permitting  
209 by a majority vote of the governing authority made by December 31,  
210 2024. Such an opt out shall only be effective until July 1, 2028.  
211 If a municipality is eligible to opt out but does not do so, or is  
212 ineligible to opt out, all such permits shall contain on their  
213 faces, in conspicuous print, (a) the contractor's material  
214 purchase certificate number to the extent one is furnished by the  
215 Department of Revenue pursuant to Section 27-65-21(3) or the  
216 contractor's Taxpayer Identification Number as furnished by the  
217 Internal Revenue Service, and either a copy of such material  
218 purchase certificate furnished by the Department of Revenue  
219 pursuant to Section 27-65-21(3), or a copy of the contractor's  
220 W-9, as the case may be, shall be required to be provided to the  
221 governing authority of such municipality as part of the  
222 contractor's application for such permit, prior to the issuance of



223 such permit, and (b) the contractor's license or certificate of  
224 responsibility number as required by either Section 31-3-14 et  
225 seq., 51-5-1 et seq. or 73-59-1 et seq.

226 (7) The provisions of this section shall apply to all  
227 municipalities of this state, whether operating under the code  
228 charter, a special charter, commission form, or other form of  
229 government.

230 **SECTION 3.** Section 73-59-1, Mississippi Code of 1972, is  
231 amended as follows:

232 73-59-1. For the purposes of this chapter, the following  
233 words shall have the meanings ascribed herein:

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

236 (b) "Residential builder" means any corporation,  
237 partnership or individual who constructs a building or structure  
238 for sale for use by another as a residence or who, for a fixed  
239 price, commission, fee, wage or other compensation, undertakes or  
240 offers to undertake the construction, or superintending of the  
241 construction, of any building or structure which is not more than  
242 three (3) floors in height, to be used by another as a residence,  
243 when the total cost of the undertaking exceeds Fifty Thousand  
244 Dollars (\$50,000.00).

245 (c) "Remodeler" means any corporation, partnership or  
246 individual who, for a fixed price, commission, fee, wage or other  
247 compensation, undertakes or offers to undertake the construction,



248 or superintending of the construction, of improvements to an  
249 existing residence when the total cost of the improvements  
250 exceeds \* \* \* Twelve Thousand Five Hundred Dollars (\$12,500.00).

251 (d) "Residential construction" means any undertaking  
252 described in paragraph (b) of this section performed by a  
253 residential builder.

254 (e) "Residential improvement" means any undertaking  
255 described in paragraph (c) of this section performed by a  
256 remodeler.

257 (f) "Active licensee" means any builder or remodeler  
258 licensed under this chapter and engaged in building and  
259 remodeling.

260 (g) "Inactive licensee" means any builder or remodeler  
261 licensed under this chapter and not engaged in building or  
262 remodeling.

263 (h) "Construction manager" means any person or entity,  
264 other than a residential builder, remodeler or owner, who has a  
265 contract or agreement with the owner of the property for  
266 residential construction or residential improvement, no matter if  
267 that owner himself is the general contractor or a holder of a  
268 building permit.

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



272           **SECTION 4.** Section 73-59-3, Mississippi Code of 1972, is  
273 amended as follows:

274           73-59-3. (1) Except as otherwise provided in Section  
275 73-59-15 or Section 33-1-39, the following persons or entities  
276 shall be licensed by the board annually as an active licensee or  
277 inactive licensee, as appropriate:

278                   (a) Persons or entities acting in the capacity as a  
279 residential builder;

280                   (b) Persons or entities acting in the capacity as a  
281 residential remodeler;

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

285                   (d) Any subcontractor, of any tier, performing the  
286 following work or within the following trade, on any residential  
287 construction or residential improvement project, no matter the  
288 dollar amount of the construction or improvements:

289                           (i) Electrical;

290                           (ii) Plumbing;

291                           (iii) Mechanical; and/or

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

293 and

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



296           (2) As an alternative to examination provided for under  
297 Section 73-59-5, an applicant who is a person or entity required  
298 to be licensed by subsection (1)(c) and (d) of this section may be  
299 issued a license by the board if the applicant:

300                 (a) (i) Is licensed by a municipality and/or county  
301 and submits documentation that the applicant has passed a  
302 standardized examination such as an International Code Council  
303 (ICC) examination or a municipality or county-administered  
304 examination; or

305                 (ii) Can demonstrate, by notarized affidavit, that  
306 the applicant has been acting in the applicable capacity described  
307 in subsection (1)(d) of this section for not less than five (5)  
308 years and the applicant submits all of the following:

309                         1. One (1) reference letter from a building  
310 official or board licensed contractor specifying the  
311 classification of work for which the applicant is seeking a  
312 license;

313                         2. One (1) reference letter from a bank or  
314 other financial institution; and

315                         3. One (1) general reference letter from a  
316 project owner, architect, supplier or similar person or entity;  
317 and

318                 (b) Completes any applicable video course made  
319 available by the board and submits a certificate of completion for  
320 the course to the board.



321 No person required to be licensed under subsection (1)(c) and  
322 (d) of this section may be issued a license under this subsection  
323 after June 30, 2024.

324 ( \* \* \*3) As a prerequisite to obtaining a license or  
325 renewal thereof, each of the persons or entities in subsection (1)  
326 of this section shall submit to the board:

327 (a) Proof of workers' compensation insurance, if  
328 required by applicable law; however, workers' compensation  
329 insurance shall not be required for inactive licensees;

330 (b) A federal employment identification number or  
331 social security number.

332 ( \* \* \*4) The board may require liability insurance to be  
333 licensed under this chapter and it shall be reflected on the  
334 certificate of licensure; however, liability insurance shall not  
335 be required for inactive licensees.

336 ( \* \* \*5) The board shall issue or renew a license to  
337 persons or entities required by subsection (1) of this section to  
338 be licensed, upon payment to the board of the license fee. The  
339 initial license fee shall be Fifty Dollars (\$50.00). The license  
340 fee may thereafter be increased or decreased by the board and  
341 cannot exceed One Hundred Dollars (\$100.00); however, the receipts  
342 from fees collected by the board shall be no greater than the  
343 amount required to pay all costs and expenses incurred by the  
344 board in enforcing the provisions of this chapter. Twenty-five  
345 Dollars (\$25.00) of the fee required by this section which is



346 assessed to residential builders licensed under the provisions of  
347 Section 73-59-1 et seq. shall be deposited to the Construction  
348 Education Fund created pursuant to Section 31-3-14 and shall be  
349 distributed to the Mississippi Housing Institute. The remaining  
350 fees collected under this chapter shall be deposited into the  
351 special fund in the State Treasury known as the "State Board of  
352 Contractors Fund" created pursuant to Section 31-3-17 and shall be  
353 used for the administration and enforcement of this chapter and as  
354 provided in Section 31-3-14. Amounts in such fund shall not lapse  
355 into the State General Fund at the end of a fiscal year. Interest  
356 accrued to such fund shall remain in the fund. All expenditures  
357 from the special fund shall be by requisition to the Department of  
358 Finance and Administration, signed by the executive director of  
359 the board and countersigned by the chairman or vice chairman of  
360 the board.

361 ( \* \* \*6) Except as provided in Section 33-1-39, the license  
362 shall expire on the last day of the twelfth month following its  
363 issuance or renewal and shall become invalid unless renewed. The  
364 board may notify by mail or email every licensee under this  
365 chapter of the date of the expiration of his license and the  
366 amount of the fee required for renewal of the license for one (1)  
367 year. To receive notification by email, a licensee must notify  
368 the board of his desire to receive notification by email and  
369 provide an email address. Such notice may be mailed or emailed  
370 within thirty (30) days prior to the expiration date of the



371 license. The failure on the part of any licensee to renew his  
372 license annually in such twelfth month shall not deprive such  
373 licensee of the right of renewal, provided that renewal is  
374 effected within one hundred eighty (180) days after the expiration  
375 date of the license by payment of the license fee plus a penalty  
376 of ten percent (10%) of the license fee. A new license required  
377 to replace a revoked, lost, mutilated or destroyed license may be  
378 issued, subject to the rules of the board, for a charge of not  
379 more than Fifty Dollars (\$50.00). An inactive licensee may become  
380 an active licensee upon application meeting all the requirements  
381 of this section.

382 ( \* \* \*7) Any person who is not a resident of the State of  
383 Mississippi who desires to perform residential construction or  
384 residential improvement shall be licensed to perform such  
385 construction or improvement as provided by this chapter.

386 **SECTION 5.** This act shall take effect and be in force from  
387 and after July 1, 2023.

