

By: Senator(s) Seymour

To: Finance

SENATE BILL NO. 2838

1 AN ACT TO REPEAL CHAPTER 502, LAWS OF 2022, WHICH MANDATES  
 2 THAT COUNTIES AND MUNICIPALITIES REQUIRE PERMITTING AS A CONDITION  
 3 TO CONSTRUCTION WITHIN THEIR RESPECTIVE JURISDICTIONS, AND WHICH  
 4 REQUIRES THAT CERTAIN SUBCONTRACTORS, AS WELL AS PERSONS OR  
 5 ENTITIES ACTING AS RESIDENTIAL BUILDERS, RESIDENTIAL REMODELERS,  
 6 CONSTRUCTION MANAGERS OR RESIDENTIAL SOLAR CONTRACTORS, BE  
 7 ANNUALLY LICENSED BY THE STATE BOARD OF CONTRACTORS; TO AMEND  
 8 SECTIONS 19-5-9, 21-19-25, 73-59-1, 73-59-3, 73-59-9 AND 73-59-15,  
 9 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO PROHIBIT  
 10 COUNTIES AND MUNICIPALITIES FROM PREVENTING A HOMEOWNER FROM  
 11 APPLYING FOR A PERMIT FOR A CONSTRUCTION OR IMPROVEMENT PROJECT ON  
 12 THAT HOMEOWNER'S RESIDENCE, OR FROM OBTAINING THE PERMIT UPON  
 13 COMPLIANCE WITH LEGAL REQUIREMENTS; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Chapter 502, Laws of 2022, which mandates that  
 16 counties and municipalities require permitting as a condition to  
 17 construction within their respective jurisdictions, and which  
 18 requires that certain subcontractors, as well as persons or  
 19 entities acting as residential builders, residential remodelers,  
 20 construction managers or residential solar contractors, be  
 21 annually licensed by the State Board of Contractors, is repealed.

22 **SECTION 2.** Section 19-5-9, Mississippi Code of 1972, is  
 23 amended as follows:



24 19-5-9. (1) The construction codes published by a  
25 nationally recognized code group which sets minimum standards and  
26 has the proper provisions to maintain up-to-date amendments are  
27 adopted as minimum standard guides for building, plumbing,  
28 electrical, gas, sanitary, and other related codes in Mississippi.  
29 Any county within the State of Mississippi, in the discretion of  
30 the board of supervisors, may adopt building codes, plumbing  
31 codes, electrical codes, sanitary codes, or other related codes  
32 dealing with general public health, safety or welfare, or a  
33 combination of the same, within but not exceeding the provisions  
34 of the construction codes published by nationally recognized code  
35 groups, by order or resolution in the manner prescribed in this  
36 section, but those codes so adopted shall apply only to the  
37 unincorporated areas of the county. However, those codes shall  
38 not apply to the erection, maintenance, repair or extension of  
39 farm buildings or farm structures, except as may be required under  
40 the terms of the "Flood Disaster Protection Act of 1973," and  
41 shall apply to a master planned community as defined in Section  
42 19-5-10 only to the extent allowed in Section 19-5-10. The  
43 provisions of this section shall not be construed to authorize the  
44 adoption of any code which applies to the installation, repair or  
45 maintenance of electric wires, pipelines, apparatus, equipment or  
46 devices by or for a utility rendering public utility services,  
47 required by it to be utilized in the rendition of its duly  
48 authorized service to the public. Before any such code shall be



49 adopted, it shall be either printed or typewritten and shall be  
50 presented in pamphlet form to the board of supervisors at a  
51 regular meeting. The order or resolution adopting the code shall  
52 not set out the code in full, but shall merely identify the same.  
53 The vote or passage of the order or resolution shall be the same  
54 as on any other order or resolution. After its adoption, the code  
55 or codes shall be certified to by the president and clerk of the  
56 board of supervisors and shall be filed as a permanent record in  
57 the office of the clerk who shall not be required to transcribe  
58 and record the same in the minute book as other orders and  
59 resolutions.

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

66 (3) All provisions of this section shall apply to amendments  
67 and revisions of the codes mentioned in this section. The  
68 provisions of this section shall be in addition and supplemental  
69 to any existing laws authorizing the adoption, amendment or  
70 revision of county orders, resolutions or codes.

71 (4) Any code adopted under the provisions of this section  
72 shall not be in operation or force until sixty (60) days have  
73 elapsed from the adoption of same; however, any code adopted for



74 the immediate preservation of the public health, safety and  
75 general welfare may be effective from and after its adoption by a  
76 unanimous vote of the members of the board. Within five (5) days  
77 after the adoption or passage of an order or resolution adopting  
78 that code or codes the clerk of the board of supervisors shall  
79 publish in a legal newspaper published in the county the full text  
80 of the order or resolution adopting and approving the code, and  
81 the publication shall be inserted at least three (3) times, and  
82 shall be completed within thirty (30) days after the passage of  
83 the order or resolution.

84 (5) Any person or persons objecting to the code or codes may  
85 object in writing to the provisions of the code or codes within  
86 sixty (60) days after the passage of the order or resolution  
87 approving same, and if the board of supervisors adjudicates that  
88 ten percent (10%) or more of the qualified electors residing in  
89 the affected unincorporated areas of the county have objected in  
90 writing to the code or codes, then in such event the code shall be  
91 inoperative and not in effect unless adopted for the immediate  
92 preservation of the public health, safety and general welfare  
93 until approved by a special election called by the board of  
94 supervisors as other special elections are called and conducted by  
95 the election commissioners of the county as other special  
96 elections are conducted, the special election to be participated  
97 in by all the qualified electors of the county residing in the  
98 unincorporated areas of the county. If the voters approve the



99 code or codes in the special election it shall be in force and in  
100 operation thereafter until amended or modified as provided in this  
101 section. If the majority of the qualified electors voting in the  
102 special election vote against the code or codes, then, in such  
103 event, the code or codes shall be void and of no force and effect,  
104 and no other code or codes dealing with that subject shall be  
105 adopted under the provisions of this section until at least two  
106 (2) years thereafter.

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

112 (7) For the purpose of promoting health, safety, morals or  
113 the general welfare of the community, the governing authority of  
114 any municipality, and, with respect to the unincorporated part of  
115 any county, the governing authority of any county, in its  
116 discretion, is empowered to regulate the height, number of stories  
117 and size of building and other structures, the percentage of lot  
118 that may be occupied, the size of the yards, courts and other open  
119 spaces, the density or population, and the location and use of  
120 buildings, structures and land for trade, industry, residence or  
121 other purposes, but no permits shall be required except as may be  
122 required under the terms of the "Flood Disaster Protection Act of  
123 1973" for the erection, maintenance, repair or extension of farm



124 buildings or farm structures outside the corporate limits of  
125 municipalities.

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

128 (9) Notwithstanding any provision of this section to the  
129 contrary, any code adopted by a county before or after April 12,  
130 2001, is subject to the provisions of Section 41-26-14(10).

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

135 (11) \* \* \* No county shall prevent a homeowner from applying  
136 for a permit for a construction or improvement project on that  
137 homeowner's residence, or from obtaining the permit upon  
138 compliance with legal requirements. For purposes of this  
139 subsection, a homeowner's residence is property on which the  
140 homeowner has homestead exemption at the time of application for  
141 the permit.

142 **SECTION 3.** Section 21-19-25, Mississippi Code of 1972, is  
143 amended as follows:

144 21-19-25. (1) Any municipality within the State of  
145 Mississippi may, in the discretion of its governing authority,  
146 adopt building codes, plumbing codes, electrical codes, gas codes,  
147 sanitary codes, or any other codes dealing with general public  
148 health, safety or welfare, or a combination of the same, by



149 ordinance, in the manner prescribed in this section. Before any  
150 such code shall be adopted, it shall be either printed or  
151 typewritten, and it shall be presented in pamphlet form to the  
152 governing authority of the municipality at a regular meeting. The  
153 ordinance adopting the code shall not set out the code in full,  
154 but shall merely identify the same. The vote on passage of the  
155 ordinance shall be the same as on any other ordinances. After its  
156 adoption, the code shall be certified to by the mayor and clerk of  
157 the municipality, and shall be filed as a permanent record in the  
158 office of the clerk, who shall not be required to transcribe and  
159 record the same in the ordinance book as other ordinances. It  
160 shall not be necessary that the ordinance adopting the code or the  
161 code itself be published in full, but notice of the adoption of  
162 the code shall be given by publication in some newspaper of the  
163 municipality for one (1) time, or if there be no such newspaper,  
164 by posting at three (3) or more public places within the corporate  
165 limits, a notice in substantially the following form:

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

170       (2) If the governing authority of any municipality adopts or  
171 has adopted construction codes which do not have proper provisions  
172 to maintain up-to-date amendments, specifications in such codes  
173 for cements used in portland cement concrete shall be superseded



174 by nationally recognized specifications referenced in any code  
175 adopted by the Mississippi Building Code Council.

176 (3) All the provisions of this section shall apply to  
177 amendments and revisions of the code mentioned in this section.  
178 Any code adopted in accordance with this section shall not be in  
179 force for one (1) month after its passage, unless the municipal  
180 authorities in the ordinance authorize to the contrary. The  
181 provisions of this section shall be in addition and supplemental  
182 to any existing laws authorizing the adoption, amendment or  
183 revision of municipal ordinances or codes.

184 (4) Notwithstanding any provision of this section to the  
185 contrary, any code adopted by a municipality before or after April  
186 12, 2001, is subject to the provisions of Section 41-26-14(10).

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

192 (6) \* \* \* No municipality shall prevent a homeowner from  
193 applying for a permit for a construction or improvement project on  
194 that homeowner's residence, or from obtaining the permit upon  
195 compliance with legal requirements. For purposes of this  
196 subsection, a homeowner's residence is property on which the  
197 homeowner has homestead exemption at the time of application for  
198 the permit.





199 (7) The provisions of this section shall apply to all  
200 municipalities of this state, whether operating under the code  
201 charter, a special charter, commission form, or other form of  
202 government.

203 **SECTION 4.** Section 73-59-1, Mississippi Code of 1972, is  
204 amended as follows:

205 73-59-1. For the purposes of this chapter, the following  
206 words shall have the meanings ascribed herein:

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

209 (b) "Residential builder" means any corporation,  
210 partnership or individual who constructs a building or structure  
211 for sale for use by another as a residence or who, for a fixed  
212 price, commission, fee, wage or other compensation, undertakes or  
213 offers to undertake the construction, or superintending of the  
214 construction, of any building or structure which is not more than  
215 three (3) floors in height, to be used by another as a residence,  
216 when the total cost of the undertaking exceeds Fifty Thousand  
217 Dollars (\$50,000.00).

218 (c) "Remodeler" means any corporation, partnership or  
219 individual who, for a fixed price, commission, fee, wage or other  
220 compensation, undertakes or offers to undertake the construction,  
221 or superintending of the construction, of improvements to an  
222 existing residence when the total cost of the improvements exceeds  
223 Ten Thousand Dollars (\$10,000.00).



224 (d) "Residential construction" means any undertaking  
225 described in paragraph (b) of this section performed by a  
226 residential builder.

227 (e) "Residential improvement" means any undertaking  
228 described in paragraph (c) of this section performed by a  
229 remodeler.

230 (f) "Active licensee" means any builder or remodeler  
231 licensed under this chapter and engaged in building and  
232 remodeling.

233 (g) "Inactive licensee" means any builder or remodeler  
234 licensed under this chapter and not engaged in building or  
235 remodeling.

236 \* \* \*

237 **SECTION 5.** Section 73-59-3, Mississippi Code of 1972, is  
238 amended as follows:

239 73-59-3. (1) Except as otherwise provided in Section  
240 73-59-15 or Section 33-1-39, \* \* \* persons who perform or formerly  
241 performed residential construction or residential improvement  
242 shall be licensed by the board annually as an active licensee or  
243 inactive licensee, as appropriate \* \* \* , and, \* \* \*  
244 as a prerequisite to obtaining a license or renewal thereof,  
245 each \* \* \* shall submit to the board:

246 (a) Proof of workers' compensation insurance, if \* \* \*  
247 applicable \* \* \*; however, workers' compensation insurance shall  
248 not be required for inactive licensees;



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

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

255 ( \* \* \*3) The board shall issue or renew a license to \* \* \*  
256 an active or inactive residential builder or remodeler upon  
257 payment to the board of the license fee. The initial license fee  
258 shall be Fifty Dollars (\$50.00). The license fee may thereafter  
259 be increased or decreased by the board and cannot exceed One  
260 Hundred Dollars (\$100.00); however, the receipts from fees  
261 collected by the board shall be no greater than the amount  
262 required to pay all costs and expenses incurred by the board in  
263 enforcing the provisions of this chapter. Twenty-five Dollars  
264 (\$25.00) of the fee required by this section which is assessed to  
265 residential builders licensed under the provisions of Section  
266 73-59-1 et seq. shall be deposited to the Construction Education  
267 Fund created pursuant to Section 31-3-14 and shall be distributed  
268 to the Mississippi Housing Institute. The remaining fees  
269 collected under this chapter shall be deposited into the special  
270 fund in the State Treasury known as the "State Board of  
271 Contractors Fund" created pursuant to Section 31-3-17 and shall be  
272 used for the administration and enforcement of this chapter and as  
273 provided in Section 31-3-14. Amounts in such fund shall not lapse



274 into the State General Fund at the end of a fiscal year. Interest  
275 accrued to such fund shall remain in the fund. All expenditures  
276 from the special fund shall be by requisition to the Department of  
277 Finance and Administration, signed by the executive director of  
278 the board and countersigned by the chairman or vice chairman of  
279 the board.

280 ( \* \* \*4) Except as provided in Section 33-1-39, the license  
281 shall expire on the last day of the twelfth month following its  
282 issuance or renewal and shall become invalid unless renewed. The  
283 board may notify by mail or email every licensee under this  
284 chapter of the date of the expiration of his license and the  
285 amount of the fee required for renewal of the license for one (1)  
286 year. To receive notification by email, a licensee must notify  
287 the board of his desire to receive notification by email and  
288 provide an email address. Such notice may be mailed or emailed  
289 within thirty (30) days prior to the expiration date of the  
290 license. The failure on the part of any licensee to renew his  
291 license annually in such twelfth month shall not deprive such  
292 licensee of the right of renewal, provided that renewal is  
293 effected within one hundred eighty (180) days after the expiration  
294 date of the license by payment of the license fee plus a penalty  
295 of ten percent (10%) of the license fee. A new license required  
296 to replace a revoked, lost, mutilated or destroyed license may be  
297 issued, subject to the rules of the board, for a charge of not  
298 more than Fifty Dollars (\$50.00). An inactive licensee may become



299 an active licensee upon application meeting all the requirements  
300 of this section.

301 ( \* \* \*5) 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 6.** Section 73-59-9, Mississippi Code of 1972, is  
306 amended as follows:

307 73-59-9. (1) Any \* \* \* residential builder who undertakes  
308 or attempts to undertake the business of residential  
309 construction \* \* \* without having a valid license as required by  
310 this chapter, or who knowingly presents to the board, or files  
311 with the board, false information for the purpose of obtaining  
312 such license, shall be deemed guilty of a misdemeanor and, upon  
313 conviction, shall be fined not less than One Hundred Dollars  
314 (\$100.00) and not more than Five Thousand Dollars (\$5,000.00) or  
315 be imprisoned for not less than thirty (30) nor more than sixty  
316 (60) days in the county jail, or both.

317 (2) Any remodeler who undertakes or attempts to undertake  
318 the business of residential improvement without having a valid  
319 license as required by this chapter, or who knowingly presents to  
320 the board, or files with the board, false information for the  
321 purpose of obtaining such license, shall be deemed guilty of a  
322 misdemeanor and, upon conviction, shall be fined not less than One  
323 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars



324 (\$5,000.00) or be imprisoned for not less than thirty (30) nor  
325 more than sixty (60) days in the county jail, or both.

326 ( \* \* \*3) \* \* \* A residential builder or remodeler who does  
327 not have the license provided by this chapter \* \* \* may not bring  
328 any action, either at law or in equity, to enforce any contract  
329 for residential building or remodeling or to enforce a sales  
330 contract \* \* \*.

331 ( \* \* \*4) The board shall have the authority to issue a  
332 citation and may stop work of a residential builder or remodeler  
333 performing work without having a valid license as required by this  
334 chapter.

335 **SECTION 7.** Section 73-59-15, Mississippi Code of 1972, is  
336 amended as follows:

337 73-59-15. (1) This chapter shall not apply to:

338 (a) Agricultural buildings, buildings used for  
339 agricultural purposes, buildings constructed as a community  
340 effort, or tenant houses;

341 (b) Any person who undertakes construction or  
342 improvement on his own residence, or who acts as his own general  
343 contractor in the performance of construction or improvement on  
344 his own residence;

345 (c) Any person who undertakes residential construction  
346 or improvement, or who acts as a general contractor in the  
347 performance of residential construction or improvement, or who  
348 acts under supervision of the owner-occupant with respect to



349 residential construction or improvement, when the owner of such  
350 construction or improvement is related to such person by  
351 consanguinity or direct affinity \* \* \*;

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

360 (e) Any contractor holding a valid license or  
361 certificate of responsibility for general construction from the  
362 board;

363 (f) Any nonresident contractor holding a valid license  
364 or certificate of responsibility for \* \* \* general construction;

365 (g) Any person who constructs two (2) single residences  
366 or less within a period of one (1) year in any county or  
367 municipality which does not require a building permit or any local  
368 certification for such construction, provided that the person is  
369 not building the residences for sale \* \* \*.

370 (2) A person specified in subsection (1)(b) or (c) shall not  
371 make more than \* \* \* two (2) applications for a permit to  
372 construct a single residence or shall not construct more  
373 than \* \* \* two (2) single residences within a period of one (1)



374 year. There shall be a rebuttable presumption that such person  
375 intends to construct for the purpose of sale, lease, rent or any  
376 similar purpose if more than \* \* \* two (2) applications are made  
377 for a permit to construct a single residence or if more than \* \* \*  
378 two (2) single residences are constructed within a period of one  
379 (1) year.

380         **SECTION 8.** This act shall take effect and be in force from  
381 and after its passage.

