

Senate Amendments to House Bill No. 331

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 **SECTION 1.** Section 19-5-9, Mississippi Code of 1972, is
12 amended as follows:
13 19-5-9. (1) The construction codes published by a
14 nationally recognized code group which sets minimum standards and
15 has the proper provisions to maintain up-to-date amendments are
16 adopted as minimum standard guides for building, plumbing,
17 electrical, gas, sanitary, and other related codes in Mississippi.
18 Any county within the State of Mississippi, in the discretion of
19 the board of supervisors, may adopt building codes, plumbing
20 codes, electrical codes, sanitary codes, or other related codes
21 dealing with general public health, safety or welfare, or a
22 combination of the same, within but not exceeding the provisions
23 of the construction codes published by nationally recognized code
24 groups, by order or resolution in the manner prescribed in this
25 section, but those codes so adopted shall apply only to the
26 unincorporated areas of the county. However, those codes shall
27 not apply to the erection, maintenance, repair or extension of

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

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

53 nationally recognized specifications referenced in any code
54 adopted by the Mississippi Building Code Council.

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

60 (4) Any code adopted under the provisions of this section
61 shall not be in operation or force until sixty (60) days have
62 elapsed from the adoption of same; however, any code adopted for
63 the immediate preservation of the public health, safety and
64 general welfare may be effective from and after its adoption by a
65 unanimous vote of the members of the board. Within five (5) days
66 after the adoption or passage of an order or resolution adopting
67 that code or codes the clerk of the board of supervisors shall
68 publish in a legal newspaper published in the county the full text
69 of the order or resolution adopting and approving the code, and
70 the publication shall be inserted at least three (3) times, and
71 shall be completed within thirty (30) days after the passage of
72 the order or resolution.

73 (5) Any person or persons objecting to the code or codes may
74 object in writing to the provisions of the code or codes within
75 sixty (60) days after the passage of the order or resolution
76 approving same, and if the board of supervisors adjudicates that
77 ten percent (10%) or more of the qualified electors residing in
78 the affected unincorporated areas of the county have objected in

79 writing to the code or codes, then in such event the code shall be
80 inoperative and not in effect unless adopted for the immediate
81 preservation of the public health, safety and general welfare
82 until approved by a special election called by the board of
83 supervisors as other special elections are called and conducted by
84 the election commissioners of the county as other special
85 elections are conducted, the special election to be participated
86 in by all the qualified electors of the county residing in the
87 unincorporated areas of the county. If the voters approve the
88 code or codes in the special election it shall be in force and in
89 operation thereafter until amended or modified as provided in this
90 section. If the majority of the qualified electors voting in the
91 special election vote against the code or codes, then, in such
92 event, the code or codes shall be void and of no force and effect,
93 and no other code or codes dealing with that subject shall be
94 adopted under the provisions of this section until at least two
95 (2) years thereafter.

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

101 (7) For the purpose of promoting health, safety, morals or
102 the general welfare of the community, the governing authority of
103 any municipality, and, with respect to the unincorporated part of
104 any county, the governing authority of any county, in its

105 discretion, is empowered to regulate the height, number of stories
106 and size of building and other structures, the percentage of lot
107 that may be occupied, the size of the yards, courts and other open
108 spaces, the density or population, and the location and use of
109 buildings, structures and land for trade, industry, residence or
110 other purposes, but no permits shall be required except as may be
111 required under the terms of the "Flood Disaster Protection Act of
112 1973" for the erection, maintenance, repair or extension of farm
113 buildings or farm structures outside the corporate limits of
114 municipalities.

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

117 (9) Notwithstanding any provision of this section to the
118 contrary, any code adopted by a county before or after April 12,
119 2001, is subject to the provisions of Section 41-26-14(10).

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

124 (11) Regardless of whether a county adopts or has adopted
125 codes, as set forth in this section, each and every county in this
126 state shall require permitting as a condition to construction
127 within the unincorporated areas of the county * * * provided,
128 however, that each county with a population under twenty-two
129 thousand five hundred (22,500) according to the most recent
130 federal decennial census may opt out of requiring such permitting

131 by a majority vote of the board of supervisors made before
132 December 31, 2024. Such an opt out shall only be effective until
133 July 1, 2029. If a county is eligible to opt out but does not do
134 so, or if the county is not eligible to opt out, the required
135 permits shall contain, on their face, in conspicuous print, (a)
136 the contractor's material purchase certificate number to the
137 extent furnished by the Department of Revenue pursuant to Section
138 27-65-21(3) or the contractor's Taxpayer Identification Number as
139 furnished by the Internal Revenue Service, and either a copy of
140 such material purchase certificate furnished by the Department of
141 Revenue pursuant to Section 27-65-21(3), or a copy of the
142 contractor's W-9, as the case may be, shall be required to be
143 provided to the county as part of the prime contractor's
144 application for such permit, prior to the issuance of such permit,
145 and (b) the contractor's license or certificate of responsibility
146 number as required by either Section 31-3-14 et seq., 51-5-1 et
147 seq. or 73-59-1 et seq.

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

150 21-19-25. (1) Any municipality within the State of
151 Mississippi may, in the discretion of its governing authority,
152 adopt building codes, plumbing codes, electrical codes, gas codes,
153 sanitary codes, or any other codes dealing with general public
154 health, safety or welfare, or a combination of the same, by
155 ordinance, in the manner prescribed in this section. Before any
156 such code shall be adopted, it shall be either printed or

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

172 Notice is given that the city (or town or village) of
173 _____, on the (give date of ordinance adopting code), adopted
174 (state type of code and other information serving to identify the
175 same) code.

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

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

190 (4) Notwithstanding any provision of this section to the
191 contrary, any code adopted by a municipality before or after April
192 12, 2001, is subject to the provisions of Section 41-26-14(10).

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

198 (6) Regardless of whether the governing authority of any
199 municipality adopts or has adopted construction codes, as set
200 forth in this section, each and every governing authority of any
201 municipality shall require permitting as a condition to
202 construction within the municipality's jurisdiction * * *;
203 provided, however, that each municipality with a population under
204 seven thousand five hundred (7,500) according to the most recent
205 federal decennial census may opt out of requiring such permitting
206 by a majority vote of the governing authority made by December 31,
207 2025. Such an opt out shall only be effective until July 1, 2029.

208 If a municipality is eligible to opt out but does not do so, or is
209 ineligible to opt out, all such permits shall contain on their
210 faces, in conspicuous print, (a) the contractor's material
211 purchase certificate number to the extent one is furnished by the
212 Department of Revenue pursuant to Section 27-65-21(3) or the
213 contractor's Taxpayer Identification Number as furnished by the
214 Internal Revenue Service, and either a copy of such material
215 purchase certificate furnished by the Department of Revenue
216 pursuant to Section 27-65-21(3), or a copy of the contractor's
217 W-9, as the case may be, shall be required to be provided to the
218 governing authority of such municipality as part of the
219 contractor's application for such permit, prior to the issuance of
220 such permit, and (b) the contractor's license or certificate of
221 responsibility number as required by either Section 31-3-14 et
222 seq., 51-5-1 et seq. or 73-59-1 et seq.

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

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

229 73-59-1. For the purposes of this chapter, the following
230 words shall have the meanings ascribed herein:

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

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

242 (c) "Remodeler" means any corporation, partnership or
243 individual who, for a fixed price, commission, fee, wage or other
244 compensation, undertakes or offers to undertake the construction,
245 or superintending of the construction, of improvements to an
246 existing residence when the total cost of the improvements exceeds
247 Ten Thousand Dollars (\$10,000.00).

248 (d) "Residential construction" means any undertaking
249 described in paragraph (b) of this section performed by a
250 residential builder.

251 (e) "Residential improvement" means any undertaking
252 described in paragraph (c) of this section performed by a
253 remodeler.

254 (f) "Active licensee" means any builder or remodeler
255 licensed under this chapter and engaged in building and
256 remodeling.

257 (g) "Inactive licensee" means any builder or remodeler
258 licensed under this chapter and not engaged in building or
259 remodeling.

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

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

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

271 73-59-3. (1) Except as otherwise provided in Section
272 73-59-15 or Section 33-1-39, the following persons or entities
273 shall be licensed by the board annually as an active licensee or
274 inactive licensee, as appropriate:

275 (a) Persons or entities acting in the capacity as a
276 residential builder;

277 (b) Persons or entities acting in the capacity as a
278 residential remodeler;

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

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

286 (i) Electrical;

287 (ii) Plumbing;

288 (iii) Mechanical; and/or

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

290 and

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

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

296 (a) Proof of workers' compensation insurance, if
297 required by applicable law; however, workers' compensation
298 insurance shall not be required for inactive licensees;

299 (b) A federal employment identification number or
300 social security number.

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

305 (4) The board shall issue or renew a license to persons or
306 entities required by subsection (1) of this section to be
307 licensed, upon payment to the board of the license fee. The

308 initial license fee shall be Fifty Dollars (\$50.00). The license
309 fee may thereafter be increased or decreased by the board and
310 cannot exceed One Hundred Dollars (\$100.00); however, the receipts
311 from fees collected by the board shall be no greater than the
312 amount required to pay all costs and expenses incurred by the
313 board in enforcing the provisions of this chapter. Twenty-five
314 Dollars (\$25.00) of the fee required by this section which is
315 assessed to residential builders licensed under the provisions of
316 Section 73-59-1 et seq. shall be deposited to the Construction
317 Education Fund created pursuant to Section 31-3-14 and shall be
318 distributed to the Mississippi Housing Institute. The remaining
319 fees collected under this chapter shall be deposited into the
320 special fund in the State Treasury known as the "State Board of
321 Contractors Fund" created pursuant to Section 31-3-17 and shall be
322 used for the administration and enforcement of this chapter and as
323 provided in Section 31-3-14. Amounts in such fund shall not lapse
324 into the State General Fund at the end of a fiscal year. Interest
325 accrued to such fund shall remain in the fund. All expenditures
326 from the special fund shall be by requisition to the Department of
327 Finance and Administration, signed by the executive director of
328 the board and countersigned by the chairman or vice chairman of
329 the board.

330 (5) Except as provided in Section 33-1-39, the license shall
331 expire on the last day of the twelfth month following its issuance
332 or renewal and shall become invalid unless renewed. The board may
333 notify by mail or email every licensee under this chapter of the

334 date of the expiration of his license and the amount of the fee
335 required for renewal of the license for one (1) year. To receive
336 notification by email, a licensee must notify the board of his
337 desire to receive notification by email and provide an email
338 address. Such notice may be mailed or emailed within thirty (30)
339 days prior to the expiration date of the license. The failure on
340 the part of any licensee to renew his license annually in such
341 twelfth month shall not deprive such licensee of the right of
342 renewal, provided that renewal is effected within one hundred
343 eighty (180) days after the expiration date of the license by
344 payment of the license fee plus a penalty of ten percent (10%) of
345 the license fee. A new license required to replace a revoked,
346 lost, mutilated or destroyed license may be issued, subject to the
347 rules of the board, for a charge of not more than Fifty Dollars
348 (\$50.00). An inactive licensee may become an active licensee upon
349 application meeting all the requirements of this section.

350 (6) Any person who is not a resident of the State of
351 Mississippi who desires to perform residential construction or
352 residential improvement shall be licensed to perform such
353 construction or improvement as provided by this chapter.

354 **SECTION 5.** This act shall take effect and be in force from
355 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 BRING FORWARD SECTIONS 73-59-1 AND 73-59-3,
8 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
9 FOR RELATED PURPOSES.

SS26\HB331PS.J

Amanda White
Secretary of the Senate