

By: Representative Blackmon

To: Ways and Means

HOUSE BILL NO. 1404

1 AN ACT TO ENACT THE "BUILDING A SAFER AND STRONGER
2 MISSISSIPPI ACT"; TO STATE PUBLIC POLICY FOR BUILDING CODES; TO
3 REQUIRE MUNICIPALITIES AND COUNTIES TO ENFORCE THE BUILDING CODES
4 PROVIDED IN THIS ACT; TO AUTHORIZE AGREEMENTS WITH OTHER
5 GOVERNMENTAL ENTITIES TO PROVIDE SERVICES REQUIRED BY THIS ACT; TO
6 REQUIRE THE APPOINTMENT OF A COUNCIL CERTIFIED BUILDING OFFICIAL;
7 TO REQUIRE CERTAIN COASTAL COUNTIES TO ADOPT AND ENFORCE EMERGENCY
8 WIND AND FLOOD MITIGATION REQUIREMENTS; TO REQUIRE THE MISSISSIPPI
9 BUILDING CODES COUNCIL TO ADOPT CERTAIN NATIONALLY RECOGNIZED
10 CODES AND STANDARDS; TO PROVIDE FOR LOCAL AMENDMENTS TO THE STATE
11 BUILDING CODES; TO CREATE THE MISSISSIPPI BUILDING CODES COUNCIL
12 AND PROVIDE FOR ITS MEMBERSHIP; TO EXEMPT FARM STRUCTURES FROM
13 BUILDING CODE REGULATIONS; TO PROVIDE INJUNCTIVE RELIEF AND CIVIL
14 PENALTIES FOR VIOLATION OF BUILDING CODES OR REGULATIONS; TO
15 REPEAL SECTION 19-5-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
16 FOR THE ADOPTION OF BUILDING CODES BY COUNTIES; TO REPEAL SECTION
17 21-19-25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
18 ADOPTION OF BUILDING CODES BY MUNICIPALITIES; TO REPEAL SECTIONS
19 45-11-101 THROUGH 45-11-111, MISSISSIPPI CODE OF 1972, WHICH
20 AUTHORIZE THE STATE FIRE MARSHAL TO PROMULGATE THE MISSISSIPPI
21 FIRE PREVENTION CODE; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** This act shall be known as the "Building a Safer
24 and Stronger Mississippi Act."

25 **SECTION 2.** (1) The public policy of the State of
26 Mississippi is to maintain reasonable standards of construction in
27 buildings and other structures consistent with the public health,
28 safety and welfare of its citizens.

29 (2) This act is enacted to enable the State of Mississippi
30 to establish a state building code to govern the construction,
31 reconstruction, alteration and repair of buildings and other
32 structures and the installation of mechanical devices and
33 equipment therein, and to require the correction of unsafe
34 conditions in existing buildings. The state building codes shall
35 establish uniform performance standards providing reasonable
36 safeguards for health, safety, welfare, comfort and security of

37 the residents of this state who are occupants and users of
38 buildings, and will provide for the use of modern methods,
39 devices, materials and techniques.

40 (3) To clarify the intent of the Legislature and address
41 questions that might arise or have arisen with respect to
42 provisions of the nationally known codes that have been or are
43 adopted by this act.

44 (4) To further clarify the intent of the Legislature, except
45 as otherwise provided in Section 6 of this act concerning
46 emergency wind and flood mitigation requirements, this act
47 continues to apply to a person who may act under authority of the
48 State Fire Marshal's Office, except that the allocation of
49 inspection duties among local officials is not dictated by this
50 act but remains a matter for the local authority.

51 **SECTION 3.** (1) All municipalities and counties in this
52 state shall enforce building, residential, electrical, plumbing,
53 mechanical, fire and fuel gas codes, hereafter referred to as
54 "state building codes" in this act, relating to the construction,
55 livability, sanitation, erection, installation of equipment,
56 alteration, repair, occupancy, classification or removal of
57 structures located within their jurisdictions and promulgate
58 regulations to implement their enforcement. The municipality and
59 county shall enforce only codes and guidelines provided in this
60 act.

61 (2) To the extent that federal regulations preempt state and
62 local laws, nothing in this act conflicts with the federal
63 Department of Housing and Urban Development regulations regarding
64 manufactured housing construction.

65 (3) In connection with the construction of any building,
66 structure or other improvement to immovable property, neither the
67 performance of any enforcement procedure nor any provision of the
68 state building codes shall constitute or be construed as a
69 warranty or guarantee by a governmental enforcement agency as to

70 durability or fitness, or as a warranty or guarantee by a
71 governmental enforcement official that the building, structure or
72 other improvement to immovable property or any materials,
73 equipment or method or type of construction used therein is or
74 will be free from defects, will perform in a particular manner is
75 fit for a particular purpose, or will last any amount of time.

76 **SECTION 4.** Municipalities and counties may establish
77 agreements with other governmental entities of the state to issue
78 permits and enforce state building codes in order to provide the
79 services required by this act. The council may assist in
80 arranging for municipalities, counties or consultants to provide
81 the services required by this act to other municipalities or
82 counties if a written request from the governing body of the
83 municipality is submitted to the council.

84 **SECTION 5.** Each county shall appoint a council certified
85 building official or contract with other political subdivisions as
86 authorized in Section 4 of this act so that the unincorporated
87 area of the counties is under the jurisdiction of a council
88 certified building official. Each municipality shall appoint a
89 council certified building official or contract for a council
90 certified building official within the municipal limits. Based on
91 the needs established by each municipality or county, the council
92 certified building official may appoint and employ other council
93 certified personnel and assistants necessary to perform the
94 required inspections and technical duties.

95 **SECTION 6.** (1) The counties of Jackson, Harrison, Hancock,
96 George, Stone, Pearl River, Perry and Greene, including all
97 municipalities therein, shall enforce, on an emergency basis, all
98 the wind and flood mitigation requirements prescribed by:

99 (a) The 2003 International Residential Code, as
100 modified in Section 8(1)(b) of this act, and the 2003
101 International Building Code, as supplemented; and

102 (b) The Guidelines for Hurricane Resistant Construction
103 as published by the Institute for Business & Home Safety, 2005,
104 and the Federal Emergency Management Agency (FEMA) Coastal
105 Construction Guidelines for Flooding.

106 (2) Emergency wind and flood building requirements adopted
107 in this section shall remain in force until the Mississippi
108 Building Codes Council adopts the latest editions of both the
109 International Building Code and the International Residential
110 Code, as modified by this act, as minimum mandatory statewide
111 codes.

112 (3) Except as otherwise provided in this section, the
113 emergency wind and flood mitigation requirements adopted by this
114 section shall be enforced pursuant to Section 3 of this act. If
115 municipalities and counties are unable to enforce the emergency
116 wind and flood mitigation requirements prescribed in this section
117 within thirty (30) days of enactment of this act, the Mississippi
118 State Fire Marshal's Office shall enforce them as long as they
119 remain in effect.

120 (4) The provisions of this section shall go into effect
121 thirty (30) days from the effective date of this act for counties
122 and municipalities that have code enforcement procedures in place
123 on the effective date of this act. For those counties and
124 municipalities without code enforcement procedures, the provisions
125 of this section shall be applied no later than ninety (90) days
126 from the effective date of this act.

127 **SECTION 7.** The council shall adopt, modify and promulgate
128 the state building codes referenced in Section 8 of this act in
129 accordance with the Administrative Procedures Law, Section
130 25-43-1.101 et seq. The state building codes shall be updated
131 every three (3) years.

132 **SECTION 8.** (1) The council shall adopt by reference and
133 amend only the latest editions of the following as the statewide
134 minimum codes:

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

140 (b) International Residential Code (IRC) and the
141 standards referenced in that code are included for regulation of
142 construction within this state. The appendices of that code may
143 be adopted as needed, but the specific appendix or appendices must
144 be referenced by name or letter designation at the time of
145 adoption, with the exception of Appendix J, Existing Buildings and
146 Structures, which is hereby adopted by this reference. For the
147 purposes of this act, IRC 2003 R301.2.1.1 (Design Criteria) shall
148 be amended as follows:

149 (i) Item 2, the Southern Building Code Congress
150 International, Standard for Hurricane Resistant Residential
151 Construction (SSTD 10), shall be replaced by the Institute for
152 Business & Home Safety, Guidelines for Hurricane Resistant
153 Construction, 2005.

154 (ii) Item 6, the Florida Concrete and Products
155 Association, Guide to Concrete Masonry Residential Construction in
156 High Wind Areas, shall be added.

157 (iii) Item 7, Institute for Business & Home
158 Safety, Optional Code-plus Fortified for Safer Living®, shall be
159 added.

160 (iv) Item 8, Federal Alliance for Same Homes,
161 Optional Code-plus Blueprint for Safety™ shall be added.

162 (c) International Mechanical Code and the standards
163 referenced in that code for regulation of construction within this
164 state. The appendices of that code may be adopted as needed, but
165 the specific appendix or appendices must be referenced by name or
166 letter designation at the time of adoption.

167 (d) International Plumbing Code and the standards
168 referenced in that code for regulation of construction within this
169 state. The appendices of that code may be adopted as needed, but
170 the specific appendix or appendices must be referenced by name or
171 letter designation at the time of adoption.

172 (e) International Fuel Gas Code and the standards
173 referenced in that code for regulation of construction within this
174 state. The appendices of that code may be adopted as needed, but
175 the specific appendix or appendices must be referenced by name or
176 letter designation at the time of adoption.

177 (f) National Electric Code and the standards referenced
178 in that code for regulation of construction within this state.
179 The appendices of that code may be adopted as needed, but the
180 specific appendix or appendices must be referenced by name or
181 letter designation at the time of adoption.

182 (g) International Fire Code and the standards
183 referenced in that code for regulation of construction within this
184 state. The appendices of that code may be adopted as needed, but
185 the specific appendix or appendices must be referenced by name or
186 letter designation at the time of adoption.

187 (2) Within six (6) months of the effective date of this act,
188 the council shall adopt the latest versions of the codes
189 referenced in this section.

190 (3) The initial code adopted by this council under the
191 provisions of this act shall become effective from and after July
192 1, 2007.

193 **SECTION 9.** (1) Counties and municipalities may adopt
194 amendments to the technical provisions of the state building codes
195 which provide for more stringent requirements than those specified
196 in Section 8 of this act, not more than once every six (6) months.
197 A local government may adopt technical amendments that address
198 local needs if the local governing body determines that there is a
199 need to strengthen the requirements of the state building codes.

200 The determination must be based upon a review of local conditions
201 by the local governing body, which review demonstrates by evidence
202 or data that the geography, population density or climate of the
203 jurisdiction governed by the local governing body exhibits a need
204 to strengthen the state building codes beyond the requirements
205 contained in Section 8 of this act and that the local need is
206 addressed by the proposed amendment.

207 (2) Any amendment to the state building codes adopted by a
208 local government pursuant to this section shall be effective only
209 until the adoption by the council of the new edition of the state
210 building codes every third year. At such time, the council shall
211 review such amendment for consistency with the criteria in Section
212 10 of this act and adopt such amendment as part of the state
213 building codes or rescind the amendment. The council shall
214 immediately notify the respective local government of the
215 rescission of any amendment.

216 (3) A representative of the local government shall
217 immediately notify the council with any local amendments.

218 **SECTION 10.** The council may approve technical amendments to
219 the state building codes once each year for general applicability
220 upon finding that the amendment is more stringent than the
221 requirements of the minimum state building codes. The amendment
222 shall not diminish the health, welfare and life-safety of the
223 general public.

224 **SECTION 11.** (1) There is hereby created the Mississippi
225 Building Codes Council. Each member of the council must be
226 appointed by the Governor for a term of three (3) years and until
227 a successor is appointed and qualifies. The council consists of
228 twenty-two (22) members composed of:

229 (a) A representative of the American Institute of
230 Architects of Mississippi;

231 (b) A representative of the Home Builders Association
232 of Mississippi;

- 233 (c) A representative of the Associated General
234 Contractors of Mississippi;
- 235 (d) A representative of the Associated Builders and
236 Contractors of Mississippi;
- 237 (e) A representative of the American Subcontractors
238 Association of Mississippi;
- 239 (f) A representative of the American Council of
240 Engineering Companies of Mississippi;
- 241 (g) A representative of the Building Officials
242 Association of Mississippi;
- 243 (h) A representative of the general public who is not
244 in the practice of home or commercial safety inspection,
245 construction or building, and who does not have any financial
246 interest in these professions, and who does not have any immediate
247 family member in these professions to serve as an at large
248 consumer representative;
- 249 (i) A disabled person;
- 250 (j) A representative of the property/casualty insurance
251 industry;
- 252 (k) A representative of the Mississippi Municipal
253 League;
- 254 (l) A representative of the Mississippi Manufactured
255 Housing Association;
- 256 (m) A representative of the electrical industry who is
257 a master electrician;
- 258 (n) A representative of the mechanical or gas industry
259 who is a master mechanic;
- 260 (o) A representative of the plumbing industry who is a
261 master plumber;
- 262 (p) A representative of the Mississippi Fire Fighters
263 Association;
- 264 (q) A representative of the Mississippi Fire Chiefs
265 Association;

266 (r) A representative of the Mississippi Association of
267 Supervisors;

268 (s) A representative of the Mississippi State Fire
269 Marshal (ex officio, nonvoting);

270 (t) A representative of the Mississippi Board of
271 Licensure for Professional Engineers and Surveyors;

272 (u) A representative of the Mississippi State Board of
273 Contractors; and

274 (v) A representative of the Mississippi State Board of
275 Architecture.

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

278 (3) The primary function of the council is to review and
279 adopt the state building codes, provide requirements for training,
280 education and certification of code officials and accept all
281 requests for amendments of the code to determine which amendments,
282 if any, are justified by local conditions and can be enacted after
283 a finding on the record that the modification does not minimize
284 public health, safety and welfare. Certification of code
285 officials shall include the International Code Council's
286 certification programs and the appropriate category or level of
287 certification shall be verified by the council.

288 (4) Each member of the council shall receive mileage,
289 subsistence and per diem as provided for other state boards,
290 committees or commissions for attendance at board meetings called
291 by the chairman.

292 (5) The council shall elect from its members a chairman and
293 vice chairman. The council shall adopt regulations consistent
294 with this act. A meeting may be called by the chairman on his own
295 initiative and must be called by him at the request of three (3)
296 or more members of the council. Each member must be notified by
297 the chairman in writing of the time and place of the meeting at
298 least seven (7) days before the meeting. Fourteen (14) members

299 constitute a quorum. Each meeting is open to the public. An
300 official decision of the council may be made only by a vote of at
301 least two-thirds (2/3) of those members in attendance at the
302 meeting.

303 SECTION 12. (1) For purposes of this section, "farm
304 structure" means a structure that is constructed on a farm, other
305 than a residence or a structure attached to it, for use on the
306 farm including, but not limited to, barns, sheds and poultry
307 houses, but not public livestock areas. For purposes of this
308 section, "farm structure" does not include a structure originally
309 qualifying as a "farm structure" but later converted to another
310 use.

311 (2) The governing body of a county or municipality may not
312 enforce that portion of a nationally recognized building code that
313 regulates the construction or improvement of a farm structure.

314 (3) For residential construction, the standards published by
315 the Federal Emergency Management Agency for the National Flood
316 Insurance Program shall apply.

317 (4) The provisions of this section do not apply unless,
318 before constructing a farm structure, the person owning the
319 property on which the structure is to be constructed files an
320 affidavit with the county or municipal official responsible for
321 enforcing the building code stating that the structure is being
322 constructed as a farm structure. The affidavit must include a
323 statement of purpose or intended use of the proposed structure or
324 addition.

325 (5) This section does not affect the authority of the
326 governing body of a county or municipality to issue building
327 permits before the construction or improvement of a farm
328 structure.

329 SECTION 13. (1) For a violation of the building codes or
330 regulations adopted pursuant to this act, the local building
331 officials, municipal or county attorneys or other appropriate

332 authorities of a political subdivision, in addition to other
333 remedies, may apply for injunctive relief, mandamus or other
334 appropriate proceeding. A court may grant temporary injunctive
335 relief upon receipt of a verified complaint of an imminent danger
336 or emergency situation.

337 (2) A person found to be in violation of a building code or
338 regulation adopted pursuant to the provisions of this act must be
339 cited and fined, by civil fine, in an amount not more than Two
340 Hundred Dollars (\$200.00). Before being charged with a second
341 violation, the person must be given seven (7) calendar days to
342 remedy the violation or submit a plan for correcting the
343 violation.

344 (3) A person who fails to correct a violation or submit a
345 plan for correcting a violation within seven (7) calendar days
346 after citation or written notice must be cited and fined, by civil
347 fine, in an amount not to exceed Two Thousand Dollars (\$2,000.00).
348 Each day a violation continues is a separate offense.

349 **SECTION 14.** The provisions of this act are cumulative to
350 other local ordinances and do not limit the authority of counties
351 or municipalities as long as they do not diminish the requirements
352 established in this act.

353 **SECTION 15.** Buildings must be inspected in accordance with
354 the codes in effect for the locality on the date of the issuance
355 of the original building permit, except that:

356 (a) If no date of issuance of original building permit
357 can be found, the date of submission of the completed application
358 to the local authority must be used.

359 (b) If no date of application for, or date of issuance
360 of, building permit is available, the director of the applicable
361 county planning and development service (or similar agency) shall
362 determine the nearest possible date by using available documents,
363 such as transfer of property records, mortgage records, tax
364 records or rent records.

365 **SECTION 16.** Section 19-5-9, Mississippi Code of 1972, which
366 provides for the adoption of building codes by counties, is hereby
367 repealed.

368 **SECTION 17.** Section 21-19-25, Mississippi Code of 1972,
369 which provides for the adoption of building codes by
370 municipalities, is hereby repealed.

371 **SECTION 18.** Sections 45-11-101, 45-11-103, 45-11-105,
372 45-11-107, 45-11-109 and 45-11-111, Mississippi Code of 1972,
373 which authorize the State Fire Marshal to promulgate the
374 Mississippi Fire Prevention Code, are hereby repealed.

375 **SECTION 19.** This act shall take effect and be in force from
376 and after its passage.