

By: Representatives Frierson, Holland

To: County Affairs;  
Municipalities

HOUSE BILL NO. 752

1 AN ACT TO AMEND SECTION 17-1-3, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE PROHIBITION AGAINST THE GOVERNING AUTHORITIES OF  
3 COUNTIES OR MUNICIPALITIES REQUIRING PERMITS REGULATING THE USE OF  
4 AGRICULTURAL OR FORESTRY LANDS, BUILDINGS OR STRUCTURES LOCATED  
5 THEREON, OR ANY IMPROVEMENTS OR MODIFICATIONS MADE THEREON OR  
6 THERETO; TO AMEND SECTION 19-5-9, MISSISSIPPI CODE OF 1972, IN  
7 CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED  
8 PURPOSES.

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

10 **SECTION 1.** Section 17-1-3, Mississippi Code of 1972, is  
11 amended as follows:

12 17-1-3. (1) Except as otherwise provided in Article VII of  
13 the Chickasaw Trail Economic Development Compact described in  
14 Section 57-36-1, for the purpose of promoting health, safety,  
15 morals, or the general welfare of the community, the governing  
16 authority of any municipality, and, with respect to the  
17 unincorporated part of any county, the governing authority of any  
18 county, in its discretion, are empowered to regulate the height,  
19 number of stories and size of building and other structures, the  
20 percentage of lot that may be occupied, the size of the yards,  
21 courts and other open spaces, the density of population, and the  
22 location and use of buildings, structures and land for trade,  
23 industry, residence or other purposes, but no permits, except such  
24 permits as may be required under federal law or by a state agency  
25 pursuant to express statutory authority, shall be required by the  
26 governing authorities of counties or municipalities with reference  
27 to land used for agricultural purposes, including forestry  
28 activities as defined in Section 95-3-29(2)(c), or for the  
29 erection, maintenance, repair or extension of farm buildings or  
30 farm structures or any other improvements or modifications made to

31 or upon any land used for agricultural purposes or forestry  
32 activities, including forestry buildings and structures, outside  
33 the corporate limits of municipalities. The governing authority  
34 of each county and municipality may create playgrounds and public  
35 parks, and for these purposes, each of such governing authorities  
36 shall possess the power, where requisite, of eminent domain and  
37 the right to apply public money thereto, and may issue bonds  
38 therefor as otherwise permitted by law.

39 (2) Local land use regulation ordinances involving the  
40 placement, screening, or height of amateur radio antenna  
41 structures must reasonably accommodate amateur communications and  
42 must constitute the minimum practicable regulation to accomplish  
43 local authorities' legitimate purposes of addressing health,  
44 safety, welfare and aesthetic considerations. Judgments as to the  
45 types of reasonable accommodation to be made and the minimum  
46 practicable regulation necessary to address these purposes will be  
47 determined by local governing authorities within the parameters of  
48 the law. This legislation supports the amateur radio service in  
49 preparing for and providing emergency communications for the State  
50 of Mississippi and local emergency management agencies.

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

53 19-5-9. The construction codes published by a nationally  
54 recognized code group which sets minimum standards and has the  
55 proper provisions to maintain up-to-date amendments are adopted as  
56 minimum standard guides for building, plumbing, electrical, gas,  
57 sanitary, and other related codes in Mississippi. Any county  
58 within the State of Mississippi, in the discretion of the board of  
59 supervisors, may adopt building codes, plumbing codes, electrical  
60 codes, sanitary codes, or other related codes dealing with general  
61 public health, safety or welfare, or a combination of the same,  
62 within but not exceeding the provisions of the construction codes  
63 published by nationally recognized code groups, by order or

64 resolution in the manner prescribed in this section, but those  
65 codes so adopted shall apply only to the unincorporated areas of  
66 the county. However, those codes shall not apply to the erection,  
67 maintenance, repair or extension of farm buildings or farm  
68 structures or to any other improvements or modifications to or  
69 upon land used for agricultural purposes as provided under Section  
70 17-1-3, except as may be required under the terms of the "Flood  
71 Disaster Protection Act of 1973" and shall apply to a master  
72 planned community as defined in Section 19-5-10, only to the  
73 extent allowed in Section 19-5-10. The provisions of this section  
74 shall not be construed to authorize the adoption of any code which  
75 applies to the installation, repair or maintenance of electric  
76 wires, pipelines, apparatus, equipment or devices by or for a  
77 utility rendering public utility services, required by it to be  
78 utilized in the rendition of its duly authorized service to the  
79 public. Before any such code shall be adopted, it shall be either  
80 printed or typewritten and shall be presented in pamphlet form to  
81 the board of supervisors at a regular meeting. The order or  
82 resolution adopting the code shall not set out the code in full,  
83 but shall merely identify the same. The vote or passage of the  
84 order or resolution shall be the same as on any other order or  
85 resolution. After its adoption, the code or codes shall be  
86 certified to by the president and clerk of the board of  
87 supervisors and shall be filed as a permanent record in the office  
88 of the clerk who shall not be required to transcribe and record  
89 the same in the minute book as other orders and resolutions.

90 All provisions of this section shall apply to amendments and  
91 revisions of the codes mentioned in this section. The provisions  
92 of this section shall be in addition and supplemental to any  
93 existing laws authorizing the adoption, amendment or revision of  
94 county orders, resolutions or codes.

95 Any code adopted under the provisions of this section shall  
96 not be in operation or force until sixty (60) days have elapsed

97 from the adoption of same; however, any code adopted for the  
98 immediate preservation of the public health, safety and general  
99 welfare may be effective from and after its adoption by a  
100 unanimous vote of the members of the board. Within five (5) days  
101 after the adoption or passage of an order or resolution adopting  
102 that code or codes the clerk of the board of supervisors shall  
103 publish in a legal newspaper published in the county the full text  
104 of the order or resolution adopting and approving the code, and  
105 the publication shall be inserted at least three (3) times, and  
106 shall be completed within thirty (30) days after the passage of  
107 the order or resolution.

108 Any person or persons objecting to the code or codes may  
109 object in writing to the provisions of the code or codes within  
110 sixty (60) days after the passage of the order or resolution  
111 approving same, and if the board of supervisors adjudicates that  
112 ten percent (10%) or more of the qualified electors residing in  
113 the affected unincorporated areas of the county have objected in  
114 writing to the code or codes, then in such event the code shall be  
115 inoperative and not in effect unless adopted for the immediate  
116 preservation of the public health, safety and general welfare  
117 until approved by a special election called by the board of  
118 supervisors as other special elections are called and conducted by  
119 the election commissioners of the county as other special  
120 elections are conducted, the special election to be participated  
121 in by all the qualified electors of the county residing in the  
122 unincorporated areas of the county. If the voters approve the  
123 code or codes in the special election it shall be in force and in  
124 operation thereafter until amended or modified as provided in this  
125 section. If the majority of the qualified electors voting in the  
126 special election vote against the code or codes, then, in such  
127 event, the code or codes shall be void and of no force and effect,  
128 and no other code or codes dealing with that subject shall be

129 adopted under the provisions of this section until at least two  
130 (2) years thereafter.

131 After any such code shall take effect the board of  
132 supervisors is authorized to employ such directors and other  
133 personnel as the board, in its discretion, deems necessary and to  
134 expend general county funds or any other funds available to the  
135 board to fulfill the purposes of this section.

136 For the purpose of promoting health, safety, morals or the  
137 general welfare of the community, the governing authority of any  
138 municipality, and, with respect to the unincorporated part of any  
139 county, the governing authority of any county, in its discretion,  
140 are empowered to regulate the height, number of stories and size  
141 of building and other structures, the percentage of lot that may  
142 be occupied, the size of the yards, courts and other open spaces,  
143 the density or population, and the location and use of buildings,  
144 structures and land for trade, industry, residence or other  
145 purposes, but no permits, except such permits as may be required  
146 under federal law or by a state agency pursuant to express  
147 statutory authority, shall be required except as may be required  
148 under the terms of the "Flood Disaster Protection Act of 1973" for  
149 the erection, maintenance, repair or extension of farm buildings  
150 or farm structures, or to any other improvements or modifications  
151 to or upon land used for agricultural purposes as provided under  
152 Section 17-1-3, outside the corporate limits of municipalities.

153 The authority granted in this section is cumulative and  
154 supplemental to any other authority granted by law.

155 Notwithstanding any provision of this section to the  
156 contrary, any code adopted by a county before or after April 12,  
157 2001, is subject to the provisions of Section 41-26-14(10).

158 Notwithstanding any provision of this section to the  
159 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,  
160 Stone and Pearl River Counties shall enforce the requirements  
161 imposed under Section 17-2-1 as provided in such section.

162           **SECTION 3.** This act shall take effect and be in force from  
163 and after July 1, 2007.