

By: Representatives Frierson, Formby

To: County Affairs;
Municipalities

HOUSE BILL NO. 753
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 17-2-3, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE ALL MEMBERS OF THE BUILDING CODES COUNCIL TO BE RESIDENTS
3 OF THE STATE OF MISSISSIPPI, AND TO PROVIDE THAT ANY COUNCIL
4 MEMBER WITH UNEXCUSED ABSENCES FOR MORE THAN THREE CONSECUTIVE
5 MEETINGS SHALL BE REPLACED; TO AMEND SECTION 17-2-5, MISSISSIPPI
6 CODE OF 1972, TO AUTHORIZE COUNTIES AND MUNICIPALITIES THAT ADOPT
7 OR AMEND THEIR EXISTING BUILDING CODES TO ADOPT THE CODES
8 PROMULGATED BY THE MISSISSIPPI BUILDING CODES COUNCIL; TO PROVIDE
9 FOR AGREEMENTS BETWEEN MUNICIPALITIES AND COUNTIES FOR ENFORCEMENT
10 OF BUILDING CODES; TO AMEND SECTION 17-2-9, MISSISSIPPI CODE OF
11 1972, TO PRESCRIBE CERTAIN REQUIREMENTS THAT THE OWNER OF A
12 HUNTING CAMP OR FISHING CAMP MUST MEET IN ORDER TO EXEMPT SUCH
13 STRUCTURES FROM THE STATE BUILDING CODE; TO PROHIBIT THE GOVERNING
14 AUTHORITY OF PEARL RIVER COUNTY, OR ANY MUNICIPALITY WITHIN SUCH
15 COUNTY, FROM ENFORCING ANY PORTION OF THE STATE BUILDING CODES
16 WHICH PROHIBITS THE USE OF OR REQUIRES BUILDING PERMIT APPROVAL
17 FOR THE USE OF SALVAGE LUMBER OR GREEN CUT TIMBER IN BUILDING
18 CONSTRUCTION; TO ESTABLISH WITHIN THE DEPARTMENT OF INSURANCE A
19 COMPREHENSIVE HURRICANE DAMAGE MITIGATION PROGRAM, WHICH SHALL
20 CONSIST OF A COST-BENEFIT STUDY ON WIND HAZARD MITIGATION
21 CONSTRUCTION MEASURES, WIND CERTIFICATION AND HURRICANE MITIGATION
22 INSPECTIONS, FINANCIAL GRANTS TO RETROFIT PROPERTIES, EDUCATION
23 AND CONSUMER AWARENESS EFFORTS, AND AN ADVISORY COUNCIL; AND FOR
24 RELATED PURPOSES.

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

26 **SECTION 1.** Section 17-2-3, Mississippi Code of 1972, is
27 amended as follows:

28 17-2-3. (1) There is hereby created the Mississippi
29 Building Codes Council. Each member of the council shall be
30 appointed by the executive director of his respective professional
31 association unless otherwise stated herein. Each member shall
32 serve for a term of three (3) years and until a successor is
33 appointed and qualifies. No person who has previously been
34 convicted of a felony in this state or any other state may be
35 appointed to the council. From and after July 1, 2009, all
36 members of the council shall be residents of the State of
37 Mississippi. The council shall consist of twenty-six (26) members
38 composed of:

- 39 (a) One (1) representative of the American Institute of
40 Architects of Mississippi;
- 41 (b) Three (3) representatives of the Home Builders
42 Association of Mississippi;
- 43 (c) One (1) representative of the Associated General
44 Contractors of Mississippi;
- 45 (d) One (1) representative of the Associated Builders
46 and Contractors of Mississippi;
- 47 (e) One (1) representative of the American Council of
48 Engineering Companies of Mississippi;
- 49 (f) Two (2) representatives of the Building Officials
50 Association of Mississippi;
- 51 (g) One (1) disabled person to be appointed by the
52 Governor;
- 53 (h) One (1) representative of the property/casualty
54 insurance industry to be appointed by the Governor;
- 55 (i) One (1) representative of the Mississippi Municipal
56 League;
- 57 (j) One (1) representative of the Mississippi
58 Manufactured Housing Association;
- 59 (k) One (1) representative of the electrical industry
60 who is a master electrician to be appointed by the American
61 Subcontractors Association;
- 62 (l) One (1) representative of the mechanical or gas
63 industry who is a master mechanic to be appointed by the American
64 Subcontractors Association;
- 65 (m) One (1) representative of the plumbing industry who
66 is a master plumber to be appointed by the American Subcontractors
67 Association;
- 68 (n) One (1) representative of the Mississippi Fire
69 Chiefs Association;
- 70 (o) One (1) representative of the Mississippi
71 Association of Supervisors;

72 (p) One (1) representative of the Mississippi Minority
73 Contractors Association to be appointed by the Governor;

74 (q) One (1) representative of the Energy Division,
75 Mississippi Development Authority, to serve ex officio, nonvoting;

76 (r) One (1) person representing the consumer who shall
77 have no interest in the construction industry to be appointed by
78 the Governor;

79 (s) The Mississippi State Fire Marshal, or his
80 designee, to serve ex officio, nonvoting;

81 (t) The Executive Director of the State Board of
82 Professional Geologists, or his designee, to serve ex officio,
83 nonvoting; and

84 (u) Three (3) representatives selected by the
85 Mississippi Gulf Coast Building and Construction Trade Council.

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

88 (3) Any member with unexcused absences for more than three
89 (3) consecutive meetings shall be replaced by his sponsoring
90 organization.

91 (4) The State Fire Marshal shall convene the first meeting
92 of the council within ninety (90) days of the effective date of
93 this chapter and shall act as temporary chairman until the council
94 elects from its members a chairman and vice chairman. The council
95 shall adopt regulations consistent with this act. A meeting may
96 be called by the chairman on his own initiative and must be called
97 by him at the request of three (3) or more members of the council.
98 Each member must be notified by the chairman in writing of the
99 time and place of the meeting at least seven (7) days before the
100 meeting. Fourteen (14) members constitute a quorum. Each meeting
101 is open to the public. An official decision of the council may be
102 made only by a vote of at least two-thirds (2/3) of those members
103 in attendance at the meeting.

104 (5) The council shall adopt by reference and amend only one
105 (1) of the last two (2) editions of the following as discretionary
106 statewide minimum codes:

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

112 (b) International Residential Code (IRC) and the
113 standards referenced in that code are included for regulation of
114 construction within this state. The appendices of that code may
115 be adopted as needed, but the specific appendix or appendices must
116 be referenced by name or letter designation at the time of
117 adoption, with the exception of Appendix J, Existing Buildings and
118 Structures, which is hereby adopted by this reference.

119 (c) Other codes addressing matters such as electrical,
120 plumbing, mechanical, fire and fuel gas.

121 (6) The initial code or codes adopted by this council under
122 the provisions of this section shall be completed no later than
123 July 1, 2007.

124 **SECTION 2.** Section 17-2-5, Mississippi Code of 1972, is
125 amended as follows:

126 17-2-5. (1) Any county board of supervisors or municipal
127 governing authority that adopts building codes or amends its
128 existing building codes on or after the effective date of House
129 Bill No. 753, 2007 Regular Session, may adopt as minimum codes
130 any * * * codes established and promulgated by the Mississippi
131 Building Codes Council. Any codes adopted by a board of
132 supervisors or municipal governing authority under this section
133 shall be enforced by the board of supervisors or municipal
134 governing authority, as the case may be.

135 (2) Municipalities and counties may establish agreements
136 with other governmental entities of the state or certified

137 third-party providers to issue permits and enforce state building
138 codes in order to provide the services required by this act. The
139 council may assist in arranging for municipalities, counties or
140 third-party providers the provision of services required by this
141 act if a written request from the governing authority of the
142 county or municipality is submitted to the council.

143 **SECTION 3.** Section 17-2-9, Mississippi Code of 1972, is
144 amended as follows:

145 17-2-9. (1) The governing authority of any county or
146 municipality shall not enforce any portion of any building codes
147 established and/or imposed under Sections 17-2-1 through 17-2-5
148 that regulates the construction or improvement of industrial
149 facilities that are engaged in activities designated as
150 manufacturing (sectors 31-33), utilities (sector 22),
151 telecommunications (sector 517), bulk stations and materials
152 (sector 422710), crude oil pipelines (sector 486110), refined
153 petroleum products pipelines (sector 486910), natural gas
154 pipelines (sector 486210), other pipelines (sector 486990) and
155 natural gas processing plants (sector 211112), under the North
156 American Industry Classification System (NAICS).

157 (2) The governing authority of any county or municipality
158 shall not enforce any portion of any building codes established
159 and/or imposed under Sections 17-2-1 through 17-2-5 which
160 regulates the construction or improvement of buildings located on
161 nonpublic fairgrounds or the construction or improvement of
162 buildings located on the Neshoba County Fairgrounds in Neshoba
163 County, Mississippi.

164 (3) The governing authority of any county or municipality
165 shall not enforce any portion of any building codes established
166 and/or imposed under Sections 17-2-1 through 17-2-5 which
167 regulates the construction or improvement of a private unattached
168 outdoor recreational structure, such as a hunting or fishing camp.
169 In order for a structure to qualify as a "hunting camp" or

170 "fishing camp" under the provisions of this subsection, the owner
171 must file with the board of supervisors of the county in which the
172 structure is located his signed affidavit stating under oath that
173 the structure is a hunting camp or fishing camp, as the case may
174 be, that he is the owner or an owner of the camp and that the camp
175 is located in an unincorporated area of the county within, near or
176 in close proximity to land upon which hunting or fishing
177 activities legally may take place.

178 (4) The governing authority of any county or municipality
179 shall not enforce any portion of any building codes established
180 and/or imposed under Sections 17-2-1 through 17-2-5 which
181 regulates the construction or improvement of manufactured housing
182 built according to the Federal Manufactured Home Construction and
183 Safety Standards Act.

184 (5) The governing authority of Pearl River County or any
185 municipality within such county shall not enforce any portion of
186 any building codes established and/or imposed under Sections
187 17-2-1 through 17-2-5 which prohibits the use of or requires
188 building permit approval for the use of salvage lumber or green
189 cut timber in building construction provided such timber is for
190 personal use and is not for sale.

191 **SECTION 4.** (1) There is established within the Department
192 of Insurance a Comprehensive Hurricane Damage Mitigation Program.
193 This section does not create an entitlement for property owners or
194 obligate the state in any way to fund the inspection or
195 retrofitting of residential property or commercial property in
196 this state. Implementation of this program is subject to the
197 availability of funds that may be appropriated by the Legislature
198 for this purpose. The program shall develop and implement a
199 comprehensive and coordinated approach for hurricane damage
200 mitigation that shall include the following:

201 (a) **Cost-benefit study on wind hazard mitigation**
202 **construction measures.** The performance of a cost-benefit study to

203 establish the most appropriate wind hazard mitigation construction
204 measures for both new construction and the retrofitting of
205 existing construction for both residential and commercial
206 facilities within the wind-borne debris regions of Mississippi as
207 defined by the International Building Code. The recommended wind
208 construction techniques shall be based on both the newly adopted
209 Mississippi building code sections for wind load design and the
210 wind-borne debris region. The list of construction measures to be
211 considered for evaluation in the cost-benefit study shall be based
212 on scientifically established and sound, but common, construction
213 techniques that go above and beyond the basic recommendations in
214 the adopted building codes. This allows residents to utilize
215 multiple options that will further reduce risk and loss and still
216 be awarded for their endeavors with appropriate wind insurance
217 discounts. It is recommended that existing accepted scientific
218 studies that validate the wind hazard construction techniques
219 benefits and effects be taken into consideration when establishing
220 the list of construction techniques that homeowners and business
221 owners can employ. This will ensure that only established
222 construction measures that have been studied and modeled as
223 successful mitigation measures will be considered to reduce the
224 chance of including risky or unsound data that will cost both the
225 property owner and state unnecessary losses. The cost-benefit
226 study shall be based on actual construction cost data collected
227 for both several types of residential construction and commercial
228 construction materials, building techniques and designs that are
229 common to the region. The study shall provide as much information
230 as possible that will enhance the data and options provided to the
231 public, so that homeowners and business owners can make informed
232 and educated decisions as to their level of involvement. Based on
233 the construction data, modeling shall be performed on a variety of
234 residential and commercial designs, so that a broad enough
235 representative spectrum of data can be obtained. The data from

236 the study will be utilized in a report to establish tables
237 reflecting actuarially appropriate levels of wind insurance
238 discounts (in percentages) for each mitigation construction
239 technique/combination of techniques. This report will be utilized
240 as a guide for the Department of Insurance and the insurance
241 industry for developing actuarially appropriate discounts, credits
242 or other rate differentials, or appropriate reductions in
243 deductibles, for properties on which fixtures or construction
244 techniques demonstrated to reduce the amount of loss in a
245 windstorm have been installed or implemented. Additional data
246 that will enhance the program, such as studies to reflect property
247 value increases for retrofitting or building to the established
248 wind hazard mitigation construction techniques and cost comparison
249 data collected to establish the value of this program against the
250 investment required to include the mitigation measures, also shall
251 be provided.

252 (b) **Wind certification and hurricane mitigation**
253 **inspections.**

254 (i) Home-retrofit inspections of site-built,
255 residential property, including single-family, two-family,
256 three-family or four-family residential units, and a set of
257 representative commercial facilities shall be offered to determine
258 what mitigation measures are needed and what improvements to
259 existing residential properties are needed to reduce the
260 property's vulnerability to hurricane damage. A state program
261 will be established within the Department of Insurance to provide
262 homeowners and business owners wind certification and hurricane
263 mitigation inspections. The inspections provided to homeowners
264 and business owners, at a minimum, must include:

265 1. A home inspection and report that
266 summarizes the results and identifies corrective actions a
267 homeowner may take to mitigate hurricane damage.

268 2. A range of cost estimates regarding the
269 mitigation features.

270 3. Insurer-specific information regarding
271 premium discounts correlated to recommended mitigation features
272 identified by the inspection.

273 4. A hurricane resistance rating scale
274 specifying the home's current as well as projected wind resistance
275 capabilities.

276 This data shall be provided by trained and certified
277 inspectors in standardized reporting formats and forms regardless
278 of the insurer involved with the property owner to ensure all data
279 collected during inspections is equivalent in style and content
280 that allows construction data, estimates and discount information
281 to be easily assimilated into a database. It also ensures
282 consistency of the program information for the consumers when
283 dealing with more than one (1) insurance company for the
284 comparison of services or when changing policies. Data pertaining
285 to the number of inspections, inspection reports and consumers
286 participating in the program shall be stored in a state database
287 for evaluation of the program's success and review of state goals
288 in reducing wind hazard loss in the state.

289 (ii) To qualify for selection by the department as
290 a provider of wind certification and hurricane mitigation
291 inspections services, the entity shall, at a minimum:

292 1. Use wind certification and hurricane
293 mitigation inspectors who:

294 a. Have prior experience in residential
295 and/or commercial construction or inspection and have received
296 specialized training in hurricane mitigation procedures through
297 the state certified program. In order to qualify for training in
298 the inspection process, the individual should be either a licensed
299 building code official, a licensed contractor or inspector in the
300 State of Mississippi, or a civil engineer.

301 b. Have undergone drug testing and
302 background checks.

303 c. Have been certified through a state
304 mandated training program, in a manner satisfactory to the
305 department, to conduct the inspections.

306 2. Provide a quality assurance program
307 including a reinspection component.

308 3. Have data collection equipment and
309 computer systems, so that data can be submitted electronically to
310 the state's database of inspection reports, insurance
311 certificates, and other industry information related to this
312 program. It is mandatory that all inspectors provide original
313 copies to the property owner of any inspection reports, estimates,
314 etc., pertaining to the inspection and keep a copy of all
315 inspection materials on hand for state audits.

316 (c) **Financial grants to retrofit properties.** Financial
317 grants may be used to encourage single-family, site-built,
318 owner-occupied, residential property owners or commercial property
319 owners to retrofit their properties to make them less vulnerable
320 to hurricane damage.

321 (d) **Education and consumer awareness.** Multimedia
322 public education, awareness and advertising efforts designed to
323 specifically address mitigation techniques shall be employed, as
324 well as a component to support ongoing consumer resources and
325 referral services. In addition, all insurance companies shall
326 provide notification to their clients regarding the availability
327 of this program, participation details, and directions to the
328 state Web site promoting the program, along with appropriate
329 contact phone numbers to the state agency administering the
330 program. The notification to the clients must be sent by the
331 insurance company within thirty (30) days after filing their
332 insurance discount schedules with the Department of Insurance.

333 (e) **Advisory council.** There is created an advisory
334 council to provide advice and assistance to the program
335 administrator with regard to his or her administration of the
336 program. The advisory council shall consist of:

337 (i) A representative of lending institutions,
338 selected by the Department of Insurance from a list of at least
339 three (3) persons recommended by the Mississippi Bankers
340 Association.

341 (ii) An agent, selected by the Independent
342 Insurance Agents of Mississippi.

343 (iii) Two (2) representatives of residential
344 property insurers, selected by the Department of Insurance.

345 (iv) A representative of homebuilders, selected by
346 the Department of Insurance from a list of at least three (3)
347 persons recommended by the Home Builders Association of
348 Mississippi.

349 (v) One (1) faculty member of a state university,
350 selected by the Department of Insurance, who is an expert in
351 hurricane-resistant construction methodologies and materials.

352 (vi) Two (2) members of the House of
353 Representatives, selected by the Speaker of the House of
354 Representatives.

355 (vii) Two (2) members of the Senate, selected by
356 the Lieutenant Governor.

357 (viii) The Executive Director of the Mississippi
358 Windstorm Underwriting Association.

359 (ix) The Director of the Mississippi Emergency
360 Management Agency.

361 Members appointed under subparagraphs (i) through (v) shall
362 serve at the pleasure of the Department of Insurance. Members
363 appointed under subparagraphs (vi) and (vii) shall serve at the
364 pleasure of the appointing officers. All other members shall
365 serve as voting ex officio members. Members of the advisory

366 council who are not legislators, state officials or state
367 employees shall be compensated at the per diem rate authorized by
368 Section 25-3-69, and shall be reimbursed in accordance with
369 Section 25-3-41, for mileage and actual expenses incurred in the
370 performance of their duties. Legislative members of the advisory
371 council shall be paid from the contingent expense funds of their
372 respective houses in the same manner as provided for committee
373 meetings when the Legislature is not in session; however, no per
374 diem or expense for attending meetings of the advisory council may
375 be paid while the Legislature is in session. No advisory council
376 member may incur per diem, travel or other expenses unless
377 previously authorized by vote, at a meeting of the council, which
378 action shall be recorded in the official minutes of the meeting.
379 Nonlegislative members shall be paid from any funds made available
380 to the advisory council for that purpose.

381 (f) **Rules and regulations.** The Department of Insurance
382 shall adopt rules and regulations governing the Comprehensive
383 Hurricane Damage Mitigation Program. The department also shall
384 adopt rules and regulations establishing priorities for grants
385 provided under this section based on objective criteria that gives
386 priority to reducing the state's probable maximum loss from
387 hurricanes. However, pursuant to this overall goal, the
388 department may further establish priorities based on the insured
389 value of the dwelling, whether or not the dwelling is insured by
390 Mississippi Windstorm Underwriting Association and whether or not
391 the area under consideration has sufficient resources and the
392 ability to perform the retrofitting required.

393 (2) This section shall stand repealed from and after July 1,
394 2009.

395 **SECTION 5.** This act shall take effect and be in force from
396 and after its passage.