

By: Senator(s) Chaney

To: Insurance

SENATE BILL NO. 2852

1 AN ACT TO AMEND SECTION 17-2-1, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE GEORGE COUNTY, AND ANY MUNICIPALITY THEREIN, TO ENFORCE
 3 WIND AND FLOOD MITIGATION REQUIREMENTS OF CERTAIN NATIONALLY
 4 RECOGNIZED CODES AND STANDARDS; TO AMEND SECTION 17-2-3,
 5 MISSISSIPPI CODE OF 1972, TO REQUIRE ALL MEMBERS OF THE BUILDING
 6 CODES COUNCIL TO BE RESIDENTS OF THE STATE OF MISSISSIPPI, AND TO
 7 PROVIDE THAT ANY COUNCIL MEMBER WITH UNEXCUSED ABSENCES FOR MORE
 8 THAN THREE CONSECUTIVE MEETINGS SHALL BE REPLACED; TO AMEND
 9 SECTION 17-2-5, MISSISSIPPI CODE OF 1972, TO REQUIRE COUNTIES AND
 10 MUNICIPALITIES THAT ADOPT OR AMEND THEIR EXISTING BUILDING CODES
 11 TO ADOPT THE CODES PROMULGATED BY THE MISSISSIPPI BUILDING CODES
 12 COUNCIL; TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE
 13 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 17-2-1, Mississippi Code of 1972, is
 16 amended as follows:

17 17-2-1. (1) The counties of Jackson, George, Harrison,
 18 Hancock, Stone and Pearl River, including all municipalities
 19 therein, shall enforce, on an emergency basis, all the wind and
 20 flood mitigation requirements prescribed by the 2003 International
 21 Residential Code and the 2003 International Building Code, as
 22 supplemented.

23 (2) Except as otherwise provided in subsection (4) of this
 24 section, emergency wind and flood building requirements imposed in
 25 this section shall remain in force until the county board of
 26 supervisors or municipal governing authorities, as the case may
 27 be, adopts as minimum mandatory codes the latest editions of the
 28 codes described in subsection (3)(a) of this section. Except as
 29 otherwise provided in subsection (4) of this section, the wind and
 30 flood mitigation requirements imposed by this section shall be
 31 enforced by the county board of supervisors or municipal governing
 32 authorities, as the case may be.

33 (3) (a) A county board of supervisors or municipal
34 governing authorities, as the case may be, described in subsection
35 (1) of this section shall adopt as minimum codes the latest
36 editions of the following:

37 (i) International Building Code and the standards
38 referenced in that code for regulation of construction within
39 these counties. The appendices of that code may be adopted as
40 needed, but the specific appendix or appendices must be referenced
41 by name or letter designation at the time of adoption.

42 (ii) International Residential Code (IRC) and the
43 standards referenced in that code are included for regulation of
44 construction within these counties. The appendices of that code
45 may be adopted as needed, but the specific appendix or appendices
46 must be referenced by name or letter designation at the time of
47 adoption, with the exception of Appendix J, Existing Buildings and
48 Structures, which is hereby adopted by this reference.

49 (b) In addition to any other codes required under this
50 section, a county board of supervisors or municipal governing
51 authorities, as the case may be, described in subsection (1) of
52 this section may adopt the latest editions of any of the
53 following:

54 (i) Codes established by the Mississippi Building
55 Code Council.

56 (ii) Other nationally recognized codes addressing
57 matters such as electrical, plumbing, mechanical, fire and fuel
58 gas.

59 (4) The provisions of this section shall go into effect
60 thirty (30) days from the effective date of this chapter.
61 However, within sixty (60) days after the provisions of this
62 section go into effect, the board of supervisors of a county
63 and/or the governing authorities of any municipality within a
64 county, upon resolution duly adopted and entered upon its minutes,

65 may choose not to be subject to the code requirements imposed
66 under this section.

67 **SECTION 2.** Section 17-2-3, Mississippi Code of 1972, is
68 amended as follows:

69 17-2-3. (1) There is hereby created the Mississippi
70 Building Codes Council. Each member of the council shall be
71 appointed by the executive director of his respective professional
72 association unless otherwise stated herein. Each member shall
73 serve for a term of three (3) years and until a successor is
74 appointed and qualifies. No person who has previously been
75 convicted of a felony in this state or any other state may be
76 appointed to the council. All members of the council shall be
77 residents of the State of Mississippi. The council shall consist
78 of twenty-six (26) members composed of:

79 (a) One (1) representative of the American Institute of
80 Architects of Mississippi;

81 (b) Three (3) representatives of the Home Builders
82 Association of Mississippi;

83 (c) One (1) representative of the Associated General
84 Contractors of Mississippi;

85 (d) One (1) representative of the Associated Builders
86 and Contractors of Mississippi;

87 (e) One (1) representative of the American Council of
88 Engineering Companies of Mississippi;

89 (f) Two (2) representatives of the Building Officials
90 Association of Mississippi;

91 (g) One (1) disabled person to be appointed by the
92 Governor;

93 (h) One (1) representative of the property/casualty
94 insurance industry to be appointed by the Governor;

95 (i) One (1) representative of the Mississippi Municipal
96 League;

97 (j) One (1) representative of the Mississippi
98 Manufactured Housing Association;

99 (k) One (1) representative of the electrical industry
100 who is a master electrician to be appointed by the American
101 Subcontractors Association;

102 (l) One (1) representative of the mechanical or gas
103 industry who is a master mechanic to be appointed by the American
104 Subcontractors Association;

105 (m) One (1) representative of the plumbing industry who
106 is a master plumber to be appointed by the American Subcontractors
107 Association;

108 (n) One (1) representative of the Mississippi Fire
109 Chiefs Association;

110 (o) One (1) representative of the Mississippi
111 Association of Supervisors;

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

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

116 (r) One (1) person representing the consumer who shall
117 have no interest in the construction industry to be appointed by
118 the Governor;

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

121 (t) The Executive Director of the State Board of
122 Professional Geologists, or his designee, to serve ex officio,
123 nonvoting; and

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

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

128 (3) Any member with unexcused absences for more than three
129 (3) consecutive meetings shall be replaced by his sponsoring
130 organization.

131 (4) The State Fire Marshal shall convene the first meeting
132 of the council within ninety (90) days of the effective date of
133 this chapter and shall act as temporary chairman until the council
134 elects from its members a chairman and vice chairman. The council
135 shall adopt regulations consistent with this act. A meeting may
136 be called by the chairman on his own initiative and must be called
137 by him at the request of three (3) or more members of the council.
138 Each member must be notified by the chairman in writing of the
139 time and place of the meeting at least seven (7) days before the
140 meeting. Fourteen (14) members constitute a quorum. Each meeting
141 is open to the public. An official decision of the council may be
142 made only by a vote of at least two-thirds (2/3) of those members
143 in attendance at the meeting.

144 (5) The council shall adopt by reference and amend only the
145 latest editions of the following as discretionary statewide
146 minimum codes:

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

152 (b) International Residential Code (IRC) and the
153 standards referenced in that code are included for regulation of
154 construction within this state. The appendices of that code may
155 be adopted as needed, but the specific appendix or appendices must
156 be referenced by name or letter designation at the time of
157 adoption, with the exception of Appendix J, Existing Buildings and
158 Structures, which is hereby adopted by this reference.

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

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

164 **SECTION 3.** Section 17-2-5, Mississippi Code of 1972, is
165 amended as follows:

166 17-2-5. Any county board of supervisors or municipal
167 governing authority, as the case may be, that adopts building
168 codes or amends its existing building codes shall adopt as minimum
169 codes any * * * codes established and promulgated by the
170 Mississippi Building Codes Council. Any codes adopted by a board
171 of supervisors or municipal governing authority under this section
172 shall be enforced by the board of supervisors or municipal
173 governing authority, as the case may be.

174 **SECTION 4.** Section 19-5-9, Mississippi Code of 1972, is
175 amended as follows:

176 19-5-9. The construction codes published by a nationally
177 recognized code group which sets minimum standards and has the
178 proper provisions to maintain up-to-date amendments are adopted as
179 minimum standard guides for building, plumbing, electrical, gas,
180 sanitary, and other related codes in Mississippi. Any county
181 within the State of Mississippi, in the discretion of the board of
182 supervisors, may adopt building codes, plumbing codes, electrical
183 codes, sanitary codes, or other related codes dealing with general
184 public health, safety or welfare, or a combination of the same,
185 within but not minimizing the provisions of the construction codes
186 below that of the codes adopted by the Mississippi Building Code
187 Council, by order or resolution in the manner prescribed in this
188 section, but those codes so adopted shall apply only to the
189 unincorporated areas of the county. However, those codes shall
190 not apply to the erection, maintenance, repair or extension of
191 farm buildings or farm structures, except as may be required under
192 the terms of the "Flood Disaster Protection Act of 1973," and
193 shall apply to a master planned community as defined in Section

194 19-5-10 only to the extent allowed in Section 19-5-10. The
195 provisions of this section shall not be construed to authorize the
196 adoption of any code which applies to the installation, repair or
197 maintenance of electric wires, pipelines, apparatus, equipment or
198 devices by or for a utility rendering public utility services,
199 required by it to be utilized in the rendition of its duly
200 authorized service to the public. Before any such code shall be
201 adopted, it shall be either printed or typewritten and shall be
202 presented in pamphlet form to the board of supervisors at a
203 regular meeting. The order or resolution adopting the code shall
204 not set out the code in full, but shall merely identify the same.
205 The vote or passage of the order or resolution shall be the same
206 as on any other order or resolution. After its adoption, the code
207 or codes shall be certified to by the president and clerk of the
208 board of supervisors and shall be filed as a permanent record in
209 the office of the clerk who shall not be required to transcribe
210 and record the same in the minute book as other orders and
211 resolutions.

212 All provisions of this section shall apply to amendments and
213 revisions of the codes mentioned in this section. The provisions
214 of this section shall be in addition and supplemental to any
215 existing laws authorizing the adoption, amendment or revision of
216 county orders, resolutions or codes.

217 Any code adopted under the provisions of this section shall
218 not be in operation or force until sixty (60) days have elapsed
219 from the adoption of same; however, any code adopted for the
220 immediate preservation of the public health, safety and general
221 welfare may be effective from and after its adoption by a
222 unanimous vote of the members of the board. Within five (5) days
223 after the adoption or passage of an order or resolution adopting
224 that code or codes the clerk of the board of supervisors shall
225 publish in a legal newspaper published in the county the full text
226 of the order or resolution adopting and approving the code, and

227 the publication shall be inserted at least three (3) times, and
228 shall be completed within thirty (30) days after the passage of
229 the order or resolution.

230 Any person or persons objecting to the code or codes may
231 object in writing to the provisions of the code or codes within
232 sixty (60) days after the passage of the order or resolution
233 approving same, and if the board of supervisors adjudicates that
234 ten percent (10%) or more of the qualified electors residing in
235 the affected unincorporated areas of the county have objected in
236 writing to the code or codes, then in such event the code shall be
237 inoperative and not in effect unless adopted for the immediate
238 preservation of the public health, safety and general welfare
239 until approved by a special election called by the board of
240 supervisors as other special elections are called and conducted by
241 the election commissioners of the county as other special
242 elections are conducted, the special election to be participated
243 in by all the qualified electors of the county residing in the
244 unincorporated areas of the county. If the voters approve the
245 code or codes in the special election it shall be in force and in
246 operation thereafter until amended or modified as provided in this
247 section. If the majority of the qualified electors voting in the
248 special election vote against the code or codes, then, in such
249 event, the code or codes shall be void and of no force and effect,
250 and no other code or codes dealing with that subject shall be
251 adopted under the provisions of this section until at least two
252 (2) years thereafter.

253 After any such code shall take effect the board of
254 supervisors is authorized to employ such directors and other
255 personnel as the board, in its discretion, deems necessary and to
256 expend general county funds or any other funds available to the
257 board to fulfill the purposes of this section.

258 For the purpose of promoting health, safety, morals or the
259 general welfare of the community, the governing authority of any

260 municipality, and, with respect to the unincorporated part of any
261 county, the governing authority of any county, in its discretion,
262 are empowered to regulate the height, number of stories and size
263 of building and other structures, the percentage of lot that may
264 be occupied, the size of the yards, courts and other open spaces,
265 the density or population, and the location and use of buildings,
266 structures and land for trade, industry, residence or other
267 purposes, but no permits shall be required except as may be
268 required under the terms of the "Flood Disaster Protection Act of
269 1973" for the erection, maintenance, repair or extension of farm
270 buildings or farm structures outside the corporate limits of
271 municipalities.

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

274 Notwithstanding any provision of this section to the
275 contrary, any code adopted by a county before or after April 12,
276 2001, is subject to the provisions of Section 41-26-14(10).

277 Notwithstanding any provision of this section to the
278 contrary, the Boards of Supervisors of Jackson, George, Harrison,
279 Hancock, Stone and Pearl River Counties shall enforce the
280 requirements imposed under Section 17-2-1 as provided in such
281 section.

282 **SECTION 5.** Section 21-19-25, Mississippi Code of 1972, is
283 amended as follows:

284 21-19-25. Any municipality within the State of Mississippi
285 may, in the discretion of its governing authorities, adopt
286 building codes, plumbing codes, electrical codes, gas codes,
287 sanitary codes, or any other codes dealing with general public
288 health, safety or welfare, or a combination of the same, by
289 ordinance, in the manner prescribed in this section. Before any
290 such code shall be adopted, it shall be either printed or
291 typewritten, and it shall be presented in pamphlet form to the
292 governing authorities of the municipality at a regular meeting.

293 The ordinance adopting the code shall not set out the code in
294 full, but shall merely identify the same. The vote on passage of
295 the ordinance shall be the same as on any other ordinances. After
296 its adoption, the code shall be certified to by the mayor and
297 clerk of the municipality, and shall be filed as a permanent
298 record in the office of the clerk, who shall not be required to
299 transcribe and record the same in the ordinance book as other
300 ordinances. It shall not be necessary that the ordinance adopting
301 the code or the code itself be published in full, but notice of
302 the adoption of the code shall be given by publication in some
303 newspaper of the municipality for one (1) time, or if there be no
304 such newspaper, by posting at three (3) or more public places
305 within the corporate limits, a notice in substantially the
306 following form:

307 Notice is given that the city (or town or village)
308 of _____, on the (give date of ordinance adopting
309 code), adopted (state type of code and other information
310 serving to identify the same) code.

311 All the provisions of this section shall apply to amendments
312 and revisions of the code mentioned in this section. Any code
313 adopted in accordance with this section shall not be in force for
314 one (1) month after its passage, unless the municipal authorities
315 in the ordinance authorize to the contrary. The provisions of
316 this section shall be in addition and supplemental to any existing
317 laws authorizing the adoption, amendment or revision of municipal
318 ordinances or codes.

319 Notwithstanding any provision of this section to the
320 contrary, any code adopted by a municipality before or after April
321 12, 2001, is subject to the provisions of Section 41-26-14(10).

322 Notwithstanding any provision of this section to the
323 contrary, the governing authorities of each municipality in
324 Jackson, George, Harrison, Hancock, Stone and Pearl River Counties

325 shall enforce the requirements imposed under Section 17-2-1 as
326 provided in such section.

327 The provisions of this section shall apply to all
328 municipalities of this state, whether operating under the code
329 charter, a special charter, commission form, or other form of
330 government.

331 **SECTION 6.** This act shall take effect and be in force from
332 and after its passage.