

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1163  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT, REGARDLESS OF WHETHER A COUNTY OR  
3 MUNICIPALITY HAS ADOPTED CERTAIN CONSTRUCTION CODES, A COUNTY OR  
4 MUNICIPALITY, AS THE CASE MAY BE, SHALL REQUIRE PERMITTING AS A  
5 CONDITION TO CONSTRUCTION, AND THAT SUCH PERMITS SHALL CONTAIN ON  
6 THEIR FACE THE CONTRACTOR'S MATERIAL PURCHASE CERTIFICATE NUMBER  
7 TO THE EXTENT FURNISHED BY THE DEPARTMENT OF REVENUE AND THE  
8 CONTRACTOR'S LICENSE OR CERTIFICATE OF RESPONSIBILITY NUMBER AS  
9 REQUIRED BY CERTAIN SECTIONS OF LAW; TO AMEND SECTIONS 73-59-1,  
10 73-59-3, 73-59-9 AND 73-59-15, MISSISSIPPI CODE OF 1972, WHICH ARE  
11 SECTIONS OF LAWS REGULATING RESIDENTIAL BUILDERS AND REMODELERS,  
12 TO DEFINE THE TERMS "CONSTRUCTION MANAGER" AND "RESIDENTIAL SOLAR  
13 CONTRACTOR" FOR PURPOSES OF SUCH SECTIONS OF LAW, TO REVISE THE  
14 PERSONS OR ENTITIES THAT MUST BE LICENSED BY THE STATE BOARD OF  
15 CONTRACTORS UNDER SUCH LAWS, TO REVISE CERTAIN PROVISIONS  
16 REGARDING PENALTIES FOR PERSONS WHO UNDERTAKE TO PERFORM THE  
17 BUSINESS OF RESIDENTIAL CONSTRUCTION OR IMPROVEMENT WITHOUT FIRST  
18 HAVING A LICENSE; TO REVISE THE TYPES OF REMEDIES AVAILABLE TO  
19 SUCH PERSONS OR ENTITIES AND TO REVISE THE TYPES OF RESIDENTIAL  
20 CONSTRUCTION TO WHICH SUCH SECTIONS OF LAWS DO NOT APPLY; AND FOR  
21 RELATED PURPOSES.

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

23 **SECTION 1.** Section 19-5-9, Mississippi Code of 1972, is  
24 amended as follows:

25 19-5-9. (1) The construction codes published by a  
26 nationally recognized code group which sets minimum standards and  
27 has the proper provisions to maintain up-to-date amendments are



28 adopted as minimum standard guides for building, plumbing,  
29 electrical, gas, sanitary, and other related codes in Mississippi.  
30 Any county within the State of Mississippi, in the discretion of  
31 the board of supervisors, may adopt building codes, plumbing  
32 codes, electrical codes, sanitary codes, or other related codes  
33 dealing with general public health, safety or welfare, or a  
34 combination of the same, within but not exceeding the provisions  
35 of the construction codes published by nationally recognized code  
36 groups, by order or resolution in the manner prescribed in this  
37 section, but those codes so adopted shall apply only to the  
38 unincorporated areas of the county. However, those codes shall  
39 not apply to the erection, maintenance, repair or extension of  
40 farm buildings or farm structures, except as may be required under  
41 the terms of the "Flood Disaster Protection Act of 1973," and  
42 shall apply to a master planned community as defined in Section  
43 19-5-10 only to the extent allowed in Section 19-5-10. The  
44 provisions of this section shall not be construed to authorize the  
45 adoption of any code which applies to the installation, repair or  
46 maintenance of electric wires, pipelines, apparatus, equipment or  
47 devices by or for a utility rendering public utility services,  
48 required by it to be utilized in the rendition of its duly  
49 authorized service to the public. Before any such code shall be  
50 adopted, it shall be either printed or typewritten and shall be  
51 presented in pamphlet form to the board of supervisors at a  
52 regular meeting. The order or resolution adopting the code shall



53 not set out the code in full, but shall merely identify the same.  
54 The vote or passage of the order or resolution shall be the same  
55 as on any other order or resolution. After its adoption, the code  
56 or codes shall be certified to by the president and clerk of the  
57 board of supervisors and shall be filed as a permanent record in  
58 the office of the clerk who shall not be required to transcribe  
59 and record the same in the minute book as other orders and  
60 resolutions.

61 (2) If the board of supervisors of any county adopts or has  
62 adopted construction codes which do not have proper provisions to  
63 maintain up-to-date amendments, specifications in such codes for  
64 cements used in portland cement concrete shall be superseded by  
65 nationally recognized specifications referenced in any code  
66 adopted by the Mississippi Building Code Council.

67 (3) All provisions of this section shall apply to amendments  
68 and revisions of the codes mentioned in this section. The  
69 provisions of this section shall be in addition and supplemental  
70 to any existing laws authorizing the adoption, amendment or  
71 revision of county orders, resolutions or codes.

72 (4) Any code adopted under the provisions of this section  
73 shall not be in operation or force until sixty (60) days have  
74 elapsed from the adoption of same; however, any code adopted for  
75 the immediate preservation of the public health, safety and  
76 general welfare may be effective from and after its adoption by a  
77 unanimous vote of the members of the board. Within five (5) days



78 after the adoption or passage of an order or resolution adopting  
79 that code or codes the clerk of the board of supervisors shall  
80 publish in a legal newspaper published in the county the full text  
81 of the order or resolution adopting and approving the code, and  
82 the publication shall be inserted at least three (3) times, and  
83 shall be completed within thirty (30) days after the passage of  
84 the order or resolution.

85       (5) Any person or persons objecting to the code or codes may  
86 object in writing to the provisions of the code or codes within  
87 sixty (60) days after the passage of the order or resolution  
88 approving same, and if the board of supervisors adjudicates that  
89 ten percent (10%) or more of the qualified electors residing in  
90 the affected unincorporated areas of the county have objected in  
91 writing to the code or codes, then in such event the code shall be  
92 inoperative and not in effect unless adopted for the immediate  
93 preservation of the public health, safety and general welfare  
94 until approved by a special election called by the board of  
95 supervisors as other special elections are called and conducted by  
96 the election commissioners of the county as other special  
97 elections are conducted, the special election to be participated  
98 in by all the qualified electors of the county residing in the  
99 unincorporated areas of the county. If the voters approve the  
100 code or codes in the special election it shall be in force and in  
101 operation thereafter until amended or modified as provided in this  
102 section. If the majority of the qualified electors voting in the



103 special election vote against the code or codes, then, in such  
104 event, the code or codes shall be void and of no force and effect,  
105 and no other code or codes dealing with that subject shall be  
106 adopted under the provisions of this section until at least two  
107 (2) years thereafter.

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

113 (7) For the purpose of promoting health, safety, morals or  
114 the general welfare of the community, the governing authority of  
115 any municipality, and, with respect to the unincorporated part of  
116 any county, the governing authority of any county, in its  
117 discretion, is empowered to regulate the height, number of stories  
118 and size of building and other structures, the percentage of lot  
119 that may be occupied, the size of the yards, courts and other open  
120 spaces, the density or population, and the location and use of  
121 buildings, structures and land for trade, industry, residence or  
122 other purposes, but no permits shall be required except as may be  
123 required under the terms of the "Flood Disaster Protection Act of  
124 1973" for the erection, maintenance, repair or extension of farm  
125 buildings or farm structures outside the corporate limits of  
126 municipalities.



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

129       (9) Notwithstanding any provision of this section to the  
130 contrary, any code adopted by a county before or after April 12,  
131 2001, is subject to the provisions of Section 41-26-14(10).

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

136       (11) Regardless of whether a county adopts or has adopted  
137 codes, as set forth in this section, each and every county in this  
138 state shall require permitting as a condition to construction  
139 within the unincorporated areas of the county, and such permits  
140 shall contain, on their face, in conspicuous print, (a) the  
141 contractor's material purchase certificate number to the extent  
142 furnished by the Department of Revenue pursuant to Section  
143 27-65-21(4) or the contractor's Taxpayer Identification Number as  
144 furnished by the Internal Revenue Service, and either a copy of  
145 such material purchase certificate furnished by the Department of  
146 Revenue pursuant to Section 27-65-21(4), or a copy of the  
147 contractor's W-9, as the case may be, shall be required to be  
148 provided to the county as part of the prime contractor's  
149 application for such permit, prior to the issuance of such permit,  
150 and (b) the contractor's license or certificate of responsibility



151 number as required by either Section 31-3-14 et seq., 51-5-1 et  
152 seq. or 73-59-1 et seq.

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

155         21-19-25. (1) Any municipality within the State of  
156 Mississippi may, in the discretion of its governing authority,  
157 adopt building codes, plumbing codes, electrical codes, gas codes,  
158 sanitary codes, or any other codes dealing with general public  
159 health, safety or welfare, or a combination of the same, by  
160 ordinance, in the manner prescribed in this section. Before any  
161 such code shall be adopted, it shall be either printed or  
162 typewritten, and it shall be presented in pamphlet form to the  
163 governing authority of the municipality at a regular meeting. The  
164 ordinance adopting the code shall not set out the code in full,  
165 but shall merely identify the same. The vote on passage of the  
166 ordinance shall be the same as on any other ordinances. After its  
167 adoption, the code shall be certified to by the mayor and clerk of  
168 the municipality, and shall be filed as a permanent record in the  
169 office of the clerk, who shall not be required to transcribe and  
170 record the same in the ordinance book as other ordinances. It  
171 shall not be necessary that the ordinance adopting the code or the  
172 code itself be published in full, but notice of the adoption of  
173 the code shall be given by publication in some newspaper of the  
174 municipality for one (1) time, or if there be no such newspaper,



175 by posting at three (3) or more public places within the corporate  
176 limits, a notice in substantially the following form:

177           Notice is given that the city (or town or village)  
178           of \_\_\_\_\_, on the (give date of ordinance adopting  
179           code), adopted (state type of code and other information  
180           serving to identify the same) code.

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

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

195           (4) Notwithstanding any provision of this section to the  
196 contrary, any code adopted by a municipality before or after April  
197 12, 2001, is subject to the provisions of Section 41-26-14(10).

198           (5) Notwithstanding any provision of this section to the  
199 contrary, the governing authorities of each municipality in





200 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall  
201 enforce the requirements imposed under Section 17-2-1 as provided  
202 in such section.

203 (6) Regardless of whether the governing authority of any  
204 municipality adopts or has adopted construction codes, as set  
205 forth in this section, each and every governing authority of any  
206 municipality shall require permitting as a condition to  
207 construction within the municipality's jurisdiction, and any and  
208 all such permits shall contain on their faces, in conspicuous  
209 print, (a) the contractor's material purchase certificate number  
210 to the extent one is furnished by the Department of Revenue  
211 pursuant to Section 27-65-21(4) or the contractor's Taxpayer  
212 Identification Number as furnished by the Internal Revenue  
213 Service, and either a copy of such material purchase certificate  
214 furnished by the Department of Revenue pursuant to Section  
215 27-65-21(4), or a copy of the contractor's W-9, as the case may  
216 be, shall be required to be provided to the governing authority of  
217 such municipality as part of the contractor's application for such  
218 permit, prior to the issuance of such permit, and (b) the  
219 contractor's license or certificate of responsibility number as  
220 required by either Section 31-3-14 et seq., 51-5-1 et seq. or  
221 73-59-1 et seq.

222 (7) The provisions of this section shall apply to all  
223 municipalities of this state, whether operating under the code



224 charter, a special charter, commission form, or other form of  
225 government.

226 **SECTION 3.** Section 73-59-1, Mississippi Code of 1972, is  
227 amended as follows:

228 73-59-1. For the purposes of this chapter, the following  
229 words shall have the meanings ascribed herein:

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

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

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



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

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

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

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

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

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

268 **SECTION 4.** Section 73-59-3, Mississippi Code of 1972, is  
269 amended as follows:

270 73-59-3. (1) Except as otherwise provided in Section  
271 73-59-15 or Section 33-1-39, the following persons \* \* \* or



272 entities shall be licensed by the board annually as an active  
273 licensee or inactive licensee, as appropriate \* \* \*:

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

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

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

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

285 (i) Electrical;

286 (ii) Plumbing;

287 (iii) Mechanical; and/or

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

289 and

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

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



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

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

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

304 ( \* \* \*4) The board shall issue or renew a license to \* \* \*  
305 persons or entities required by subsection (1) of this section to  
306 be licensed, upon payment to the board of the license fee. The  
307 initial license fee shall be Fifty Dollars (\$50.00). The license  
308 fee may thereafter be increased or decreased by the board and  
309 cannot exceed One Hundred Dollars (\$100.00); however, the receipts  
310 from fees collected by the board shall be no greater than the  
311 amount required to pay all costs and expenses incurred by the  
312 board in enforcing the provisions of this chapter. Twenty-five  
313 Dollars (\$25.00) of the fee required by this section which is  
314 assessed to residential builders licensed under the provisions of  
315 Section 73-59-1 et seq. shall be deposited to the Construction  
316 Education Fund created pursuant to Section 31-3-14 and shall be  
317 distributed to the Mississippi Housing Institute. The remaining  
318 fees collected under this chapter shall be deposited into the  
319 special fund in the State Treasury known as the "State Board of



320 Contractors Fund" created pursuant to Section 31-3-17 and shall be  
321 used for the administration and enforcement of this chapter and as  
322 provided in Section 31-3-14. Amounts in such fund shall not lapse  
323 into the State General Fund at the end of a fiscal year. Interest  
324 accrued to such fund shall remain in the fund. All expenditures  
325 from the special fund shall be by requisition to the Department of  
326 Finance and Administration, signed by the executive director of  
327 the board and countersigned by the chairman or vice chairman of  
328 the board.

329 ( \* \* \*5) Except as provided in Section 33-1-39, the license  
330 shall expire on the last day of the twelfth month following its  
331 issuance or renewal and shall become invalid unless renewed. The  
332 board may notify by mail or email every licensee under this  
333 chapter of the date of the expiration of his license and the  
334 amount of the fee required for renewal of the license for one (1)  
335 year. To receive notification by email, a licensee must notify  
336 the board of his desire to receive notification by email and  
337 provide an email address. Such notice may be mailed or emailed  
338 within thirty (30) days prior to the expiration date of the  
339 license. The failure on the part of any licensee to renew his  
340 license annually in such twelfth month shall not deprive such  
341 licensee of the right of renewal, provided that renewal is  
342 effected within one hundred eighty (180) days after the expiration  
343 date of the license by payment of the license fee plus a penalty  
344 of ten percent (10%) of the license fee. A new license required



345 to replace a revoked, lost, mutilated or destroyed license may be  
346 issued, subject to the rules of the board, for a charge of not  
347 more than Fifty Dollars (\$50.00). An inactive licensee may become  
348 an active licensee upon application meeting all the requirements  
349 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.** Section 73-59-9, Mississippi Code of 1972, is  
355 amended as follows:

356 73-59-9. (1) Any \* \* \* person or entity required to have a  
357 license under Section 73-59-3(1) who undertakes or attempts to  
358 undertake the business of residential construction or improvement  
359 without having a valid license as required by this chapter, or who  
360 knowingly presents to the board, or files with the board, false  
361 information for the purpose of obtaining such license, shall be  
362 deemed guilty of a misdemeanor and, upon conviction, shall be  
363 fined not less than One Hundred Dollars (\$100.00) and not more  
364 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not  
365 less than thirty (30) nor more than sixty (60) days in the county  
366 jail, or both.

367 \* \* \*

368 ( \* \* \*2) \* \* \* Any person or entity required to have a  
369 license under Section 73-59-3(1) who does not have the license



370 provided by this chapter at the time construction, building or  
371 remodeling services are rendered may not bring any action, either  
372 at law or in equity, to enforce any contract for residential  
373 building or remodeling or to enforce a sales contract, but instead  
374 shall be only permitted to recover as damages actual documented  
375 expenses for labor, materials or both, incurred as a result of the  
376 construction, building or remodeling services rendered, but only  
377 for those expenses which can be shown by clear and convincing  
378 evidence.

379 ( \* \* \*3) The board shall have the authority to issue a  
380 citation and may stop work of a residential builder or remodeler  
381 performing work without having a valid license as required by this  
382 chapter.

383 **SECTION 6.** Section 73-59-15, Mississippi Code of 1972, is  
384 amended as follows:

385 73-59-15. (1) This chapter shall not apply to:

386 (a) Agricultural buildings, buildings used for  
387 agricultural purposes, buildings constructed as a community  
388 effort, or tenant houses;

389 (b) Any person who undertakes construction or  
390 improvement on his own residence, or who acts as his own general  
391 contractor in the performance of construction or improvement on  
392 his own residence;

393 (c) Any person who undertakes residential construction  
394 or improvement, or who acts as a general contractor in the





395 performance of residential construction or improvement, or who  
396 acts under supervision of the owner-occupant with respect to  
397 residential construction or improvement, when the owner of such  
398 construction or improvement is related to such person by  
399 consanguinity or direct affinity, and the property or improvement  
400 will not be for sale, rent, public use or public assembly;

401 (d) The owners of property who supervise, superintend,  
402 oversee, direct or in any manner assume charge of the  
403 construction, alteration, repair, improvement, movement,  
404 demolition, putting up, tearing down or maintenance of any  
405 building, railroad, excavation, project, development, improvement,  
406 plant facility or any other construction undertaking on such  
407 property for use by such owner and which will not be for sale,  
408 rent, public use or public assembly;

409 (e) Any contractor holding a valid license or  
410 certificate of responsibility for general construction from the  
411 board;

412 (f) Any nonresident contractor holding a valid license  
413 or certificate of responsibility for \* \* \* building construction;

414 (g) Any person who constructs two (2) single residences  
415 or less within a period of one (1) year in any county or  
416 municipality which does not require a building permit or any local  
417 certification for such construction, provided that the person is  
418 not building the residences for sale, profit or remuneration.



419 (2) A person specified in subsection (1)(b) or (c) shall not  
420 make more than \* \* \* one (1) application for a permit to construct  
421 a single residence or shall not construct more than \* \* \* one (1)  
422 single residence within a period of one (1) year. There shall be  
423 a rebuttable presumption that such person intends to construct for  
424 the purpose of sale, lease, rent or any similar purpose if more  
425 than \* \* \* one (1) application is made for a permit to construct a  
426 single residence or if more than \* \* \* one (1) single residence is  
427 constructed within a period of one (1) year.

428 **SECTION 7.** This act shall take effect and be in force from  
429 and after July 1, 2022.

