

1 SB315  
2 117638-5  
3 By Senators Keahey, French, Butler, Means, Waggoner, Dixon,  
4 Benefield, Little (Z), Ross, Barron, Bedford, Dunn, Smith,  
5 Marsh, Brooks, Mitchem, Denton, Singleton, and Sanford  
6 RFD: Energy and Natural Resources  
7 First Read: 02-FEB-10

1 SB315

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3  
4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 41-23-80, 41-23-81, 41-23-82,  
12 41-23-83, 41-23-84, and 41-23-85, Code of Alabama 1975,  
13 relating to the Model Energy Code and the advisory role of the  
14 Alabama Residential Energy Code Board; to require the adoption  
15 of the Alabama Energy and Residential Codes by the Alabama  
16 Residential and Energy Codes Board in compliance with certain  
17 federal energy and building requirements; to expand the board  
18 membership and provide further for diversity, membership,  
19 service, and meetings of the board; to provide an exclusion  
20 for farm structures; to prohibit state or local entities from  
21 amending federally required codes or from adopting ordinances,  
22 policies, or codes that would require the installation of  
23 sprinkler systems in certain family dwellings; and to preserve  
24 a consumer's ability to install sprinkler systems in certain  
25 family dwellings.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 41-23-80, 41-23-81, 41-23-82,  
2           41-23-83, 41-23-84, and 41-23-85, Code of Alabama 1975, are  
3           amended to read as follows:

4           "§41-23-80.

5           "The Legislature finds that the development,  
6           management, efficient consumption, and conservation of  
7           residential energy resources are of prime importance  
8           throughout this state and this nation. It is also important to  
9           ensure the protection of the economic and environmental values  
10          of Alabama's citizens. It is the intent of the Legislature to  
11          do each of the following pursuant to this article:

12          "(1) Encourage the conservation and efficient use of  
13          residential energy resources within this state's counties and  
14          municipalities.

15          "(2) Provide a governmental environment that will  
16          ~~encourage and promote an initiative for the acceptance,~~  
17          ~~adoption, and implementation of the Model Energy Code~~ Alabama  
18          Energy and Residential Codes by the units of local government.

19          "(3) Advise and assist the units of local government  
20          in adopting the ~~Model Energy Code~~ Alabama Energy and  
21          Residential Codes and implementing those code provisions  
22          within their boundaries.

23          "(4) Promote the identification of energy management  
24          technologies available for residential uses, and to  
25          disseminate information to the units of local government about  
26          such technologies and their uses.

1           "(5) Promote the acceptance and adoption of those  
2 energy management technologies for use in all energy-consuming  
3 residential facilities throughout this state.

4           "(6) Provide a process for the adoption of modern  
5 building and energy codes by the State of Alabama.

6           "(7) Provide a process by which the State of Alabama  
7 shall adopt required codes in compliance with federal law.

8           "§41-23-81.

9           "The following terms shall have the meanings  
10 respectively prescribed for them, except when the context  
11 otherwise requires:

12           "(1) BOARD. The Alabama ~~Residential~~ Energy and  
13 Residential Code Codes Board created by this article.

14           "(2) DEPARTMENT. The Alabama Department of Economic  
15 and Community Affairs.

16           "(3) DIVISION. The Science, Technology, and Energy  
17 Division of the Alabama Department of Economic and Community  
18 Affairs.

19           "~~(4) MODEL ENERGY CODE. The 1993 Edition of the~~  
20 ~~Model Energy Code as prepared and maintained by the Council of~~  
21 ~~American Building Officials, or any subsequent editions,~~  
22 ~~changes, or recom compilations thereof, or any other energy code,~~  
23 ~~which the board has officially adopted.~~

24           "(4) ALABAMA ENERGY AND RESIDENTIAL CODES. The codes  
25 adopted by the board, as amended by the board, and based on  
26 the 2006 Edition of the International Energy Conservation  
27 Code, ANSI/ASHRAE/IESNA Standard 90.1-2007 for commercial

1 buildings, and the 2006 International Residential Code  
2 published by the International Code Council, or any subsequent  
3 editions, changes, or recom compilations thereof, or any other  
4 code which the board officially adopts.

5 "(5) UNIT OF LOCAL GOVERNMENT. Any county or  
6 municipality within the State of Alabama.

7 "§41-23-82.

8 "(a) The Alabama ~~Residential~~ Energy and Residential  
9 ~~Code~~ Codes Board is established.

10 "(b) The board shall consist of ~~13~~ 15 members  
11 appointed by the Governor and two additional members, numbered  
12 (16) and (17), appointed by the Chair of the Permanent Joint  
13 Legislative Committee on Energy Policy. The ~~13~~ members  
14 appointed by the Governor shall be ~~citizens~~ legal residents of  
15 the state, and shall be selected on the basis of their  
16 representation of the following organizations, industries,  
17 entities, and professions:

18 "(1) One member shall represent the Home Builders  
19 Association.

20 "(2) One member shall represent the Board of General  
21 Contractors.

22 "(3) One member shall represent the Heating and Air  
23 Conditioning Board.

24 "(4) One member shall represent the private,  
25 investor-owned, electric utility industry.

26 "(5) One member shall represent the rural electric  
27 cooperative industry.

1           "(6) One member shall represent the natural gas  
2 industry.

3           "(7) One member shall be a licensed professional  
4 engineer.

5           "(8) One member shall represent municipalities.

6           "(9) One member shall represent county governments.

7           "(10) One member shall represent the Alabama  
8 Council, American Institute of Architects.

9           "(11) One member shall represent the Alabama  
10 Liquefied Petroleum Gas Board.

11           "(12) One member shall represent the ~~Southern~~  
12 ~~Building Code Congress International (SBCCI)~~ International  
13 Code Council (ICC) Alabama Chapter (Code Officials Association  
14 of Alabama).

15           "(13) One member shall represent the Home Builders  
16 Licensure Board.

17           "(14) One member shall represent the Alabama Joint  
18 Fire Council.

19           "(15) One member shall represent the Property and  
20 Casualty Insurance Industry.

21           "(16) A Senate member of the Permanent Joint  
22 Legislative Committee on Energy Policy selected by the chair  
23 of the committee.

24           "(17) A House of Representatives member of the  
25 Permanent Joint Legislative Committee on Energy Policy  
26 selected by the chair of the committee.

1           "(c) Each member shall be selected from a list of  
2 three candidates provided to the Governor by the division from  
3 each entity listed above. Board appointees shall be selected  
4 on the basis of their interest in problems concerning  
5 residential energy resources, consumption, and conservation,  
6 and without regard to political affiliation. Appointments  
7 shall be of such a nature as to aid the work of the board and  
8 to inspire the highest degree of coordination and cooperation.  
9 All members of the board shall be deemed members at-large  
10 charged with the responsibility of serving the best interests  
11 of the board, the division, the units of local government, and  
12 the state. No member shall act as the representative of any  
13 particular region, United States congressional district in  
14 Alabama, or state Senate or legislative district in Alabama.

15           "(d) The board shall ~~serve in an advisory capacity~~  
16 ~~to the division, and to units of local government,~~ exercise  
17 authority with respect to all matters pertaining to the  
18 acceptance, adoption, and implementation of the ~~Model Energy~~  
19 ~~Code~~ Alabama Energy and Residential Codes by the State of  
20 Alabama. The board shall be under the authority and  
21 supervision of the division, and shall be administered by the  
22 chief of the division with the assistance of such other  
23 officers and department employees as are deemed necessary to  
24 carry out the purpose, functions, duties, and activities of  
25 the board.

1           "(e) The membership of the board shall be inclusive  
2 and should reflect the racial, gender, geographic,  
3 urban/rural, and economic diversity of the state.

4           "(f) This act shall not apply to the erection or  
5 construction of a farm structure. The term farm structure, for  
6 the purposes of this act, means a structure that is  
7 constructed on a farm, other than a residence or a structure  
8 attached to it, for use on the farm including, but not limited  
9 to, barns, sheds, and poultry houses. A farm structure does  
10 not include a structure originally qualifying as a farm  
11 structure but later converted to another use.

12           "§41-23-83.

13           "(a) Each member of the board shall be selected for  
14 a five-year term, the term to begin on the date of appointment  
15 of each member. Of the initial appointees, however, the terms  
16 of membership shall be as follows:

17           "(1) Four members shall be appointed to serve for  
18 two years.

19           "(2) Three members shall be appointed to serve for  
20 three years.

21           "(3) Three members shall be appointed to serve for  
22 four years.

23           "(4) Three members shall be appointed to serve for  
24 five years.

25           "(b) The members of the board shall continue to  
26 serve after the expiration of their terms until their  
27 successors have been appointed by the Governor. Any member may



1 be reappointed to serve on the board; however, no member shall  
2 serve for more than a total of 10 consecutive years on the  
3 board from the date of initial appointment.

4 "(c) Vacancies on the board shall be filled by  
5 appointment by the Governor for the unexpired term.

6 "(d) The members of the board shall receive no  
7 salary or compensation for serving on the board but shall be  
8 reimbursed for travel expenses in accordance with State of  
9 Alabama law, incurred in the performance of their duties.

10 "§41-23-84.

11 "(a) The first meeting of the board shall be called  
12 by the chief of the division as soon as is practicable after  
13 July 31, 1995. The division chief shall preside until a chair  
14 and a vice chair are selected by the board. The board shall  
15 elect annually from its own members a chair, a vice chair, and  
16 such other officers as it may deem desirable, and shall adopt  
17 rules for its organization in the conduct of its business.

18 "(b) The board shall hold a regular meeting at least  
19 once during each calendar year at a time and place as  
20 designated or specified in its rules. Special or additional  
21 meetings may be held on a call of the chair, upon a call  
22 signed by at least seven members, or upon a call by the  
23 division chief.

24 "(c) A majority of the members of the board shall  
25 constitute a quorum at all its meetings, and adoption or  
26 resolution of any business shall require the concurrence of a  
27 majority of all the members of the board. An agenda for the

1 meetings in sufficient detail to indicate the terms on which  
2 final action is contemplated shall be mailed by the division  
3 chief to the chair, vice chair, and board members at least 30  
4 days prior to the meeting.

5 "(d) The division chief shall serve as ex officio  
6 secretary of the board, shall keep a record of the proceedings  
7 of all board meetings, and perform such other duties as may be  
8 delegated by the board. The division chief shall not receive  
9 any additional compensation for the performance of those  
10 duties on the board or pursuant to this article.

11 "(e) The board may establish committees among its  
12 membership, as it deems necessary, to assist in the conduct of  
13 its business. Subcommittees shall include representation from  
14 suppliers and/or others interested in the subject matter  
15 assigned to the subcommittees.

16 "(f) All meetings of the board shall be held in  
17 accordance with the provisions of the Alabama Open Meetings  
18 Act (Chapter 25A of Title 36, Code of Alabama 1975).

19 "§41-23-85.

20 "(a) The board shall ~~serve in an advisory capacity~~  
21 ~~to the division~~ exercise authority with respect to all matters  
22 pertaining to the acceptance, and adoption, and implementation  
23 of the ~~Model Energy Code~~ Alabama Energy and Residential Codes  
24 by the State of Alabama. In so doing, the board may perform  
25 any of the following functions:

26 "(1) Review, ~~make recommendations, and determine~~  
27 ~~whether the most current edition of the Model Energy Code~~

1 ~~should be adopted by the units of local government~~ amend, and  
2 adopt the Alabama Energy and Residential Codes.

3 "The board shall consider updates and changes to the  
4 codes referenced herein no less than two years after the date  
5 of publication of the most recent version of the codes.

6 "(2) Evaluate, assess, advise, and counsel the  
7 division and the units of local government, on residential  
8 energy codes and the impact of those codes upon the economy  
9 and the environment.

10 "(3) Solicit and enlist the cooperation of all  
11 appropriate private-sector and community-based organizations  
12 to implement the purpose of this article.

13 "(4) Make recommendations to the division for the  
14 enactment of additional legislation as it deems necessary  
15 which proposes to further enhance the capabilities of the  
16 state and the units of local government in accepting,  
17 adopting, and implementing the ~~Model Energy Code~~ Alabama  
18 Energy and Residential Codes, and in meeting the need for  
19 increasing residential energy resources and conservation due  
20 to trends in residential population and the change in  
21 technical requirements of the economy.

22 "(5) Make continuing studies, on its own initiative  
23 or upon the request of the division, of the residential energy  
24 resources, conservation, and consumption needs throughout the  
25 state, and issue those reports to the division and to the  
26 units of local government as may result from its studies.

1           "(6) Submit to the chief of the division, on an  
2 annual basis, a written report covering the activities of the  
3 board.

4           "(7) Make rules and regulations for the conduct of  
5 its board meetings, procedures, and execution of the purpose,  
6 functions, powers, and duties delegated to it by this article.

7           "(8) Conduct a program of public information in  
8 order to inform the units of local government and the citizens  
9 of the state on ~~matters of the~~ importance to residential  
10 energy of residential and energy codes, conservation, and  
11 consumption.

12           "(9) Identify any and all resources needed or  
13 required for the board to implement the purpose, functions,  
14 powers, and duties of this article.

15           "(b) The division shall be responsible for  
16 ~~considering and~~ taking action upon any and all recommendations  
17 to which the board may from time to time submit.

18           "(c) (1) Except as provided in this section, any code  
19 adopted by any state or county entity or agency after the  
20 effective date of this act shall not conflict with the codes  
21 adopted by the board. A county entity or agency may elect to  
22 amend the Alabama Energy and Residential Codes as local  
23 conditions require, but shall not make any amendment to  
24 mandate residential fire sprinklers or to provisions which are  
25 mandated or required by any federal law or federal regulation.

26           "(2) As of the effective date of this act, any  
27 municipality which does not have a code in effect adopted

1 pursuant to Section 11-45-8 shall not adopt any energy or  
2 residential code other than the Alabama Energy and Residential  
3 Codes adopted by the board or any newer versions thereof.  
4 Provided, however, a municipality may elect to amend the  
5 Alabama Energy and Residential Codes as local conditions  
6 require, but shall not make any amendment to mandate  
7 residential fire sprinklers or to provisions which are  
8 mandated or required by any federal law or federal regulation.

9 "(3) Except as provided in subsection (d), nothing  
10 contained in this act shall apply to any municipality with a  
11 code adopted pursuant to Section 11-45-8 in effect as of the  
12 effective date of this act nor shall it prevent any such  
13 municipality from making any changes or amendments to existing  
14 codes after the effective date. Provided, however, that a  
15 municipality shall not make any amendment to provisions which  
16 are mandated by any federal law or federal regulation.

17 "(d) A municipal, county, or state governing entity  
18 or agency may not enact an ordinance, rule, bylaw, order,  
19 building code, or other legal device that would restrict a  
20 consumer's ability to elect to install, by the consumer's  
21 choice and for a fee, a residential fire sprinkler system in  
22 any new or existing one-family or two-family dwelling. A  
23 municipal, county, or state governing entity or agency may not  
24 enact an ordinance, rule, bylaw, order, building code, or  
25 other legal device that would require the installation of a  
26 residential fire sprinkler system in any new or existing  
27 one-family or two-family dwelling. Provided, however, all

1 municipalities governed by subsection (c) (3) of this section  
2 which have enacted any ordinance, rule, bylaw, order, building  
3 code, or other legal device as of the effective date of this  
4 act relating to the installation of a residential fire  
5 sprinkler system may continue to enforce or amend such  
6 ordinance, rule, bylaw, order, building code, or other legal  
7 device."

8           Section 2. This act shall become effective  
9 immediately following its passage and approval by the  
10 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Energy and Natural Resources ..... 02-FEB-10

Read for the second time and placed on the calen-  
dar with 1 substitute and ..... 04-FEB-10

Read for the third time and passed as amended ... 09-FEB-10

Yeas 32  
Nays 0

McDowell Lee  
Secretary