SB315

118956-3

By Senators Keahey, French, Butler, Means, Waggoner, Dixon, Benefield, Little (Z), Ross, Barron, Bedford, Dunn, Smith, Marsh, Brooks, Mitchem, Denton, Singleton, and Sanford

RFD: Energy and Natural Resources

First Read: 02-FEB-10
ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-23-80.
"The Legislature finds that the development, management, efficient consumption, and conservation of residential energy resources are of prime importance throughout this state and this nation. It is also important to ensure the protection of the economic and environmental values of Alabama's citizens. It is the intent of the Legislature to do each of the following pursuant to this article:

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

"(2) Provide a governmental environment that will promote an initiative for the implementation of the Alabama Energy and Residential Codes by the units of local government.

"(3) Advise and assist the units of local government in adopting the Alabama Energy and Residential Codes and implementing those code provisions within their boundaries.

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

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

"(6) Provide a process for the adoption of modern building and energy codes by the State of Alabama.
“(7) Provide a process by which the State of Alabama shall adopt required codes in compliance with federal law.

"§41-23-81.

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

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

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

"(3) DIVISION. The Energy Division of the Alabama Department of Economic and Community Affairs.


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

"§41-23-82.

"(a) The Alabama Energy and Residential Codes Board is established.
"(b) The board shall consist of 15 members appointed by the Governor and two additional members, numbered (16) and (17), appointed by the Chair of the Permanent Joint Legislative Committee on Energy Policy. The members appointed by the Governor shall be legal residents of the state, and shall be selected on the basis of their representation of the following organizations, industries, entities, and professions:

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

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

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

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

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

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

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

"(8) One member shall represent municipalities.

"(9) One member shall represent county governments."
"(10) One member shall represent the Alabama Council, American Institute of Architects.

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

"(12) One member shall represent the International Code Council (ICC) Alabama Chapter (Code Officials Association of Alabama).

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

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

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

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

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

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

"(d) The board shall exercise authority with respect
to all matters pertaining to the acceptance, adoption, and
implementation of the Alabama Energy and Residential Codes by
the State of Alabama. Decisions of the board shall be
administered by the chief of the division with the assistance
of such other officers and department employees as are deemed
necessary to carry out the purpose, functions, duties, and
activities of the board.

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

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

"§41-23-83.

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

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

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

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

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

"(b) The members of the board shall continue to serve after the expiration of their terms until their successors have been appointed by the Governor. Any member may be reappointed to serve on the board; however, no member shall serve for more than a total of 10 consecutive years on the board from the date of initial appointment.

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

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

"§41-23-84.

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

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

"(c) A majority of the members of the board shall constitute a quorum at all its meetings, and adoption or resolution of any business shall require the concurrence of a majority of all the members of the board. An agenda for the meetings in sufficient detail to indicate the terms on which final action is contemplated shall be mailed by the division chief to the chair, vice chair, and board members at least 30 days prior to the meeting.
“(d) The division chief shall serve as ex officio secretary of the board, shall keep a record of the proceedings of all board meetings, and perform such other duties as may be delegated by the board. The division chief shall not receive any additional compensation for the performance of those duties on the board or pursuant to this article.

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

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

“§41-23-85.

“(a) The board shall exercise authority with respect to all matters pertaining to the acceptance and adoption, and implementation of the Alabama Energy and Residential Codes by the State of Alabama. In so doing, the board may perform any of the following functions:

“(1) Review, amend, and adopt the Alabama Energy and Residential Codes.

“The board shall consider updates and changes to the codes referenced herein no less than two years after the date of publication of the most recent version of the codes.
(2) Evaluate, assess, advise, and counsel the division and the units of local government, on residential energy codes and the impact of those codes upon the economy and the environment.

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

(4) Make recommendations to the division for the enactment of additional legislation as it deems necessary which proposes to further enhance the capabilities of the state and the units of local government in accepting, adopting, and implementing the Alabama Energy and Residential Codes, and in meeting the need for increasing residential energy resources and conservation due to trends in residential population and the change in technical requirements of the economy.

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

(6) Submit to the chief of the division, on an annual basis, a written report covering the activities of the board.
"(7) Make rules and regulations for the conduct of its board meetings, procedures, and execution of the purpose, functions, powers, and duties delegated to it by this article.

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

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

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

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

"(2) As of the effective date of this act, any municipality which does not have a code in effect adopted pursuant to Section 11-45-8 shall not adopt any energy or residential code other than the Alabama Energy and Residential
Codes adopted by the board or any newer versions thereof. Provided, however, a municipality may elect to amend the Alabama Energy and Residential Codes as local conditions require, but shall not make any amendment to mandate residential fire sprinklers or to provisions which are mandated or required by any federal law or federal regulation.

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

"(d) A municipal, county, or state governing entity or agency may not enact an ordinance, rule, bylaw, order, building code, or other legal device that would restrict a consumer's ability to elect to install, by the consumer's choice and for a fee, a residential fire sprinkler system in any new or existing one-family or two-family dwelling. A municipal, county, or state governing entity or agency may not enact an ordinance, rule, bylaw, order, building code, or other legal device that would require the installation of a residential fire sprinkler system in any new or existing one-family or two-family dwelling. Provided, however, all
municipalities governed by subsection (c)(3) of this section which have enacted any ordinance, rule, bylaw, order, building code, or other legal device as of the effective date of this act relating to the installation of a residential fire sprinkler system may continue to enforce or amend such ordinance, rule, bylaw, order, building code, or other legal device."

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB315
Senate 09-FEB-10
I hereby certify that the within Act originated in and passed
the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Amended and passed 02-MAR-10

Senate concurred in House amendment 02-MAR-10

By: Senator Keahey