

ACT No. 2010 - 185

1 SB315

2 118956-3

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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4 ENROLLED, An Act,

5 To amend Sections 41-23-80, 41-23-81, 41-23-82,  
6 41-23-83, 41-23-84, and 41-23-85, Code of Alabama 1975,  
7 relating to the Model Energy Code and the advisory role of the  
8 Alabama Residential Energy Code Board; to require the adoption  
9 of the Alabama Energy and Residential Codes by the Alabama  
10 Residential and Energy Codes Board in compliance with certain  
11 federal energy and building requirements; to expand the board  
12 membership and provide further for diversity, membership,  
13 service, and meetings of the board; to provide an exclusion  
14 for farm structures; to prohibit state or local entities from  
15 amending federally required codes or from adopting ordinances,  
16 policies, or codes that would require the installation of  
17 sprinkler systems in certain family dwellings; and to preserve  
18 a consumer's ability to install sprinkler systems in certain  
19 family dwellings.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 41-23-80, 41-23-81, 41-23-82,  
22 41-23-83, 41-23-84, and 41-23-85, Code of Alabama 1975, are  
23 amended to read as follows:

24 "§41-23-80.

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

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

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

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

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

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

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

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

3           "§41-23-81.

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

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

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

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

13           "(4) ALABAMA ENERGY AND RESIDENTIAL CODES. The codes  
14 adopted by the board, as amended by the board, and based on  
15 the 2006 Edition of the International Energy Conservation  
16 Code, ANSI/ASHRAE/IESNA Standard 90.1-2007 for commercial  
17 buildings, and the 2006 International Residential Code  
18 published by the International Code Council, or any subsequent  
19 editions, changes, or recom compilations thereof, or any other  
20 code which the board officially adopts.

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

23           "§41-23-82.

24           "(a) The Alabama Energy and Residential Codes Board  
25 is established.

1           "(b) The board shall consist of 15 members appointed  
2 by the Governor and two additional members, numbered (16) and  
3 (17), appointed by the Chair of the Permanent Joint  
4 Legislative Committee on Energy Policy. The members appointed  
5 by the Governor shall be legal residents of the state, and  
6 shall be selected on the basis of their representation of the  
7 following organizations, industries, entities, and  
8 professions:

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

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

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

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

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

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

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

23           "(8) One member shall represent municipalities.

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

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

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

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

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

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

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

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

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

20          "(c) Each member shall be selected from a list of  
21 three candidates provided to the Governor by the division from  
22 each entity listed above. Board appointees shall be selected  
23 on the basis of their interest in problems concerning  
24 residential energy resources, consumption, and conservation,  
25 and without regard to political affiliation. Appointments

1 shall be of such a nature as to aid the work of the board and  
2 to inspire the highest degree of coordination and cooperation.  
3 All members of the board shall be deemed members at-large  
4 charged with the responsibility of serving the best interests  
5 of the board, the division, the units of local government, and  
6 the state. No member shall act as the representative of any  
7 particular region, United States congressional district in  
8 Alabama, or state Senate or legislative district in Alabama.

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

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

20           "(f) This act shall not apply to the erection or  
21 construction of a farm structure. The term farm structure, for  
22 the purposes of this act, means a structure that is  
23 constructed on a farm, other than a residence or a structure  
24 attached to it, for use on the farm including, but not limited  
25 to, barns, sheds, and poultry houses. A farm structure does

1 not include a structure originally qualifying as a farm  
2 structure but later converted to another use.

3 "§41-23-83.

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

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

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

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

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

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

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

24 "(d) The members of the board shall receive no  
25 salary or compensation for serving on the board but shall be



1 reimbursed for travel expenses in accordance with State of  
2 Alabama law, incurred in the performance of their duties.

3 "§41-23-84.

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

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

17 "(c) A majority of the members of the board shall  
18 constitute a quorum at all its meetings, and adoption or  
19 resolution of any business shall require the concurrence of a  
20 majority of all the members of the board. An agenda for the  
21 meetings in sufficient detail to indicate the terms on which  
22 final action is contemplated shall be mailed by the division  
23 chief to the chair, vice chair, and board members at least 30  
24 days prior to the meeting.

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

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

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

15           "§41-23-85.

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

21           "(1) Review, amend, and adopt the Alabama Energy and  
22 Residential Codes.

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

1           "(2) Evaluate, assess, advise, and counsel the  
2 division and the units of local government, on residential  
3 energy codes and the impact of those codes upon the economy  
4 and the environment.

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

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

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

22           "(6) Submit to the chief of the division, on an  
23 annual basis, a written report covering the activities of the  
24 board.

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

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

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

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

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

22           "(2) As of the effective date of this act, any  
23 municipality which does not have a code in effect adopted  
24 pursuant to Section 11-45-8 shall not adopt any energy or  
25 residential code other than the Alabama Energy and Residential

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

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

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

President and Presiding Officer of the Senate

*Ray Hunt*

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

APPROVED March 9, 2010

TIME 8:10 a.m.

Bob Riley  
GOVERNOR