MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Representatives Shows, Staples

To: County Affairs

HOUSE BILL NO. 263

AN ACT TO AMEND SECTION 19-5-10, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES COUNTY BOARDS OF SUPERVISORS TO ENTER INTO DEVELOPMENT AGREEMENTS WITH THE DEVELOPERS OF MASTER PLANNED COMMUNITIES IN ORDER TO AUTHORIZE MASTER PLANNED COMMUNITIES, TO REVISE THE DEFINITION OF THE TERM "MASTER PLANNED COMMUNITY"; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-5-10, Mississippi Code of 1972, is amended as follows:

19-5-10. (1) The board of supervisors of any county is authorized to enter into one or more development agreements with the developer or developers of a master planned community in order to authorize, in addition to any other matters to which the board of supervisors may lawfully obligate the county, the master planned community, through a community self-governing entity created by the owners of the property, to administer, manage and enforce the land use restrictions and covenants, land use regulations, subdivision regulations, building codes and regulations, and any other limitations and restrictions on land and buildings provided in the master plan for the master planned community, in lieu of the real estate and property owners within the master planned community being subject to the county ordinances and regulations pertaining to buildings, subdivisions, zoning, the county's comprehensive plan, and any other county ordinances and regulations pertaining thereto. Prior to entering into any such development agreement, the board of supervisors shall review the master plan for the master planned community and find that the provisions of the master plan providing for

regulations, restrictions, covenants and limitations pertaining to building, subdivisions, zoning and comprehensive planning shall be comparable to, or greater than, similar provisions in the ordinances and regulations of the county. The term of such a development agreement may be not more than thirty (30) years or the number of years allowed in the county's subdivision ordinance for terms of subdivision covenants, whichever is greater. The development agreement shall have attached to it a boundary survey made by a registered land surveyor, and upon approval of the development agreement by the board of supervisors, the boundary survey shall be recorded in the land records of the chancery clerk of the county. The recorded boundary survey shall serve as the description of the property within the master planned community which shall not be subject to the county's zoning map, and the county's zoning map shall simply recognize the territory described in such boundary survey as a "master planned community." Whenever there may be a conflict between the county ordinances and regulations pertaining to buildings, subdivisions, zoning, the county's comprehensive plan, and any other county ordinances and regulations pertaining thereto, and the provisions of such a development agreement, including the provisions of the master plan providing for regulations, restrictions, covenants and limitations pertaining to buildings, subdivisions, zoning and comprehensive planning, the provisions of the development agreement shall prevail if the provisions of the development agreement are comparable to or greater than similar provisions of county ordinances and regulations.

(2) As used in this section, the term "master planned community" means a development by one or more developers of real estate consisting of residential, commercial, educational, health care, open space and recreational components that is developed pursuant to a long range, multi-phase master plan providing comprehensive land use planning and staged implementation and

development and the master plan must include the following minimum provisions:

(a) The real estate described in the master plan must consist of not less than two thousand five hundred (2,500) acres. The master plan may require that not less than fifty percent (50%) of the total dwelling units planned for such acreage must be:

(i) Dwelling units within a certified retirement community certified by the Mississippi Development Authority; or

(ii) Dwelling units where at least one (1) occupant:

1. Is sixty-two (62) years of age; or

2. Receives pension income reported on his or her most recent federal income tax return filed prior to occupancy; or

3. Declares himself to be retired.

(b) The real estate described in the master plan must be subjected to a set of land use restrictions imposed by deed restriction or restrictive covenants recorded by the developer in the land records of the chancery clerk of the county as land is developed and sold in phases to users. Such restrictions shall include design guidelines and standards that provide for:

(i) Internal community self-governance by the owners of the property;

(ii) The establishment of one or more legal persons endowed with the powers, rights and duties to administer, manage, own and maintain common areas, establish community activities and enforce the land use restrictions on the common areas and private property; and

(iii) The establishment of assessments and lien rights to fund amenities, services and maintenance of common areas.

(c) The real estate described in the master plan must be within the territorial boundaries of one or more public utility

districts established by the county for the provision of water and sewer facilities and water and sewer services.

(3) The master plan for a master planned community shall be subject to modification from time to time by the original owner or owners of the real estate described in the initial master plan, its affiliates, successors or assigns to meet changing economic and market conditions; provided, however, any such modifications in the master plan which materially change the regulations, restrictions, covenants and limitations pertaining to buildings, subdivisions and land use regulations approved in the development agreement, or which significantly change the overall plan concept, shall be subject to, and shall not take effect until, approved by the board of supervisors of the county.

(4) As used in this section, the term "dwelling unit" means single-family residences, apartments or other units within a multi-family residence, or a room or apartment in a nursing home or congregate-care facility.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.