

By: Senator(s) Massey

To: Business and Financial
Institutions; Finance

SENATE BILL NO. 2508

1 AN ACT TO AMEND SECTION 31-3-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "CONTRACTOR" AS USED IN THE
3 CHAPTER OF LAWS REGULATING COMMERCIAL BUILDERS; TO REENACT AND
4 AMEND SECTION 31-3-3, MISSISSIPPI CODE OF 1972, TO MAKE
5 NONSUBSTANTIVE CHANGES; TO REENACT SECTION 31-3-5, MISSISSIPPI
6 CODE OF 1972; TO BRING FORWARD SECTION 31-3-7, MISSISSIPPI CODE OF
7 1972; TO AMEND SECTION 31-3-11, MISSISSIPPI CODE OF 1972, TO
8 CHANGE THE WORD "SECRETARY" TO "DIRECTOR" AS IT RELATES TO THE
9 EXECUTIVE POSITION EMPLOYED BY THE STATE BOARD OF CONTRACTORS; TO
10 AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO REVISE THE
11 POWERS AND DUTIES OF THE BOARD; TO AMEND SECTION 31-3-14,
12 MISSISSIPPI CODE OF 1972, TO INCREASE THE APPLICATION AND RENEWAL
13 FEE FOR CERTIFICATES OF RESPONSIBILITY; TO AMEND SECTION 31-3-17,
14 MISSISSIPPI CODE OF 1972, TO INCREASE THE SPECIAL PRIVILEGE
15 LICENSE TAX LEVIED BY THE BOARD; TO AMEND SECTION 31-3-21,
16 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT IT IS UNLAWFUL FOR ANY
17 PERSON WHO DOES NOT HOLD A CERTIFICATE OF RESPONSIBILITY ISSUED
18 UNDER THIS CHAPTER TO SUBMIT A BID, ENTER INTO A CONTRACT, OR
19 OTHERWISE ENGAGE IN OR CONTINUE IN THIS STATE IN THE BUSINESS OF A
20 CONTRACTOR; TO AMEND SECTION 31-3-23, MISSISSIPPI CODE OF 1972, TO
21 REVISE THE PROCEDURE FOR APPEAL OF ANY ORDER, JUDGMENT OR ACTION
22 OF THE BOARD; TO REENACT AND AMEND SECTION 73-59-1, MISSISSIPPI
23 CODE OF 1972, TO CLARIFY CERTAIN DEFINITIONS USED IN THE
24 RESIDENTIAL BUILDERS AND REMODELERS ACT; TO REENACT AND AMEND
25 SECTION 73-59-3, MISSISSIPPI CODE OF 1972, TO INCREASE THE FEE
26 REQUIRED TO REPLACE A REVOKED, LOST, MUTILATED OR DESTROYED
27 LICENSE; TO REENACT AND AMEND SECTION 73-59-5, MISSISSIPPI CODE OF
28 1972, TO REMOVE THE REQUIREMENT THAT AN APPLICATION FOR LICENSE BE
29 FILED AT LEAST 30 DAYS PRIOR TO THE NEXT MEETING OF THE BOARD; TO
30 REENACT SECTION 73-59-7, MISSISSIPPI CODE OF 1972; TO REENACT AND
31 AMEND SECTION 73-59-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
32 BOARD TO ISSUE A CITATION AND TO STOP WORK OF A RESIDENTIAL
33 BUILDER OR REMODELER PERFORMING WORK WITHOUT HAVING A VALID
34 LICENSE; TO REENACT AND AMEND SECTION 73-59-11, MISSISSIPPI CODE



35 OF 1972, TO AUTHORIZE THE BOARD TO REQUIRE CONTINUING EDUCATION;
36 TO REENACT AND AMEND SECTION 73-59-13, MISSISSIPPI CODE OF 1972,
37 TO REVISE THE DISCIPLINARY AUTHORITY OF THE BOARD AND TO REVISE
38 THE APPEAL PROCEDURE OF ACTIONS BY THE BOARD; TO REENACT AND AMEND
39 SECTION 73-59-15, MISSISSIPPI CODE OF 1972, TO REVISE THE
40 EXEMPTIONS FROM THE CHAPTER; TO REENACT SECTION 73-59-17,
41 MISSISSIPPI CODE OF 1972; TO REENACT AND AMEND SECTION 73-59-19,
42 MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY FOR A REMODELER
43 TO WORK ON CERTAIN COMMERCIAL STRUCTURES WITHOUT ADDITIONAL
44 LICENSE; TO AMEND SECTION 73-59-21, MISSISSIPPI CODE OF 1972, TO
45 CONFORM TO A PREVIOUS SECTION; TO AMEND SECTION 14, CHAPTER 345,
46 LAWS OF 2000, AS AMENDED BY SECTION 13, CHAPTER 375, LAWS OF 2005,
47 AS AMENDED BY SECTION 13, CHAPTER 556, LAWS OF 2009, AS AMENDED BY
48 SECTION 13, CHAPTER 433, LAWS OF 2011, TO REMOVE THE REPEALER
49 REGARDING THE LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND
50 REMODELERS AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED
51 PURPOSES.

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

53 **SECTION 1.** Section 31-3-1, Mississippi Code of 1972, is
54 amended as follows:

55 31-3-1. The following words, as used in this chapter, shall
56 have the meanings specified below:

57 "Board": The State Board of Contractors created under this
58 chapter.

59 "Contractor": Any person contracting or undertaking as prime
60 contractor, subcontractor or sub-subcontractor of any tier to do
61 any erection, building, construction, reconstruction, demolition,
62 repair, maintenance or related work on any public or private
63 project; however, "contractor" shall not include any owner of a
64 dwelling or other structure to be constructed, altered, repaired
65 or improved and not for sale, lease, public use or assembly, or
66 any person duly permitted by the Mississippi State Oil and Gas
67 Board, pursuant to Section 53-3-11, Mississippi Code of 1972, to
68 conduct operations within the state, and acting pursuant to said



69 permit. It is further provided that nothing herein shall apply
70 to:

71 (a) Any contract or undertaking on a public or private
72 project by a prime contractor, subcontractor or sub-subcontractor
73 of any tier involving erection, building, construction,
74 reconstruction, repair, maintenance or related work where such
75 contract, subcontract or undertaking is less than Fifty Thousand
76 Dollars (\$50,000.00);

77 * * *

78 (* * *b) Highway construction, highway bridges,
79 overpasses and any other project incidental to the construction of
80 highways which are designated as federal aid projects and in which
81 federal funds are involved;

82 (* * *c) A residential project to be occupied by fifty
83 (50) or fewer families and not more than three (3) stories in
84 height;

85 (* * *d) A residential subdivision where the
86 contractor is developing either single-family or multifamily lots;

87 (* * *e) A new commercial construction project not
88 exceeding seventy-five hundred (7500) square feet and not more
89 than two (2) stories in height undertaken by an individual or
90 entity licensed under the provisions of Section 73-59-1 et seq.;

91 (* * *f) Erection of a microwave tower built for the
92 purpose of telecommunication transmissions;



93 (* * *g) Any contract or undertaking on a public
94 project by a prime contractor, subcontractor or sub-subcontractor
95 of any tier involving the construction, reconstruction, repair or
96 maintenance of fire protection systems where such contract,
97 subcontract or undertaking is less than Five Thousand Dollars
98 (\$5,000.00);

99 (* * *h) Any contract or undertaking on a private
100 project by a prime contractor, subcontractor or sub-subcontractor
101 of any tier involving the construction, reconstruction, repair or
102 maintenance of fire protection systems where such contract,
103 subcontract or undertaking is less than Ten Thousand Dollars
104 (\$10,000.00);

105 (* * *i) Any contract or undertaking on a private or
106 public project by a prime contractor, subcontractor or
107 sub-subcontractor of any tier involving the construction,
108 reconstruction, repair or maintenance of technically specialized
109 installations if performed by a Mississippi contractor who has
110 been in the business of installing fire protection sprinkler
111 systems on or before July 1, 2000; or

112 (* * *j) Any contractor undertaking to build,
113 construct, reconstruct, repair, demolish, perform maintenance on,
114 or other related work, whether on the surface or subsurface, on
115 oil or gas wells, pipelines, processing plants, or treatment
116 facilities or other structures of facilities. Nothing herein



117 shall be construed to limit the application or effect of Section
118 31-5-41.

119 "Certificate of responsibility": A certificate numbered and
120 held by a contractor issued by the board under the provisions of
121 this chapter after payment of the special privilege license tax
122 therefor levied under this chapter.

123 "Person": Any person, firm, corporation, joint venture or
124 partnership, association or other type of business entity.

125 "Private project": Any project for erection, building,
126 construction, reconstruction, repair, maintenance or related work
127 which is not funded in whole or in part with public funds.

128 "Public agency": Any board, commission, council or agency of
129 the State of Mississippi or any district, county or municipality
130 thereof, including school, hospital, airport and all other types
131 of governing agencies created by or operating under the laws of
132 this state.

133 "Public funds": Monies of public agencies, whether obtained
134 from taxation, donation or otherwise; or monies being expended by
135 public agencies for the purposes for which such public agencies
136 exist.

137 "Public project": Any project for erection, building,
138 construction, reconstruction, repair, maintenance or related work
139 which is funded in whole or in part with public funds.

140 **SECTION 2.** Section 31-3-3, Mississippi Code of 1972, is
141 reenacted and amended as follows:



142 31-3-3. There is hereby created the State Board of
143 Contractors of the State of Mississippi, which shall consist of
144 ten (10) members who shall be appointed by the Governor. All
145 appointments to the board * * * shall be made with the advice and
146 consent of the Senate. Two (2) road contractors; two (2) building
147 contractors; two (2) residential builders as defined in Section
148 73-59-1; one (1) plumbing or heating and air-conditioning
149 contractor; one (1) electrical contractor; and one (1) water and
150 sewer contractor shall compose the board. * * * The Governor
151 shall appoint one (1) additional member who shall be a roofing
152 contractor and whose term of office shall be five (5) years. Each
153 member shall be an actual resident of the State of Mississippi and
154 must have been actually engaged in the contracting business for a
155 period of not less than ten (10) years before appointment. The
156 initial terms of the two (2) residential builders shall be for two
157 (2) and four (4) years, respectively * * *.

158 Upon the expiration of the term of office of any member of
159 the board, the Governor shall appoint a new member for a term of
160 five (5) years, such new appointments being made so as to maintain
161 on the board two (2) building contractors; two (2) road
162 contractors; two (2) residential builders; one (1) plumbing or
163 heating and air-conditioning contractor; one (1) electrical
164 contractor; and one (1) water and sewer contractor; and one (1)
165 roofing contractor. The Governor shall fill any vacancy by
166 appointment, such appointee to serve the balance of the term of



167 the original appointee. The Governor may remove any member of the
168 board for misconduct, incompetency or willful neglect of duty.

169 In the event the Governor fails to appoint a member of the
170 board within twelve (12) months of the occurrence of the vacancy,
171 such vacancy shall be filled by majority vote of the board,
172 subject to advice and consent of the Senate and the requirements
173 of this section.

174 **SECTION 3.** Section 31-3-5, Mississippi Code of 1972, is
175 reenacted as follows:

176 31-3-5. The board shall be assigned suitable office space at
177 the seat of government and shall elect one (1) of its members as
178 chairman and one (1) as vice chairman; and each shall perform the
179 usual duties of such offices. The board may adopt a seal. Six
180 (6) members of the board shall constitute a quorum, and a majority
181 vote of those present and voting at any meeting shall be necessary
182 for the transaction of any business coming before the board.
183 Members must be present to cast votes on any and all business.
184 The executive director shall serve as secretary of the board. The
185 board is authorized to employ such personnel as shall be necessary
186 in the performance of its duties including sufficient
187 administrative and clerical staff to process and review
188 applications for certificates of responsibility, to prepare and
189 administer tests therefor, to investigate applications for
190 certificates of responsibility and to inspect work performed by



191 contractors as may be necessary to enforce and carry out the
192 purpose of this chapter.

193 **SECTION 4.** Section 31-3-7, Mississippi Code of 1972, is
194 brought forward as follows:

195 31-3-7. The board shall have four (4) regular meetings in
196 each year, one (1) on the second Wednesday in January, one (1) on
197 the second Wednesday in April, one (1) on the second Wednesday in
198 July, and one (1) on the second Wednesday in October, at its
199 offices at the seat of government or through the means of
200 teleconference or video conferencing in accordance with Section
201 25-41-5. If the regular meeting day falls on a legal holiday, the
202 board shall meet on the next day. The board may hold such special
203 meetings as it finds necessary. However, before any special
204 meeting is held, a notice stating the time, place and primary
205 purpose of such meeting shall be sent by certified or registered
206 mail from the chairman or vice chairman of the board to the other
207 members of the board at least five (5) days before such meeting.
208 Certificates of responsibility shall be issued at any time during
209 the course of a calendar year as prescribed by the rules and
210 regulations of the board. All meetings shall be held in the State
211 of Mississippi. At any regular or special meeting the board may
212 recess from time to time to reconvene on a day and time fixed by
213 an order of the board entered upon its minutes.

214 The holder of a valid certificate of responsibility shall
215 disclose to the owner or other person with whom the holder is



216 contracting at the signing of a contract or the initial agreement
217 to perform work whether the holder carries general liability
218 insurance. The disclosure shall be written, the structure and
219 composition of which shall be determined by the State Board of
220 Contractors, and shall be placed immediately before the space
221 reserved in the contract for the signature of the purchaser. The
222 disclosure shall be boldfaced and conspicuous type which is larger
223 than the type of the remaining text of the contract.

224 **SECTION 5.** Section 31-3-11, Mississippi Code of 1972, is
225 amended as follows:

226 31-3-11. The board shall elect and fix the salary of an
227 executive * * * director, and the board may terminate the
228 employment of such executive * * * director at any time the board
229 deems the same advisable. The board shall require the
230 executive * * * director to file bond in such amount as the board
231 may deem necessary, and shall specify the duties of such employee.
232 The premium on any such bond shall be paid from the funds provided
233 by this chapter.

234 **SECTION 6.** Section 31-3-13, Mississippi Code of 1972, is
235 amended as follows:

236 31-3-13. The board shall have the following powers and
237 responsibilities:

238 (a) To receive applications for certificates of
239 responsibility, to investigate and examine applicants for same by
240 holding hearings and securing information, to conduct



241 examinations, and to issue certificates of responsibility to such
242 contractors as the board finds to be responsible. * * *

243 * * *

244 * * * All original certificates and renewals * * * shall
245 expire one (1) year from the date of issuance. Application for
246 renewal of certificates of responsibility, together with the
247 payment of a special privilege license tax as provided under this
248 chapter, shall serve to extend the current certificate until the
249 board either renews the certificate or denies the application.

250 No certificate of responsibility or any renewal thereof shall
251 be issued until the applicant furnishes to the board his
252 Mississippi state sales tax number or Mississippi state use tax
253 number and his state income tax identification numbers.

254 Additional fees may be required as provided in Section
255 31-3-14.

256 The board shall conduct an objective, standardized
257 examination of an applicant for a certificate to ascertain the
258 ability of the applicant to make practical application of his
259 knowledge of the profession or business of construction in the
260 category or categories for which he has applied for a certificate
261 of responsibility. The board may administer an oral examination
262 to applicants who are unable to take the written examination. The
263 cost of the test and the cost of administering the test shall be
264 paid for by applicants for certificates of responsibility at the
265 time applications are filed. The board shall investigate



266 thoroughly the past record of all applicants, which will include
267 an effort toward ascertaining the qualifications of applicants in
268 reading plans and specifications, estimating costs, construction
269 ethics, and other similar matters. The board shall take all
270 applicants under consideration after having examined him or them
271 and go thoroughly into the records and examinations, prior to
272 granting any certificate of responsibility. If the applicant is
273 an individual, examination may be taken by his personal appearance
274 for examination or by the appearance for examination of one or
275 more of his responsible managing employees; and if a copartnership
276 or corporation or any other combination or organization, by the
277 examination of one or more of the responsible managing officers or
278 members of the executive staff of the applicant's firm, according
279 to its own designation, and such person shall be known as the
280 qualifying party. A qualifying party may serve no more than three
281 (3) separate entities as the qualifying party without first
282 appearing before the board and being granted special permission.

283 (b) To conduct thorough investigations of all
284 applicants seeking renewal of their licenses and of all complaints
285 filed with the board concerning the performance of a contractor on
286 a public or private project.

287 (c) To obtain information concerning the responsibility
288 of any applicant for a certificate of responsibility or a holder
289 of a certificate of responsibility under this chapter. Such
290 information may be obtained by investigation, by hearings, or by



291 any other reasonable and lawful means. The board shall keep such
292 information appropriately filed and shall disseminate same to any
293 interested person. The board shall have the power of subpoena.

294 (d) To maintain a list of contractors to whom
295 certificates of responsibility are issued, refused, revoked or
296 suspended, which list shall be available to any interested person.
297 Such list shall indicate the kind or kinds of works or projects
298 for which a certificate of responsibility was issued, refused,
299 revoked or suspended.

300 (e) To issue a citation to anyone performing work
301 without having a valid certificate of responsibility as required
302 by this chapter.

303 (* * * f) To revoke by order entered on its minutes a
304 certificate of responsibility upon a finding by the board that a
305 particular contractor or qualifying party is not responsible, and
306 to suspend such certificate of responsibility in particular cases
307 pending investigation, upon cause to be stated in the board's
308 order of suspension. No such revocation or suspension shall be
309 ordered without a hearing conducted upon not less than ten (10)
310 days' notice to such certificate holder by certified or registered
311 mail, wherein the holder of the certificate of responsibility
312 shall be given an opportunity to present all lawful evidence which
313 he may offer.

314 (* * * g) To adopt rules and regulations setting forth
315 the requirements for certificates of responsibility, the



316 revocation or suspension thereof, and all other matters concerning
317 same; rules and regulations governing the conduct of the business
318 of the board and its employees; and such other rules and
319 regulations as the board finds necessary for the proper
320 administration of this chapter, including those for the conduct of
321 its hearings on the revocation or suspension of certificates of
322 responsibility. Such rules and regulations shall not conflict
323 with the provisions of this chapter.

324 (* * *h) The board shall have the power and
325 responsibility to classify the kind or kinds of works or projects
326 that a contractor is qualified and entitled to perform under the
327 certificate of responsibility issued to him. Such classification
328 shall be specified in the certificate of responsibility.

329 The powers of the State Board of Contractors shall not extend
330 to fixing a maximum limit in the bid amount of any contractor, or
331 the bonding capacity, or a maximum amount of work which a
332 contractor may have under contract at any time, except as stated
333 in paragraph (a) of this section; and the Board of Contractors
334 shall not have jurisdiction or the power or authority to determine
335 the maximum bond a contractor may be capable of obtaining. The
336 board, in determining the qualifications of any applicant for an
337 original certificate of responsibility or any renewal thereof,
338 shall, among other things, take into consideration the following:

339 (* * *i) experience and ability, (* * *ii) character,
340 (* * *iii) the manner of performance of previous contracts,



341 (* * *iv) financial condition, (* * *v) equipment, (* * *vi)
342 personnel, (* * *vii) work completed, (* * *viii) work on hand,
343 (* * *ix) ability to perform satisfactorily work under contract
344 at the time of an application for a certificate of responsibility
345 or a renewal thereof, (* * *x) default in complying with
346 provisions of this law, or any other law of the state, and
347 (* * *xi) the results of objective, standardized examinations. A
348 record shall be made and preserved by the board of each
349 examination of an applicant and the findings of the board thereon,
350 and a certified copy of the record and findings shall be furnished
351 to any applicant desiring to appeal from any order or decision of
352 the board.

353 (* * *i) The board shall enter upon its minutes an
354 order or decision upon each application filed with it, and it may
355 state in such order or decision the reason or reasons for its
356 order or decision.

357 Upon failure of the board to enter an order or decision upon
358 its minutes as to any application within one hundred eighty (180)
359 days from the date of filing such application, the applicant shall
360 have the right of appeal as otherwise provided by this chapter.

361 * * *

362 The holder of a valid certificate of responsibility shall
363 disclose to the owner or other person with whom the holder is
364 contracting at the signing of a contract or the initial agreement
365 to perform work whether the holder carries general liability



366 insurance. The disclosure shall be written, the structure and
367 composition of which shall be determined by the State Board of
368 Contractors, and shall be placed immediately before the space
369 reserved in the contract for the signature of the purchaser. The
370 disclosure shall be boldfaced and conspicuous type which is larger
371 than the type of the remaining text of the contract.

372 **SECTION 7.** Section 31-3-14, Mississippi Code of 1972, is
373 amended as follows:

374 31-3-14. (1) In addition to the fees required for
375 application and renewal for certification and registration of all
376 contractors in Section 31-3-13, all holders of a certificate of
377 responsibility shall pay a fee equal to * * * Two Hundred Dollars
378 (\$200.00) at the time of application or renewal of certificates of
379 responsibility. Any residential builder licensed under the
380 provisions of Section 73-59-1 et seq. shall be exempt from the fee
381 imposed under this section. The revenue derived from such
382 additional fees shall be deposited into a fund to be known as the
383 "Construction Education Fund," a special fund created in the State
384 Treasury, and distributed by the State Board of Contractors
385 created in Section 31-3-3, to the Mississippi Construction
386 Education Foundation, public high schools and community colleges
387 that participate in the Mississippi Construction Education
388 Foundation's "school-to-work" program, state universities that
389 have construction technology programs, the Mississippi Housing
390 Institute and certain construction educational trusts approved by



391 the State Board of Contractors in the manner hereinafter provided
392 to offer courses for construction education and construction craft
393 training to meet the needs of the construction industry of the
394 State of Mississippi.

395 (2) The State Board of Contractors shall, on an annual
396 basis, solicit from the Mississippi state institutions of higher
397 learning, all the public community and junior colleges, the
398 Mississippi Construction Education Foundation, public high schools
399 that participate in the Mississippi Construction Education
400 Foundation's "school-to-work" program and certain construction
401 educational trusts, applications for the use of such funds in
402 construction education and craft training programs in a manner
403 prescribed by the board. The board may appoint a technical
404 advisory committee to advise the board on the most needed areas of
405 construction education and craft training, continuing education or
406 research relating to the construction education and craft training
407 in the state, based on significant changes in the construction
408 industry's practices, economic development or on problems costing
409 public or private contractors substantial waste. The board shall
410 ensure that the monies distributed from this fund are properly
411 spent to promote construction education and craft training in
412 programs in the state which are approved by the board. At least
413 seventy-five percent (75%) of the monies distributed by the board,
414 pursuant to this section, must be used for construction craft
415 training with the exception of the Mississippi Housing Institute.



416 (3) Each university, junior college, community college, the
417 Mississippi Construction Education Foundation, public high school
418 that participates in the foundation's "school-to-work" program and
419 construction educational trust receiving funds pursuant to this
420 section for construction education or construction craft training
421 programs shall utilize such funds only for construction education
422 and craft training curricula and program development, faculty
423 development, equipment, student scholarships, student
424 assistantships, and for continuing education programs related to
425 construction education and craft training. Such funds shall not
426 be commingled with the normal operating funds of the educational
427 institution, regardless of the source of such funds.

428 (4) The State Board of Contractors shall ensure the
429 distribution of reports and the availability of construction
430 education programs established pursuant to this section to all
431 segments of the construction industry that are subject to the fee
432 provided under this section. The board shall cause a report to be
433 made to the Legislature in October of each year, summarizing the
434 allocation of funds by institution or program and summarizing the
435 new projects funded and the status of previously funded projects.

436 (5) All monies deposited into the Construction Education
437 Fund shall be used exclusively for construction education and
438 craft training, and any unspent funds at the end of the fiscal
439 year shall not revert to the General Fund of the State Treasury



440 but shall be available for construction education and craft
441 training in subsequent fiscal years.

442 (6) All monies deposited into the Construction Education
443 Fund collected from residential builders licensed under the
444 provisions of Section 73-59-1 et seq. shall be used exclusively
445 for licensed home builders' education and professional development
446 and any unspent funds at the end of the fiscal year shall not
447 revert to the General Fund of the State Treasury but shall be
448 available for construction education and craft training in
449 subsequent fiscal years.

450 (7) All expenditures from the Construction Education Fund
451 shall be by requisition to the State Auditor, signed by the
452 executive * * * director of the board and countersigned by the
453 chairman or vice chairman of the board, and the State Treasurer
454 shall issue his warrants thereon.

455 **SECTION 8.** Section 31-3-17, Mississippi Code of 1972, is
456 amended as follows:

457 31-3-17. There is hereby levied, in addition to any taxes
458 otherwise provided for by law, a special privilege license tax
459 of * * * Two Hundred Dollars (\$200.00) on each contractor who
460 applies for a certificate of responsibility issued under this
461 chapter; and such tax shall be paid to the executive * * *
462 director of the board upon making such application in this state.
463 The board may levy an additional special privilege license tax not
464 to exceed * * * One Hundred Dollars (\$100.00) for each additional



465 classification for which a contractor applies and is found to be
466 qualified. The executive * * * director of the board shall
467 promptly deposit all monies received under this chapter in the
468 State Treasury. Except for the civil penalty provided in Section
469 31-3-21 which shall be deposited into the State General Fund and
470 the fee provided in Section 31-3-14, all monies received under
471 this chapter shall be kept in a special fund in the State Treasury
472 known as the "State Board of Contractors Fund," and shall be used
473 only for the purposes of this chapter. Such monies shall not
474 lapse at the end of each fiscal year, but all monies in such State
475 Board of Contractors Fund in excess of the sum of fifty percent
476 (50%) of the approved budget for the fiscal year shall be paid
477 over into the General Fund of the State Treasury. All
478 expenditures from the Board of Contractors Fund shall be by
479 requisition to the State Auditor, signed by the executive * * *
480 director of the board and countersigned by the chairman or vice
481 chairman of the board, and the State Treasurer shall issue * * *
482 warrants thereon.

483 **SECTION 9.** Section 31-3-21, Mississippi Code of 1972, is
484 amended as follows:

485 31-3-21. (1) It shall be unlawful for any person who does
486 not hold a certificate of responsibility issued under this
487 chapter * * * to submit a bid, enter into a contract, or otherwise
488 engage in or continue in this state in the business of a
489 contractor, as defined in this chapter. Any bid which is



490 submitted without a certificate of responsibility number issued
491 under this chapter and without that number appearing on the
492 exterior of the bid envelope, as and if herein required, at the
493 time designated for the opening of such bid, shall not be
494 considered further, and the person or public agency soliciting
495 bids shall not enter into a contract with a contractor submitting
496 a bid in violation of this section. In addition, any person
497 violating this section by knowingly and willfully submitting a bid
498 for projects without holding a certificate of responsibility
499 number issued under this chapter, as and if herein required, at
500 the time of the submission or opening of such bid shall be guilty
501 of a misdemeanor and, upon conviction, shall be punished by a fine
502 of not more than One Thousand Dollars (\$1,000.00), or by
503 imprisonment for not more than six (6) months, or by both such
504 fine and imprisonment.

505 (2) All bids submitted for public or private projects where
506 the bid is in excess of Fifty Thousand Dollars (\$50,000.00) shall
507 contain on the outside or exterior of the envelope or container of
508 such bid the contractor's current certificate number, and no bid
509 shall be opened or considered unless such contractor's current
510 certificate number appears on the outside or exterior of said
511 envelope or container, or unless there appears a statement on the
512 outside or exterior of such envelope or container to the effect
513 that the bid enclosed therewith did not exceed Fifty Thousand
514 Dollars (\$50,000.00) with respect to public or private projects.



515 Any person violating the provisions of this subsection shall be
516 guilty of a misdemeanor and, upon conviction, shall be punished by
517 a fine of not more than One Thousand Dollars (\$1,000.00), or by
518 imprisonment for not more than six (6) months, or by both such
519 fine and imprisonment.

520 (3) In the letting of public contracts preference shall be
521 given to resident contractors, and a nonresident bidder domiciled
522 in a state having laws granting preference to local contractors
523 shall be awarded Mississippi public contracts only on the same
524 basis as the nonresident bidder's state awards contracts to
525 Mississippi contractors bidding under similar circumstances; and
526 resident contractors actually domiciled in Mississippi, be they
527 corporate, individuals, or partnerships, are to be granted
528 preference over nonresidents in awarding of contracts in the same
529 manner and to the same extent as provided by the laws of the state
530 of domicile of the nonresident. When a nonresident contractor
531 submits a bid for a public project, he shall attach thereto a copy
532 of his resident state's current preference law, if any, pertaining
533 to such state's treatment of nonresident contractors. Any bid
534 submitted by a nonresident contractor which does not include the
535 nonresident contractor's current state law shall be rejected and
536 not considered for award. As used in this section, the term
537 "resident contractors" includes a nonresident person, firm or
538 corporation that has been qualified to do business in this state
539 and has maintained a permanent full-time office in the State of



540 Mississippi for two (2) years prior to * * * submission of the bid
541 and the subsidiaries and affiliates of such a person, firm or
542 corporation. Any public agency awarding a contract shall promptly
543 report to the * * * Department of Revenue the following
544 information:

545 (a) The amount of the contract.

546 (b) The name and address of the contractor reviewing
547 the contract.

548 (c) The name and location of the project.

549 (4) In addition to any other penalties provided in this
550 chapter, and upon a finding of a violation of this chapter, the
551 State Board of Contractors may, after notice and hearing, issue an
552 order of abatement directing the contractor to cease all actions
553 constituting violations of this chapter until such time as the
554 contractor complies with Mississippi state law, and to pay to the
555 board a civil penalty to be deposited into the State Board of
556 Contractors' Fund, created in Section 31-3-17, of not more than
557 three percent (3%) of the total contract being performed by the
558 contractor. In addition to, or in lieu of, such civil penalty,
559 the board may * * * issue a public or private reprimand. The
560 funds collected from civil penalty payments shall be used by the
561 State Board of Contractors for enforcement and education.

562 **SECTION 10.** Section 31-3-23, Mississippi Code of 1972, is
563 amended as follows:



564 31-3-23. * * * Within ten (10) days after any order,
565 judgment or action of the board, any person aggrieved thereby may
566 appeal such order, judgment or action either to the chancery court
567 of the county wherein the appellant resides or to the Chancery
568 Court of the First Judicial District of Hinds County, Mississippi,
569 upon giving bond with sufficient security in the amount of Two
570 Hundred Fifty Dollars (\$250.00), approved by the clerk of the
571 chancery court and conditioned to pay any costs which may be
572 adjudged against such person. In lieu of the bond, the appellant
573 may post Two Hundred Fifty Dollars (\$250.00) with the clerk of the
574 chancery court and conditioned to pay any costs which may be
575 adjudged against such person.

576 Notice of appeal shall be filed in the office of the clerk of
577 the chancery court, who shall issue a writ of certiorari directed
578 to the board commanding it within forty-five (45) days after
579 service thereof to certify to such court its entire record in the
580 matter in which the appeal has been taken. The appeal shall
581 thereupon be heard in due course by the court, and the court shall
582 review the record and shall affirm or reverse the judgment. If
583 the judgment * * * is reversed, the chancery court or chancellor
584 shall render such order or judgment as the board ought to have
585 rendered, and certify the same to the board; and costs shall be
586 awarded as in other cases.

587 Appeals may be had to the Supreme Court of the State of
588 Mississippi as provided by law from any final action of the



589 chancery court. The board may employ counsel to defend such
590 appeals, to be paid out of the funds in the State Board of
591 Contractors Fund.

592 On appeal, any order, judgment or action of the board
593 revoking a certificate of responsibility or residential license
594 shall remain in full force unless the chancery court or Supreme
595 Court reverses such order, judgment or action of the board.

596 The remedies provided under this chapter for any
597 aggrieved * * * person shall not be exclusive, but shall be
598 cumulative of and supplemental to any other remedies which he may
599 otherwise have in law or in equity, whether by injunction or
600 otherwise.

601 **SECTION 11.** Section 73-59-1, Mississippi Code of 1972, is
602 reenacted and amended as follows:

603 73-59-1. For the purposes of this chapter, the following
604 words shall have the meanings ascribed herein:

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

607 (b) "Residential builder" means any corporation,
608 partnership or individual who constructs a building or structure
609 for sale for use by another as a residence or who, for a fixed
610 price, commission, fee, wage or other compensation, undertakes or
611 offers to undertake the construction, or superintending of the
612 construction, of any building or structure which is not more than
613 three (3) floors in height, to be used by another as a residence,



614 when the total cost of the undertaking exceeds Fifty Thousand
615 Dollars (\$50,000.00).

616 (c) "Remodeler" means any corporation, partnership or
617 individual who, for a fixed price, commission, fee, wage or other
618 compensation, undertakes or offers to undertake the construction,
619 or superintending of the construction, of improvements to an
620 existing residence when the total cost of the improvements exceeds
621 Ten Thousand Dollars (\$10,000.00).

622 (d) "Residential construction" means any undertaking
623 described in paragraph (b) of this section performed by a
624 residential builder.

625 (e) "Residential improvement" means any undertaking
626 described in paragraph (c) of this section performed by a
627 remodeler.

628 (f) "Active licensee" means any builder or remodeler
629 licensed under this chapter and engaged in building and
630 remodeling.

631 (g) "Inactive licensee" means any builder or remodeler
632 licensed under this chapter and not engaged in building or
633 remodeling.

634 **SECTION 12.** Section 73-59-3, Mississippi Code of 1972, is
635 reenacted and amended as follows:

636 73-59-3. (1) Except as otherwise provided in Section
637 73-59-15 or Section 33-1-39, persons who perform or formerly
638 performed residential construction or residential improvement



639 shall be licensed by the board annually as an active licensee or
640 inactive licensee, as appropriate, and, as a prerequisite to
641 obtaining a license or renewal thereof, each shall submit to the
642 board:

643 (a) Proof of workers' compensation insurance, if
644 applicable; however, workers' compensation insurance shall not be
645 required for inactive licensees;

646 (b) A federal employment identification number or
647 social security number.

648 (2) The board may require liability insurance to be licensed
649 under this chapter and it shall be reflected on the certificate of
650 licensure; however, liability insurance shall not be required for
651 inactive licensees.

652 (3) The board shall issue or renew a license to an active or
653 inactive residential builder or remodeler upon payment to the
654 board of the license fee. The initial license fee shall be Fifty
655 Dollars (\$50.00). The license fee may thereafter be increased or
656 decreased by the board and cannot exceed One Hundred Dollars
657 (\$100.00); however, the receipts from fees collected by the board
658 shall be no greater than the amount required to pay all costs and
659 expenses incurred by the board in enforcing the provisions of this
660 chapter. Twenty-five Dollars (\$25.00) of the fee required by this
661 section which is assessed to residential builders licensed under
662 the provisions of Section 73-59-1 et seq. shall be deposited to
663 the Construction Education Fund created pursuant to Section



664 31-3-14 and shall be distributed to the Mississippi Housing
665 Institute. The remaining fees collected under this chapter shall
666 be deposited into the special fund in the State Treasury known as
667 the "State Board of Contractors Fund" created pursuant to Section
668 31-3-17 and shall be used for the administration and enforcement
669 of this chapter and as provided in Section 31-3-14. Amounts in
670 such fund shall not lapse into the State General Fund at the end
671 of a fiscal year. Interest accrued to such fund shall remain in
672 the fund. All expenditures from the special fund shall be by
673 requisition to the Department of Finance and Administration,
674 signed by the executive * * * director of the board and
675 countersigned by the chairman or vice chairman of the board.

676 (4) Except as provided in Section 33-1-39, the license shall
677 expire on the last day of the twelfth month following its issuance
678 or renewal and shall become invalid unless renewed. The board may
679 notify by mail or e-mail every licensee under this chapter of the
680 date of the expiration of his license and the amount of the fee
681 required for renewal of the license for one (1) year. To receive
682 notification by e-mail, a licensee must notify the board of his
683 desire to receive notification by e-mail and provide an e-mail
684 address. Such notice may be mailed or e-mailed within thirty (30)
685 days prior to the expiration date of the license. The failure on
686 the part of any licensee to renew his license annually in such
687 twelfth month shall not deprive such licensee of the right of
688 renewal, provided that renewal is effected within * * * one



689 hundred eighty (180) days after the expiration date of the license
690 by payment of the license fee plus a penalty of ten percent (10%)
691 of the license fee. A new license required to replace a revoked,
692 lost, mutilated or destroyed license may be issued, subject to the
693 rules of the board, for a charge of not more than * * * Fifty
694 Dollars (\$50.00). An inactive licensee may become an active
695 licensee upon application meeting all the requirements of this
696 section.

697 (5) Any person who is not a resident of the State of
698 Mississippi who desires to perform residential construction or
699 residential improvement shall be licensed to perform such
700 construction or improvement as provided by this chapter.

701 **SECTION 13.** Section 73-59-5, Mississippi Code of 1972, is
702 reenacted and amended as follows:

703 73-59-5. Any corporation, partnership or individual seeking
704 to be licensed and examined under this chapter shall file with the
705 board * * * a written application on such form as may be
706 prescribed by the board. Such application shall be accompanied by
707 the payment of the license fee. If the application sufficiently
708 contains the information required pursuant to this chapter, the
709 applicant shall be examined by the board at its next meeting using
710 a uniform written examination prescribed by the board. The board
711 shall administer an oral examination to applicants who are unable
712 to take the written examination. In addition, the board, in
713 examining such applicant, shall consider the following:



- 714 (a) Experience;
- 715 (b) Complaints; and
- 716 (c) Other pertinent information the board may require.

717 If, as a result of the examination, the board finds that the
718 applicant is qualified to engage in residential construction or
719 residential improvement in Mississippi, the applicant shall be
720 issued a license. Any applicant rejected by the board shall be
721 given the opportunity to be reexamined at the next regularly
722 scheduled examination date after a new application has been filed
723 and the license fee has again been paid.

724 The board shall make and preserve a record of each
725 examination of an applicant and the findings of the board
726 pertaining to such examination. A certified copy of such record,
727 omitting confidential test questions, shall be furnished to the
728 applicant so requesting such record upon the payment of a fee to
729 the board that reasonably reflects the cost of furnishing such
730 record to the applicant.

731 Each application or filing made under this section shall
732 include the social security number(s) of the applicant in
733 accordance with Section 93-11-64, Mississippi Code of 1972.

734 Each application for a license under this chapter shall
735 reveal any other states in which the applicant or any partner or
736 business associate of the applicant is licensed and whether the
737 applicant, partner or business associate has had a license revoked
738 or suspended in any other state. If the applicant fails to



739 provide this information, the board may deny or revoke the
740 applicant's license. If the applicant has had a license revoked
741 in another state, the board may deny the application for a license
742 in this state.

743 **SECTION 14.** Section 73-59-7, Mississippi Code of 1972, is
744 reenacted as follows:

745 73-59-7. In the event of a catastrophe or emergency which
746 arises out of a disaster, act of God, riot, civil commotion,
747 conflagration or other similar occurrence, the board, upon
748 application, may issue an emergency license to persons who are
749 residents or nonresidents of this state and who may or may not be
750 otherwise licensed residential builders or remodelers. Such
751 emergency license shall remain in force for a period not to exceed
752 ninety (90) days, unless extended for an additional period of
753 ninety (90) days by the board or until a contract to build or
754 remodel entered into during the period of the emergency license
755 has been completed.

756 Within five (5) days of any applicant beginning work as a
757 residential builder or remodeler under this section, the employer
758 or person contracting with such person shall certify to the board
759 such application without being deemed in violation of this
760 chapter, provided that the board, after notice and hearing, may
761 take disciplinary action or revoke the emergency license upon
762 grounds as otherwise contained in this chapter providing for such



763 disciplinary action or revocation of a residential builder's or
764 remodeler's license.

765 The fee for an emergency license shall be in an amount not to
766 exceed Fifty Dollars (\$50.00) as determined by the board and shall
767 be due and payable at the time of the issuance of such emergency
768 license.

769 **SECTION 15.** Section 73-59-9, Mississippi Code of 1972, is
770 reenacted and amended as follows:

771 73-59-9. (1) Any residential builder who undertakes or
772 attempts to undertake the business of residential construction
773 without having a valid license as required by this chapter, or who
774 knowingly presents to the board, or files with the board, false
775 information for the purpose of obtaining such license, shall be
776 deemed guilty of a misdemeanor and, upon conviction, shall be
777 fined not less than One Hundred Dollars (\$100.00) and not more
778 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not
779 less than thirty (30) nor more than sixty (60) days in the county
780 jail, or both.

781 (2) Any remodeler who undertakes or attempts to undertake
782 the business of residential improvement without having a valid
783 license as required by this chapter, or who knowingly presents to
784 the board, or files with the board, false information for the
785 purpose of obtaining such license, shall be deemed guilty of a
786 misdemeanor and, upon conviction, shall be fined not less than One
787 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars



788 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
789 more than sixty (60) days in the county jail, or both.

790 (3) A residential builder or remodeler who does not have the
791 license provided by this chapter may not bring any action, either
792 at law or in equity, to enforce any contract for residential
793 building or remodeling or to enforce a sales contract.

794 (4) The board shall have the authority to issue a citation
795 and may stop work of a residential builder or remodeler performing
796 work without having a valid license as required by this chapter.

797 **SECTION 16.** Section 73-59-11, Mississippi Code of 1972, is
798 reenacted and amended as follows:

799 73-59-11. The board shall have the following additional
800 duties for the purposes of this chapter:

801 (a) To conduct thorough investigations of all
802 applicants seeking a license or licensees seeking renewal of their
803 licenses and of all complaints filed with the board concerning the
804 performance of a residential builder.

805 (b) To obtain information concerning the responsibility
806 of any applicant for a license or of a licensee. Such information
807 may be obtained by investigation, by hearings, or by any other
808 reasonable and lawful means. The board shall keep such
809 information appropriately filed.

810 (c) To maintain a list of residential builders and
811 remodelers to whom licenses are issued, refused, revoked or
812 suspended, which list shall be available to any interested person.



813 (d) To prepare annually a complete roster that shows
814 all the names and places of business of the residential builders
815 and remodelers licensed by the board during the preceding year and
816 to forward a copy of the roster to each municipality and county in
817 the state and to file the roster with the Secretary of State.

818 (e) To take disciplinary actions pursuant to the
819 provisions of Section 73-59-13.

820 (f) To adopt rules and regulations governing
821 disciplinary actions and the conduct of its hearings and to adopt
822 such other rules and regulations as the board finds necessary for
823 the proper administration of this chapter.

824 (g) The board may require continuing education for any
825 residential builder or remodeler licensed under this chapter;
826 provided, however, that any residential builder or remodeler who
827 has held a valid license under this chapter before July 1, 2015,
828 shall be exempt from any continuing education requirements. No
829 more than two (2) hours of continuing education shall be required
830 by the board per year.

831 The holder of a valid license shall disclose to the owner or
832 other person with whom the holder is contracting at the signing of
833 a contract or the initial agreement to perform work whether the
834 holder carries general liability insurance. The disclosure shall
835 be written, the structure and composition of which shall be
836 determined by the State Board of Contractors, and shall be placed
837 immediately before the space reserved in the contract for the



838 signature of the purchaser. The disclosure shall be boldfaced and
839 conspicuous type which is larger than the type of the remaining
840 text of the contract.

841 **SECTION 17.** Section 73-59-13, Mississippi Code of 1972, is
842 reenacted and amended as follows:

843 73-59-13. (1) The board, upon satisfactory proof and in
844 accordance with the provisions of this chapter and the regulations
845 of the board pertaining thereto, is authorized to take the
846 disciplinary actions provided for in this section against any
847 person for any of the following reasons:

848 (a) Violating any of the provisions of this chapter or
849 the rules or regulations of the board pertaining to the work of
850 residential building or residential improvement;

851 (b) Fraud, deceit or misrepresentation in obtaining a
852 license;

853 (c) Gross negligence or misconduct;

854 (d) Engaging in work of residential building or
855 residential improvement on an expired license or while under
856 suspension or revocation of license unless the suspension or
857 revocation be abated in accordance with this chapter;

858 (e) Loaning a license to an unlicensed person;

859 (f) Failing to maintain workers' compensation
860 insurance, if applicable; or

861 (g) Failing to pay for goods or services for which the
862 builder is contractually bound.



863 (2) Any person, including members of the board, may prefer
864 charges against any other person for committing any of the acts
865 set forth in subsection (1) of this section. Such charges shall
866 be sworn to, either upon actual knowledge or upon information and
867 belief, and shall be filed with the board.

868 The board shall investigate all charges filed with it and,
869 upon finding reasonable cause to believe that the charges are not
870 frivolous, unfounded or filed in bad faith, may, in its
871 discretion, cause a hearing to be held, at a time and place fixed
872 by the board, regarding the charges and may compel the accused by
873 subpoena to appear before the board to respond to such charges.

874 The board * * * may send a certified inspector to inspect the
875 building or structure which is the subject of a complaint or the
876 board may use a county certified building inspector from the
877 county where the building or structure is located to inspect the
878 building or structure which is the subject of a complaint. The
879 report of the inspector shall be used in the investigation and the
880 determination of the board. The provisions above shall only apply
881 to hearings.

882 No disciplinary action may be taken until the accused has
883 been furnished both a statement of the charges against him and
884 notice of the time and place of the hearing thereon, which shall
885 be personally served on such accused or mailed by certified mail,
886 return receipt requested, to the last known business or residence
887 address of the accused not less than thirty (30) days prior to the



888 date fixed for the hearing. The complaining party shall be
889 notified of the place and time of the hearing by mail to the last
890 known business or residence address of the complaining party not
891 less than thirty (30) days prior to the date fixed for the
892 hearing.

893 (3) At any hearing held hereunder, the board shall have the
894 power to subpoena witnesses and compel their attendance and may
895 also require the production of books, papers, documents or other
896 materials which may be pertinent to the proceedings. The board
897 may designate or secure a hearing officer to conduct the hearing.
898 All evidence shall be presented under oath, which may be
899 administered by any member of the board, and thereafter the
900 proceedings may, if necessary, be transcribed in full by a court
901 reporter and filed as part of the record in the case. Copies of
902 such transcriptions may be provided to any party to the
903 proceedings at a price reflecting actual cost, to be fixed by the
904 board.

905 All witnesses who are subpoenaed and appear in any
906 proceedings before the board shall receive the same fees and
907 mileage as allowed by law to witnesses in county, circuit and
908 chancery court pursuant to Section 25-7-47, Mississippi Code of
909 1972, and all such fees shall be taxed as part of the costs in the
910 case.

911 When, in any proceeding before the board, any witness shall
912 fail or refuse to attend upon subpoena issued by the board, shall



913 refuse to testify, or shall refuse to produce any books and papers
914 the production of which is called for by the subpoena, the
915 attendance of such witness and the giving of his testimony and the
916 production of the books and papers shall be enforced by any court
917 of competent jurisdiction of this state in the manner provided for
918 the enforcement of attendance and testimony of witnesses in civil
919 cases in the courts of this state.

920 The accused and the complaining party shall have the right to
921 be present at the hearing in person, by counsel or other
922 representative, or both. The board is authorized for proper cause
923 to continue or recess the hearing as may be necessary.

924 (4) At the conclusion of the hearing, the board may either
925 decide the issue at that time or take the case under advisement
926 for further deliberation. The board shall render its decision not
927 more than ninety (90) days after the close of the hearing and
928 shall forward to the last known business or residence address of
929 the accused, by certified mail, return receipt requested, a
930 written statement of the decision of the board.

931 (5) If a majority of the board finds the accused guilty of
932 the charges filed, the board may:

933 (a) Issue a public or private reprimand;

934 (b) Suspend or revoke the license of the accused; * * *

935 (c) Order completion of an additional educational
936 requirement prescribed by the board not to exceed two (2) hours
937 per violation; or



938 (* * *d) In lieu of or in addition to any reprimand,
939 suspension * * *, revocation, or education requirement, assess and
940 levy upon the guilty party a monetary penalty of not less than One
941 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
942 (\$5,000.00) for each violation.

943 (6) A monetary penalty assessed and levied under this
944 section shall be paid to the board upon the expiration of the
945 period allowed for appeal of such penalties under this section or
946 may be paid sooner if the guilty party elects. Money collected by
947 the board under this section shall be deposited to the credit of
948 the State Board of Contractors Fund.

949 When payment of a monetary penalty assessed and levied by the
950 board in accordance with this section is not paid when due, the
951 board shall have the power to institute and maintain proceedings
952 in its name for enforcement of payment in the chancery court of
953 the county of residence of the delinquent party; however, if the
954 delinquent party is a nonresident of the State of Mississippi,
955 such proceedings shall be in the Chancery Court of the First
956 Judicial District of Hinds County, Mississippi.

957 (7) When the board has taken a disciplinary action under
958 this section, the board may, in its discretion, stay such action
959 and place the guilty party on probation for a period not to exceed
960 one (1) year upon the condition that such party shall not further
961 violate either the laws of the State of Mississippi pertaining to



962 the practice of residential construction or residential remodeling
963 or the bylaws, rules or regulations promulgated by the board.

964 (8) The board shall not assess any of the costs of
965 disciplinary proceedings conducted pursuant to this section
966 against the prevailing party.

967 (9) The power and authority of the board to assess and levy
968 the monetary penalties provided for in this section shall not be
969 affected or diminished by any other proceedings, civil or
970 criminal, concerning the same violation or violations except as
971 provided in this section.

972 (10) The board, for sufficient cause, may reissue a revoked
973 license whenever a majority of the board members vote to do so.

974 (11) * * * Within ten (10) days after any order, judgment or
975 action of the board, any person aggrieved thereby may appeal such
976 order, judgment or action either to the chancery court of the
977 county wherein the appellant resides or to the Chancery Court of
978 the First Judicial District of Hinds County, Mississippi, upon
979 giving bond with sufficient security in the amount of Two Hundred
980 Fifty Dollars (\$250.00), approved by the clerk of the chancery
981 court and conditioned to pay any costs which may be adjudged
982 against such person. In lieu of the bond, the appellant may post
983 Two Hundred Fifty Dollars (\$250.00) with the clerk of the chancery
984 court and conditioned to pay any costs which may be adjudged
985 against such person.



986 Notice of appeal shall be filed in the office of the clerk of
987 the chancery clerk, who shall issue a writ of certiorari directed
988 to the board commanding it within forty-five (45) days after
989 service thereof to certify to such court its entire record in the
990 matter in which the appeal has been taken. The appeal shall
991 thereupon be heard in due course by the court, and the court shall
992 review the record and shall affirm or reverse the judgment. If
993 the judgment * * * is reversed, the chancery court or chancellor
994 shall render such order or judgment as the board ought to have
995 rendered, and certify the same to the board; and costs shall be
996 awarded as in other cases.

997 Appeals may be had to the Supreme Court of the State of
998 Mississippi as provided by law from any final action of the
999 chancery court. The board may employ counsel to defend all such
1000 appeals, to be paid out of the funds in the State Board of
1001 Contractors Fund.

1002 On appeal, any order, judgment or action of the board
1003 revoking a certificate of responsibility or residential license
1004 shall remain in full force unless the chancery court or Supreme
1005 Court reverses such order, judgment or action of the board.

1006 The remedies provided under this chapter for any
1007 aggrieved * * * person shall not be exclusive, but shall be
1008 cumulative of and supplemental to any other remedies which he may
1009 otherwise have in law or in equity, whether by injunction or
1010 otherwise.



1011 (12) Any political subdivision or agency of this state which
1012 receives a complaint against a residential builder or remodeler
1013 shall, in addition to exercising whatever authority such political
1014 subdivision or agency has been given over such complaint, forward
1015 the complaint to the board.

1016 (13) In addition to the reasons specified in subsection (1)
1017 of this section, the board shall be authorized to suspend the
1018 license of any licensee for being out of compliance with an order
1019 for support, as defined in Section 93-11-153. The procedure for
1020 suspension of a license for being out of compliance with an order
1021 for support, and the procedure for the reissuance or reinstatement
1022 of a license suspended for that purpose, and the payment of any
1023 fees for the reissuance or reinstatement of a license suspended
1024 for that purpose, shall be governed by Section 93-11-157 or
1025 93-11-163, as the case may be. Actions taken by the board in
1026 suspending a license when required by Section 93-11-157 or
1027 93-11-163 are not actions from which an appeal may be taken under
1028 this section. Any appeal of a license suspension that is required
1029 by Section 93-11-157 or 93-11-163 shall be taken in accordance
1030 with the appeal procedure specified in Section 93-11-157 or
1031 93-11-163, as the case may be, rather than the procedure specified
1032 in this section. If there is any conflict between any provision
1033 of Section 93-11-157 or 93-11-163 and any provision of this
1034 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
1035 case may be, shall control.



1036 **SECTION 18.** Section 73-59-15, Mississippi Code of 1972, is
1037 reenacted and amended as follows:

1038 73-59-15. (1) This chapter shall not apply to:

1039 (a) Agricultural buildings, buildings used for
1040 agricultural purposes, buildings constructed as a community
1041 effort, or tenant houses;

1042 (b) Any person who undertakes construction or
1043 improvement on his own residence, or who acts as his own general
1044 contractor in the performance of construction or improvement on
1045 his own residence * * *;

1046 (c) Any person who undertakes residential construction
1047 or improvement, or who acts as a general contractor in the
1048 performance of residential construction or improvement, or who
1049 acts under supervision of the owner-occupant with respect to
1050 residential construction or improvement, when the owner of such
1051 construction or improvement is related to such person by
1052 consanguinity or direct affinity;

1053 (d) The owners of property who supervise, superintend,
1054 oversee, direct or in any manner assume charge of the
1055 construction, alteration, repair, improvement, movement,
1056 demolition, putting up, tearing down or maintenance of any
1057 building, railroad, excavation, project, development, improvement,
1058 plant facility or any other construction undertaking on such
1059 property for use by such owner and which will not be for sale,
1060 rent, public use or public assembly;



1061 * * *

1062 (* * *e) Any contractor holding a valid license or
1063 certificate of responsibility for general construction from the
1064 board;

1065 (* * *f) Any nonresident contractor holding a valid
1066 license or certificate of responsibility for general construction;

1067 (* * *g) Any person who constructs two (2) single
1068 residences or less within a period of one (1) year in any county
1069 or municipality which does not require a building permit or any
1070 local certification for such construction, provided that the
1071 person is not building the residences for sale.

1072 (2) A person specified in subsection (1)(b) or (c) shall not
1073 make more than two (2) applications for a permit to construct a
1074 single residence or shall not construct more than two (2) single
1075 residences within a period of one (1) year. There shall be a
1076 rebuttable presumption that such person intends to construct for
1077 the purpose of sale, lease, rent or any similar purpose if more
1078 than two (2) applications are made for a permit to construct a
1079 single residence or if more than two (2) single residences are
1080 constructed within a period of one (1) year.

1081 * * *

1082 **SECTION 19.** Section 73-59-17, Mississippi Code of 1972, is
1083 reenacted as follows:

1084 73-59-17. The building official, or other authority charged
1085 with the duty of issuing building or similar permits, of any



1086 municipality or county, shall refuse to issue a permit for any
1087 undertaking which would classify the applicant as a residential
1088 builder or remodeler under this chapter unless the applicant has
1089 furnished evidence that he is either licensed as required by this
1090 chapter or exempt from the requirements of this chapter. The
1091 building official, or other authority charged with the duty of
1092 issuing building or similar permits, shall also report to the
1093 board the name and address of any person who, in his opinion, has
1094 violated this chapter by accepting, or contracting to accomplish,
1095 work which would classify the person as a residential builder or
1096 remodeler under this chapter without a license or acknowledgement.

1097 **SECTION 20.** Section 73-59-19, Mississippi Code of 1972, is
1098 reenacted and amended as follows:

1099 73-59-19. Any residential builder * * * licensed pursuant to
1100 the provisions of this chapter may, without being required to
1101 obtain an additional license under any other law of this state,
1102 construct, improve, repair, remodel or renovate any commercial
1103 structure, provided the prescribed contract job does not exceed
1104 seven thousand five hundred (7,500) square feet.

1105 **SECTION 21.** Section 73-59-21, Mississippi Code of 1972, is
1106 amended as follows:

1107 73-59-21. (1) There is hereby created the Standing
1108 Committee on Residential Builders and Remodelers which shall be
1109 subordinate to the State Board of Contractors as set forth in
1110 Section 31-3-3. The standing committee shall be composed of the



1111 two (2) residential builders who serve as members of the State
1112 Board of Contractors and three (3) additional residential builders
1113 as defined in Section 73-59-1 to be appointed by the Governor.
1114 The terms of the ex officio members shall be concurrent with their
1115 terms as members of the State Board of Contractors. The initial
1116 terms of the three (3) additional residential builders on the
1117 Standing Committee on Residential Builders and Remodelers shall be
1118 one (1), three (3) and five (5) years, respectively, beginning
1119 July 1, 2000. Upon the expiration of the initial term of any
1120 member not serving ex officio, his or her successor shall be
1121 appointed for a term of five (5) years.

1122 (2) The Governor shall appoint one (1) of the two (2) ex
1123 officio members as Chairman of the Standing Committee on
1124 Residential Builders and Remodelers. The Executive * * * Director
1125 of the State Board of Contractors as set forth in Section 31-3-11
1126 shall serve as secretary of the standing committee. The standing
1127 committee shall meet no less than once per quarter of each year at
1128 a date and time to be set by its chairman upon at least five (5)
1129 business days' notice by regular mail. The members of the
1130 standing committee shall be entitled to receive a per diem as
1131 provided in Section 31-3-9.

1132 (3) Three (3) members of the Standing Committee on
1133 Residential Builders and Remodelers shall constitute a quorum and
1134 a majority vote of those present and voting at any meeting shall
1135 be necessary to transact business.



1136 (4) The Standing Committee on Residential Builders and
1137 Remodelers shall have the power to make recommendations to the
1138 State Board of Contractors pertaining to all duties set forth in
1139 Sections 73-59-11 and 73-59-13. The standing committee shall have
1140 only the power to make recommendations to the State Board of
1141 Contractors and the State Board of Contractors shall have the
1142 power and authority to accept or reject any recommendation made by
1143 the standing committee. Hearings regarding residential builders
1144 and remodelers shall be exclusively under the jurisdiction of the
1145 Standing Committee on Residential Builders and Remodelers.

1146 **SECTION 22.** Section 14, Chapter 345, Laws of 2000, as
1147 amended by Section 13, Chapter 375, Laws of 2005, as amended by
1148 Section 13, Chapter 556, Laws of 2009, as amended by Section 13,
1149 Chapter 433, Laws of 2011, is amended as follows:

1150 Section 14. This act shall take effect and be in force from
1151 and after its passage * * *.

1152 **SECTION 23.** This act shall take effect and be in force from
1153 and after July 1, 2015.

