

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 * * * ~~(b) Any contract or undertaking on a private~~
78 ~~project by a prime contractor, subcontractor or sub-subcontractor~~
79 ~~of any tier involving erection, building, construction,~~
80 ~~reconstruction, repair, maintenance or related work where such~~
81 ~~contract, subcontract or undertaking is less than Fifty Thousand~~
82 ~~Dollars (\$50,000.00);~~

83 (* * * eb) Highway construction, highway bridges,
84 overpasses and any other project incidental to the construction of
85 highways which are designated as federal aid projects and in which
86 federal funds are involved;

87 (* * * ec) A residential project to be occupied by
88 fifty (50) or fewer families and not more than three (3) stories
89 in height;

90 (* * * ed) A residential subdivision where the
91 contractor is developing either single-family or multifamily lots;

92 (* * * fe) A new commercial construction project not
93 exceeding seventy-five hundred (7500) square feet and not more



94 than two (2) stories in height undertaken by an individual or
95 entity licensed under the provisions of Section 73-59-1 et seq.;

96 (* * *ef) Erection of a microwave tower built for the
97 purpose of telecommunication transmissions;

98 (* * *hg) Any contract or undertaking on a public
99 project by a prime contractor, subcontractor or sub-subcontractor
100 of any tier involving the construction, reconstruction, repair or
101 maintenance of fire protection systems where such contract,
102 subcontract or undertaking is less than Five Thousand Dollars
103 (\$5,000.00);

104 (* * *ih) Any contract or undertaking on a private
105 project by a prime contractor, subcontractor or sub-subcontractor
106 of any tier involving the construction, reconstruction, repair or
107 maintenance of fire protection systems where such contract,
108 subcontract or undertaking is less than Ten Thousand Dollars
109 (\$10,000.00);

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

117 (* * *kj) Any contractor undertaking to build,
118 construct, reconstruct, repair, demolish, perform maintenance on,



119 or other related work, whether on the surface or subsurface, on
120 oil or gas wells, pipelines, processing plants, or treatment
121 facilities or other structures of facilities. Nothing herein
122 shall be construed to limit the application or effect of Section
123 31-5-41.

124 "Certificate of responsibility": A certificate numbered and
125 held by a contractor issued by the board under the provisions of
126 this chapter after payment of the special privilege license tax
127 therefor levied under this chapter.

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

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

133 "Public agency": Any board, commission, council or agency of
134 the State of Mississippi or any district, county or municipality
135 thereof, including school, hospital, airport and all other types
136 of governing agencies created by or operating under the laws of
137 this state.

138 "Public funds": Monies of public agencies, whether obtained
139 from taxation, donation or otherwise; or monies being expended by
140 public agencies for the purposes for which such public agencies
141 exist.



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

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

147 31-3-3. There is hereby created the State Board of
148 Contractors of the State of Mississippi, which shall consist of
149 ten (10) members who shall be appointed by the Governor. All
150 appointments to the board * * * ~~after July 1, 1980,~~ shall be made
151 with the advice and consent of the Senate. Two (2) road
152 contractors; two (2) building contractors; two (2) residential
153 builders as defined in Section 73-59-1; one (1) plumbing or
154 heating and air-conditioning contractor; one (1) electrical
155 contractor; and one (1) water and sewer contractor shall compose
156 the board. * * * ~~From and after July 1, 1992,~~ The Governor shall
157 appoint one (1) additional member who shall be a roofing
158 contractor and whose term of office shall be five (5) years. Each
159 member shall be an actual resident of the State of Mississippi and
160 must have been actually engaged in the contracting business for a
161 period of not less than ten (10) years before appointment. The
162 initial terms of the two (2) residential builders shall be for two
163 (2) and four (4) years, respectively * * * ~~beginning July 1,~~
164 ~~1993.~~

165 Upon the expiration of the term of office of any member of
166 the board, the Governor shall appoint a new member for a term of



167 five (5) years, such new appointments being made so as to maintain
168 on the board two (2) building contractors; two (2) road
169 contractors; two (2) residential builders; one (1) plumbing or
170 heating and air-conditioning contractor; one (1) electrical
171 contractor; and one (1) water and sewer contractor; and one (1)
172 roofing contractor. The Governor shall fill any vacancy by
173 appointment, such appointee to serve the balance of the term of
174 the original appointee. The Governor may remove any member of the
175 board for misconduct, incompetency or willful neglect of duty.

176 In the event the Governor fails to appoint a member of the
177 board within twelve (12) months of the occurrence of the vacancy,
178 such vacancy shall be filled by majority vote of the board,
179 subject to advice and consent of the Senate and the requirements
180 of this section.

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

183 31-3-5. The board shall be assigned suitable office space at
184 the seat of government and shall elect one (1) of its members as
185 chairman and one (1) as vice chairman; and each shall perform the
186 usual duties of such offices. The board may adopt a seal. Six
187 (6) members of the board shall constitute a quorum, and a majority
188 vote of those present and voting at any meeting shall be necessary
189 for the transaction of any business coming before the board.
190 Members must be present to cast votes on any and all business.
191 The executive director shall serve as secretary of the board. The



192 board is authorized to employ such personnel as shall be necessary
193 in the performance of its duties including sufficient
194 administrative and clerical staff to process and review
195 applications for certificates of responsibility, to prepare and
196 administer tests therefor, to investigate applications for
197 certificates of responsibility and to inspect work performed by
198 contractors as may be necessary to enforce and carry out the
199 purpose of this chapter.

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

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



217 regulations of the board. All meetings shall be held in the State
218 of Mississippi. At any regular or special meeting the board may
219 recess from time to time to reconvene on a day and time fixed by
220 an order of the board entered upon its minutes.

221 The holder of a valid certificate of responsibility shall
222 disclose to the owner or other person with whom the holder is
223 contracting at the signing of a contract or the initial agreement
224 to perform work whether the holder carries general liability
225 insurance. The disclosure shall be written, the structure and
226 composition of which shall be determined by the State Board of
227 Contractors, and shall be placed immediately before the space
228 reserved in the contract for the signature of the purchaser. The
229 disclosure shall be boldfaced and conspicuous type which is larger
230 than the type of the remaining text of the contract.

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

233 31-3-11. The board shall elect and fix the salary of an
234 executive * * * ~~secretary~~ director, and the board may terminate
235 the employment of such executive * * * ~~secretary~~ director at any
236 time the board deems the same advisable. The board shall require
237 the executive * * * ~~secretary~~ director to file bond in such amount
238 as the board may deem necessary, and shall specify the duties of
239 such employee. The premium on any such bond shall be paid from
240 the funds provided by this chapter.



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

243 31-3-13. The board shall have the following powers and
244 responsibilities:

245 (a) To receive applications for certificates of
246 responsibility, to investigate and examine applicants for same by
247 holding hearings and securing information, to conduct
248 examinations, and to issue certificates of responsibility to such
249 contractors as the board finds to be responsible. * * *

250 ~~One-fourth (1/4) of the certificates scheduled for renewal on the~~
251 ~~last day of December 1980 shall be reviewed by the board on the~~
252 ~~first Tuesday in January 1981. The remaining certificates shall~~
253 ~~be subject to renewal in the following manner: one-fourth (1/4)~~
254 ~~on the first Tuesday in April 1981; one-fourth (1/4) on the first~~
255 ~~Tuesday in July 1981; and one-fourth (1/4) on the first Tuesday in~~
256 ~~October 1981. The board is authorized to extend the dates of~~
257 ~~expiration of certificates to coincide with the scheduled date of~~
258 ~~review of individual contractors. Except for the certificates~~
259 ~~extended from December 31, 1980, to the first Tuesday in January~~
260 ~~1981, the board shall charge fees for the extension of~~
261 ~~certificates as follows:~~

262 * * * ~~_____ (i) Twenty-five Dollars (\$25.00) if the date~~
263 ~~of renewal of the extended certificate is the first Tuesday in~~
264 ~~April 1981;~~



265 ~~————— (ii) Fifty Dollars (\$50.00) if the date of renewal~~
266 ~~of the extended certificate is the first Tuesday in July 1981; and~~
267 ~~————— (iii) Seventy five Dollars (\$75.00) if the date of~~
268 ~~renewal of the extended certificate is the first Tuesday in~~
269 ~~October 1981.~~

270 * * *~~The extended certificates renewed in compliance with~~
271 ~~this paragraph (a) and All original certificates and~~
272 ~~renewals * * * thereof issued on or after July 1, 1980, shall~~
273 ~~expire one (1) year from the date of issuance. Application for~~
274 ~~renewal of certificates of responsibility, together with the~~
275 ~~payment of a special privilege license tax as provided under this~~
276 ~~chapter, shall serve to extend the current certificate until the~~
277 ~~board either renews the certificate or denies the application.~~

278 No certificate of responsibility or any renewal thereof shall
279 be issued until the applicant furnishes to the board his
280 Mississippi state sales tax number or Mississippi state use tax
281 number and his state income tax identification numbers.

282 Additional fees may be required as provided in Section
283 31-3-14.

284 The board shall conduct an objective, standardized
285 examination of an applicant for a certificate to ascertain the
286 ability of the applicant to make practical application of his
287 knowledge of the profession or business of construction in the
288 category or categories for which he has applied for a certificate
289 of responsibility. The board may administer an oral examination



290 to applicants who are unable to take the written examination. The
291 cost of the test and the cost of administering the test shall be
292 paid for by applicants for certificates of responsibility at the
293 time applications are filed. The board shall investigate
294 thoroughly the past record of all applicants, which will include
295 an effort toward ascertaining the qualifications of applicants in
296 reading plans and specifications, estimating costs, construction
297 ethics, and other similar matters. The board shall take all
298 applicants under consideration after having examined him or them
299 and go thoroughly into the records and examinations, prior to
300 granting any certificate of responsibility. If the applicant is
301 an individual, examination may be taken by his personal appearance
302 for examination or by the appearance for examination of one or
303 more of his responsible managing employees; and if a copartnership
304 or corporation or any other combination or organization, by the
305 examination of one or more of the responsible managing officers or
306 members of the executive staff of the applicant's firm, according
307 to its own designation, and such person shall be known as the
308 qualifying party. A qualifying party may serve no more than three
309 (3) separate entities as the qualifying party without first
310 appearing before the board and being granted special permission.

311 (b) To conduct thorough investigations of all
312 applicants seeking renewal of their licenses and of all complaints
313 filed with the board concerning the performance of a contractor on
314 a public or private project.



315 (c) To obtain information concerning the responsibility
316 of any applicant for a certificate of responsibility or a holder
317 of a certificate of responsibility under this chapter. Such
318 information may be obtained by investigation, by hearings, or by
319 any other reasonable and lawful means. The board shall keep such
320 information appropriately filed and shall disseminate same to any
321 interested person. The board shall have the power of subpoena.

322 (d) To maintain a list of contractors to whom
323 certificates of responsibility are issued, refused, revoked or
324 suspended, which list shall be available to any interested person.
325 Such list shall indicate the kind or kinds of works or projects
326 for which a certificate of responsibility was issued, refused,
327 revoked or suspended.

328 (e) To issue a citation to anyone performing work
329 without having a valid certificate of responsibility as required
330 by this chapter.

331 (* * *ef) To revoke by order entered on its minutes a
332 certificate of responsibility upon a finding by the board that a
333 particular contractor or qualifying party is not responsible, and
334 to suspend such certificate of responsibility in particular cases
335 pending investigation, upon cause to be stated in the board's
336 order of suspension. No such revocation or suspension shall be
337 ordered without a hearing conducted upon not less than ten (10)
338 days' notice to such certificate holder by certified or registered
339 mail, wherein the holder of the certificate of responsibility



340 shall be given an opportunity to present all lawful evidence which
341 he may offer.

342 (* * *fg) To adopt rules and regulations setting forth
343 the requirements for certificates of responsibility, the
344 revocation or suspension thereof, and all other matters concerning
345 same; rules and regulations governing the conduct of the business
346 of the board and its employees; and such other rules and
347 regulations as the board finds necessary for the proper
348 administration of this chapter, including those for the conduct of
349 its hearings on the revocation or suspension of certificates of
350 responsibility. Such rules and regulations shall not conflict
351 with the provisions of this chapter.

352 (* * *gh) The board shall have the power and
353 responsibility to classify the kind or kinds of works or projects
354 that a contractor is qualified and entitled to perform under the
355 certificate of responsibility issued to him. Such classification
356 shall be specified in the certificate of responsibility.

357 The powers of the State Board of Contractors shall not extend
358 to fixing a maximum limit in the bid amount of any contractor, or
359 the bonding capacity, or a maximum amount of work which a
360 contractor may have under contract at any time, except as stated
361 in paragraph (a) of this section; and the Board of Contractors
362 shall not have jurisdiction or the power or authority to determine
363 the maximum bond a contractor may be capable of obtaining. The
364 board, in determining the qualifications of any applicant for an



365 original certificate of responsibility or any renewal thereof,
366 shall, among other things, take into consideration the following:
367 (* * *1i) experience and ability, (* * *2ii) character,
368 (* * *3iii) the manner of performance of previous contracts,
369 (* * *4iv) financial condition, (* * *5v) equipment, (* * *6vi)
370 personnel, (* * *7vii) work completed, (* * *8viii) work on
371 hand, (* * *9ix) ability to perform satisfactorily work under
372 contract at the time of an application for a certificate of
373 responsibility or a renewal thereof, (* * *10x) default in
374 complying with provisions of this law, or any other law of the
375 state, and (* * *11xi) the results of objective, standardized
376 examinations. A record shall be made and preserved by the board
377 of each examination of an applicant and the findings of the board
378 thereon, and a certified copy of the record and findings shall be
379 furnished to any applicant desiring to appeal from any order or
380 decision of the board.

381 (* * *hi) The board shall enter upon its minutes an
382 order or decision upon each application filed with it, and it may
383 state in such order or decision the reason or reasons for its
384 order or decision.

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



389 * * * ~~The holder of any valid certificate of responsibility~~
390 ~~issued by the Board of Public Contractors prior to January 1,~~
391 ~~1986, shall be automatically issued a certificate of~~
392 ~~responsibility by the State Board of Contractors for the same~~
393 ~~classification or classifications of work which the holder was~~
394 ~~entitled to perform under the State Board of Public Contractors~~
395 ~~Act.~~

396 The holder of a valid certificate of responsibility shall
397 disclose to the owner or other person with whom the holder is
398 contracting at the signing of a contract or the initial agreement
399 to perform work whether the holder carries general liability
400 insurance. The disclosure shall be written, the structure and
401 composition of which shall be determined by the State Board of
402 Contractors, and shall be placed immediately before the space
403 reserved in the contract for the signature of the purchaser. The
404 disclosure shall be boldfaced and conspicuous type which is larger
405 than the type of the remaining text of the contract.

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

408 31-3-14. (1) In addition to the fees required for
409 application and renewal for certification and registration of all
410 contractors in Section 31-3-13, all holders of a certificate of
411 responsibility shall pay a fee equal to * * * ~~One Hundred Dollars~~
412 ~~(\$100.00)~~ Two Hundred Dollars (\$200.00) at the time of application
413 or renewal of certificates of responsibility. Any residential



414 builder licensed under the provisions of Section 73-59-1 et seq.
415 shall be exempt from the fee imposed under this section. The
416 revenue derived from such additional fees shall be deposited into
417 a fund to be known as the "Construction Education Fund," a special
418 fund created in the State Treasury, and distributed by the State
419 Board of Contractors created in Section 31-3-3, to the Mississippi
420 Construction Education Foundation, public high schools and
421 community colleges that participate in the Mississippi
422 Construction Education Foundation's "school-to-work" program,
423 state universities that have construction technology programs, the
424 Mississippi Housing Institute and certain construction educational
425 trusts approved by the State Board of Contractors in the manner
426 hereinafter provided to offer courses for construction education
427 and construction craft training to meet the needs of the
428 construction industry of the State of Mississippi.

429 (2) The State Board of Contractors shall, on an annual
430 basis, solicit from the Mississippi state institutions of higher
431 learning, all the public community and junior colleges, the
432 Mississippi Construction Education Foundation, public high schools
433 that participate in the Mississippi Construction Education
434 Foundation's "school-to-work" program and certain construction
435 educational trusts, applications for the use of such funds in
436 construction education and craft training programs in a manner
437 prescribed by the board. The board may appoint a technical
438 advisory committee to advise the board on the most needed areas of



439 construction education and craft training, continuing education or
440 research relating to the construction education and craft training
441 in the state, based on significant changes in the construction
442 industry's practices, economic development or on problems costing
443 public or private contractors substantial waste. The board shall
444 ensure that the monies distributed from this fund are properly
445 spent to promote construction education and craft training in
446 programs in the state which are approved by the board. At least
447 seventy-five percent (75%) of the monies distributed by the board,
448 pursuant to this section, must be used for construction craft
449 training with the exception of the Mississippi Housing Institute.

450 (3) Each university, junior college, community college, the
451 Mississippi Construction Education Foundation, public high school
452 that participates in the foundation's "school-to-work" program and
453 construction educational trust receiving funds pursuant to this
454 section for construction education or construction craft training
455 programs shall utilize such funds only for construction education
456 and craft training curricula and program development, faculty
457 development, equipment, student scholarships, student
458 assistantships, and for continuing education programs related to
459 construction education and craft training. Such funds shall not
460 be commingled with the normal operating funds of the educational
461 institution, regardless of the source of such funds.

462 (4) The State Board of Contractors shall ensure the
463 distribution of reports and the availability of construction



464 education programs established pursuant to this section to all
465 segments of the construction industry that are subject to the fee
466 provided under this section. The board shall cause a report to be
467 made to the Legislature in October of each year, summarizing the
468 allocation of funds by institution or program and summarizing the
469 new projects funded and the status of previously funded projects.

470 (5) All monies deposited into the Construction Education
471 Fund shall be used exclusively for construction education and
472 craft training, and any unspent funds at the end of the fiscal
473 year shall not revert to the General Fund of the State Treasury
474 but shall be available for construction education and craft
475 training in subsequent fiscal years.

476 (6) All monies deposited into the Construction Education
477 Fund collected from residential builders licensed under the
478 provisions of Section 73-59-1 et seq. shall be used exclusively
479 for licensed home builders' education and professional development
480 and any unspent funds at the end of the fiscal year shall not
481 revert to the General Fund of the State Treasury but shall be
482 available for construction education and craft training in
483 subsequent fiscal years.

484 (7) All expenditures from the Construction Education Fund
485 shall be by requisition to the State Auditor, signed by the
486 executive * * * ~~secretary~~ director of the board and countersigned
487 by the chairman or vice chairman of the board, and the State
488 Treasurer shall issue his warrants thereon.



489 **SECTION 8.** Section 31-3-17, Mississippi Code of 1972, is
490 amended as follows:
491 31-3-17. There is hereby levied, in addition to any taxes
492 otherwise provided for by law, a special privilege license tax
493 of * * * ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
494 (\$200.00) on each contractor who applies for a certificate of
495 responsibility issued under this chapter; and such tax shall be
496 paid to the executive * * * ~~secretary~~ director of the board upon
497 making such application in this state. The board may levy an
498 additional special privilege license tax not to exceed * * * ~~Fifty~~
499 ~~Dollars (\$50.00)~~ One Hundred Dollars (\$100.00) for each additional
500 classification for which a contractor applies and is found to be
501 qualified. The executive * * * ~~secretary~~ director of the board
502 shall promptly deposit all monies received under this chapter in
503 the State Treasury. Except for the civil penalty provided in
504 Section 31-3-21 which shall be deposited into the State General
505 Fund and the fee provided in Section 31-3-14, all monies received
506 under this chapter shall be kept in a special fund in the State
507 Treasury known as the "State Board of Contractors Fund," and shall
508 be used only for the purposes of this chapter. Such monies shall
509 not lapse at the end of each fiscal year, but all monies in such
510 State Board of Contractors Fund in excess of the sum of fifty
511 percent (50%) of the approved budget for the fiscal year shall be
512 paid over into the General Fund of the State Treasury. All
513 expenditures from the Board of Contractors Fund shall be by



514 requisition to the State Auditor, signed by the executive * * *
515 ~~secretary~~ director of the board and countersigned by the chairman
516 or vice chairman of the board, and the State Treasurer shall
517 issue * * * ~~his~~ warrants thereon.

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

520 31-3-21. (1) It shall be unlawful for any person who does
521 not hold a certificate of responsibility issued under this
522 chapter * * *, ~~or a similar certificate issued by another state~~
523 ~~recognizing such certificate issued by the State of Mississippi,~~
524 to submit a bid, enter into a contract, or otherwise engage in or
525 continue in this state in the business of a contractor, as defined
526 in this chapter. Any bid which is submitted without a certificate
527 of responsibility number issued under this chapter and without
528 that number appearing on the exterior of the bid envelope, as and
529 if herein required, at the time designated for the opening of such
530 bid, shall not be considered further, and the person or public
531 agency soliciting bids shall not enter into a contract with a
532 contractor submitting a bid in violation of this section. In
533 addition, any person violating this section by knowingly and
534 willfully submitting a bid for projects without holding a
535 certificate of responsibility number issued under this chapter, as
536 and if herein required, at the time of the submission or opening
537 of such bid shall be guilty of a misdemeanor and, upon conviction,
538 shall be punished by a fine of not more than One Thousand Dollars



539 (\$1,000.00), or by imprisonment for not more than six (6) months,
540 or by both such fine and imprisonment.

541 (2) All bids submitted for public or private projects where
542 the bid is in excess of Fifty Thousand Dollars (\$50,000.00) shall
543 contain on the outside or exterior of the envelope or container of
544 such bid the contractor's current certificate number, and no bid
545 shall be opened or considered unless such contractor's current
546 certificate number appears on the outside or exterior of said
547 envelope or container, or unless there appears a statement on the
548 outside or exterior of such envelope or container to the effect
549 that the bid enclosed therewith did not exceed Fifty Thousand
550 Dollars (\$50,000.00) with respect to public or private projects.
551 Any person violating the provisions of this subsection shall be
552 guilty of a misdemeanor and, upon conviction, shall be punished by
553 a fine of not more than One Thousand Dollars (\$1,000.00), or by
554 imprisonment for not more than six (6) months, or by both such
555 fine and imprisonment.

556 (3) In the letting of public contracts preference shall be
557 given to resident contractors, and a nonresident bidder domiciled
558 in a state having laws granting preference to local contractors
559 shall be awarded Mississippi public contracts only on the same
560 basis as the nonresident bidder's state awards contracts to
561 Mississippi contractors bidding under similar circumstances; and
562 resident contractors actually domiciled in Mississippi, be they
563 corporate, individuals, or partnerships, are to be granted



564 preference over nonresidents in awarding of contracts in the same
565 manner and to the same extent as provided by the laws of the state
566 of domicile of the nonresident. When a nonresident contractor
567 submits a bid for a public project, he shall attach thereto a copy
568 of his resident state's current preference law, if any, pertaining
569 to such state's treatment of nonresident contractors. Any bid
570 submitted by a nonresident contractor which does not include the
571 nonresident contractor's current state law shall be rejected and
572 not considered for award. As used in this section, the term
573 "resident contractors" includes a nonresident person, firm or
574 corporation that has been qualified to do business in this state
575 and has maintained a permanent full-time office in the State of
576 Mississippi for two (2) years prior to * * * ~~January 1, 1986,~~
577 submission of the bid and the subsidiaries and affiliates of such
578 a person, firm or corporation. Any public agency awarding a
579 contract shall promptly report to the * * * ~~State Tax Commission~~
580 Department of Revenue the following information:

581 (a) The amount of the contract.

582 (b) The name and address of the contractor reviewing
583 the contract.

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

585 (4) In addition to any other penalties provided in this
586 chapter, and upon a finding of a violation of this chapter, the
587 State Board of Contractors may, after notice and hearing, issue an
588 order of abatement directing the contractor to cease all actions



589 constituting violations of this chapter until such time as the
590 contractor complies with Mississippi state law, and to pay to the
591 board a civil penalty to be deposited into the State Board of
592 Contractors' Fund, created in Section 31-3-17, of not more than
593 three percent (3%) of the total contract being performed by the
594 contractor. In addition to, or in lieu of, such civil penalty,
595 the board may * * * ~~require the performance of community service~~
596 ~~for a specified number of hours as determined by the board~~ issue a
597 public or private reprimand. The funds collected from civil
598 penalty payments shall be used by the State Board of Contractors
599 for enforcement and education.

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

602 31-3-23. * * * ~~Any person aggrieved by any order or decision~~
603 ~~of the board may appeal within ten (10) days from the date of~~
604 ~~adjournment of the session at which the board rendered such order~~
605 ~~or decision, and may embody the facts, order and decision in a~~
606 ~~bill of exceptions which shall be signed by the person acting as~~
607 ~~chairman of the board. The executive secretary shall transmit the~~
608 ~~bill of exceptions to the chancery court of the county of~~
609 ~~residence of the appellant, and the court or chancellor shall hear~~
610 ~~and determine the same either in termtime or in vacation, on the~~
611 ~~case as presented by the bill of exceptions, as an appellate~~
612 ~~court,~~ Within ten (10) days after any order, judgment or action
613 of the board, any person aggrieved thereby may appeal such order,



614 judgment or action either to the chancery court of the county
615 wherein the appellant resides or to the Chancery Court of the
616 First Judicial District of Hinds County, Mississippi, upon giving
617 bond with sufficient security in the amount of Two Hundred Fifty
618 Dollars (\$250.00), approved by the clerk of the chancery court and
619 conditioned to pay any costs which may be adjudged against such
620 person. In lieu of the bond, the appellant may post Two Hundred
621 Fifty Dollars (\$250.00) with the clerk of the chancery court and
622 conditioned to pay any costs which may be adjudged against such
623 person.

624 Notice of appeal shall be filed in the office of the clerk of
625 the chancery court, who shall issue a writ of certiorari directed
626 to the board commanding it within forty-five (45) days after
627 service thereof to certify to such court its entire record in the
628 matter in which the appeal has been taken. The appeal shall
629 thereupon be heard in due course by the court, and the court shall
630 review the record and shall affirm or reverse the judgment. If
631 the judgment * * *~~be~~ is reversed, the chancery court or
632 chancellor shall render such order or judgment as the board ought
633 to have rendered, and certify the same to the board; and costs
634 shall be awarded as in other cases.

635 Appeals may be had to the Supreme Court of the State of
636 Mississippi as provided by law from any final action of the
637 chancery court. The board may employ counsel to defend such



638 appeals, to be paid out of the funds in the State Board of
639 Contractors Fund.

640 On appeal, any order, judgment or action of the board
641 revoking a certificate of responsibility or residential license
642 shall remain in full force unless the chancery court or Supreme
643 Court reverses such order, judgment or action of the board.

644 The remedies provided under this chapter for any
645 aggrieved * * * ~~applicant~~ person shall not be exclusive, but shall
646 be cumulative of and supplemental to any other remedies which he
647 may otherwise have in law or in equity, whether by injunction or
648 otherwise.

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

651 73-59-1. For the purposes of this chapter, the following
652 words shall have the meanings ascribed herein:

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

655 (b) "Residential builder" means any corporation,
656 partnership or individual who constructs a building or structure
657 for sale for use by another as a residence or who, for a fixed
658 price, commission, fee, wage or other compensation, undertakes or
659 offers to undertake the construction, or superintending of the
660 construction, of any building or structure which is not more than
661 three (3) floors in height, to be used by another as a residence,



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

664 (c) "Remodeler" means any corporation, partnership or
665 individual who, for a fixed price, commission, fee, wage or other
666 compensation, undertakes or offers to undertake the construction,
667 or superintending of the construction, of improvements to an
668 existing residence when the total cost of the improvements exceeds
669 Ten Thousand Dollars (\$10,000.00).

670 (d) "Residential construction" means any undertaking
671 described in paragraph (b) of this section performed by a
672 residential builder.

673 (e) "Residential improvement" means any undertaking
674 described in paragraph (c) of this section performed by a
675 remodeler.

676 (f) "Active licensee" means any builder or remodeler
677 licensed under this chapter and engaged in building and
678 remodeling.

679 (g) "Inactive licensee" means any builder or remodeler
680 licensed under this chapter and not engaged in building or
681 remodeling.

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

684 73-59-3. (1) Except as otherwise provided in Section
685 73-59-15 or Section 33-1-39, persons who perform or formerly
686 performed residential construction or residential improvement



687 shall be licensed by the board annually as an active licensee or
688 inactive licensee, as appropriate, and, as a prerequisite to
689 obtaining a license or renewal thereof, each shall submit to the
690 board:

691 (a) Proof of workers' compensation insurance, if
692 applicable; however, workers' compensation insurance shall not be
693 required for inactive licensees;

694 (b) A federal employment identification number or
695 social security number.

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

700 (3) The board shall issue or renew a license to an active or
701 inactive residential builder or remodeler upon payment to the
702 board of the license fee. The initial license fee shall be Fifty
703 Dollars (\$50.00). The license fee may thereafter be increased or
704 decreased by the board and cannot exceed One Hundred Dollars
705 (\$100.00); however, the receipts from fees collected by the board
706 shall be no greater than the amount required to pay all costs and
707 expenses incurred by the board in enforcing the provisions of this
708 chapter. Twenty-five Dollars (\$25.00) of the fee required by this
709 section which is assessed to residential builders licensed under
710 the provisions of Section 73-59-1 et seq. shall be deposited to
711 the Construction Education Fund created pursuant to Section



712 31-3-14 and shall be distributed to the Mississippi Housing
713 Institute. The remaining fees collected under this chapter shall
714 be deposited into the special fund in the State Treasury known as
715 the "State Board of Contractors Fund" created pursuant to Section
716 31-3-17 and shall be used for the administration and enforcement
717 of this chapter and as provided in Section 31-3-14. Amounts in
718 such fund shall not lapse into the State General Fund at the end
719 of a fiscal year. Interest accrued to such fund shall remain in
720 the fund. All expenditures from the special fund shall be by
721 requisition to the Department of Finance and Administration,
722 signed by the executive * * *~~secretary~~ director of the board and
723 countersigned by the chairman or vice chairman of the board.

724 (4) Except as provided in Section 33-1-39, the license shall
725 expire on the last day of the twelfth month following its issuance
726 or renewal and shall become invalid unless renewed. The board may
727 notify by mail or e-mail every licensee under this chapter of the
728 date of the expiration of his license and the amount of the fee
729 required for renewal of the license for one (1) year. To receive
730 notification by e-mail, a licensee must notify the board of his
731 desire to receive notification by e-mail and provide an e-mail
732 address. Such notice may be mailed or e-mailed within thirty (30)
733 days prior to the expiration date of the license. The failure on
734 the part of any licensee to renew his license annually in such
735 twelfth month shall not deprive such licensee of the right of
736 renewal, provided that renewal is effected within * * *~~one~~



737 ~~hundred twenty (120)~~ one hundred eighty (180) days after the
738 expiration date of the license by payment of the license fee plus
739 a penalty of ten percent (10%) of the license fee. A new license
740 required to replace a revoked, lost, mutilated or destroyed
741 license may be issued, subject to the rules of the board, for a
742 charge of not more than * * * ~~Twenty five Dollars (\$25.00)~~ Fifty
743 Dollars (\$50.00). An inactive licensee may become an active
744 licensee upon application meeting all the requirements of this
745 section.

746 (5) Any person who is not a resident of the State of
747 Mississippi who desires to perform residential construction or
748 residential improvement shall be licensed to perform such
749 construction or improvement as provided by this chapter.

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

752 73-59-5. Any corporation, partnership or individual seeking
753 to be licensed and examined under this chapter shall file with the
754 board * * * ~~at least thirty (30) days prior to the next meeting of~~
755 ~~the board~~ a written application on such form as may be prescribed
756 by the board. Such application shall be accompanied by the
757 payment of the license fee. If the application sufficiently
758 contains the information required pursuant to this chapter, the
759 applicant shall be examined by the board at its next meeting using
760 a uniform written examination prescribed by the board. The board
761 shall administer an oral examination to applicants who are unable



762 to take the written examination. In addition, the board, in
763 examining such applicant, shall consider the following:
764 (a) Experience;
765 (b) Complaints; and
766 (c) Other pertinent information the board may require.

767 If, as a result of the examination, the board finds that the
768 applicant is qualified to engage in residential construction or
769 residential improvement in Mississippi, the applicant shall be
770 issued a license. Any applicant rejected by the board shall be
771 given the opportunity to be reexamined at the next regularly
772 scheduled examination date after a new application has been filed
773 and the license fee has again been paid.

774 The board shall make and preserve a record of each
775 examination of an applicant and the findings of the board
776 pertaining to such examination. A certified copy of such record,
777 omitting confidential test questions, shall be furnished to the
778 applicant so requesting such record upon the payment of a fee to
779 the board that reasonably reflects the cost of furnishing such
780 record to the applicant.

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

784 Each application for a license under this chapter shall
785 reveal any other states in which the applicant or any partner or
786 business associate of the applicant is licensed and whether the



787 applicant, partner or business associate has had a license revoked
788 or suspended in any other state. If the applicant fails to
789 provide this information, the board may deny or revoke the
790 applicant's license. If the applicant has had a license revoked
791 in another state, the board may deny the application for a license
792 in this state.

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

795 73-59-7. In the event of a catastrophe or emergency which
796 arises out of a disaster, act of God, riot, civil commotion,
797 conflagration or other similar occurrence, the board, upon
798 application, may issue an emergency license to persons who are
799 residents or nonresidents of this state and who may or may not be
800 otherwise licensed residential builders or remodelers. Such
801 emergency license shall remain in force for a period not to exceed
802 ninety (90) days, unless extended for an additional period of
803 ninety (90) days by the board or until a contract to build or
804 remodel entered into during the period of the emergency license
805 has been completed.

806 Within five (5) days of any applicant beginning work as a
807 residential builder or remodeler under this section, the employer
808 or person contracting with such person shall certify to the board
809 such application without being deemed in violation of this
810 chapter, provided that the board, after notice and hearing, may
811 take disciplinary action or revoke the emergency license upon



812 grounds as otherwise contained in this chapter providing for such
813 disciplinary action or revocation of a residential builder's or
814 remodeler's license.

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

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

821 73-59-9. (1) Any residential builder who undertakes or
822 attempts to undertake the business of residential construction
823 without having a valid license as required by this chapter, or who
824 knowingly presents to the board, or files with the board, false
825 information for the purpose of obtaining such license, shall be
826 deemed guilty of a misdemeanor and, upon conviction, shall be
827 fined not less than One Hundred Dollars (\$100.00) and not more
828 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not
829 less than thirty (30) nor more than sixty (60) days in the county
830 jail, or both.

831 (2) Any remodeler who undertakes or attempts to undertake
832 the business of residential improvement without having a valid
833 license as required by this chapter, or who knowingly presents to
834 the board, or files with the board, false information for the
835 purpose of obtaining such license, shall be deemed guilty of a
836 misdemeanor and, upon conviction, shall be fined not less than One



837 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars
838 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
839 more than sixty (60) days in the county jail, or both.

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

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

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

849 73-59-11. The board shall have the following additional
850 duties for the purposes of this chapter:

851 (a) To conduct thorough investigations of all
852 applicants seeking a license or licensees seeking renewal of their
853 licenses and of all complaints filed with the board concerning the
854 performance of a residential builder.

855 (b) To obtain information concerning the responsibility
856 of any applicant for a license or of a licensee. Such information
857 may be obtained by investigation, by hearings, or by any other
858 reasonable and lawful means. The board shall keep such
859 information appropriately filed.



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

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

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

870 (f) To adopt rules and regulations governing
871 disciplinary actions and the conduct of its hearings and to adopt
872 such other rules and regulations as the board finds necessary for
873 the proper administration of this chapter.

874 (g) The board may require continuing education for any
875 residential builder or remodeler licensed under this chapter;
876 provided, however, that any residential builder or remodeler who
877 has held a valid license under this chapter before July 1, 2015,
878 shall be exempt from any continuing education requirements. No
879 more than two (2) hours of continuing education shall be required
880 by the board per year.

881 The holder of a valid license shall disclose to the owner or
882 other person with whom the holder is contracting at the signing of
883 a contract or the initial agreement to perform work whether the
884 holder carries general liability insurance. The disclosure shall



885 be written, the structure and composition of which shall be
886 determined by the State Board of Contractors, and shall be placed
887 immediately before the space reserved in the contract for the
888 signature of the purchaser. The disclosure shall be boldfaced and
889 conspicuous type which is larger than the type of the remaining
890 text of the contract.

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

893 73-59-13. (1) The board, upon satisfactory proof and in
894 accordance with the provisions of this chapter and the regulations
895 of the board pertaining thereto, is authorized to take the
896 disciplinary actions provided for in this section against any
897 person for any of the following reasons:

898 (a) Violating any of the provisions of this chapter or
899 the rules or regulations of the board pertaining to the work of
900 residential building or residential improvement;

901 (b) Fraud, deceit or misrepresentation in obtaining a
902 license;

903 (c) Gross negligence or misconduct;

904 (d) Engaging in work of residential building or
905 residential improvement on an expired license or while under
906 suspension or revocation of license unless the suspension or
907 revocation be abated in accordance with this chapter;

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



909 (f) Failing to maintain workers' compensation
910 insurance, if applicable; or
911 (g) Failing to pay for goods or services for which the
912 builder is contractually bound.

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

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

924 The board * * * ~~shall~~ may send a certified inspector to
925 inspect the building or structure which is the subject of a
926 complaint or the board may use a county certified building
927 inspector from the county where the building or structure is
928 located to inspect the building or structure which is the subject
929 of a complaint. The report of the inspector shall be used in the
930 investigation and the determination of the board. The provisions
931 above shall only apply to hearings.

932 No disciplinary action may be taken until the accused has
933 been furnished both a statement of the charges against him and



934 notice of the time and place of the hearing thereon, which shall
935 be personally served on such accused or mailed by certified mail,
936 return receipt requested, to the last known business or residence
937 address of the accused not less than thirty (30) days prior to the
938 date fixed for the hearing. The complaining party shall be
939 notified of the place and time of the hearing by mail to the last
940 known business or residence address of the complaining party not
941 less than thirty (30) days prior to the date fixed for the
942 hearing.

943 (3) At any hearing held hereunder, the board shall have the
944 power to subpoena witnesses and compel their attendance and may
945 also require the production of books, papers, documents or other
946 materials which may be pertinent to the proceedings. The board
947 may designate or secure a hearing officer to conduct the hearing.
948 All evidence shall be presented under oath, which may be
949 administered by any member of the board, and thereafter the
950 proceedings may, if necessary, be transcribed in full by a court
951 reporter and filed as part of the record in the case. Copies of
952 such transcriptions may be provided to any party to the
953 proceedings at a price reflecting actual cost, to be fixed by the
954 board.

955 All witnesses who are subpoenaed and appear in any
956 proceedings before the board shall receive the same fees and
957 mileage as allowed by law to witnesses in county, circuit and
958 chancery court pursuant to Section 25-7-47, Mississippi Code of



959 1972, and all such fees shall be taxed as part of the costs in the
960 case.

961 When, in any proceeding before the board, any witness shall
962 fail or refuse to attend upon subpoena issued by the board, shall
963 refuse to testify, or shall refuse to produce any books and papers
964 the production of which is called for by the subpoena, the
965 attendance of such witness and the giving of his testimony and the
966 production of the books and papers shall be enforced by any court
967 of competent jurisdiction of this state in the manner provided for
968 the enforcement of attendance and testimony of witnesses in civil
969 cases in the courts of this state.

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

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

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

983 (a) Issue a public or private reprimand;



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

985 ~~or~~

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

989 (* * *~~ed~~) In lieu of or in addition to any reprimand,
990 suspension * * *~~or~~, revocation, or education requirement, assess
991 and levy upon the guilty party a monetary penalty of not less than
992 One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
993 (\$5,000.00) for each violation.

994 (6) A monetary penalty assessed and levied under this
995 section shall be paid to the board upon the expiration of the
996 period allowed for appeal of such penalties under this section or
997 may be paid sooner if the guilty party elects. Money collected by
998 the board under this section shall be deposited to the credit of
999 the State Board of Contractors Fund.

1000 When payment of a monetary penalty assessed and levied by the
1001 board in accordance with this section is not paid when due, the
1002 board shall have the power to institute and maintain proceedings
1003 in its name for enforcement of payment in the chancery court of
1004 the county of residence of the delinquent party; however, if the
1005 delinquent party is a nonresident of the State of Mississippi,
1006 such proceedings shall be in the Chancery Court of the First
1007 Judicial District of Hinds County, Mississippi.



1008 (7) When the board has taken a disciplinary action under
1009 this section, the board may, in its discretion, stay such action
1010 and place the guilty party on probation for a period not to exceed
1011 one (1) year upon the condition that such party shall not further
1012 violate either the laws of the State of Mississippi pertaining to
1013 the practice of residential construction or residential remodeling
1014 or the bylaws, rules or regulations promulgated by the board.

1015 (8) The board shall not assess any of the costs of
1016 disciplinary proceedings conducted pursuant to this section
1017 against the prevailing party.

1018 (9) The power and authority of the board to assess and levy
1019 the monetary penalties provided for in this section shall not be
1020 affected or diminished by any other proceedings, civil or
1021 criminal, concerning the same violation or violations except as
1022 provided in this section.

1023 (10) The board, for sufficient cause, may reissue a revoked
1024 license whenever a majority of the board members vote to do so.

1025 (11) * * * ~~Any person aggrieved by any order or decision of~~
1026 ~~the board may appeal within ten (10) days from the date of~~
1027 ~~adjournment of the session at which the board rendered such order~~
1028 ~~or decision, and may embody the facts, order and decision in a~~
1029 ~~bill of exceptions which shall be signed by the person acting as~~
1030 ~~chairman of the board. The board shall transmit the bill of~~
1031 ~~exceptions to either the chancery court of the county of residence~~
1032 ~~of the appellant, or the Chancery Court of the First Judicial~~



1033 ~~District of Hinds County, at the election of the appellant, and~~
1034 ~~the court or chancellor shall hear and determine the same either~~
1035 ~~in termtime or in vacation, on the case as presented by the bill~~
1036 ~~of exceptions, as an appellant court, Within ten (10) days after~~
1037 ~~any order, judgment or action of the board, any person aggrieved~~
1038 ~~thereby may appeal such order, judgment or action either to the~~
1039 ~~chancery court of the county wherein the appellant resides or to~~
1040 ~~the Chancery Court of the First Judicial District of Hinds County,~~
1041 ~~Mississippi, upon giving bond with sufficient security in the~~
1042 ~~amount of Two Hundred Fifty Dollars (\$250.00), approved by the~~
1043 ~~clerk of the chancery court and conditioned to pay any costs which~~
1044 ~~may be adjudged against such person. In lieu of the bond, the~~
1045 ~~appellant may post Two Hundred Fifty Dollars (\$250.00) with the~~
1046 ~~clerk of the chancery court and conditioned to pay any costs which~~
1047 ~~may be adjudged against such person.~~

1048 Notice of appeal shall be filed in the office of the clerk of
1049 the chancery clerk, who shall issue a writ of certiorari directed
1050 to the board commanding it within forty-five (45) days after
1051 service thereof to certify to such court its entire record in the
1052 matter in which the appeal has been taken. The appeal shall
1053 thereupon be heard in due course by the court, and the court shall
1054 review the record and shall affirm or reverse the judgment. If
1055 the judgment * * *~~be~~ is reversed, the chancery court or
1056 chancellor shall render such order or judgment as the board ought



1057 to have rendered, and certify the same to the board; and costs
1058 shall be awarded as in other cases.

1059 Appeals may be had to the Supreme Court of the State of
1060 Mississippi as provided by law from any final action of the
1061 chancery court. The board may employ counsel to defend all such
1062 appeals, to be paid out of the funds in the State Board of
1063 Contractors Fund.

1064 On appeal, any order, judgment or action of the board
1065 revoking a certificate of responsibility or residential license
1066 shall remain in full force unless the chancery court or Supreme
1067 Court reverses such order, judgment or action of the board.

1068 The remedies provided under this chapter for any
1069 aggrieved * * * ~~applicant~~ person shall not be exclusive, but shall
1070 be cumulative of and supplemental to any other remedies which he
1071 may otherwise have in law or in equity, whether by injunction or
1072 otherwise.

1073 (12) Any political subdivision or agency of this state which
1074 receives a complaint against a residential builder or remodeler
1075 shall, in addition to exercising whatever authority such political
1076 subdivision or agency has been given over such complaint, forward
1077 the complaint to the board.

1078 (13) In addition to the reasons specified in subsection (1)
1079 of this section, the board shall be authorized to suspend the
1080 license of any licensee for being out of compliance with an order
1081 for support, as defined in Section 93-11-153. The procedure for



1082 suspension of a license for being out of compliance with an order
1083 for support, and the procedure for the reissuance or reinstatement
1084 of a license suspended for that purpose, and the payment of any
1085 fees for the reissuance or reinstatement of a license suspended
1086 for that purpose, shall be governed by Section 93-11-157 or
1087 93-11-163, as the case may be. Actions taken by the board in
1088 suspending a license when required by Section 93-11-157 or
1089 93-11-163 are not actions from which an appeal may be taken under
1090 this section. Any appeal of a license suspension that is required
1091 by Section 93-11-157 or 93-11-163 shall be taken in accordance
1092 with the appeal procedure specified in Section 93-11-157 or
1093 93-11-163, as the case may be, rather than the procedure specified
1094 in this section. If there is any conflict between any provision
1095 of Section 93-11-157 or 93-11-163 and any provision of this
1096 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
1097 case may be, shall control.

1098 **SECTION 18.** Section 73-59-15, Mississippi Code of 1972, is
1099 reenacted and amended as follows:

1100 73-59-15. (1) This chapter shall not apply to:

1101 (a) Agricultural buildings, buildings used for
1102 agricultural purposes, buildings constructed as a community
1103 effort, or tenant houses;

1104 (b) Any person who undertakes construction or
1105 improvement on his own residence, or who acts as his own general
1106 contractor in the performance of construction or improvement on



1107 his own residence * * *, ~~or who acts under the supervision of the~~
1108 ~~owner-occupant who is the general contractor;~~

1109 (c) Any person who undertakes residential construction
1110 or improvement, or who acts as a general contractor in the
1111 performance of residential construction or improvement, or who
1112 acts under supervision of the owner-occupant with respect to
1113 residential construction or improvement, when the owner of such
1114 construction or improvement is related to such person by
1115 consanguinity or direct affinity;

1116 (d) The owners of property who supervise, superintend,
1117 oversee, direct or in any manner assume charge of the
1118 construction, alteration, repair, improvement, movement,
1119 demolition, putting up, tearing down or maintenance of any
1120 building, railroad, excavation, project, development, improvement,
1121 plant facility or any other construction undertaking on such
1122 property for use by such owner and which will not be for sale,
1123 rent, public use or public assembly;

1124 * * * ~~----- (e) Any employee of a licensed residential~~
1125 ~~builder, provided that the employee is not building a residence~~
1126 ~~for sale;~~

1127 (* * * fe) Any contractor holding a valid license or
1128 certificate of responsibility for general construction from the
1129 board;

1130 (* * * gf) Any nonresident contractor holding a valid
1131 license or certificate of responsibility for general construction;



1132 (* * *~~hg~~) Any person who constructs two (2) single
1133 residences or less within a period of one (1) year in any county
1134 or municipality which does not require a building permit or any
1135 local certification for such construction, provided that the
1136 person is not building the residences for sale.

1137 (2) A person specified in subsection (1)(b) or (c) shall not
1138 make more than two (2) applications for a permit to construct a
1139 single residence or shall not construct more than two (2) single
1140 residences within a period of one (1) year. There shall be a
1141 rebuttable presumption that such person intends to construct for
1142 the purpose of sale, lease, rent or any similar purpose if more
1143 than two (2) applications are made for a permit to construct a
1144 single residence or if more than two (2) single residences are
1145 constructed within a period of one (1) year.

1146 * * * ~~(3) The provisions of this section shall not apply to~~
1147 ~~builders and remodelers who are not domiciled in the State of~~
1148 ~~Mississippi. Builders and remodelers who are not domiciled in the~~
1149 ~~State of Mississippi are not required to be licensed under the~~
1150 ~~provisions of this chapter if the state in which they are~~
1151 ~~domiciled requires licensing and the licensing state's~~
1152 ~~requirements are at least the equivalent of those requirements~~
1153 ~~provided in this chapter.~~

1154 **SECTION 19.** Section 73-59-17, Mississippi Code of 1972, is
1155 reenacted as follows:



1156 73-59-17. The building official, or other authority charged
1157 with the duty of issuing building or similar permits, of any
1158 municipality or county, shall refuse to issue a permit for any
1159 undertaking which would classify the applicant as a residential
1160 builder or remodeler under this chapter unless the applicant has
1161 furnished evidence that he is either licensed as required by this
1162 chapter or exempt from the requirements of this chapter. The
1163 building official, or other authority charged with the duty of
1164 issuing building or similar permits, shall also report to the
1165 board the name and address of any person who, in his opinion, has
1166 violated this chapter by accepting, or contracting to accomplish,
1167 work which would classify the person as a residential builder or
1168 remodeler under this chapter without a license or acknowledgement.

1169 **SECTION 20.** Section 73-59-19, Mississippi Code of 1972, is
1170 reenacted and amended as follows:

1171 73-59-19. Any residential builder * * *~~or remodeler~~
1172 licensed pursuant to the provisions of this chapter may, without
1173 being required to obtain an additional license under any other law
1174 of this state, construct, improve, repair, remodel or renovate any
1175 commercial structure, provided the prescribed contract job does
1176 not exceed seven thousand five hundred (7,500) square feet.

1177 **SECTION 21.** Section 73-59-21, Mississippi Code of 1972, is
1178 amended as follows:

1179 73-59-21. (1) There is hereby created the Standing
1180 Committee on Residential Builders and Remodelers which shall be



1181 subordinate to the State Board of Contractors as set forth in
1182 Section 31-3-3. The standing committee shall be composed of the
1183 two (2) residential builders who serve as members of the State
1184 Board of Contractors and three (3) additional residential builders
1185 as defined in Section 73-59-1 to be appointed by the Governor.
1186 The terms of the ex officio members shall be concurrent with their
1187 terms as members of the State Board of Contractors. The initial
1188 terms of the three (3) additional residential builders on the
1189 Standing Committee on Residential Builders and Remodelers shall be
1190 one (1), three (3) and five (5) years, respectively, beginning
1191 July 1, 2000. Upon the expiration of the initial term of any
1192 member not serving ex officio, his or her successor shall be
1193 appointed for a term of five (5) years.

1194 (2) The Governor shall appoint one (1) of the two (2) ex
1195 officio members as Chairman of the Standing Committee on
1196 Residential Builders and Remodelers. The Executive * * *
1197 ~~Secretary~~ Director of the State Board of Contractors as set forth
1198 in Section 31-3-11 shall serve as secretary of the standing
1199 committee. The standing committee shall meet no less than once
1200 per quarter of each year at a date and time to be set by its
1201 chairman upon at least five (5) business days' notice by regular
1202 mail. The members of the standing committee shall be entitled to
1203 receive a per diem as provided in Section 31-3-9.

1204 (3) Three (3) members of the Standing Committee on
1205 Residential Builders and Remodelers shall constitute a quorum and



1206 a majority vote of those present and voting at any meeting shall
1207 be necessary to transact business.

1208 (4) The Standing Committee on Residential Builders and
1209 Remodelers shall have the power to make recommendations to the
1210 State Board of Contractors pertaining to all duties set forth in
1211 Sections 73-59-11 and 73-59-13. The standing committee shall have
1212 only the power to make recommendations to the State Board of
1213 Contractors and the State Board of Contractors shall have the
1214 power and authority to accept or reject any recommendation made by
1215 the standing committee. Hearings regarding residential builders
1216 and remodelers shall be exclusively under the jurisdiction of the
1217 Standing Committee on Residential Builders and Remodelers.

1218 **SECTION 22.** Section 14, Chapter 345, Laws of 2000, as
1219 amended by Section 13, Chapter 375, Laws of 2005, as amended by
1220 Section 13, Chapter 556, Laws of 2009, as amended by Section 13,
1221 Chapter 433, Laws of 2011, is amended as follows:

1222 Section 14. This act shall take effect and be in force from
1223 and after its passage * * *, ~~and shall stand repealed on July 1,~~
1224 ~~2015.~~

1225 **SECTION 23.** This act shall take effect and be in force from
1226 and after July 1, 2015.

