

By: Ford

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 263

1 AN ACT TO REENACT SECTIONS 73-59-1 THROUGH 73-59-19,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSING AND
3 REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS; TO AMEND
4 REENACTED SECTIONS 73-59-3, 73-59-11 AND 73-59-15, MISSISSIPPI
5 CODE OF 1972, TO DELETE INAPPLICABLE LANGUAGE; TO CLARIFY A
6 CERTAIN EXEMPTION; TO REENACT SECTIONS 31-3-3 AND 31-3-5,
7 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE STATE BOARD OF
8 CONTRACTORS AND PROVIDE FOR THE ORGANIZATION AND ADMINISTRATION OF
9 THE BOARD; TO CREATE SECTION 73-59-21, MISSISSIPPI CODE OF 1972,
10 TO CREATE THE STANDING COMMITTEE ON RESIDENTIAL BUILDERS AND
11 REMODELERS AND PROVIDE FOR ITS MEMBERSHIP AND DUTIES; TO AMEND
12 SECTION 14, CHAPTER 431, LAWS OF 1995, TO EXTEND THE REPEALER
13 REGARDING THE LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND
14 REMODELERS AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED
15 PURPOSES.

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

17 SECTION 1. Section 73-59-1, Mississippi Code of 1972, is
18 reenacted as follows:

19 73-59-1. For the purposes of this chapter, the following
20 words shall have the meanings ascribed herein:

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

23 (b) "Residential builder" means any corporation,
24 partnership or individual who constructs a building or structure
25 for sale for use by another as a residence or who, for a fixed
26 price, commission, fee, wage or other compensation, undertakes or
27 offers to undertake the construction, or superintending of the
28 construction, of any building or structure which is not more than
29 three (3) floors in height, to be used by another as a residence,
30 when the cost of the undertaking exceeds Fifty Thousand Dollars
31 (\$50,000.00).

32 (c) "Remodeler" means any corporation, partnership or

33 individual who, for a fixed price, commission, fee, wage or other
34 compensation, undertakes or offers to undertake the construction,
35 or superintending of the construction, of improvements to an
36 existing residence when the cost of the improvements exceeds Ten
37 Thousand Dollars (\$10,000.00).

38 (d) "Residential construction" means any undertaking
39 described in paragraph (b) of this section performed by a
40 residential builder.

41 (e) "Residential improvement" means any undertaking
42 described in paragraph (c) of this section performed by a
43 remodeler.

44 SECTION 2. Section 73-59-3, Mississippi Code of 1972, is
45 reenacted and amended as follows:

46 73-59-3. (1) Except as otherwise provided in Section
47 73-59-15, persons who perform residential construction or
48 residential improvement shall be licensed by the board annually,
49 and, as a prerequisite to obtaining a license or renewal thereof,
50 each shall submit to the board:

51 (a) Proof of workers' compensation insurance, if
52 applicable;

53 (b) A federal employment identification number or
54 social security number.

55 (2) The board shall not require liability insurance to be
56 licensed under this chapter but if a licensee has liability
57 insurance it shall be reflected on the certificate of licensure.

58 * * *

59 (3) The board shall issue or renew a license to a
60 residential builder or remodeler upon payment to the board of the
61 license fee. The initial license fee shall be Fifty Dollars
62 (\$50.00). The license fee may thereafter be increased or
63 decreased by the board and cannot exceed One Hundred Dollars
64 (\$100.00); however, the receipts from fees collected by the board
65 shall be no greater than the amount required to pay all costs and

66 expenses incurred by the board in enforcing the provisions of this
67 chapter. All fees collected under this chapter shall be deposited
68 into the special fund in the State Treasury known as the "State
69 Board of Contractor's Fund" created pursuant to Section 31-3-17
70 and shall be used only for the administration and enforcement of
71 this chapter. Amounts in such fund shall not lapse into the State
72 General Fund at the end of a fiscal year. Interest accrued to
73 such fund shall remain in the fund. All expenditures from the
74 special fund shall be by requisition to the Department of Finance
75 and Administration, signed by the executive secretary of the board
76 and countersigned by the chairman or vice chairman of the board.

77 (4) The license shall expire on the last day of the twelfth
78 month following its issuance or renewal and shall become invalid
79 unless renewed. The board shall notify by mail every licensee
80 under this chapter of the date of the expiration of his license
81 and the amount of the fee required for renewal of the license for
82 one (1) year. Such notice shall be mailed within thirty (30) days
83 prior to the expiration date of the license. The failure on the
84 part of any licensee to renew his license annually in such twelfth
85 month shall not deprive such licensee of the right of renewal,
86 provided that renewal is effected within one hundred twenty (120)
87 days after the expiration date of the license by payment of the
88 license fee plus a penalty of one hundred percent (100%) of the
89 license fee. A new license required to replace a revoked, lost,
90 mutilated or destroyed license may be issued, subject to the rules
91 of the board, for a charge of not more than Twenty-five Dollars
92 (\$25.00).

93 (5) Any person who is not a resident of the State of
94 Mississippi who desires to perform residential construction or
95 residential improvement shall be licensed to perform such
96 construction or improvement as provided by this chapter.

97 SECTION 3. Section 73-59-5, Mississippi Code of 1972, is
98 reenacted as follows:

99 73-59-5. Any corporation, partnership or individual seeking
100 to be licensed and examined under this chapter shall file with the
101 board at least thirty (30) days prior to the next meeting of the
102 board a written application on such form as may be prescribed by
103 the board. Such application shall be accompanied by the payment
104 of the license fee. If the application is not approved by the
105 board, the applicant shall be refunded the license fee. If the
106 application sufficiently contains the information required
107 pursuant to this chapter, the applicant shall be examined by the
108 board at its next meeting using a uniform written examination
109 prescribed by the board. The board shall administer an oral
110 examination to applicants who are unable to take the written
111 examination. In addition, the board, in examining such applicant,
112 shall consider the following:

- 113 (a) Experience;
- 114 (b) Complaints; and
- 115 (c) Other pertinent information the board may require.

116 If, as a result of the examination, the board finds that the
117 applicant is qualified to engage in residential construction or
118 residential improvement in Mississippi, the applicant shall be
119 issued a license. If the board denies the issuance of a license
120 to any applicant, the license fee shall be returned by the board
121 to the applicant. Any applicant rejected by the board shall be
122 given the opportunity to be reexamined at the next regularly
123 scheduled examination date after a new application has been filed
124 and the license fee has again been paid.

125 The board shall make and preserve a record of each
126 examination of an applicant and the findings of the board
127 pertaining to such examination. A certified copy of such record,
128 omitting confidential test questions, shall be furnished to the
129 applicant so requesting such record upon the payment of a fee to
130 the board that reasonably reflects the cost of furnishing such
131 record to the applicant.

132 Each application or filing made under this section shall
133 include the Social Security number(s) of the applicant in
134 accordance with Section 93-11-64, Mississippi Code of 1972.

135 SECTION 4. Section 73-59-7, Mississippi Code of 1972, is
136 reenacted as follows:

137 73-59-7. In the event of a catastrophe or emergency which
138 arises out of a disaster, act of God, riot, civil commotion,
139 conflagration or other similar occurrence, the board, upon
140 application, may issue an emergency license to persons who are
141 residents or nonresidents of this state and who may or may not be
142 otherwise licensed residential builders or remodelers. Such
143 emergency license shall remain in force for a period not to exceed
144 ninety (90) days, unless extended for an additional period of
145 ninety (90) days by the board or until a contract to build or
146 remodel entered into during the period of the emergency license
147 has been completed.

148 Within five (5) days of any applicant beginning work as a
149 residential builder or remodeler under this section, the employer
150 or person contracting with such person shall certify to the board
151 such application without being deemed in violation of this
152 chapter, provided that the board, after notice and hearing, may
153 take disciplinary action or revoke the emergency license upon
154 grounds as otherwise contained in this chapter providing for such
155 disciplinary action or revocation of a residential builder's or
156 remodeler's license.

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

161 SECTION 5. Section 73-59-9, Mississippi Code of 1972, is
162 reenacted as follows:

163 73-59-9. (1) Any residential builder who undertakes or
164 attempts to undertake the business of residential construction

165 without having a valid license as required by this chapter, or who
166 knowingly presents to the board, or files with the board, false
167 information for the purpose of obtaining such license, shall be
168 deemed guilty of a misdemeanor and upon conviction shall be fined
169 not less than One Hundred Dollars (\$100.00) and not more than Five
170 Thousand Dollars (\$5,000.00) or be imprisoned for not less than
171 thirty (30) nor more than sixty (60) days in the county jail, or
172 both.

173 (2) Any remodeler who undertakes or attempts to undertake
174 the business of residential improvement without having a valid
175 license as required by this chapter, or who knowingly presents to
176 the board, or files with the board, false information for the
177 purpose of obtaining such license, shall be deemed guilty of a
178 misdemeanor and upon conviction shall be fined not less than One
179 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars
180 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
181 more than sixty (60) days in the county jail, or both.

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

186 SECTION 6. Section 73-59-11, Mississippi Code of 1972, is
187 reenacted and amended as follows:

188 73-59-11. * * * The board shall have the following
189 additional duties for the purposes of this chapter:

190 (a) To conduct thorough investigations of all
191 applicants seeking a license or licensees seeking renewal of their
192 licenses and of all complaints filed with the board concerning the
193 performance of a residential builder.

194 (b) To obtain information concerning the responsibility
195 of any applicant for a license or of a licensee. Such information
196 may be obtained by investigation, by hearings, or by any other
197 reasonable and lawful means. The board shall keep such

198 information appropriately filed.

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

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

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

209 (f) To adopt rules and regulations governing
210 disciplinary actions and the conduct of its hearings and to adopt
211 such other rules and regulations as the board finds necessary for
212 the proper administration of this chapter.

213 * * *

214 SECTION 7. Section 73-59-13, Mississippi Code of 1972, is
215 reenacted as follows:

216 73-59-13. (1) The board, upon satisfactory proof and in
217 accordance with the provisions of this chapter and the regulations
218 of the board pertaining thereto, is authorized to take the
219 disciplinary actions provided for in this section against any
220 person for any of the following reasons:

221 (a) Violating any of the provisions of this chapter or
222 the rules or regulations of the board pertaining to the work of
223 residential building or residential improvement;

224 (b) Fraud, deceit or misrepresentation in obtaining a
225 license;

226 (c) Gross negligence or misconduct;

227 (d) Engaging in work of residential building or
228 residential improvement on an expired license or while under
229 suspension or revocation of license unless the suspension or
230 revocation be abated in accordance with this chapter;

231 (e) Loaning a license to an unlicensed person;
232 (f) Failing to maintain workers' compensation
233 insurance, if applicable; or
234 (g) Failing to pay for goods or services for which the
235 builder is contractually bound.

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

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

247 No disciplinary action may be taken until the accused has
248 been furnished both a statement of the charges against him and
249 notice of the time and place of the hearing thereon, which shall
250 be personally served on such accused or mailed by certified mail,
251 return receipt requested, to the last known business or residence
252 address of the accused not less than thirty (30) days prior to the
253 date fixed for the hearing.

254 (3) At any hearing held hereunder, the board shall have the
255 power to subpoena witnesses and compel their attendance and may
256 also require the production of books, papers, documents or other
257 materials which may be pertinent to the proceedings. The board
258 may designate or secure a hearing officer to conduct the hearing.
259 All evidence shall be presented under oath, which may be
260 administered by any member of the board, and thereafter the
261 proceedings may, if necessary, be transcribed in full by a court
262 reporter and filed as part of the record in the case. Copies of
263 such transcriptions may be provided to any party to the

264 proceedings at a price reflecting actual cost, to be fixed by the
265 board.

266 All witnesses who are subpoenaed and appear in any
267 proceedings before the board shall receive the same fees and
268 mileage as allowed by law to witnesses in county, circuit and
269 chancery court pursuant to Section 25-7-47, Mississippi Code of
270 1972, and all such fees shall be taxed as part of the costs in the
271 case.

272 When, in any proceeding before the board, any witness shall
273 fail or refuse to attend upon subpoena issued by the board, shall
274 refuse to testify, or shall refuse to produce any books and papers
275 the production of which is called for by the subpoena, the
276 attendance of such witness and the giving of his testimony and the
277 production of the books and papers shall be enforced by any court
278 of competent jurisdiction of this state in the manner provided for
279 the enforcement of attendance and testimony of witnesses in civil
280 cases in the courts of this state.

281 The accused shall have the right to be present at the hearing
282 in person, by counsel or other representative, or both. The board
283 is authorized for proper cause to continue or recess the hearing
284 as may be necessary.

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

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

- 294 (a) Issue a public or private reprimand;
295 (b) Suspend or revoke the license of the accused; or
296 (c) In lieu of or in addition to any reprimand,

297 suspension or revocation, assess and levy upon the guilty party a
298 monetary penalty of not less than One Hundred Dollars (\$100.00)
299 nor more than Five Thousand Dollars (\$5,000.00) for each
300 violation.

301 (6) A monetary penalty assessed and levied under this
302 section shall be paid to the board upon the expiration of the
303 period allowed for appeal of such penalties under this section or
304 may be paid sooner if the guilty party elects. Money collected by
305 the board under this section shall be deposited to the credit of
306 the State Board of Contractors' Fund.

307 When payment of a monetary penalty assessed and levied by the
308 board in accordance with this section is not paid when due, the
309 board shall have the power to institute and maintain proceedings
310 in its name for enforcement of payment in the chancery court of
311 the county of residence of the delinquent party; however, if the
312 delinquent party is a nonresident of the State of Mississippi,
313 such proceedings shall be in the Chancery Court of the First
314 Judicial District of Hinds County, Mississippi.

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

322 (8) The board shall not assess any of the costs of
323 disciplinary proceedings conducted pursuant to this section
324 against the prevailing party.

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

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

332 (11) Any person aggrieved by any order or decision of the
333 board may appeal within ten (10) days from the date of adjournment
334 of the session at which the board rendered such order or decision,
335 and may embody the facts, order and decision in a bill of
336 exceptions which shall be signed by the person acting as chairman
337 of the board. The board shall transmit the bill of exceptions to
338 either the chancery court of the county of residence of the
339 appellant, or the Chancery Court of the First Judicial District of
340 Hinds County, at the election of the appellant, and the court or
341 chancellor shall hear and determine the same either in termtime or
342 in vacation, on the case as presented by the bill of exceptions,
343 as an appellant court, and shall affirm or reverse the judgment.
344 If the judgment be reversed, the chancery court or chancellor
345 shall render such order or judgment as the board ought to have
346 rendered, and certify the same to the board; and costs shall be
347 awarded as in other cases. The board may employ counsel to defend
348 such appeals, to be paid out of the funds in the State Board of
349 Contractors' Fund.

350 The remedies provided under this chapter for any aggrieved
351 applicant shall not be exclusive, but shall be cumulative of and
352 supplemental to any other remedies which he may otherwise have in
353 law or in equity, whether by injunction or otherwise.

354 (12) Any political subdivision or agency of this state which
355 receives a complaint against a residential builder or remodeler
356 shall, in addition to exercising whatever authority such political
357 subdivision or agency has been given over such complaint, forward
358 the complaint to the board.

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

363 suspension of a license for being out of compliance with an order
364 for support, and the procedure for the reissuance or reinstatement
365 of a license suspended for that purpose, and the payment of any
366 fees for the reissuance or reinstatement of a license suspended
367 for that purpose, shall be governed by Section 93-11-157 or
368 93-11-163, as the case may be. Actions taken by the board in
369 suspending a license when required by Section 93-11-157 or
370 93-11-163 are not actions from which an appeal may be taken under
371 this section. Any appeal of a license suspension that is required
372 by Section 93-11-157 or 93-11-163 shall be taken in accordance
373 with the appeal procedure specified in Section 93-11-157 or
374 93-11-163, as the case may be, rather than the procedure specified
375 in this section. If there is any conflict between any provision
376 of Section 93-11-157 or 93-11-163 and any provision of this
377 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
378 case may be, shall control.

379 SECTION 8. Section 73-59-15, Mississippi Code of 1972, is
380 reenacted and amended as follows:

381 73-59-15. (1) This chapter shall not apply to:

382 (a) Agricultural buildings, buildings used for
383 agricultural purposes, buildings constructed as a community
384 effort, or tenant houses;

385 (b) Any person who undertakes construction or
386 improvement on his own residence * * *, or who acts as his own
387 general contractor in the performance of construction or
388 improvement on his own residence * * *, or who acts under the
389 supervision of the owner-occupant who is the general contractor;

390 (c) Any person who undertakes residential construction
391 or improvement, or who acts as a general contractor in the
392 performance of residential construction or improvement, or who
393 acts under supervision of the owner-occupant with respect to
394 residential construction or improvement, when the owner of such
395 construction or improvement is related to such person by

396 consanguinity or direct affinity;

397 (d) The owners of property who supervise, superintend,
398 oversee, direct or in any manner assume charge of the
399 construction, alteration, repair, improvement, movement,
400 demolition, putting up, tearing down, or maintenance of any
401 building, railroad, excavation, project, development, improvement,
402 plant facility or any other construction undertaking on such
403 property for use by such owner and which will not be for sale,
404 rent, public use or public assembly;

405 (e) An employee of a licensed residential builder;

406 (f) A contractor holding a valid license or certificate
407 of responsibility for general construction from the board;

408 (g) Any nonresident contractor holding a valid license
409 or certificate of responsibility for general construction;

410 (h) Any person who constructs two (2) single residences
411 or less within a period of one (1) year in any county or
412 municipality which does not require a building permit or any local
413 certification for such construction.

414 (2) A person specified in subsection (1)(b) shall not make
415 more than two (2) applications for a permit to construct a single
416 residence or shall not construct more than two (2) single
417 residences within a period of one (1) year. There shall be a
418 rebuttable presumption that such person intends to construct for
419 the purpose of resale, lease, rent or any similar purpose if more
420 than two (2) applications are made for a permit to construct a
421 single residence or if more than two (2) single residences are
422 constructed within a period of one (1) year.

423 (3) The provisions of this section shall not apply to
424 builders and remodelers who are not domiciled in the State of
425 Mississippi. Builders and remodelers who are not domiciled in the
426 State of Mississippi are not required to be licensed under the
427 provisions of this chapter if the state in which they are
428 domiciled requires licensing and the licensing state's

429 requirements are at least the equivalent of those requirements
430 provided in this chapter.

431 SECTION 9. Section 73-59-17, Mississippi Code of 1972, is
432 reenacted as follows:

433 73-59-17. The building official, or other authority charged
434 with the duty of issuing building or similar permits, of any
435 municipality or county, shall refuse to issue a permit for any
436 undertaking which would classify the applicant as a residential
437 builder or remodeler under this chapter unless the applicant has
438 furnished evidence that he is either licensed as required by this
439 chapter or exempt from the requirements of this chapter. The
440 building official, or other authority charged with the duty of
441 issuing building or similar permits, shall also report to the
442 board the name and address of any person who, in his opinion, has
443 violated this chapter by accepting, or contracting to accomplish,
444 work which would classify the person as a residential builder or
445 remodeler under this chapter without a license or acknowledgement.

446 SECTION 10. Section 73-59-19, Mississippi Code of 1972, is
447 reenacted as follows:

448 73-59-19. Any residential builder or remodeler licensed
449 pursuant to the provisions of this chapter may, without being
450 required to obtain an additional license under any other law of
451 this state, construct, improve, repair, remodel or renovate any
452 commercial structure, provided the prescribed contract job does
453 not exceed seven thousand five hundred (7,500) square feet.

454 SECTION 11. Section 31-3-3, Mississippi Code of 1972, is
455 reenacted as follows:

456 31-3-3. There is hereby created the State Board of
457 Contractors of the State of Mississippi, which shall consist of
458 ten (10) members who shall be appointed by the Governor. All
459 appointments to the board after July 1, 1980, shall be made with
460 the advice and consent of the Senate. Two (2) road contractors;
461 two (2) building contractors; two (2) residential builders as

462 defined in Section 73-59-1; one (1) plumbing or heating and air
463 conditioning contractor; one (1) electrical contractor; and one
464 (1) water and sewer contractor shall compose the board. From and
465 after July 1, 1992, the Governor shall appoint one (1) additional
466 member who shall be a roofing contractor and whose term of office
467 shall be five (5) years. Each member shall be an actual resident
468 of the State of Mississippi and must have been actually engaged in
469 the contracting business for a period of not less than ten (10)
470 years before appointment. The initial terms of the two (2)
471 residential builders shall be for two (2) and four (4) years,
472 respectively, beginning July 1, 1993.

473 Upon the expiration of the term of office of any member of
474 the board, the Governor shall appoint a new member for a term of
475 five (5) years, such new appointments being made so as to maintain
476 on the board two (2) building contractors; two (2) road
477 contractors; two (2) residential builders; one (1) plumbing or
478 heating and air conditioning contractor; one (1) electrical
479 contractor; and one (1) water and sewer contractor; and one (1)
480 roofing contractor. The Governor shall fill any vacancy by
481 appointment, such appointee to serve the balance of the term of
482 the original appointee. The Governor may remove any member of the
483 board for misconduct, incompetency or willful neglect of duty.

484 In the event the Governor fails to appoint a member of the
485 board within twelve (12) months of the occurrence of the vacancy,
486 such vacancy shall be filled by majority vote of the board,
487 subject to advice and consent of the Senate and the requirements
488 of this section.

489 SECTION 12. Section 31-3-5, Mississippi Code of 1972, is
490 reenacted as follows:

491 31-3-5. The board shall be assigned suitable office space at
492 the seat of government and shall elect one (1) of its members as
493 chairman and one (1) as vice chairman; and each shall perform the
494 usual duties of such offices. The board may adopt a seal. Six

495 (6) members of the board shall constitute a quorum, and a majority
496 vote of those present and voting at any meeting shall be necessary
497 for the transaction of any business coming before the board.
498 Members must be present to cast votes on any and all business.
499 The executive secretary shall serve as secretary of the board.
500 The board is authorized to employ such personnel as shall be
501 necessary in the performance of its duties including sufficient
502 administrative and clerical staff to process and review
503 applications for certificates of responsibility, to prepare and
504 administer tests therefor, to investigate applications for
505 certificates of responsibility and to inspect work performed by
506 contractors as may be necessary to enforce and carry out the
507 purpose of this chapter.

508 SECTION 13. The following shall be codified as Section
509 73-59-21, Mississippi Code of 1972:

510 73-59-21. (1) There is hereby created the Standing
511 Committee on Residential Builders and Remodelers which shall be
512 subordinate to the State Board of Contractors as set forth in
513 Section 31-3-3. The standing committee shall be composed of the
514 two (2) residential builders who serve as members of the State
515 Board of Contractors and three (3) additional residential builders
516 as defined in Section 73-59-1 to be appointed by the State Board
517 of Contractors upon a majority vote. The terms of the ex officio
518 members shall be concurrent with their terms as members of the
519 State Board of Contractors. The initial terms of the three (3)
520 additional residential builders on the Standing Committee on
521 Residential Builders and Remodelers shall be one (1), three (3)
522 and five (5) years, respectively, beginning July 1, 2000. Upon
523 the expiration of the initial term of any member not serving ex
524 officio, his or her successor shall be appointed for a term of
525 five (5) years.

526 (2) The Chairman of the State Board of Contractors shall
527 appoint one (1) of the two (2) ex officio members as Chairman of

528 the Standing Committee on Residential Builders and Remodelers.
529 The Executive Secretary of the State Board of Contractors as set
530 forth in Section 31-3-11 shall serve as secretary of the standing
531 committee. The standing committee shall meet no less than once
532 per quarter of each year at a date and time to be set by its
533 chairman upon at least five (5) business days notice by regular
534 mail. The members of the standing committee shall be entitled to
535 receive a per diem as provided in Section 31-3-9.

536 (3) Three (3) members of the Standing Committee on
537 Residential builders and Remodelers shall constitute a quorum and
538 a majority vote of those present and voting at any meeting shall
539 be necessary to transact business.

540 (4) The Standing Committee on Residential Builders and
541 Remodelers shall have the power to make recommendations to the
542 State Board of Contractors pertaining to all duties set forth in
543 Sections 73-59-11 and 73-59-13. The standing committee shall have
544 only the power to make recommendations to the State Board of
545 Contractors and the State Board of Contractors shall have the
546 power and authority to accept or reject any recommendation made by
547 the standing committee. Hearings regarding residential builders
548 and remodelers shall be exclusively under the jurisdiction of the
549 Standing Committee on Residential Builders and Remodelers.

550 SECTION 14. Section 14, Chapter 431, Laws of 1995, is
551 amended as follows:

552 Section 14. This act shall take effect and be in force from
553 and after its passage, and shall stand repealed on July 1, 2005.

554 SECTION 15. This act shall take effect and be in force from
555 and after July 1, 2000.