

By: Ford

To: Judiciary B

## 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 REENACT  
4 SECTIONS 31-3-3 AND 31-3-5, MISSISSIPPI CODE OF 1972, WHICH  
5 PROVIDE FOR THE STATE BOARD OF CONTRACTORS AND PROVIDE FOR THE  
6 ORGANIZATION AND ADMINISTRATION OF THE BOARD; TO AMEND SECTION 14,  
7 CHAPTER 431, LAWS OF 1995, TO EXTEND THE REPEALER REGARDING THE  
8 LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS  
9 AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

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

13 73-59-1. For the purposes of this chapter, the following  
14 words shall have the meanings ascribed herein:

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

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

26 (c) "Remodeler" means any corporation, partnership or  
27 individual who, for a fixed price, commission, fee, wage or other  
28 compensation, undertakes or offers to undertake the construction,  
29 or superintending of the construction, of improvements to an

30 existing residence when the cost of the improvements exceeds Ten  
31 Thousand Dollars (\$10,000.00).

32 (d) "Residential construction" means any undertaking  
33 described in paragraph (b) of this section performed by a  
34 residential builder.

35 (e) "Residential improvement" means any undertaking  
36 described in paragraph (c) of this section performed by a  
37 remodeler.

38 SECTION 2. Section 73-59-3, Mississippi Code of 1972, is  
39 reenacted as follows:

40 73-59-3. (1) Except as otherwise provided in Section  
41 73-59-15, persons who perform residential construction or  
42 residential improvement shall be licensed by the board annually,  
43 and, as a prerequisite to obtaining a license or renewal thereof,  
44 each shall submit to the board:

45 (a) Proof of workers' compensation insurance, if  
46 applicable;

47 (b) A federal employment identification number or  
48 social security number.

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

52 (3) Any person engaged in residential construction or  
53 residential improvement on or before July 1, 1995, shall be duly  
54 licensed by the board, without examination, after paying the  
55 required license fee by submitting to the board not later than  
56 January 31, 1999:

57 (a) The information described in subsections (1) and  
58 (2) of this section; and

59 (b) (i) A sworn affidavit showing that such person has  
60 constructed or improved a minimum of five (5) residential homes or  
61 ten (10) apartment units, along with a description and location of  
62 such homes or apartment units and the names and addresses of the  
63 persons or owners for whom such homes or apartment units were  
64 constructed; or

65 (ii) Proof that such person holds a valid license  
66 or certificate of responsibility for general construction issued

67 by the board.

68 (4) The board shall issue or renew a license to a  
69 residential builder or remodeler upon payment to the board of the  
70 license fee. The initial license fee shall be Fifty Dollars  
71 (\$50.00). The license fee may thereafter be increased or  
72 decreased by the board and cannot exceed One Hundred Dollars  
73 (\$100.00); however, the receipts from fees collected by the board  
74 shall be no greater than the amount required to pay all costs and  
75 expenses incurred by the board in enforcing the provisions of this  
76 chapter. All fees collected under this chapter shall be deposited  
77 into the special fund in the State Treasury known as the "State  
78 Board of Contractor's Fund" created pursuant to Section 31-3-17  
79 and shall be used only for the administration and enforcement of  
80 this chapter. Amounts in such fund shall not lapse into the State  
81 General Fund at the end of a fiscal year. Interest accrued to  
82 such fund shall remain in the fund. All expenditures from the  
83 special fund shall be by requisition to the Department of Finance  
84 and Administration, signed by the executive secretary of the board  
85 and countersigned by the chairman or vice chairman of the board.

86 (5) The license shall expire on the last day of the twelfth  
87 month following its issuance or renewal and shall become invalid  
88 unless renewed. The board shall notify by mail every licensee  
89 under this chapter of the date of the expiration of his license  
90 and the amount of the fee required for renewal of the license for  
91 one (1) year. Such notice shall be mailed within thirty (30) days  
92 prior to the expiration date of the license. The failure on the  
93 part of any licensee to renew his license annually in such twelfth  
94 month shall not deprive such licensee of the right of renewal,  
95 provided that renewal is effected within one hundred twenty (120)  
96 days after the expiration date of the license by payment of the  
97 license fee plus a penalty of one hundred percent (100%) of the  
98 license fee. A new license required to replace a revoked, lost,  
99 mutilated or destroyed license may be issued, subject to the rules

100 of the board, for a charge of not more than Twenty-five Dollars  
101 (\$25.00).

102 (6) Any person who is not a resident of the State of  
103 Mississippi who desires to perform residential construction or  
104 residential improvement shall be licensed to perform such  
105 construction or improvement as provided by this chapter.

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

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

- 122 (a) Experience;
- 123 (b) Complaints; and
- 124 (c) Other pertinent information the board may require.

125 If, as a result of the examination, the board finds that the  
126 applicant is qualified to engage in residential construction or  
127 residential improvement in Mississippi, the applicant shall be  
128 issued a license. If the board denies the issuance of a license  
129 to any applicant, the license fee shall be returned by the board  
130 to the applicant. Any applicant rejected by the board shall be  
131 given the opportunity to be reexamined at the next regularly  
132 scheduled examination date after a new application has been filed

133 and the license fee has again been paid.

134         The board shall make and preserve a record of each  
135 examination of an applicant and the findings of the board  
136 pertaining to such examination. A certified copy of such record,  
137 omitting confidential test questions, shall be furnished to the  
138 applicant so requesting such record upon the payment of a fee to  
139 the board that reasonably reflects the cost of furnishing such  
140 record to the applicant.

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

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

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

157         Within five (5) days of any applicant beginning work as a  
158 residential builder or remodeler under this section, the employer  
159 or person contracting with such person shall certify to the board  
160 such application without being deemed in violation of this  
161 chapter, provided that the board, after notice and hearing, may  
162 take disciplinary action or revoke the emergency license upon  
163 grounds as otherwise contained in this chapter providing for such  
164 disciplinary action or revocation of a residential builder's or  
165 remodeler's license.

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

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

172           73-59-9. (1) Any residential builder who undertakes or  
173 attempts to undertake the business of residential construction  
174 without having a valid license as required by this chapter, or who  
175 knowingly presents to the board, or files with the board, false  
176 information for the purpose of obtaining such license, shall be  
177 deemed guilty of a misdemeanor and upon conviction shall be fined  
178 not less than One Hundred Dollars (\$100.00) and not more than Five  
179 Thousand Dollars (\$5,000.00) or be imprisoned for not less than  
180 thirty (30) nor more than sixty (60) days in the county jail, or  
181 both.

182           (2) Any remodeler who undertakes or attempts to undertake  
183 the business of residential improvement without having a valid  
184 license as required by this chapter, or who knowingly presents to  
185 the board, or files with the board, false information for the  
186 purpose of obtaining such license, shall be deemed guilty of a  
187 misdemeanor and upon conviction shall be fined not less than One  
188 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars  
189 (\$5,000.00) or be imprisoned for not less than thirty (30) nor  
190 more than sixty (60) days in the county jail, or both.

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

195           SECTION 6. Section 73-59-11, Mississippi Code of 1972, is  
196 reenacted as follows:

197           73-59-11. (1) The board shall have the following additional  
198 duties for the purposes of this chapter:

199           (a) To conduct thorough investigations of all  
200 applicants seeking a license or licensees seeking renewal of their  
201 licenses and of all complaints filed with the board concerning the  
202 performance of a residential builder.

203           (b) To obtain information concerning the responsibility  
204 of any applicant for a license or of a licensee. Such information  
205 may be obtained by investigation, by hearings, or by any other  
206 reasonable and lawful means. The board shall keep such  
207 information appropriately filed.

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

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

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

218           (f) To adopt rules and regulations governing  
219 disciplinary actions and the conduct of its hearings and to adopt  
220 such other rules and regulations as the board finds necessary for  
221 the proper administration of this chapter.

222           (2) The board shall notify all licensees and persons  
223 identified as needing licensing under this chapter of the  
224 provisions of House Bill No. 1894, 1998 Regular Session, [Laws,  
225 1998, ch. 535] immediately upon its passage. The board shall  
226 publish notice of the period of time prescribed in Section  
227 73-59-3(3) at least three (3) times in a newspaper with statewide  
228 circulation. The board shall provide notice by certified letter  
229 to all persons needing licensing sixty (60) days before the period  
230 of time described in Section 73-59-3(3) expires and again thirty  
231 (30) days before such expiration. The notice shall provide all

232 the information required for any person to be licensed under this  
233 chapter.

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

236 73-59-13. (1) The board, upon satisfactory proof and in  
237 accordance with the provisions of this chapter and the regulations  
238 of the board pertaining thereto, is authorized to take the  
239 disciplinary actions provided for in this section against any  
240 person for any of the following reasons:

241 (a) Violating any of the provisions of this chapter or  
242 the rules or regulations of the board pertaining to the work of  
243 residential building or residential improvement;

244 (b) Fraud, deceit or misrepresentation in obtaining a  
245 license;

246 (c) Gross negligence or misconduct;

247 (d) Engaging in work of residential building or  
248 residential improvement on an expired license or while under  
249 suspension or revocation of license unless the suspension or  
250 revocation be abated in accordance with this chapter;

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

252 (f) Failing to maintain workers' compensation  
253 insurance, if applicable; or

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

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

261 The board shall investigate all charges filed with it and,  
262 upon finding reasonable cause to believe that the charges are not  
263 frivolous, unfounded or filed in bad faith, may, in its  
264 discretion, cause a hearing to be held, at a time and place fixed



265 by the board, regarding the charges and may compel the accused by  
266 subpoena to appear before the board to respond to such charges.

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

274 (3) At any hearing held hereunder, the board shall have the  
275 power to subpoena witnesses and compel their attendance and may  
276 also require the production of books, papers, documents or other  
277 materials which may be pertinent to the proceedings. The board  
278 may designate or secure a hearing officer to conduct the hearing.  
279 All evidence shall be presented under oath, which may be  
280 administered by any member of the board, and thereafter the  
281 proceedings may, if necessary, be transcribed in full by a court  
282 reporter and filed as part of the record in the case. Copies of  
283 such transcriptions may be provided to any party to the  
284 proceedings at a price reflecting actual cost, to be fixed by the  
285 board.

286 All witnesses who are subpoenaed and appear in any  
287 proceedings before the board shall receive the same fees and  
288 mileage as allowed by law to witnesses in county, circuit and  
289 chancery court pursuant to Section 25-7-47, Mississippi Code of  
290 1972, and all such fees shall be taxed as part of the costs in the  
291 case.

292 When, in any proceeding before the board, any witness shall  
293 fail or refuse to attend upon subpoena issued by the board, shall  
294 refuse to testify, or shall refuse to produce any books and papers  
295 the production of which is called for by the subpoena, the  
296 attendance of such witness and the giving of his testimony and the  
297 production of the books and papers shall be enforced by any court

298 of competent jurisdiction of this state in the manner provided for  
299 the enforcement of attendance and testimony of witnesses in civil  
300 cases in the courts of this state.

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

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

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

314 (a) Issue a public or private reprimand;

315 (b) Suspend or revoke the license of the accused; or

316 (c) In lieu of or in addition to any reprimand,  
317 suspension or revocation, assess and levy upon the guilty party a  
318 monetary penalty of not less than One Hundred Dollars (\$100.00)  
319 nor more than Five Thousand Dollars (\$5,000.00) for each  
320 violation.

321 (6) A monetary penalty assessed and levied under this  
322 section shall be paid to the board upon the expiration of the  
323 period allowed for appeal of such penalties under this section or  
324 may be paid sooner if the guilty party elects. Money collected by  
325 the board under this section shall be deposited to the credit of  
326 the State Board of Contractors' Fund.

327 When payment of a monetary penalty assessed and levied by the  
328 board in accordance with this section is not paid when due, the  
329 board shall have the power to institute and maintain proceedings  
330 in its name for enforcement of payment in the chancery court of

331 the county of residence of the delinquent party; however, if the  
332 delinquent party is a nonresident of the State of Mississippi,  
333 such proceedings shall be in the Chancery Court of the First  
334 Judicial District of Hinds County, Mississippi.

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

342 (8) The board shall not assess any of the costs of  
343 disciplinary proceedings conducted pursuant to this section  
344 against the prevailing party.

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

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

352 (11) Any person aggrieved by any order or decision of the  
353 board may appeal within ten (10) days from the date of adjournment  
354 of the session at which the board rendered such order or decision,  
355 and may embody the facts, order and decision in a bill of  
356 exceptions which shall be signed by the person acting as chairman  
357 of the board. The board shall transmit the bill of exceptions to  
358 either the chancery court of the county of residence of the  
359 appellant, or the Chancery Court of the First Judicial District of  
360 Hinds County, at the election of the appellant, and the court or  
361 chancellor shall hear and determine the same either in termtime or  
362 in vacation, on the case as presented by the bill of exceptions,  
363 as an appellant court, and shall affirm or reverse the judgment.

364 If the judgment be reversed, the chancery court or chancellor  
365 shall render such order or judgment as the board ought to have  
366 rendered, and certify the same to the board; and costs shall be  
367 awarded as in other cases. The board may employ counsel to defend  
368 such appeals, to be paid out of the funds in the State Board of  
369 Contractors' Fund.

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

374 (12) Any political subdivision or agency of this state which  
375 receives a complaint against a residential builder or remodeler  
376 shall, in addition to exercising whatever authority such political  
377 subdivision or agency has been given over such complaint, forward  
378 the complaint to the board.

379 (13) In addition to the reasons specified in subsection (1)  
380 of this section, the board shall be authorized to suspend the  
381 license of any licensee for being out of compliance with an order  
382 for support, as defined in Section 93-11-153. The procedure for  
383 suspension of a license for being out of compliance with an order  
384 for support, and the procedure for the reissuance or reinstatement  
385 of a license suspended for that purpose, and the payment of any  
386 fees for the reissuance or reinstatement of a license suspended  
387 for that purpose, shall be governed by Section 93-11-157 or  
388 93-11-163, as the case may be. Actions taken by the board in  
389 suspending a license when required by Section 93-11-157 or  
390 93-11-163 are not actions from which an appeal may be taken under  
391 this section. Any appeal of a license suspension that is required  
392 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
393 with the appeal procedure specified in Section 93-11-157 or  
394 93-11-163, as the case may be, rather than the procedure specified  
395 in this section. If there is any conflict between any provision  
396 of Section 93-11-157 or 93-11-163 and any provision of this

397 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
398 case may be, shall control.

399 SECTION 8. Section 73-59-15, Mississippi Code of 1972, is  
400 reenacted as follows:

401 73-59-15. (1) This chapter shall not apply to:

402 (a) Agricultural buildings, buildings used for  
403 agricultural purposes, buildings constructed as a community  
404 effort, or tenant houses;

405 (b) Any person who undertakes construction or  
406 improvement on his own residence or on his other real estate  
407 holdings, or who acts as his own general contractor in the  
408 performance of construction or improvement on his own residence or  
409 on his other real estate holdings, or who acts under the  
410 supervision of the owner-occupant who is the general contractor;

411 (c) Any person who undertakes residential construction  
412 or improvement, or who acts as a general contractor in the  
413 performance of residential construction or improvement, or who  
414 acts under supervision of the owner-occupant with respect to  
415 residential construction or improvement, when the owner of such  
416 construction or improvement is related to such person by  
417 consanguinity or direct affinity;

418 (d) The owners of property who supervise, superintend,  
419 oversee, direct or in any manner assume charge of the  
420 construction, alteration, repair, improvement, movement,  
421 demolition, putting up, tearing down, or maintenance of any  
422 building, railroad, excavation, project, development, improvement,  
423 plant facility or any other construction undertaking on such  
424 property for use by such owner and which will not be for sale,  
425 rent, public use or public assembly;

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

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

429 (g) Any nonresident contractor holding a valid license

430 or certificate of responsibility for general construction;

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

435 (2) A person specified in subsection (1)(b) shall not make  
436 more than two (2) applications for a permit to construct a single  
437 residence or shall not construct more than two (2) single  
438 residences within a period of one (1) year. There shall be a  
439 rebuttable presumption that such person intends to construct for  
440 the purpose of resale, lease, rent or any similar purpose if more  
441 than two (2) applications are made for a permit to construct a  
442 single residence or if more than two (2) single residences are  
443 constructed within a period of one (1) year.

444 (3) The provisions of this section shall not apply to  
445 builders and remodelers who are not domiciled in the State of  
446 Mississippi. Builders and remodelers who are not domiciled in the  
447 State of Mississippi are not required to be licensed under the  
448 provisions of this chapter if the state in which they are  
449 domiciled requires licensing and the licensing state's  
450 requirements are at least the equivalent of those requirements  
451 provided in this chapter.

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

454 73-59-17. The building official, or other authority charged  
455 with the duty of issuing building or similar permits, of any  
456 municipality or county, shall refuse to issue a permit for any  
457 undertaking which would classify the applicant as a residential  
458 builder or remodeler under this chapter unless the applicant has  
459 furnished evidence that he is either licensed as required by this  
460 chapter or exempt from the requirements of this chapter. The  
461 building official, or other authority charged with the duty of  
462 issuing building or similar permits, shall also report to the

463 board the name and address of any person who, in his opinion, has  
464 violated this chapter by accepting, or contracting to accomplish,  
465 work which would classify the person as a residential builder or  
466 remodeler under this chapter without a license or acknowledgement.

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

469 73-59-19. Any residential builder or remodeler licensed  
470 pursuant to the provisions of this chapter may, without being  
471 required to obtain an additional license under any other law of  
472 this state, construct, improve, repair, remodel or renovate any  
473 commercial structure, provided the prescribed contract job does  
474 not exceed seven thousand five hundred (7,500) square feet.

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

477 31-3-3. There is hereby created the State Board of  
478 Contractors of the State of Mississippi, which shall consist of  
479 ten (10) members who shall be appointed by the Governor. All  
480 appointments to the board after July 1, 1980, shall be made with  
481 the advice and consent of the Senate. Two (2) road contractors;  
482 two (2) building contractors; two (2) residential builders as  
483 defined in Section 73-59-1; one (1) plumbing or heating and air  
484 conditioning contractor; one (1) electrical contractor; and one  
485 (1) water and sewer contractor shall compose the board. From and  
486 after July 1, 1992, the Governor shall appoint one (1) additional  
487 member who shall be a roofing contractor and whose term of office  
488 shall be five (5) years. Each member shall be an actual resident  
489 of the State of Mississippi and must have been actually engaged in  
490 the contracting business for a period of not less than ten (10)  
491 years before appointment. The initial terms of the two (2)  
492 residential builders shall be for two (2) and four (4) years,  
493 respectively, beginning July 1, 1993.

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

496 five (5) years, such new appointments being made so as to maintain  
497 on the board two (2) building contractors; two (2) road  
498 contractors; two (2) residential builders; one (1) plumbing or  
499 heating and air conditioning contractor; one (1) electrical  
500 contractor; and one (1) water and sewer contractor; and one (1)  
501 roofing contractor. The Governor shall fill any vacancy by  
502 appointment, such appointee to serve the balance of the term of  
503 the original appointee. The Governor may remove any member of the  
504 board for misconduct, incompetency or willful neglect of duty.

505 In the event the Governor fails to appoint a member of the  
506 board within twelve (12) months of the occurrence of the vacancy,  
507 such vacancy shall be filled by majority vote of the board,  
508 subject to advice and consent of the Senate and the requirements  
509 of this section.

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

512 31-3-5. The board shall be assigned suitable office space at  
513 the seat of government and shall elect one (1) of its members as  
514 chairman and one (1) as vice chairman; and each shall perform the  
515 usual duties of such offices. The board may adopt a seal. Six  
516 (6) members of the board shall constitute a quorum, and a majority  
517 vote of those present and voting at any meeting shall be necessary  
518 for the transaction of any business coming before the board.  
519 Members must be present to cast votes on any and all business.  
520 The executive secretary shall serve as secretary of the board.  
521 The board is authorized to employ such personnel as shall be  
522 necessary in the performance of its duties including sufficient  
523 administrative and clerical staff to process and review  
524 applications for certificates of responsibility, to prepare and  
525 administer tests therefor, to investigate applications for  
526 certificates of responsibility and to inspect work performed by  
527 contractors as may be necessary to enforce and carry out the  
528 purpose of this chapter.



529 SECTION 13. Section 14, Chapter 431, Laws of 1995, is  
530 amended as follows:

531 Section 14. This act shall take effect and be in force from  
532 and after its passage, and shall stand repealed on July 1, 2001.

533 SECTION 14. This act shall take effect and be in force from  
534 and after July 1, 2000.