

By: Ford

To: Judiciary B

HOUSE BILL NO. 263
(As Passed the House)

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 AMEND REENACTED SECTION 73-59-5, MISSISSIPPI
7 CODE OF 1972, TO REQUIRE DISCLOSURE OF LICENSES FROM OTHER STATES;
8 TO AMEND REENACTED SECTION 73-59-13, MISSISSIPPI CODE OF 1972, TO
9 REVISE CERTAIN NOTICE AND INSPECTION PROVISIONS REGARDING
10 HEARINGS; TO REENACT SECTIONS 31-3-3 AND 31-3-5, MISSISSIPPI CODE
11 OF 1972, WHICH PROVIDE FOR THE STATE BOARD OF CONTRACTORS AND
12 PROVIDE FOR THE ORGANIZATION AND ADMINISTRATION OF THE BOARD; TO
13 CREATE SECTION 73-59-21, MISSISSIPPI CODE OF 1972, TO CREATE THE
14 STANDING COMMITTEE ON RESIDENTIAL BUILDERS AND REMODELERS AND
15 PROVIDE FOR ITS MEMBERSHIP AND DUTIES; TO AMEND SECTION 14,
16 CHAPTER 431, LAWS OF 1995, TO EXTEND THE REPEALER REGARDING THE
17 LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS
18 AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

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

22 73-59-1. For the purposes of this chapter, the following
23 words shall have the meanings ascribed herein:

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

26 (b) "Residential builder" means any corporation,
27 partnership or individual who constructs a building or structure
28 for sale for use by another as a residence or who, for a fixed
29 price, commission, fee, wage or other compensation, undertakes or
30 offers to undertake the construction, or superintending of the
31 construction, of any building or structure which is not more than
32 three (3) floors in height, to be used by another as a residence,
33 when the cost of the undertaking exceeds Fifty Thousand Dollars
34 (\$50,000.00).

35 (c) "Remodeler" means any corporation, partnership or
36 individual who, for a fixed price, commission, fee, wage or other
37 compensation, undertakes or offers to undertake the construction,
38 or superintending of the construction, of improvements to an
39 existing residence when the cost of the improvements exceeds Ten
40 Thousand Dollars (\$10,000.00).

41 (d) "Residential construction" means any undertaking
42 described in paragraph (b) of this section performed by a
43 residential builder.

44 (e) "Residential improvement" means any undertaking
45 described in paragraph (c) of this section performed by a
46 remodeler.

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

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

54 (a) Proof of workers' compensation insurance, if
55 applicable;

56 (b) A federal employment identification number or
57 social security number.

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

61 * * *

62 (3) The board shall issue or renew a license to a
63 residential builder or remodeler upon payment to the board of the
64 license fee. The initial license fee shall be Fifty Dollars
65 (\$50.00). The license fee may thereafter be increased or
66 decreased by the board and cannot exceed One Hundred Dollars
67 (\$100.00); however, the receipts from fees collected by the board

68 shall be no greater than the amount required to pay all costs and
69 expenses incurred by the board in enforcing the provisions of this
70 chapter. All fees collected under this chapter shall be deposited
71 into the special fund in the State Treasury known as the "State
72 Board of Contractor's Fund" created pursuant to Section 31-3-17
73 and shall be used only for the administration and enforcement of
74 this chapter. Amounts in such fund shall not lapse into the State
75 General Fund at the end of a fiscal year. Interest accrued to
76 such fund shall remain in the fund. All expenditures from the
77 special fund shall be by requisition to the Department of Finance
78 and Administration, signed by the executive secretary of the board
79 and countersigned by the chairman or vice chairman of the board.

80 (4) The license shall expire on the last day of the twelfth
81 month following its issuance or renewal and shall become invalid
82 unless renewed. The board shall notify by mail every licensee
83 under this chapter of the date of the expiration of his license
84 and the amount of the fee required for renewal of the license for
85 one (1) year. Such notice shall be mailed within thirty (30) days
86 prior to the expiration date of the license. The failure on the
87 part of any licensee to renew his license annually in such twelfth
88 month shall not deprive such licensee of the right of renewal,
89 provided that renewal is effected within one hundred twenty (120)
90 days after the expiration date of the license by payment of the
91 license fee plus a penalty of one hundred percent (100%) of the
92 license fee. A new license required to replace a revoked, lost,
93 mutilated or destroyed license may be issued, subject to the rules
94 of the board, for a charge of not more than Twenty-five Dollars
95 (\$25.00).

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

100 SECTION 3. Section 73-59-5, Mississippi Code of 1972, is

101 reenacted and amended as follows:

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

- 116 (a) Experience;
- 117 (b) Complaints; and
- 118 (c) Other pertinent information the board may require.

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

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

134 record to the applicant.

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

138 Each application for a license under this chapter shall
139 reveal any other states in which the applicant or any partner or
140 business associate of the applicant is licensed and whether the
141 applicant, partner or business associate has had a license revoked
142 or suspended in any other state. If the applicant fails to
143 provide this information, the board may deny or revoke the
144 applicant's license. If the applicant has had a license revoked
145 in another state, the board may deny the application for a license
146 in this state.

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

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

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

167 disciplinary action or revocation of a residential builder's or
168 remodeler's license.

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

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

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

185 (2) Any remodeler who undertakes or attempts to undertake
186 the business of residential improvement without having a valid
187 license as required by this chapter, or who knowingly presents to
188 the board, or files with the board, false information for the
189 purpose of obtaining such license, shall be deemed guilty of a
190 misdemeanor and upon conviction shall be fined not less than One
191 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars
192 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
193 more than sixty (60) days in the county jail, or both.

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

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

200 73-59-11. * * * The board shall have the following
201 additional duties for the purposes of this chapter:

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

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

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

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

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

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

225 * * *

226 SECTION 7. Section 73-59-13, Mississippi Code of 1972, is
227 reenacted and amended as follows:

228 73-59-13. (1) The board, upon satisfactory proof and in
229 accordance with the provisions of this chapter and the regulations
230 of the board pertaining thereto, is authorized to take the
231 disciplinary actions provided for in this section against any
232 person for any of the following reasons:

233 (a) Violating any of the provisions of this chapter or
234 the rules or regulations of the board pertaining to the work of
235 residential building or residential improvement;

236 (b) Fraud, deceit or misrepresentation in obtaining a
237 license;

238 (c) Gross negligence or misconduct;

239 (d) Engaging in work of residential building or
240 residential improvement on an expired license or while under
241 suspension or revocation of license unless the suspension or
242 revocation be abated in accordance with this chapter;

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

244 (f) Failing to maintain workers' compensation
245 insurance, if applicable; or

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

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

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

259 The board shall send a certified inspector to inspect the
260 building or structure which is the subject of a complaint or the
261 board may use a county certified building inspector from the
262 county where the building or structure is located to inspect the
263 building or structure which is the subject of a complaint. The
264 report of the inspector shall be used in the investigation and the
265 determination of the board. The provisions above shall only apply

266 to hearings.

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. The complaining party shall be
274 notified of the place and time of the hearing by mail to the last
275 known business or residence address of the complaining party not
276 less than thirty (30) days prior to the date fixed for the
277 hearing.

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

290 All witnesses who are subpoenaed and appear in any
291 proceedings before the board shall receive the same fees and
292 mileage as allowed by law to witnesses in county, circuit and
293 chancery court pursuant to Section 25-7-47, Mississippi Code of
294 1972, and all such fees shall be taxed as part of the costs in the
295 case.

296 When, in any proceeding before the board, any witness shall
297 fail or refuse to attend upon subpoena issued by the board, shall
298 refuse to testify, or shall refuse to produce any books and papers

299 the production of which is called for by the subpoena, the
300 attendance of such witness and the giving of his testimony and the
301 production of the books and papers shall be enforced by any court
302 of competent jurisdiction of this state in the manner provided for
303 the enforcement of attendance and testimony of witnesses in civil
304 cases in the courts of this state.

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

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

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

318 (a) Issue a public or private reprimand;

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

320 (c) In lieu of or in addition to any reprimand,

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

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

331 When payment of a monetary penalty assessed and levied by the

332 board in accordance with this section is not paid when due, the
333 board shall have the power to institute and maintain proceedings
334 in its name for enforcement of payment in the chancery court of
335 the county of residence of the delinquent party; however, if the
336 delinquent party is a nonresident of the State of Mississippi,
337 such proceedings shall be in the Chancery Court of the First
338 Judicial District of Hinds County, Mississippi.

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

346 (8) The board shall not assess any of the costs of
347 disciplinary proceedings conducted pursuant to this section
348 against the prevailing party.

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

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

356 (11) Any person aggrieved by any order or decision of the
357 board may appeal within ten (10) days from the date of adjournment
358 of the session at which the board rendered such order or decision,
359 and may embody the facts, order and decision in a bill of
360 exceptions which shall be signed by the person acting as chairman
361 of the board. The board shall transmit the bill of exceptions to
362 either the chancery court of the county of residence of the
363 appellant, or the Chancery Court of the First Judicial District of
364 Hinds County, at the election of the appellant, and the court or

365 chancellor shall hear and determine the same either in termtime or
366 in vacation, on the case as presented by the bill of exceptions,
367 as an appellant court, and shall affirm or reverse the judgment.
368 If the judgment be reversed, the chancery court or chancellor
369 shall render such order or judgment as the board ought to have
370 rendered, and certify the same to the board; and costs shall be
371 awarded as in other cases. The board may employ counsel to defend
372 such appeals, to be paid out of the funds in the State Board of
373 Contractors' Fund.

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

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

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

398 93-11-163, as the case may be, rather than the procedure specified
399 in this section. If there is any conflict between any provision
400 of Section 93-11-157 or 93-11-163 and any provision of this
401 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
402 case may be, shall control.

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

405 73-59-15. (1) This chapter shall not apply to:

406 (a) Agricultural buildings, buildings used for
407 agricultural purposes, buildings constructed as a community
408 effort, or tenant houses;

409 (b) Any person who undertakes construction or
410 improvement on his own residence * * *, or who acts as his own
411 general contractor in the performance of construction or
412 improvement on his own residence * * *, or who acts under the
413 supervision of the owner-occupant who is the general contractor;

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

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

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

430 (f) A contractor holding a valid license or certificate

431 of responsibility for general construction from the board;

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

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

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

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

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

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

464 building official, or other authority charged with the duty of
465 issuing building or similar permits, shall also report to the
466 board the name and address of any person who, in his opinion, has
467 violated this chapter by accepting, or contracting to accomplish,
468 work which would classify the person as a residential builder or
469 remodeler under this chapter without a license or acknowledgement.

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

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

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

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

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

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

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

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

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

532 SECTION 13. The following shall be codified as Section
533 73-59-21, Mississippi Code of 1972:

534 73-59-21. (1) There is hereby created the Standing
535 Committee on Residential Builders and Remodelers which shall be
536 subordinate to the State Board of Contractors as set forth in
537 Section 31-3-3. The standing committee shall be composed of the
538 two (2) residential builders who serve as members of the State
539 Board of Contractors and three (3) additional residential builders
540 as defined in Section 73-59-1 to be appointed by the Governor.
541 The terms of the ex officio members shall be concurrent with their
542 terms as members of the State Board of Contractors. The initial
543 terms of the three (3) additional residential builders on the
544 Standing Committee on Residential Builders and Remodelers shall be
545 one (1), three (3) and five (5) years, respectively, beginning
546 July 1, 2000. Upon the expiration of the initial term of any
547 member not serving ex officio, his or her successor shall be
548 appointed for a term of five (5) years.

549 (2) The Governor shall appoint one (1) of the two (2) ex
550 officio members as Chairman of the Standing Committee on
551 Residential Builders and Remodelers. The Executive Secretary of
552 the State Board of Contractors as set forth in Section 31-3-11
553 shall serve as secretary of the standing committee. The standing
554 committee shall meet no less than once per quarter of each year at
555 a date and time to be set by its chairman upon at least five (5)
556 business days notice by regular mail. The members of the standing
557 committee shall be entitled to receive a per diem as provided in
558 Section 31-3-9.

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

563 (4) The Standing Committee on Residential Builders and
564 Remodelers shall have the power to make recommendations to the
565 State Board of Contractors pertaining to all duties set forth in
566 Sections 73-59-11 and 73-59-13. The standing committee shall have
567 only the power to make recommendations to the State Board of
568 Contractors and the State Board of Contractors shall have the
569 power and authority to accept or reject any recommendation made by
570 the standing committee. Hearings regarding residential builders
571 and remodelers shall be exclusively under the jurisdiction of the
572 Standing Committee on Residential Builders and Remodelers.

573 SECTION 14. Section 14, Chapter 431, Laws of 1995, is
574 amended as follows:

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

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