

By: Mettetal

To: Business and
Financial
Institutions

SENATE BILL NO. 3012
(As Passed the Senate)

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 FOR THE
6 ORGANIZATION AND ADMINISTRATION OF THE BOARD; TO AMEND SECTION
7 73-59-3, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION WHICH
8 ALLOWED PERSONS ENGAGED IN RESIDENTIAL CONSTRUCTION OR IMPROVEMENT
9 ON OR BEFORE JULY 1, 1995, TO BE LICENSED BY THE BOARD WITHOUT
10 EXAMINATION; TO AMEND SECTION 73-59-11, MISSISSIPPI CODE OF 1972,
11 TO DELETE THE PROVISION REQUIRING THE BOARD TO NOTIFY LICENSEES
12 AND PERSONS IDENTIFIED AS NEEDING LICENSING OF THE RESIDENTIAL
13 BUILDERS AND REMODELERS LICENSING LAW; TO AMEND SECTION 73-59-15,
14 MISSISSIPPI CODE OF 1972, TO REMOVE THE EXEMPTION FOR ANY PERSON
15 WHO UNDERTAKES CONSTRUCTION OR IMPROVEMENT ON HIS REAL ESTATE
16 HOLDINGS OTHER THAN HIS OWN RESIDENCE; TO AMEND SECTION 14,
17 CHAPTER 431, LAWS OF 1995, TO EXTEND THE REPEALER REGARDING THE
18 LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS
19 AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

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

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

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

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

35 (\$50,000.00).

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

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

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

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

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

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

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

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

62 * * *

63 (3) The board shall issue or renew a license to a
64 residential builder or remodeler upon payment to the board of the
65 license fee. The initial license fee shall be Fifty Dollars
66 (\$50.00). The license fee may thereafter be increased or
67 decreased by the board and cannot exceed One Hundred Dollars
68 (\$100.00); however, the receipts from fees collected by the board
69 shall be no greater than the amount required to pay all costs and
70 expenses incurred by the board in enforcing the provisions of this
71 chapter. All fees collected under this chapter shall be deposited

72 into the special fund in the State Treasury known as the "State
73 Board of Contractor's Fund" created pursuant to Section 31-3-17
74 and shall be used only for the administration and enforcement of
75 this chapter. Amounts in such fund shall not lapse into the State
76 General Fund at the end of a fiscal year. Interest accrued to
77 such fund shall remain in the fund. All expenditures from the
78 special fund shall be by requisition to the Department of Finance
79 and Administration, signed by the executive secretary of the board
80 and countersigned by the chairman or vice chairman of the board.

81 (4) The license shall expire on the last day of the twelfth
82 month following its issuance or renewal and shall become invalid
83 unless renewed. The board shall notify by mail every licensee
84 under this chapter of the date of the expiration of his license
85 and the amount of the fee required for renewal of the license for
86 one (1) year. Such notice shall be mailed within thirty (30) days
87 prior to the expiration date of the license. The failure on the
88 part of any licensee to renew his license annually in such twelfth
89 month shall not deprive such licensee of the right of renewal,
90 provided that renewal is effected within one hundred twenty (120)
91 days after the expiration date of the license by payment of the
92 license fee plus a penalty of one hundred percent (100%) of the
93 license fee. A new license required to replace a revoked, lost,
94 mutilated or destroyed license may be issued, subject to the rules
95 of the board, for a charge of not more than Twenty-five Dollars
96 (\$25.00).

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

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

103 73-59-5. Any corporation, partnership or individual seeking
104 to be licensed and examined under this chapter shall file with the

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

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

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

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

136 Each application or filing made under this section shall
137 include the social security number(s) of the applicant in

138 accordance with Section 93-11-64, Mississippi Code of 1972.

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

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

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

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

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

167 73-59-9. (1) Any residential builder who undertakes or
168 attempts to undertake the business of residential construction
169 without having a valid license as required by this chapter, or who
170 knowingly presents to the board, or files with the board, false

171 information for the purpose of obtaining such license, shall be
172 deemed guilty of a misdemeanor and upon conviction shall be fined
173 not less than One Hundred Dollars (\$100.00) and not more than Five
174 Thousand Dollars (\$5,000.00) or be imprisoned for not less than
175 thirty (30) nor more than sixty (60) days in the county jail, or
176 both.

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

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

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

192 73-59-11. * * * The board shall have the following
193 additional duties for the purposes of this chapter:

194 (a) To conduct thorough investigations of all
195 applicants seeking a license or licensees seeking renewal of their
196 licenses and of all complaints filed with the board concerning the
197 performance of a residential builder.

198 (b) To obtain information concerning the responsibility
199 of any applicant for a license or of a licensee. Such information
200 may be obtained by investigation, by hearings, or by any other
201 reasonable and lawful means. The board shall keep such
202 information appropriately filed.

203 (c) To maintain a list of residential builders and

204 remodelers to whom licenses are issued, refused, revoked or
205 suspended, which list shall be available to any interested person.

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

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

213 (f) To adopt rules and regulations governing
214 disciplinary actions and the conduct of its hearings and to adopt
215 such other rules and regulations as the board finds necessary for
216 the proper administration of this chapter.

217 * * *

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

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

225 (a) Violating any of the provisions of this chapter or
226 the rules or regulations of the board pertaining to the work of
227 residential building or residential improvement;

228 (b) Fraud, deceit or misrepresentation in obtaining a
229 license;

230 (c) Gross negligence or misconduct;

231 (d) Engaging in work of residential building or
232 residential improvement on an expired license or while under
233 suspension or revocation of license unless the suspension or
234 revocation be abated in accordance with this chapter;

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

236 (f) Failing to maintain workers' compensation

237 insurance, if applicable; or

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

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

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

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

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

270 All witnesses who are subpoenaed and appear in any
271 proceedings before the board shall receive the same fees and
272 mileage as allowed by law to witnesses in county, circuit and
273 chancery court pursuant to Section 25-7-47, Mississippi Code of
274 1972, and all such fees shall be taxed as part of the costs in the
275 case.

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

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

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

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

298 (a) Issue a public or private reprimand;

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

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

301 suspension or revocation, assess and levy upon the guilty party a
302 monetary penalty of not less than One Hundred Dollars (\$100.00)

303 nor more than Five Thousand Dollars (\$5,000.00) for each
304 violation.

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

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

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

326 (8) The board shall not assess any of the costs of
327 disciplinary proceedings conducted pursuant to this section
328 against the prevailing party.

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

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

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

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

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

363 (13) In addition to the reasons specified in subsection (1)
364 of this section, the board shall be authorized to suspend the
365 license of any licensee for being out of compliance with an order
366 for support, as defined in Section 93-11-153. The procedure for
367 suspension of a license for being out of compliance with an order
368 for support, and the procedure for the reissuance or reinstatement

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

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

385 73-59-15. (1) This chapter shall not apply to:

386 (a) Agricultural buildings, buildings used for
387 agricultural purposes, buildings constructed as a community
388 effort, or tenant houses;

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

394 (c) Any person who undertakes residential construction
395 or improvement, or who acts as a general contractor in the
396 performance of residential construction or improvement, or who
397 acts under supervision of the owner-occupant with respect to
398 residential construction or improvement, when the owner of such
399 construction or improvement is related to such person by
400 consanguinity or direct affinity;

401 (d) The owners of property who supervise, superintend,

402 oversee, direct or in any manner assume charge of the
403 construction, alteration, repair, improvement, movement,
404 demolition, putting up, tearing down, or maintenance of any
405 building, railroad, excavation, project, development, improvement,
406 plant facility or any other construction undertaking on such
407 property for use by such owner and which will not be for sale,
408 rent, public use or public assembly;

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

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

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

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

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

427 (3) The provisions of this section shall not apply to
428 builders and remodelers who are not domiciled in the State of
429 Mississippi. Builders and remodelers who are not domiciled in the
430 State of Mississippi are not required to be licensed under the
431 provisions of this chapter if the state in which they are
432 domiciled requires licensing and the licensing state's
433 requirements are at least the equivalent of those requirements
434 provided in this chapter.

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

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

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

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

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

460 31-3-3. There is hereby created the State Board of
461 Contractors of the State of Mississippi, which shall consist of
462 ten (10) members who shall be appointed by the Governor. All
463 appointments to the board after July 1, 1980, shall be made with
464 the advice and consent of the Senate. Two (2) road contractors;
465 two (2) building contractors; two (2) residential builders as
466 defined in Section 73-59-1; one (1) plumbing or heating and air
467 conditioning contractor; one (1) electrical contractor; and one

468 (1) water and sewer contractor shall compose the board. From and
469 after July 1, 1992, the Governor shall appoint one (1) additional
470 member who shall be a roofing contractor and whose term of office
471 shall be five (5) years. Each member shall be an actual resident
472 of the State of Mississippi and must have been actually engaged in
473 the contracting business for a period of not less than ten (10)
474 years before appointment. The initial terms of the two (2)
475 residential builders shall be for two (2) and four (4) years,
476 respectively, beginning July 1, 1993.

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

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

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

495 31-3-5. The board shall be assigned suitable office space at
496 the seat of government and shall elect one (1) of its members as
497 chairman and one (1) as vice chairman; and each shall perform the
498 usual duties of such offices. The board may adopt a seal. Six
499 (6) members of the board shall constitute a quorum, and a majority
500 vote of those present and voting at any meeting shall be necessary

501 for the transaction of any business coming before the board.
502 Members must be present to cast votes on any and all business.
503 The executive secretary shall serve as secretary of the board.
504 The board is authorized to employ such personnel as shall be
505 necessary in the performance of its duties including sufficient
506 administrative and clerical staff to process and review
507 applications for certificates of responsibility, to prepare and
508 administer tests therefor, to investigate applications for
509 certificates of responsibility and to inspect work performed by
510 contractors as may be necessary to enforce and carry out the
511 purpose of this chapter.

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

514 Section 14. This act shall take effect and be in force from
515 and after its passage, and shall stand repealed on July 1, 2004.

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