HOUSE BILL NO. 1263

AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972, TO SET A FEE ON THE AMOUNT A COUNTY OR MUNICIPALITY CAN CHARGE FOR A PLUMBING OR ELECTRICAL PERMIT; TO AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-5-9, Mississippi Code of 1972, is amended as follows:

19-5-9. The construction codes published by a nationally recognized code group which sets minimum standards and has the proper provisions to maintain up-to-date amendments are hereby adopted as minimum standard guides for building, plumbing, electrical, gas, sanitary, and other related codes in Mississippi. Any county within the State of Mississippi, in the discretion of the board of supervisors, may adopt building codes, plumbing codes, electrical codes, sanitary codes, or other related codes dealing with general public health, safety or welfare, or a combination of the same, within but not exceeding the provisions of the construction codes published by nationally recognized code groups, by order or resolution in the manner herein prescribed, but said codes so adopted shall apply only to the unincorporated areas of the county. However, such codes shall not apply to the erection, maintenance, repair or extension of farm buildings or farm structures, except as may be required under the terms of the "Flood Disaster Protection Act of 1973" and shall apply to a master planned community as defined in Section 19-5-10, only to the extent allowed in Section 19-5-10. The provisions of this section shall not be construed to authorize the adoption of any
code which applies to the installation, repair or maintenance of
electric wires, pipelines, apparatus, equipment or devices by or
for a utility rendering public utility services, required by it to
be utilized in the rendition of its duly authorized service to the
public. Before any such code shall be adopted, it shall be either
printed or typewritten and shall be presented in pamphlet form to
the board of supervisors at a regular meeting. The order or
resolution adopting such code shall not set out said code in full,
but shall merely identify the same. The vote or passage of the
order or resolution shall be the same as on any other order or
resolution. After its adoption, such code or codes shall be
certified to by the president and clerk of the board of
supervisors and shall be filed as a permanent record in the office
of the clerk who shall not be required to transcribe and record
the same in the minute book as other orders and resolutions.

All provisions of this section shall apply to amendments and
revisions of the codes mentioned herein. The provisions hereof
shall be in addition and supplemental to any existing laws
authorizing the adoption, amendment or revision of county orders,
resolutions or codes.

Any code adopted under the provisions of this section shall
not be in operation or force until sixty (60) days have elapsed
from the adoption of same; however, any code adopted for the
immediate preservation of the public health, safety and general
welfare may be effective from and after its adoption by a
unanimous vote of the members of the board. Within five (5) days
after the adoption or passage of an order or resolution adopting
such code or codes the clerk of the board of supervisors shall
publish in a legal newspaper published in said county the full
text of said order or resolution adopting and approving said code,
and said publication shall be inserted at least three (3) times,
and shall be completed within thirty (30) days after the passage
of said order or resolution.
Any person or persons objecting to such code or codes may object in writing to the provisions of said code or codes within sixty (60) days after the passage of the order or resolution approving same, and if the board of supervisors adjudicates that ten percent (10%) or more of the qualified electors residing in the affected unincorporated areas of the county have objected in writing to said code or codes, then in such event said code shall be inoperative and not in effect unless adopted for the immediate preservation of the public health, safety and general welfare until approved by a special election called by the board of supervisors as other special elections are called and conducted by the election commissioners of said county as other special elections are conducted, said special election to be participated in by all the qualified electors of said county residing in the unincorporated areas of the county. If the voters approve said code or codes in said special election it shall be in force and in operation thereafter until amended or modified as herein provided. If the majority of the qualified electors voting in said special election vote against said code or codes, then, in such event, said code or codes shall be void and of no force and effect, and no other code or codes dealing with such subject shall be adopted under the provisions of this section until at least two (2) years thereafter.

After any such code shall take effect the board of supervisors is authorized to employ such directors and other personnel as the board, in its discretion, deems necessary and to expend general county funds or any other funds available to the board to fulfill the purposes of this section. For the purpose of promoting health, safety, morals or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, are empowered to regulate the height, number of stories and size
of building and other structures, the percentage of lot that may 
be occupied, the size of the yards, courts and other open spaces, 
the density or population, and the location and use of buildings, 
structures and land for trade, industry, residence or other 
purposes, but no permits shall be required except as may be 
required under the terms of the "Flood Disaster Protection Act of 
1973" for the erection, maintenance, repair or extension of farm 
buildings or farm structures outside the corporate limits of 
municipalities.

Any county issuing a plumbing or electrical permit is 
authorized to charge a fee of no more than Ten Dollars ($10.00) 
for such permit.

The authority herein granted is cumulative and supplemental 
to any other authority granted by law.

SECTION 2. Section 21-19-25, Mississippi Code of 1972, is 
amended as follows:

21-19-25. Any municipality within the State of Mississippi 
may, in the discretion of its governing authorities, adopt 
building codes, plumbing codes, electrical codes, gas codes, 
sanitary codes, or any other codes dealing with general public 
health, safety or welfare, or a combination of the same, by 
ordinance, in the manner herein prescribed. Before any such code 
shall be adopted, it shall be either printed or typewritten, and 
it shall be presented in pamphlet form to the governing 
authorities of the municipality at a regular meeting. The 
ordinance adopting such code shall not set out said code in full, 
but shall merely identify the same. The vote on passage of said 
ordinance shall be the same as on any other ordinances. After its 
adoption, such code shall be certified to by the mayor and clerk 
of the municipality, and shall be filed as a permanent record in 
the office of the clerk, who shall not be required to transcribe 
and record the same in the ordinance book as other ordinances. It 
shall not be necessary that such ordinance adopting such code or
the code itself be published in full, but notice of the adoption
of such code shall be given by publication in some newspaper of
the municipality for one time, or if there be no such newspaper, 
by posting at three or more public places within the corporate
limits, a notice in substantially the following form:

Notice is hereby given that the city (or town or 
village) of ________, on the (give date of ordinance 
adopting code), adopted (state type of code and other 
information serving to identify the same) code.

All the provisions of this section shall apply to amendments 
and revisions of the code mentioned herein. Any code adopted in 
accordance with this section shall not be in force for one month 
after its passage, unless the municipal authorities in such 
ordinance authorize to the contrary. The provisions hereof shall 
be in addition and supplemental to any existing laws authorizing 
the adoption, amendment or revision of municipal ordinances or 
codes.

The provisions of this section shall apply to all 
municipalities of this state, whether operating under the code 
charter, a special charter, commission form, or other form of 
government.

Any municipality issuing a plumbing or electrical permit is 
authorized to charge a fee of no more than Ten Dollars ($10.00) 
when issuing such permit.

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

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

(a) To receive applications for certificates of 
responsibility, to investigate and examine applicants for same by 
holding hearings and securing information, to conduct 
examinations, and to issue certificates of responsibility to such 
contractors as the board finds to be responsible. One-fourth
(1/4) of the certificates scheduled for renewal on the last day of December 1980, shall be reviewed by the board on the first Tuesday in January 1981. The remaining certificates shall be subject to renewal in the following manner: One-fourth (1/4) on the first Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in July 1981; and one-fourth (1/4) on the first Tuesday in October 1981. The board is authorized to extend the dates of expiration of certificates to coincide with the scheduled date of review of individual contractors. Except for the certificates extended from December 31, 1980, to the first Tuesday in January 1981, the board shall charge fees for the extension of certificates as follows:

(i) Twenty-five Dollars ($25.00) if the date of renewal of the extended certificate is the first Tuesday in April 1981;

(ii) Fifty Dollars ($50.00) if the date of renewal of the extended certificate is the first Tuesday in July 1981; and

(iii) Seventy-five Dollars ($75.00) if the date of renewal of the extended certificate is the first Tuesday in October 1981.

The extended certificates renewed in compliance with this paragraph (a) and all original certificates and renewals thereof issued on or after July 1, 1980, shall expire one (1) year from the date of issuance. No certificate or any renewal thereof shall be issued until the application has been on file with the board for at least thirty (30) days. Application for renewal of certificates of responsibility, together with the payment of a special privilege license tax as provided under this chapter, shall serve to extend the current certificate until the board either renews the certificate or denies the application.

No certificate of responsibility or any renewal thereof shall be issued until the applicant furnishes to the board his Mississippi state sales tax number or Mississippi state use tax number and his state income tax identification numbers.
Additional fees may be required as provided in Section 31-3-14.

The board shall conduct an objective, standardized examination of an applicant for a certificate to ascertain the ability of the applicant to make practical application of his knowledge of the profession or business of construction in the category or categories for which he has applied for a certificate of responsibility. The cost of the test and the cost of administering the test shall be paid for by applicants for certificates of responsibility at the time applications are filed.

The board shall investigate thoroughly the past record of all applicants, which will include an effort toward ascertaining the qualifications of applicants in reading plans and specifications, estimating costs, construction ethics, and other similar matters.

The board shall take all applicants under consideration after having examined him or them and go thoroughly into the records and examinations, prior to granting any certificate of responsibility. If the applicant is an individual, examination may be taken by his personal appearance for examination or by the appearance for examination of one or more of his responsible managing employees; and if a copartnership or corporation or any other combination or organization, by the examination of one or more of the responsible managing officers or members of the executive staff of the applicant's firm, according to its own designation.

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

(c) To obtain information concerning the responsibility of any applicant for a certificate of responsibility or a holder of a certificate of responsibility under this chapter. Such information may be obtained by investigation, by hearings, or by any other reasonable and lawful means. The board shall keep such

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information appropriately filed and shall disseminate same to any
interested person. The board shall have the power of subpoena.
(d) To maintain a list of contractors to whom
certificates of responsibility are issued, refused, revoked or
suspended, which list shall be available to any interested person.
Such list shall indicate the kind or kinds of works or projects
for which a certificate of responsibility was issued, refused,
revoked or suspended.
(e) To revoke by order entered on its minutes a
certificate of responsibility upon a finding by the board that a
particular contractor is not responsible, and to suspend such
certificate of responsibility in particular cases pending
investigation, upon cause to be stated in the board's order of
suspension. No such revocation or suspension shall be ordered
without a hearing conducted upon not less than ten (10) days'
otice to such certificate holder by certified or registered mail,
wherein the holder of the certificate of responsibility shall be
given an opportunity to present all lawful evidence which he may
offer.
(f) To adopt rules and regulations setting forth the
requirements for certificates of responsibility, the revocation or
suspension thereof, and all other matters concerning same; rules
and regulations governing the conduct of the business of the board
and its employees; and such other rules and regulations as the
board finds necessary for the proper administration of this
chapter, including those for the conduct of its hearings on the
revocation or suspension of certificates of responsibility. Such
rules and regulations shall not conflict with the provisions of
this chapter.
(g) The board shall have the power and responsibility
to classify the kind or kinds of works or projects that a
contractor is qualified and entitled to perform under the
certificate of responsibility issued to him. Such classification shall be specified in the certificate of responsibility.

The powers of the State Board of Contractors shall not extend to fixing a maximum limit in the bid amount of any contractor, or the bonding capacity, or a maximum amount of work which a contractor may have under contract at any time, except as stated in paragraph (a) of this section; and the Board of Contractors shall not have jurisdiction or the power or authority to determine the maximum bond a contractor may be capable of obtaining. The board, in determining the qualifications of any applicant for an original certificate of responsibility or any renewal thereof, shall, among other things, take into consideration the following: (1) experience and ability, (2) character, (3) the manner of performance of previous contracts, (4) financial condition, (5) equipment, (6) personnel, (7) work completed, (8) work on hand, (9) ability to perform satisfactorily work under contract at the time of an application for a certificate of responsibility or a renewal thereof, (10) default in complying with provisions of this law, or any other law of the state, and (11) the results of objective, standardized examinations. A record shall be made and preserved by the board of each examination of an applicant and the findings of the board thereon, and a certified copy of the record and findings shall be furnished to any applicant desiring to appeal from any order or decision of the board.

(h) The board shall enter upon its minutes an order or decision upon each application filed with it, and it may state in such order or decision the reason or reasons for its order or decision. Upon failure of the board to enter an order or decision upon its minutes as to any application within one hundred eighty (180) days from the date of filing such application, the applicant shall have the right of appeal as otherwise provided by this chapter.
The holder of any valid certificate of responsibility issued by the Board of Public Contractors prior to January 1, 1986, shall be automatically issued a certificate of responsibility by the State Board of Contractors for the same classification or classifications of work which the holder was entitled to perform under the State Board of Public Contractors Act.

(i) The board is authorized to charge a fee of no more than Ten Dollars ($10.00) when issuing a plumbing or electrical permit.

SECTION 4. This act shall take effect and be in force from and after July 1, 2001.