

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 1143

1 AN ACT TO AMEND SECTION 31-3-1, MISSISSIPPI CODE OF 1972, TO  
 2 REVISE SPECIFICATIONS FOR NEW COMMERCIAL CONSTRUCTION PROJECTS  
 3 UNDER THE DEFINITION OF CONTRACTOR; TO AMEND SECTION 31-3-13,  
 4 MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS AND DUTIES OF THE  
 5 BOARD OF PUBLIC CONTRACTORS; TO AMEND SECTIONS 31-3-17 AND  
 6 31-3-19, MISSISSIPPI CODE OF 1972, TO REVISE THE LEVY OF THE  
 7 SPECIAL PRIVILEGE LICENSE TAX; TO AMEND SECTION 31-3-21,  
 8 MISSISSIPPI CODE OF 1972, TO PROHIBIT POLITICAL SUBDIVISIONS FROM  
 9 ISSUING CERTIFICATES OF OCCUPANCY TO CONTRACTORS WHO HAVE NOT PAID  
 10 CERTAIN PENALTIES; TO AMEND SECTION 73-59-3, MISSISSIPPI CODE OF  
 11 1972, TO REQUIRE THE POSTING OF A RESIDENTIAL BUILDERS AND  
 12 REMODELERS LICENSE NUMBERS; TO AMEND SECTION 73-59-13, MISSISSIPPI  
 13 CODE OF 1972, TO AUTHORIZE CERTAIN INSPECTORS TO INSPECT BUILDINGS  
 14 OR STRUCTURES WHICH ARE THE SUBJECT OF A COMPLAINT; TO AMEND  
 15 SECTION 73-59-21, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
 16 AUTHORITY OF THE STANDING COMMITTEE ON RESIDENTIAL BUILDERS AND  
 17 REMODELERS TO CONDUCT HEARINGS; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 31-3-1, Mississippi Code of 1972, is  
 20 amended as follows:

21 31-3-1. The following words, as used in this chapter, shall  
 22 have the meanings specified below:

23 "Board": The State Board of Contractors created under this  
 24 chapter.

25 "Contractor": Any person contracting or undertaking as prime  
 26 contractor, subcontractor or sub-subcontractor of any tier to do  
 27 any erection, building, construction, reconstruction, repair,  
 28 maintenance or related work on any public or private project;  
 29 however, "contractor" shall not include any owner of a dwelling or  
 30 other structure to be constructed, altered, repaired or improved  
 31 and not for sale, lease, public use or assembly. It is further  
 32 provided that nothing herein shall apply to:

33 (a) Any contract or undertaking on a public project by  
 34 a prime contractor, subcontractor or sub-subcontractor of any tier



35 involving erection, building, construction, reconstruction,  
36 repair, maintenance or related work where such contract,  
37 subcontract or undertaking is less than Fifty Thousand Dollars  
38 (\$50,000.00);

39 (b) Any contract or undertaking on a private project by  
40 a prime contractor, subcontractor or sub-subcontractor of any tier  
41 involving erection, building, construction, reconstruction,  
42 repair, maintenance or related work where such contract,  
43 subcontract or undertaking is less than One Hundred Thousand  
44 Dollars (\$100,000.00);

45 (c) Highway construction, highway bridges, overpasses  
46 and any other project incidental to the construction of highways  
47 which are designated as federal aid projects and in which federal  
48 funds are involved;

49 (d) A residential project to be occupied by fifty (50)  
50 or fewer families and not more than three (3) stories in height;

51 (e) A residential subdivision where the contractor is  
52 developing either single-family or multi-family lots;

53 (f) A new commercial construction project not exceeding  
54 five thousand (5,000) square feet and not more than two (2)  
55 stories in height;

56 (g) Erection of a microwave tower built for the purpose  
57 of telecommunication transmissions;

58 (h) Any contract or undertaking on a public project by  
59 a prime contractor, subcontractor or sub-subcontractor of any tier  
60 involving the construction, reconstruction, repair or maintenance  
61 of fire protection systems where such contract, subcontract or  
62 undertaking is less than Five Thousand Dollars (\$5,000.00);

63 (i) Any contract or undertaking on a private project by  
64 a prime contractor, subcontractor or sub-subcontractor of any tier  
65 involving the construction, reconstruction, repair or maintenance  
66 of fire protection systems where such contract, subcontract or  
67 undertaking is less than Ten Thousand Dollars (\$10,000.00); or



68           (j) Any contract or undertaking on a private or public  
69 project by a prime contractor, subcontractor or sub-subcontractor  
70 of any tier involving the construction, reconstruction, repair or  
71 maintenance of technically specialized installations if performed  
72 by a Mississippi contractor who has been in the business of  
73 installing fire protection sprinkler systems on or before July 1,  
74 2000.

75           "Certificate of responsibility": A certificate numbered and  
76 held by a contractor issued by the board under the provisions of  
77 this chapter after payment of the special privilege license tax  
78 therefor levied under this chapter.

79           "Person": Any person, firm, corporation, joint venture or  
80 partnership, association or other type of business entity.

81           "Private project": Any project for erection, building,  
82 construction, reconstruction, repair, maintenance or related work  
83 which is not funded in whole or in part with public funds.

84           "Public agency": Any board, commission, council or agency of  
85 the State of Mississippi or any district, county or municipality  
86 thereof, including school, hospital, airport and all other types  
87 of governing agencies created by or operating under the laws of  
88 this state.

89           "Public funds": Monies of public agencies, whether obtained  
90 from taxation, donation or otherwise; or monies being expended by  
91 public agencies for the purposes for which such public agencies  
92 exist.

93           "Public project": Any project for erection, building,  
94 construction, reconstruction, repair, maintenance or related work  
95 which is funded in whole or in part with public funds.

96           **SECTION 2.** Section 31-3-13, Mississippi Code of 1972, is  
97 amended as follows:

98           31-3-13. The board shall have the following powers and  
99 responsibilities:



100           (a) To receive applications for certificates of  
101 responsibility, to investigate and examine applicants for same by  
102 holding hearings and securing information, to conduct  
103 examinations, and to issue certificates of responsibility to such  
104 contractors as the board finds to be responsible. \* \* \* No  
105 certificate or any renewal thereof shall be issued until the  
106 application has been on file with the board for at least thirty  
107 (30) days. Application for renewal of certificates of  
108 responsibility, together with the payment of a special privilege  
109 license tax as provided under this chapter, shall serve to extend  
110 the current certificate until the board either renews the  
111 certificate or denies the application.

112           No certificate of responsibility or any renewal thereof shall  
113 be issued until the applicant furnishes to the board his  
114 Mississippi state sales tax number or Mississippi state use tax  
115 number and his state income tax identification numbers.

116           Additional fees may be required as provided in Section  
117 31-3-14.

118           The board shall conduct an objective, standardized  
119 examination of an applicant for a certificate to ascertain the  
120 ability of the applicant to make practical application of his  
121 knowledge of the profession or business of construction in the  
122 category or categories for which he has applied for a certificate  
123 of responsibility. The cost of the test and the cost of  
124 administering the test shall be paid for by applicants for  
125 certificates of responsibility at the time applications are filed.  
126 The board shall investigate thoroughly the past record of all  
127 applicants, which will include an effort toward ascertaining the  
128 qualifications of applicants in reading plans and specifications,  
129 estimating costs, construction ethics, and other similar matters.  
130 The board shall take all applicants under consideration after  
131 having examined him or them and go thoroughly into the records and  
132 examinations, prior to granting any certificate of responsibility.



133 If the applicant is an individual, examination may be taken by his  
134 personal appearance for examination or by the appearance for  
135 examination of one or more of his responsible managing employees;  
136 and if a copartnership or corporation or any other combination or  
137 organization, by the examination of one or more of the responsible  
138 managing officers or members of the executive staff of the  
139 applicant's firm, according to its own designation.

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

144 (c) To obtain information concerning the responsibility  
145 of any applicant for a certificate of responsibility or a holder  
146 of a certificate of responsibility under this chapter. Such  
147 information may be obtained by investigation, by hearings, or by  
148 any other reasonable and lawful means. The board shall keep such  
149 information appropriately filed and shall disseminate same to any  
150 interested person. The board shall have the power of subpoena.

151 (d) To maintain a list of contractors to whom  
152 certificates of responsibility are issued, refused, revoked or  
153 suspended, which list shall be available to any interested person.  
154 Such list shall indicate the kind or kinds of works or projects  
155 for which a certificate of responsibility was issued, refused,  
156 revoked or suspended.

157 (e) To revoke by order entered on its minutes a  
158 certificate of responsibility upon a finding by the board that a  
159 particular contractor is not responsible, and to suspend such  
160 certificate of responsibility in particular cases pending  
161 investigation, upon cause to be stated in the board's order of  
162 suspension. No such revocation or suspension shall be ordered  
163 without a hearing conducted upon not less than ten (10) days'  
164 notice to such certificate holder by certified or registered mail,  
165 wherein the holder of the certificate of responsibility shall be



166 given an opportunity to present all lawful evidence which he may  
167 offer.

168           (f) To adopt rules and regulations setting forth the  
169 requirements for certificates of responsibility, the revocation or  
170 suspension thereof, and all other matters concerning same; rules  
171 and regulations governing the conduct of the business of the board  
172 and its employees; and such other rules and regulations as the  
173 board finds necessary for the proper administration of this  
174 chapter, including those for the conduct of its hearings on the  
175 revocation or suspension of certificates of responsibility. Such  
176 rules and regulations shall not conflict with the provisions of  
177 this chapter.

178           (g) The board shall have the power and responsibility  
179 to classify the kind or kinds of works or projects that a  
180 contractor is qualified and entitled to perform under the  
181 certificate of responsibility issued to him. Such classification  
182 shall be specified in the certificate of responsibility.

183           The powers of the State Board of Contractors shall not extend  
184 to fixing a maximum limit in the bid amount of any contractor, or  
185 the bonding capacity, or a maximum amount of work which a  
186 contractor may have under contract at any time, except as stated  
187 in paragraph (a) of this section; and the Board of Contractors  
188 shall not have jurisdiction or the power or authority to determine  
189 the maximum bond a contractor may be capable of obtaining. The  
190 board, in determining the qualifications of any applicant for an  
191 original certificate of responsibility or any renewal thereof,  
192 shall, among other things, take into consideration the following:  
193 (1) experience and ability, (2) character, (3) the manner of  
194 performance of previous contracts, (4) financial condition, (5)  
195 equipment, (6) personnel, (7) work completed, (8) work on hand,  
196 (9) ability to perform satisfactorily work under contract at the  
197 time of an application for a certificate of responsibility or a  
198 renewal thereof, (10) default in complying with provisions of this



199 law, or any other law of the state, and (11) the results of  
200 objective, standardized examinations. A record shall be made and  
201 preserved by the board of each examination of an applicant and the  
202 findings of the board thereon, and a certified copy of the record  
203 and findings shall be furnished to any applicant desiring to  
204 appeal from any order or decision of the board.

205 (h) The board shall enter upon its minutes an order or  
206 decision upon each application filed with it, and it may state in  
207 such order or decision the reason or reasons for its order or  
208 decision.

209 (i) To enlist the assistance of the courts in  
210 collecting fines and enforcing orders.

211 Upon failure of the board to enter an order or decision upon  
212 its minutes as to any application within one hundred eighty (180)  
213 days from the date of filing such application, the applicant shall  
214 have the right of appeal as otherwise provided by this chapter.

215 The holder of any valid certificate of responsibility issued  
216 by the Board of Public Contractors prior to January 1, 1986, shall  
217 be automatically issued a certificate of responsibility by the  
218 State Board of Contractors for the same classification or  
219 classifications of work which the holder was entitled to perform  
220 under the State Board of Public Contractors Act.

221 **SECTION 3.** Section 31-3-17, Mississippi Code of 1972, is  
222 amended as follows:

223 31-3-17. There is hereby levied, in addition to any taxes  
224 otherwise provided for by law, a special privilege license tax of  
225 One Hundred Dollars (\$100.00) on each contractor that applies for  
226 a certificate of responsibility \* \* \* issued under this chapter;  
227 and such tax shall be paid to the executive secretary of the board  
228 before making such application in this state. The board may levy  
229 an additional special privilege license tax not to exceed Fifty  
230 Dollars (\$50.00) for each additional classification for which a  
231 contractor applies and is found to be qualified. The executive



232 secretary of the board shall promptly deposit all monies received  
233 under this chapter in the State Treasury. Except for the civil  
234 penalty provided in Section 31-3-21 which shall be deposited into  
235 the State General Fund and the fee provided in Section 31-3-14,  
236 all monies received under this chapter shall be kept in a special  
237 fund in the State Treasury known as the "State Board of  
238 Contractors Fund," and shall be used only for the purposes of this  
239 chapter. Such monies shall not lapse at the end of each fiscal  
240 year, but all monies in such State Board of Contractors Fund in  
241 excess of the sum of fifty percent (50%) of the approved budget  
242 for the fiscal year shall be paid over into the General Fund of  
243 the State Treasury. All expenditures from the Board of  
244 Contractors Fund shall be by requisition to the State Auditor,  
245 signed by the executive secretary of the board and countersigned  
246 by the chairman or vice chairman of the board, and the State  
247 Treasurer shall issue his warrants thereon.

248 **SECTION 4.** Section 31-3-19, Mississippi Code of 1972, is  
249 amended as follows:

250 31-3-19. All applications for the original issuance of a  
251 certificate of responsibility or for any renewal thereof shall be  
252 made on a form prescribed by the board, accompanied by the special  
253 privilege tax \* \* \*.

254 **SECTION 5.** Section 31-3-21, Mississippi Code of 1972, is  
255 amended as follows:

256 31-3-21. (1) It shall be unlawful for any person who does  
257 not hold a certificate of responsibility issued under this  
258 chapter, or a similar certificate issued by another state  
259 recognizing such certificate issued by the State of Mississippi,  
260 to submit a bid, enter into a contract, or otherwise engage in or  
261 continue in this state in the business of a contractor, as defined  
262 in this chapter. Any bid which is submitted without a certificate  
263 of responsibility number issued under this chapter and without  
264 that number appearing on the exterior of the bid envelope, as and





265 if herein required, at the time designated for the opening of such  
266 bid, shall not be considered further, and the person or public  
267 agency soliciting bids shall not enter into a contract with a  
268 contractor submitting a bid in violation of this section. In  
269 addition, any person violating this section by knowingly and  
270 willfully submitting a bid for projects without holding a  
271 certificate of responsibility number issued under this chapter, as  
272 and if herein required, at the time of the submission or opening  
273 of such bid shall be guilty of a misdemeanor and, upon conviction,  
274 shall be punished by a fine of not more than One Thousand Dollars  
275 (\$1,000.00), or by imprisonment for not more than six (6) months,  
276 or by both such fine and imprisonment.

277 (2) All bids submitted for public or private projects where  
278 said bid is in excess of Fifty Thousand Dollars (\$50,000.00) with  
279 respect to public projects and in excess of One Hundred Thousand  
280 Dollars (\$100,000.00) with respect to private projects shall  
281 contain on the outside or exterior of the envelope or container of  
282 such bid the contractor's current certificate number, and no bid  
283 shall be opened or considered unless such contractor's current  
284 certificate number appears on the outside or exterior of said  
285 envelope or container, or unless there appears a statement on the  
286 outside or exterior of such envelope or container to the effect  
287 that the bid enclosed therewith did not exceed Fifty Thousand  
288 Dollars (\$50,000.00) with respect to public projects or One  
289 Hundred Thousand Dollars (\$100,000.00) with respect to private  
290 projects. Any person violating the provisions of this subsection  
291 shall be guilty of a misdemeanor and, upon conviction, shall be  
292 punished by a fine of not more than One Thousand Dollars  
293 (\$1,000.00), or by imprisonment for not more than six (6) months,  
294 or by both such fine and imprisonment.

295 (3) In the letting of public contracts preference shall be  
296 given to resident contractors, and a nonresident bidder domiciled  
297 in a state having laws granting preference to local contractors



298 shall be awarded Mississippi public contracts only on the same  
299 basis as the nonresident bidder's state awards contracts to  
300 Mississippi contractors bidding under similar circumstances; and  
301 resident contractors actually domiciled in Mississippi, be they  
302 corporate, individuals, or partnerships, are to be granted  
303 preference over nonresidents in awarding of contracts in the same  
304 manner and to the same extent as provided by the laws of the state  
305 of domicile of the nonresident. When a nonresident contractor  
306 submits a bid for a public project, he shall attach thereto a copy  
307 of his resident state's current law pertaining to such state's  
308 treatment of nonresident contractors. As used in this section,  
309 the term "resident contractors" includes a nonresident person,  
310 firm or corporation that has been qualified to do business in this  
311 state and has maintained a permanent full-time office in the State  
312 of Mississippi for two (2) years prior to January 1, 1986, and the  
313 subsidiaries and affiliates of such a person, firm or corporation.  
314 Any public agency awarding a contract shall promptly report to the  
315 State Tax Commission the following information:

316 (a) The amount of the contract.

317 (b) The name and address of the contractor reviewing  
318 the contract.

319 (c) The name and location of the project.

320 (4) In addition to any other penalties provided in this  
321 chapter, and upon a finding of a violation of this chapter, the  
322 State Board of Contractors may, after notice and hearing, issue an  
323 order of abatement directing the contractor to cease all actions  
324 constituting violations of this chapter until such time as the  
325 contractor complies with Mississippi state law, and to pay to the  
326 board a civil penalty to be deposited into the State Board of  
327 Contractors' Fund, created in Section 31-3-17, of not more than  
328 three percent (3%) of the total contract being performed by the  
329 contractor. The funds collected from civil penalty payments shall  
330 be used by the State Board of Contractors for enforcement and



331 education. The governing authorities of a municipality or a  
332 county shall not issue a certificate of occupancy to any  
333 contractor on a project or job against whom a civil penalty has  
334 been assessed against the contractor by the State Board of  
335 Contractors when notified by the State Board of Contractors that  
336 such civil penalty has not been paid or satisfied and shall revoke  
337 or suspend any such building or construction permits, certificates  
338 of occupancy or any such construction approvals as may be in force  
339 as to such contractor on such project or job, until the State  
340 Board of Contractors has notified the governing authority that  
341 such penalty has been paid or satisfied.

342 **SECTION 6.** Section 73-59-3, Mississippi Code of 1972, is  
343 amended as follows:

344 73-59-3. (1) Except as otherwise provided in Section  
345 73-59-15, persons who perform residential construction or  
346 residential improvement shall be licensed by the board annually,  
347 and, as a prerequisite to obtaining a license or renewal thereof,  
348 each shall submit to the board:

349 (a) Proof of workers' compensation insurance, if  
350 applicable;

351 (b) A federal employment identification number or  
352 social security number.

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

356 (3) The board shall issue or renew a license to a  
357 residential builder or remodeler upon payment to the board of the  
358 license fee. The initial license fee shall be Fifty Dollars  
359 (\$50.00). The license fee may thereafter be increased or  
360 decreased by the board and cannot exceed One Hundred Dollars  
361 (\$100.00); however, the receipts from fees collected by the board  
362 shall be no greater than the amount required to pay all costs and  
363 expenses incurred by the board in enforcing the provisions of this



364 chapter. All fees collected under this chapter shall be deposited  
365 into the special fund in the State Treasury known as the "State  
366 Board of Contractor's Fund" created pursuant to Section 31-3-17  
367 and shall be used only for the administration and enforcement of  
368 this chapter. Amounts in such fund shall not lapse into the State  
369 General Fund at the end of a fiscal year. Interest accrued to  
370 such fund shall remain in the fund. All expenditures from the  
371 special fund shall be by requisition to the Department of Finance  
372 and Administration, signed by the executive secretary of the board  
373 and countersigned by the chairman or vice chairman of the board.

374 (4) The license shall expire on the last day of the twelfth  
375 month following its issuance or renewal and shall become invalid  
376 unless renewed. The board shall notify by mail every licensee  
377 under this chapter of the date of the expiration of his license  
378 and the amount of the fee required for renewal of the license for  
379 one (1) year. Such notice shall be mailed within thirty (30) days  
380 prior to the expiration date of the license. The failure on the  
381 part of any licensee to renew his license annually in such twelfth  
382 month shall not deprive such licensee of the right of renewal,  
383 provided that renewal is effected within one hundred twenty (120)  
384 days after the expiration date of the license by payment of the  
385 license fee plus a penalty of one hundred percent (100%) of the  
386 license fee. A new license required to replace a revoked, lost,  
387 mutilated or destroyed license may be issued, subject to the rules  
388 of the board, for a charge of not more than Twenty-five Dollars  
389 (\$25.00). A copy of such license number shall be posted in plain  
390 view at the building project sites.

391 (5) Any person who is not a resident of the State of  
392 Mississippi who desires to perform residential construction or  
393 residential improvement shall be licensed to perform such  
394 construction or improvement as provided by this chapter.

395 **SECTION 7.** Section 73-59-13, Mississippi Code of 1972, is  
396 amended as follows:



397           73-59-13. (1) The board, upon satisfactory proof and in  
398 accordance with the provisions of this chapter and the regulations  
399 of the board pertaining thereto, is authorized to take the  
400 disciplinary actions provided for in this section against any  
401 person for any of the following reasons:

402           (a) Violating any of the provisions of this chapter or  
403 the rules or regulations of the board pertaining to the work of  
404 residential building or residential improvement;

405           (b) Fraud, deceit or misrepresentation in obtaining a  
406 license;

407           (c) Gross negligence or misconduct;

408           (d) Engaging in work of residential building or  
409 residential improvement on an expired license or while under  
410 suspension or revocation of license unless the suspension or  
411 revocation be abated in accordance with this chapter;

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

413           (f) Failing to maintain workers' compensation  
414 insurance, if applicable; or

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

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

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

428           The board shall send a certified or licensed inspector or an  
429 inspector employed as such by a governing authority of a county, a



430 municipality or the federal government to inspect the building or  
431 structure which is the subject of a complaint or the board may use  
432 a county certified building inspector from the county where the  
433 building or structure is located to inspect the building or  
434 structure which is the subject of a complaint. The report of the  
435 inspector shall be used in the investigation and the determination  
436 of the board. The provisions above shall only apply to hearings.

437 No disciplinary action may be taken until the accused has  
438 been furnished both a statement of the charges against him and  
439 notice of the time and place of the hearing thereon, which shall  
440 be personally served on such accused or mailed by certified mail,  
441 return receipt requested, to the last known business or residence  
442 address of the accused not less than thirty (30) days prior to the  
443 date fixed for the hearing. The complaining party shall be  
444 notified of the place and time of the hearing by mail to the last  
445 known business or residence address of the complaining party not  
446 less than thirty (30) days prior to the date fixed for the  
447 hearing.

448 (3) At any hearing held hereunder, the board shall have the  
449 power to subpoena witnesses and compel their attendance and may  
450 also require the production of books, papers, documents or other  
451 materials which may be pertinent to the proceedings. The board  
452 may designate or secure a hearing officer to conduct the hearing.  
453 All evidence shall be presented under oath, which may be  
454 administered by any member of the board, and thereafter the  
455 proceedings may, if necessary, be transcribed in full by a court  
456 reporter and filed as part of the record in the case. Copies of  
457 such transcriptions may be provided to any party to the  
458 proceedings at a price reflecting actual cost, to be fixed by the  
459 board.

460 All witnesses who are subpoenaed and appear in any  
461 proceedings before the board shall receive the same fees and  
462 mileage as allowed by law to witnesses in county, circuit and



463 chancery court pursuant to Section 25-7-47, Mississippi Code of  
464 1972, and all such fees shall be taxed as part of the costs in the  
465 case.

466         When, in any proceeding before the board, any witness shall  
467 fail or refuse to attend upon subpoena issued by the board, shall  
468 refuse to testify, or shall refuse to produce any books and papers  
469 the production of which is called for by the subpoena, the  
470 attendance of such witness and the giving of his testimony and the  
471 production of the books and papers shall be enforced by any court  
472 of competent jurisdiction of this state in the manner provided for  
473 the enforcement of attendance and testimony of witnesses in civil  
474 cases in the courts of this state.

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

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

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

- 488             (a) Issue a public or private reprimand;
- 489             (b) Suspend or revoke the license of the accused; or
- 490             (c) In lieu of or in addition to any reprimand,  
491 suspension or revocation, assess and levy upon the guilty party a  
492 monetary penalty of not less than One Hundred Dollars (\$100.00)  
493 nor more than Five Thousand Dollars (\$5,000.00) for each  
494 violation.



495           (6) A monetary penalty assessed and levied under this  
496 section shall be paid to the board upon the expiration of the  
497 period allowed for appeal of such penalties under this section or  
498 may be paid sooner if the guilty party elects. Money collected by  
499 the board under this section shall be deposited to the credit of  
500 the State Board of Contractors' Fund.

501           When payment of a monetary penalty assessed and levied by the  
502 board in accordance with this section is not paid when due, the  
503 board shall have the power to institute and maintain proceedings  
504 in its name for enforcement of payment in the chancery court of  
505 the county of residence of the delinquent party; however, if the  
506 delinquent party is a nonresident of the State of Mississippi,  
507 such proceedings shall be in the Chancery Court of the First  
508 Judicial District of Hinds County, Mississippi.

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

516           (8) The board shall not assess any of the costs of  
517 disciplinary proceedings conducted pursuant to this section  
518 against the prevailing party.

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

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

526           (11) Any person aggrieved by any order or decision of the  
527 board may appeal within ten (10) days from the date of adjournment





528 of the session at which the board rendered such order or decision,  
529 and may embody the facts, order and decision in a bill of  
530 exceptions which shall be signed by the person acting as chairman  
531 of the board. The board shall transmit the bill of exceptions to  
532 either the chancery court of the county of residence of the  
533 appellant, or the Chancery Court of the First Judicial District of  
534 Hinds County, at the election of the appellant, and the court or  
535 chancellor shall hear and determine the same either in termtime or  
536 in vacation, on the case as presented by the bill of exceptions,  
537 as an appellant court, and shall affirm or reverse the judgment.  
538 If the judgment be reversed, the chancery court or chancellor  
539 shall render such order or judgment as the board ought to have  
540 rendered, and certify the same to the board; and costs shall be  
541 awarded as in other cases. The board may employ counsel to defend  
542 such appeals, to be paid out of the funds in the State Board of  
543 Contractors' Fund.

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

548 (12) Any political subdivision or agency of this state which  
549 receives a complaint against a residential builder or remodeler  
550 shall, in addition to exercising whatever authority such political  
551 subdivision or agency has been given over such complaint, forward  
552 the complaint to the board.

553 (13) In addition to the reasons specified in subsection (1)  
554 of this section, the board shall be authorized to suspend the  
555 license of any licensee for being out of compliance with an order  
556 for support, as defined in Section 93-11-153. The procedure for  
557 suspension of a license for being out of compliance with an order  
558 for support, and the procedure for the reissuance or reinstatement  
559 of a license suspended for that purpose, and the payment of any  
560 fees for the reissuance or reinstatement of a license suspended



561 for that purpose, shall be governed by Section 93-11-157 or  
562 93-11-163, as the case may be. Actions taken by the board in  
563 suspending a license when required by Section 93-11-157 or  
564 93-11-163 are not actions from which an appeal may be taken under  
565 this section. Any appeal of a license suspension that is required  
566 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
567 with the appeal procedure specified in Section 93-11-157 or  
568 93-11-163, as the case may be, rather than the procedure specified  
569 in this section. If there is any conflict between any provision  
570 of Section 93-11-157 or 93-11-163 and any provision of this  
571 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
572 case may be, shall control.

573 **SECTION 8.** Section 73-59-21, Mississippi Code of 1972, is  
574 amended as follows:

575 73-59-21. (1) There is hereby created the Standing  
576 Committee on Residential Builders and Remodelers which shall be  
577 subordinate to the State Board of Contractors as set forth in  
578 Section 31-3-3. The standing committee shall be composed of the  
579 two (2) residential builders who serve as members of the State  
580 Board of Contractors and three (3) additional residential builders  
581 as defined in Section 73-59-1 to be appointed by the Governor.  
582 The terms of the ex officio members shall be concurrent with their  
583 terms as members of the State Board of Contractors. The initial  
584 terms of the three (3) additional residential builders on the  
585 Standing Committee on Residential Builders and Remodelers shall be  
586 one (1), three (3) and five (5) years, respectively, beginning  
587 July 1, 2000. Upon the expiration of the initial term of any  
588 member not serving ex officio, his or her successor shall be  
589 appointed for a term of five (5) years.

590 (2) The Governor shall appoint one (1) of the two (2) ex  
591 officio members as Chairman of the Standing Committee on  
592 Residential Builders and Remodelers. The Executive Secretary of  
593 the State Board of Contractors as set forth in Section 31-3-11



594 shall serve as secretary of the standing committee. The standing  
595 committee shall meet no less than once per quarter of each year at  
596 a date and time to be set by its chairman upon at least five (5)  
597 business days notice by regular mail. The members of the standing  
598 committee shall be entitled to receive a per diem as provided in  
599 Section 31-3-9.

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

604 (4) The Standing Committee on Residential Builders and  
605 Remodelers shall have the power to make recommendations to the  
606 State Board of Contractors pertaining to all duties set forth in  
607 Sections 73-59-11 and 73-59-13. The standing committee shall have  
608 only the power to make recommendations to the State Board of  
609 Contractors and the State Board of Contractors shall have the  
610 power and authority to accept or reject any recommendation made by  
611 the standing committee. \* \* \* The Standing Committee on  
612 Residential Builders and Remodelers shall have the authority to  
613 conduct hearings regarding residential builders and remodelers.

614 **SECTION 9.** This act shall take effect and be in force from  
615 and after July 1, 2002.

