S. B. No. 2459

MISSISSIPPI LEGISLATURE

To: Business and Financial Institutions

By: Senator(s) Kirby

AN ACT TO AMEND SECTION 75-49-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO LICENSED DEALER, TRANSPORTER OR INSTALLER SHALL DELIVER OR CAUSE TO BE DELIVERED ANY FACTORY-BUILT HOME WITHOUT OBTAINING A BOND IN A CERTAIN AMOUNT PER LICENSED ENTITY; TO PROVIDE AN EXEMPTION THEREFOR; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-49-9, Mississippi Code of 1972, is amended as follows:

75-49-9. (1) After July 1, 1992, every manufacturer, every transporter or installer and every dealer who sells, manufactures, transports or installs new or used factory-built homes within the State of Mississippi shall apply for and obtain a license from the commissioner.

(2) If a factory-built home is new, the applicant shall certify in the application to the commissioner that the applicant will comply with the construction standards set forth under rules and regulations provided in Section 75-49-5 herein, and that the applicant has obtained a current and valid tax identification number.

(3) Applications shall be obtained from and submitted to the commissioner on forms prescribed by the commissioner.

(4) The original license fee and all annual renewals thereof shall be Two Hundred Fifty Dollars ($250.00) for manufacturing plants that build manufactured homes and Two Hundred Fifty Dollars ($250.00) for manufacturing plants that manufacture relocatable (modular) homes located within or without the State of Mississippi manufacturing or delivering homes for sale within the State of Mississippi and One Hundred Fifty Dollars ($150.00) per
manufactured home and/or relocatable (modular) home dealer location within the State of Mississippi. The licensing fee for a manufactured home and/or relocatable (modular) home independent contractor transporter or installer is One Hundred Dollars ($100.00) for each company. The fee for relocatable (modular) home plan review shall be Four Hundred Dollars ($400.00) per floor plan; however, this fee shall not apply to any relocatable (modular) home plan reviews completed before July 1, 1998. Except as otherwise provided in subsection (10) of this section, the license shall be valid for a period of one (1) year from the date of issuance, or until revoked as provided herein.

(5) After the effective date of this chapter, every manufacturer, transporter or installer or seller who first sells, manufactures, transports or installs a new or used factory-built home in this state, before such first construction, sale, transportation or installation shall apply for and obtain a license from the commissioner. The fee shall be paid to the commissioner in such manner as the commissioner may by rule require. All funds received by the commissioner shall be deposited in a special fund account in the State Treasury to the credit of the Department of Insurance.

(6) Every manufacturer of manufactured homes in the state shall pay a monitoring inspection fee to the Secretary of Housing and Urban Development, or the secretary's agent, for each manufactured home produced in the state by the manufacturer. The fee shall be in an amount established by the secretary pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USCS 5401 et seq. The portion of the fee which is returned to the state shall be deposited by the commissioner in a special fund account in the State Treasury to the credit of the Department of Insurance.

(7) The commissioner shall investigate and examine all applicants for all licenses by holding such hearings as he shall
deem necessary or conducting investigations or examinations, or any combination thereof, as to the fitness or expertise of the applicant for the type of license for which the applicant applied. A license shall be granted only to a person who bears a good reputation for honesty, trustworthiness, integrity and competency to transact the business in such a manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commissioner.

(8) The commissioner shall take all applicants under consideration after having examined them through oral or written examinations, or both, before granting any license. 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, full-time managing employees; and if a partnership or corporation or any other type of business or organization, by the examination of one or more of the responsible, full-time managing officers or members of the executive staff of the applicant's firm. Every application by an individual for a license to sell, transport or install new or used mobile, manufactured and relocatable homes shall be verified by the oath or affirmation of the applicant, and every such application by a partnership or corporation shall be verified by the oath or affirmation of a partner or an officer thereof. The applications for licenses shall be in such form and detail as the commissioner shall prescribe.

(9) The holder of any valid license issued by the commissioner at the time this section becomes effective shall be automatically issued an equivalent license in the same category for which his previous license was issued.

(10) Beginning July 1, 1988, every license issued under this chapter shall be issued annually and shall expire on June 30 following the date upon which it was issued. License fees shall not be prorated for the remainder of the year in which the
application was made but shall be paid for the entire year regardless of the date of the application. The commissioner shall, on or before April 30, 1989, and on or before April 30 of each succeeding year thereafter, forward a "Notice of Renewal," by regular United States mail, to each licensee at his or its last known post office address. After depositing the "Notice of Renewal" in the United States mail, the commissioner shall have no other duty or obligation to notify the licensee of the expiration of his or its annual license. The failure of the licensee to obtain a renewal license on or before June 30 of the ensuing license period shall act as an automatic suspension of the license unless the commissioner, for good cause shown in writing and the payment of an amount equal to double the renewal fee for said delinquency, lifts the suspension and issues the renewal license. During the period of suspension any practice by the licensee under the color of such license shall be deemed a violation of this chapter. Annual renewals of a dealer's license shall require, as a condition precedent, that the dealer verify by oath or affirmation that he maintains a retail sales lot in accordance with all rules and regulations promulgated by the commissioner and that the lot has three (3) or more new or used factory-built homes located thereon for retail sale as a residential dwelling or for any other use at the time of application.

(11) Beginning July 1, 2002, no licensed dealer, transporter or installer shall deliver or cause to be delivered any factory-built home to any person at any site where the home is to be used for human habitation without obtaining a cash bond or approved surety bond in the amount of Ten Thousand Dollars ($10,000.00) per licensed entity. This subsection shall not apply to any licensed dealer, transporter or installer who is in compliance with Section 27-65-27.

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.