

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 140

1 AN ACT TO AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE BOARD OF CONTRACTORS MAY ENLIST THE ASSISTANCE OF  
3 THE COURTS TO COLLECT FINES AND ENFORCE ORDERS; AND FOR RELATED  
4 PURPOSES.

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

6 **SECTION 1.** Section 31-3-13, Mississippi Code of 1972, is  
7 amended as follows:

8 31-3-13. The board shall have the following powers and  
9 responsibilities:

10 (a) To receive applications for certificates of  
11 responsibility, to investigate and examine applicants for same by  
12 holding hearings and securing information, to conduct  
13 examinations, and to issue certificates of responsibility to such  
14 contractors as the board finds to be responsible. One-fourth  
15 (1/4) of the certificates scheduled for renewal on the last day of  
16 December 1980, shall be reviewed by the board on the first Tuesday  
17 in January 1981. The remaining certificates shall be subject to  
18 renewal in the following manner: One-fourth (1/4) on the first  
19 Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in  
20 July 1981; and one-fourth (1/4) on the first Tuesday in October  
21 1981. The board is authorized to extend the dates of expiration  
22 of certificates to coincide with the scheduled date of review of  
23 individual contractors. Except for the certificates extended from  
24 December 31, 1980, to the first Tuesday in January 1981, the board  
25 shall charge fees for the extension of certificates as follows:

26 (i) Twenty-five Dollars (\$25.00) if the date of  
27 renewal of the extended certificate is the first Tuesday in April  
28 1981;



29                   (ii) Fifty Dollars (\$50.00) if the date of renewal  
30 of the extended certificate is the first Tuesday in July 1981; and  
31                   (iii) Seventy-five Dollars (\$75.00) if the date of  
32 renewal of the extended certificate is the first Tuesday in  
33 October 1981.

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

44           No certificate of responsibility or any renewal thereof shall  
45 be issued until the applicant furnishes to the board his  
46 Mississippi state sales tax number or Mississippi state use tax  
47 number and his state income tax identification numbers.

48           Additional fees may be required as provided in Section  
49 31-3-14.

50           The board shall conduct an objective, standardized  
51 examination of an applicant for a certificate to ascertain the  
52 ability of the applicant to make practical application of his  
53 knowledge of the profession or business of construction in the  
54 category or categories for which he has applied for a certificate  
55 of responsibility. The cost of the test and the cost of  
56 administering the test shall be paid for by applicants for  
57 certificates of responsibility at the time applications are filed.  
58 The board shall investigate thoroughly the past record of all  
59 applicants, which will include an effort toward ascertaining the  
60 qualifications of applicants in reading plans and specifications,  
61 estimating costs, construction ethics, and other similar matters.



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

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

76 (c) To obtain information concerning the responsibility  
77 of any applicant for a certificate of responsibility or a holder  
78 of a certificate of responsibility under this chapter. Such  
79 information may be obtained by investigation, by hearings, or by  
80 any other reasonable and lawful means. The board shall keep such  
81 information appropriately filed and shall disseminate same to any  
82 interested person. The board shall have the power of subpoena.

83 (d) To maintain a list of contractors to whom  
84 certificates of responsibility are issued, refused, revoked or  
85 suspended, which list shall be available to any interested person.  
86 Such list shall indicate the kind or kinds of works or projects  
87 for which a certificate of responsibility was issued, refused,  
88 revoked or suspended.

89 (e) To revoke by order entered on its minutes a  
90 certificate of responsibility upon a finding by the board that a  
91 particular contractor is not responsible, and to suspend such  
92 certificate of responsibility in particular cases pending  
93 investigation, upon cause to be stated in the board's order of  
94 suspension. No such revocation or suspension shall be ordered



95 without a hearing conducted upon not less than ten (10) days'  
96 notice to such certificate holder by certified or registered mail,  
97 wherein the holder of the certificate of responsibility shall be  
98 given an opportunity to present all lawful evidence which he may  
99 offer.

100 (f) To adopt rules and regulations setting forth the  
101 requirements for certificates of responsibility, the revocation or  
102 suspension thereof, and all other matters concerning same; rules  
103 and regulations governing the conduct of the business of the board  
104 and its employees; and such other rules and regulations as the  
105 board finds necessary for the proper administration of this  
106 chapter, including those for the conduct of its hearings on the  
107 revocation or suspension of certificates of responsibility. Such  
108 rules and regulations shall not conflict with the provisions of  
109 this chapter.

110 (g) The board shall have the power and responsibility  
111 to classify the kind or kinds of works or projects that a  
112 contractor is qualified and entitled to perform under the  
113 certificate of responsibility issued to him. Such classification  
114 shall be specified in the certificate of responsibility.

115 The powers of the State Board of Contractors shall not extend  
116 to fixing a maximum limit in the bid amount of any contractor, or  
117 the bonding capacity, or a maximum amount of work which a  
118 contractor may have under contract at any time, except as stated  
119 in paragraph (a) of this section; and the Board of Contractors  
120 shall not have jurisdiction or the power or authority to determine  
121 the maximum bond a contractor may be capable of obtaining. The  
122 board, in determining the qualifications of any applicant for an  
123 original certificate of responsibility or any renewal thereof,  
124 shall, among other things, take into consideration the following:  
125 (1) experience and ability, (2) character, (3) the manner of  
126 performance of previous contracts, (4) financial condition, (5)  
127 equipment, (6) personnel, (7) work completed, (8) work on hand,



128 (9) ability to perform satisfactorily work under contract at the  
129 time of an application for a certificate of responsibility or a  
130 renewal thereof, (10) default in complying with provisions of this  
131 law, or any other law of the state, and (11) the results of  
132 objective, standardized examinations. A record shall be made and  
133 preserved by the board of each examination of an applicant and the  
134 findings of the board thereon, and a certified copy of the record  
135 and findings shall be furnished to any applicant desiring to  
136 appeal from any order or decision of the board.

137 (h) The board shall enter upon its minutes an order or  
138 decision upon each application filed with it, and it may state in  
139 such order or decision the reason or reasons for its order or  
140 decision.

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

145 The holder of any valid certificate of responsibility issued  
146 by the Board of Public Contractors prior to January 1, 1986, shall  
147 be automatically issued a certificate of responsibility by the  
148 State Board of Contractors for the same classification or  
149 classifications of work which the holder was entitled to perform  
150 under the State Board of Public Contractors Act.

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

153 **SECTION 2.** This act shall take effect and be in force from  
154 and after July 1, 2003.

