

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 704

1 AN ACT TO AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CONTRACTORS SHALL MAINTAIN LIABILITY INSURANCE IN
3 AMOUNTS REQUIRED BY THE STATE BOARD OF CONTRACTORS; TO PROVIDE
4 THAT THOSE CONTRACTORS WHO WISH TO MAINTAIN A CERTIFICATE OF
5 RESPONSIBILITY IN A DORMANT STATE SHALL PAY A CERTAIN FEE TO THE
6 BOARD IN LIEU OF MAINTAINING LIABILITY INSURANCE; AND FOR RELATED
7 PURPOSES.

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

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

11 31-3-13. The board shall have the following powers and
12 responsibilities:

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

29 (i) Twenty-five Dollars (\$25.00) if the date of
30 renewal of the extended certificate is the first Tuesday in April
31 1981;

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

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

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

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

51 A contractor may maintain a certificate of responsibility in
52 a dormant state by paying Five Hundred Dollars (\$500.00) per year
53 to the board in lieu of maintaining liability insurance as
54 required herein. However, no contractor may bid on a contract
55 unless the contractor has liability insurance in amounts required
56 by the board. The fee collected under this paragraph shall be
57 deposited in the special fund in the State Treasury known as "The
58 State Board of Contractors Fund" as provided in Section 31-3-17.

59 Additional fees may be required as provided in Section
60 31-3-14.

61 The board shall conduct an objective, standardized
62 examination of an applicant for a certificate to ascertain the
63 ability of the applicant to make practical application of his
64 knowledge of the profession or business of construction in the
65 category or categories for which he has applied for a certificate
66 of responsibility. The cost of the test and the cost of
67 administering the test shall be paid for by applicants for
68 certificates of responsibility at the time applications are filed.
69 The board shall investigate thoroughly the past record of all
70 applicants, which will include an effort toward ascertaining the
71 qualifications of applicants in reading plans and specifications,
72 estimating costs, construction ethics, and other similar matters.
73 The board shall take all applicants under consideration after
74 having examined him or them and go thoroughly into the records and
75 examinations, prior to granting any certificate of responsibility.
76 If the applicant is an individual, examination may be taken by his
77 personal appearance for examination or by the appearance for
78 examination of one or more of his responsible managing employees;
79 and if a copartnership or corporation or any other combination or
80 organization, by the examination of one or more of the responsible
81 managing officers or members of the executive staff of the
82 applicant's firm, according to its own designation.

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

87 (c) To obtain information concerning the responsibility
88 of any applicant for a certificate of responsibility or a holder
89 of a certificate of responsibility under this chapter. Such
90 information may be obtained by investigation, by hearings, or by
91 any other reasonable and lawful means. The board shall keep such
92 information appropriately filed and shall disseminate same to any
93 interested person. The board shall have the power of subpoena.

94 (d) To maintain a list of contractors to whom
95 certificates of responsibility are issued, refused, revoked or
96 suspended, which list shall be available to any interested person.
97 Such list shall indicate the kind or kinds of works or projects
98 for which a certificate of responsibility was issued, refused,
99 revoked or suspended.

100 (e) To revoke by order entered on its minutes a
101 certificate of responsibility upon a finding by the board that a
102 particular contractor is not responsible, and to suspend such
103 certificate of responsibility in particular cases pending
104 investigation, upon cause to be stated in the board's order of
105 suspension. No such revocation or suspension shall be ordered
106 without a hearing conducted upon not less than ten (10) days'
107 notice to such certificate holder by certified or registered mail,
108 wherein the holder of the certificate of responsibility shall be
109 given an opportunity to present all lawful evidence which he may
110 offer.

111 (f) To adopt rules and regulations setting forth the
112 requirements for certificates of responsibility, the revocation or
113 suspension thereof, and all other matters concerning same; rules
114 and regulations governing the conduct of the business of the board
115 and its employees; and such other rules and regulations as the
116 board finds necessary for the proper administration of this
117 chapter, including those for the conduct of its hearings on the
118 revocation or suspension of certificates of responsibility. Such
119 rules and regulations shall not conflict with the provisions of
120 this chapter.

121 (g) The board shall have the power and responsibility
122 to classify the kind or kinds of works or projects that a
123 contractor is qualified and entitled to perform under the
124 certificate of responsibility issued to him. Such classification
125 shall be specified in the certificate of responsibility. The
126 board shall require that the contractor maintain liability

127 insurance in amounts determined by the board for the
128 classification of works or projects for which the contractor is
129 qualified and entitled to perform under the certificate of
130 responsibility issued to him.

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

153 (h) The board shall enter upon its minutes an order or
154 decision upon each application filed with it, and it may state in
155 such order or decision the reason or reasons for its order or
156 decision.

157 Upon failure of the board to enter an order or decision upon
158 its minutes as to any application within one hundred eighty (180)

159 days from the date of filing such application, the applicant shall
160 have the right of appeal as otherwise provided by this chapter.

161 The holder of any valid certificate of responsibility issued
162 by the Board of Public Contractors prior to January 1, 1986, shall
163 be automatically issued a certificate of responsibility by the
164 State Board of Contractors for the same classification or
165 classifications of work which the holder was entitled to perform
166 under the State Board of Public Contractors Act.

167 **SECTION 2.** This act shall take effect and be in force from
168 and after July 1, 2004.