

By: Representatives Guice, Smith (39th)

To: Judiciary B

HOUSE BILL NO. 895

1 AN ACT TO AMEND SECTION 31-3-1, MISSISSIPPI CODE OF 1972, TO
2 DELETE NEW COMMERCIAL CONSTRUCTION PROJECTS NOT EXCEEDING
3 SEVENTY-FIVE HUNDRED SQUARE FEET AND NOT MORE THAN TWO STORIES IN
4 HEIGHT AS AN EXEMPTION UNDER THE DEFINITION OF A CONTRACTOR; TO
5 AMEND SECTION 31-3-17, TO PROVIDE FOR CONTRACTORS TO PAY AN
6 APPLICATION FEE FOR A CERTIFICATE OF RESPONSIBILITY; TO REENACT
7 SECTIONS 73-59-1 THROUGH 73-59-21, MISSISSIPPI CODE OF 1972, WHICH
8 REGULATE RESIDENTIAL BUILDERS AND REMODELERS; TO AMEND SECTION 14,
9 CHAPTER 345, LAWS OF 2000, TO REMOVE THE REPEALER ON RESIDENTIAL
10 BUILDERS AND REMODELERS; AND FOR RELATED PURPOSES.

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

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

14 31-3-1. The following words, as used in this chapter, shall
15 have the meanings specified below:

16 "Board": The State Board of Contractors created under this
17 chapter.

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

26 (a) Any contract or undertaking on a public project by
27 a prime contractor, subcontractor or sub-subcontractor of any tier
28 involving erection, building, construction, reconstruction,
29 repair, maintenance or related work where such contract,
30 subcontract or undertaking is less than Fifty Thousand Dollars
31 (\$50,000.00);

32 (b) Any contract or undertaking on a private project by
33 a prime contractor, subcontractor or sub-subcontractor of any tier
34 involving erection, building, construction, reconstruction,
35 repair, maintenance or related work where such contract,
36 subcontract or undertaking is less than One Hundred Thousand
37 Dollars (\$100,000.00);

38 (c) Highway construction, highway bridges, overpasses
39 and any other project incidental to the construction of highways
40 which are designated as federal aid projects and in which federal
41 funds are involved;

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

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

46 * * *

47 (f) Erection of a microwave tower built for the purpose
48 of telecommunication transmissions;

49 (g) Any contract or undertaking on a public project by
50 a prime contractor, subcontractor or sub-subcontractor of any tier
51 involving the construction, reconstruction, repair or maintenance
52 of fire protection systems where such contract, subcontract or
53 undertaking is less than Five Thousand Dollars (\$5,000.00);

54 (h) Any contract or undertaking on a private project by
55 a prime contractor, subcontractor or sub-subcontractor of any tier
56 involving the construction, reconstruction, repair or maintenance
57 of fire protection systems where such contract, subcontract or
58 undertaking is less than Ten Thousand Dollars (\$10,000.00); or

59 (i) Any contract or undertaking on a private or public
60 project by a prime contractor, subcontractor or sub-subcontractor
61 of any tier involving the construction, reconstruction, repair or
62 maintenance of technically specialized installations if performed
63 by a Mississippi contractor who has been in the business of

64 installing fire protection sprinkler systems on or before July 1,
65 2000.

66 "Certificate of responsibility": A certificate numbered and
67 held by a contractor issued by the board under the provisions of
68 this chapter after payment of the special privilege license tax
69 therefor levied under this chapter.

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

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

75 "Public agency": Any board, commission, council or agency of
76 the State of Mississippi or any district, county or municipality
77 thereof, including school, hospital, airport and all other types
78 of governing agencies created by or operating under the laws of
79 this state.

80 "Public funds": Monies of public agencies, whether obtained
81 from taxation, donation or otherwise; or monies being expended by
82 public agencies for the purposes for which such public agencies
83 exist.

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

87 **SECTION 2.** Section 31-3-17, Mississippi Code of 1972, is
88 amended as follows:

89 31-3-17. There is hereby levied, in addition to any taxes
90 otherwise provided for by law, a special privilege license tax of
91 One Hundred Dollars (\$100.00) on each contractor who applies for a
92 certificate of responsibility * * * issued under this chapter; and
93 such tax shall be paid to the executive secretary of the board
94 upon making such application in this state. The board may levy an
95 additional special privilege license tax not to exceed Fifty
96 Dollars (\$50.00) for each additional classification for which a

97 contractor applies and is found to be qualified. The executive
98 secretary of the board shall promptly deposit all monies received
99 under this chapter in the State Treasury. Except for the civil
100 penalty provided in Section 31-3-21 which shall be deposited into
101 the State General Fund and the fee provided in Section 31-3-14,
102 all monies received under this chapter shall be kept in a special
103 fund in the State Treasury known as the "State Board of
104 Contractors Fund," and shall be used only for the purposes of this
105 chapter. Such monies shall not lapse at the end of each fiscal
106 year, but all monies in such State Board of Contractors Fund in
107 excess of the sum of fifty percent (50%) of the approved budget
108 for the fiscal year shall be paid over into the General Fund of
109 the State Treasury. All expenditures from the Board of
110 Contractors Fund shall be by requisition to the State Auditor,
111 signed by the executive secretary of the board and countersigned
112 by the chairman or vice chairman of the board, and the State
113 Treasurer shall issue his warrants thereon.

114 **SECTION 3.** Section 73-59-1, Mississippi Code of 1972, is
115 reenacted as follows:

116 73-59-1. For the purposes of this chapter, the following
117 words shall have the meanings ascribed herein:

118 (a) "Board" means the State Board of Contractors
119 created in Section 31-3-3, Mississippi Code of 1972.

120 (b) "Residential builder" means any corporation,
121 partnership or individual who constructs a building or structure
122 for sale for use by another as a residence or who, for a fixed
123 price, commission, fee, wage or other compensation, undertakes or
124 offers to undertake the construction, or superintending of the
125 construction, of any building or structure which is not more than
126 three (3) floors in height, to be used by another as a residence,
127 when the cost of the undertaking exceeds Fifty Thousand Dollars
128 (\$50,000.00).

129 (c) "Remodeler" means any corporation, partnership or
130 individual who, for a fixed price, commission, fee, wage or other
131 compensation, undertakes or offers to undertake the construction,
132 or superintending of the construction, of improvements to an
133 existing residence when the cost of the improvements exceeds Ten
134 Thousand Dollars (\$10,000.00).

135 (d) "Residential construction" means any undertaking
136 described in paragraph (b) of this section performed by a
137 residential builder.

138 (e) "Residential improvement" means any undertaking
139 described in paragraph (c) of this section performed by a
140 remodeler.

141 **SECTION 4.** Section 73-59-3, Mississippi Code of 1972, is
142 reenacted as follows:

143 73-59-3. (1) Except as otherwise provided in Section
144 73-59-15, persons who perform residential construction or
145 residential improvement shall be licensed by the board annually,
146 and, as a prerequisite to obtaining a license or renewal thereof,
147 each shall submit to the board:

148 (a) Proof of workers' compensation insurance, if
149 applicable;

150 (b) A federal employment identification number or
151 social security number.

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

155 (3) The board shall issue or renew a license to a
156 residential builder or remodeler upon payment to the board of the
157 license fee. The initial license fee shall be Fifty Dollars
158 (\$50.00). The license fee may thereafter be increased or
159 decreased by the board and cannot exceed One Hundred Dollars
160 (\$100.00); however, the receipts from fees collected by the board
161 shall be no greater than the amount required to pay all costs and

162 expenses incurred by the board in enforcing the provisions of this
163 chapter. All fees collected under this chapter shall be deposited
164 into the special fund in the State Treasury known as the "State
165 Board of Contractor's Fund" created pursuant to Section 31-3-17
166 and shall be used only for the administration and enforcement of
167 this chapter. Amounts in such fund shall not lapse into the State
168 General Fund at the end of a fiscal year. Interest accrued to
169 such fund shall remain in the fund. All expenditures from the
170 special fund shall be by requisition to the Department of Finance
171 and Administration, signed by the executive secretary of the board
172 and countersigned by the chairman or vice chairman of the board.

173 (4) The license shall expire on the last day of the twelfth
174 month following its issuance or renewal and shall become invalid
175 unless renewed. The board shall notify by mail every licensee
176 under this chapter of the date of the expiration of his license
177 and the amount of the fee required for renewal of the license for
178 one (1) year. Such notice shall be mailed within thirty (30) days
179 prior to the expiration date of the license. The failure on the
180 part of any licensee to renew his license annually in such twelfth
181 month shall not deprive such licensee of the right of renewal,
182 provided that renewal is effected within one hundred twenty (120)
183 days after the expiration date of the license by payment of the
184 license fee plus a penalty of ten percent (10%) of the license
185 fee. A new license required to replace a revoked, lost, mutilated
186 or destroyed license may be issued, subject to the rules of the
187 board, for a charge of not more than Twenty-five Dollars (\$25.00).

188 (5) Any person who is not a resident of the State of
189 Mississippi who desires to perform residential construction or
190 residential improvement shall be licensed to perform such
191 construction or improvement as provided by this chapter.

192 **SECTION 5.** Section 73-59-5, Mississippi Code of 1972, is
193 reenacted as follows:

194 73-59-5. Any corporation, partnership or individual seeking
195 to be licensed and examined under this chapter shall file with the
196 board at least thirty (30) days prior to the next meeting of the
197 board a written application on such form as may be prescribed by
198 the board. Such application shall be accompanied by the payment
199 of the license fee. If the application is not approved by the
200 board, the applicant shall be refunded the license fee. If the
201 application sufficiently contains the information required
202 pursuant to this chapter, the applicant shall be examined by the
203 board at its next meeting using a uniform written examination
204 prescribed by the board. The board shall administer an oral
205 examination to applicants who are unable to take the written
206 examination. In addition, the board, in examining such applicant,
207 shall consider the following:

- 208 (a) Experience;
- 209 (b) Complaints; and
- 210 (c) Other pertinent information the board may require.

211 If, as a result of the examination, the board finds that the
212 applicant is qualified to engage in residential construction or
213 residential improvement in Mississippi, the applicant shall be
214 issued a license. If the board denies the issuance of a license
215 to any applicant, the license fee shall be returned by the board
216 to the applicant. Any applicant rejected by the board shall be
217 given the opportunity to be reexamined at the next regularly
218 scheduled examination date after a new application has been filed
219 and the license fee has again been paid.

220 The board shall make and preserve a record of each
221 examination of an applicant and the findings of the board
222 pertaining to such examination. A certified copy of such record,
223 omitting confidential test questions, shall be furnished to the
224 applicant so requesting such record upon the payment of a fee to
225 the board that reasonably reflects the cost of furnishing such
226 record to the applicant.

227 Each application or filing made under this section shall
228 include the social security number(s) of the applicant in
229 accordance with Section 93-11-64, Mississippi Code of 1972.

230 Each application for a license under this chapter shall
231 reveal any other states in which the applicant or any partner or
232 business associate of the applicant is licensed and whether the
233 applicant, partner or business associate has had a license revoked
234 or suspended in any other state. If the applicant fails to
235 provide this information, the board may deny or revoke the
236 applicant's license. If the applicant has had a license revoked
237 in another state, the board may deny the application for a license
238 in this state.

239 **SECTION 6.** Section 73-59-7, Mississippi Code of 1972, is
240 reenacted as follows:

241 73-59-7. In the event of a catastrophe or emergency which
242 arises out of a disaster, act of God, riot, civil commotion,
243 conflagration or other similar occurrence, the board, upon
244 application, may issue an emergency license to persons who are
245 residents or nonresidents of this state and who may or may not be
246 otherwise licensed residential builders or remodelers. Such
247 emergency license shall remain in force for a period not to exceed
248 ninety (90) days, unless extended for an additional period of
249 ninety (90) days by the board or until a contract to build or
250 remodel entered into during the period of the emergency license
251 has been completed.

252 Within five (5) days of any applicant beginning work as a
253 residential builder or remodeler under this section, the employer
254 or person contracting with such person shall certify to the board
255 such application without being deemed in violation of this
256 chapter, provided that the board, after notice and hearing, may
257 take disciplinary action or revoke the emergency license upon
258 grounds as otherwise contained in this chapter providing for such

259 disciplinary action or revocation of a residential builder's or
260 remodeler's license.

261 The fee for an emergency license shall be in an amount not to
262 exceed Fifty Dollars (\$50.00) as determined by the board and shall
263 be due and payable at the time of the issuance of such emergency
264 license.

265 **SECTION 7.** Section 73-59-9, Mississippi Code of 1972, is
266 reenacted as follows:

267 73-59-9. (1) Any residential builder who undertakes or
268 attempts to undertake the business of residential construction
269 without having a valid license as required by this chapter, or who
270 knowingly presents to the board, or files with the board, false
271 information for the purpose of obtaining such license, shall be
272 deemed guilty of a misdemeanor and upon conviction shall be fined
273 not less than One Hundred Dollars (\$100.00) and not more than Five
274 Thousand Dollars (\$5,000.00) or be imprisoned for not less than
275 thirty (30) nor more than sixty (60) days in the county jail, or
276 both.

277 (2) Any remodeler who undertakes or attempts to undertake
278 the business of residential improvement without having a valid
279 license as required by this chapter, or who knowingly presents to
280 the board, or files with the board, false information for the
281 purpose of obtaining such license, shall be deemed guilty of a
282 misdemeanor and upon conviction shall be fined not less than One
283 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars
284 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
285 more than sixty (60) days in the county jail, or both.

286 (3) A residential builder or remodeler who does not have the
287 license provided by this chapter may not bring any action, either
288 at law or in equity, to enforce any contract for residential
289 building or remodeling or to enforce a sales contract.

290 **SECTION 8.** Section 73-59-11, Mississippi Code of 1972, is
291 reenacted as follows:

292 73-59-11. The board shall have the following additional
293 duties for the purposes of this chapter:

294 (a) To conduct thorough investigations of all
295 applicants seeking a license or licensees seeking renewal of their
296 licenses and of all complaints filed with the board concerning the
297 performance of a residential builder.

298 (b) To obtain information concerning the responsibility
299 of any applicant for a license or of a licensee. Such information
300 may be obtained by investigation, by hearings, or by any other
301 reasonable and lawful means. The board shall keep such
302 information appropriately filed.

303 (c) To maintain a list of residential builders and
304 remodelers to whom licenses are issued, refused, revoked or
305 suspended, which list shall be available to any interested person.

306 (d) To prepare annually a complete roster that shows
307 all the names and places of business of the residential builders
308 and remodelers licensed by the board during the preceding year and
309 to forward a copy of the roster to each municipality and county in
310 the state and to file the roster with the Secretary of State.

311 (e) To take disciplinary actions pursuant to the
312 provisions of Section 73-59-13.

313 (f) To adopt rules and regulations governing
314 disciplinary actions and the conduct of its hearings and to adopt
315 such other rules and regulations as the board finds necessary for
316 the proper administration of this chapter.

317 **SECTION 9.** Section 73-59-13, Mississippi Code of 1972, is
318 reenacted as follows:

319 73-59-13. (1) The board, upon satisfactory proof and in
320 accordance with the provisions of this chapter and the regulations
321 of the board pertaining thereto, is authorized to take the
322 disciplinary actions provided for in this section against any
323 person for any of the following reasons:

324 (a) Violating any of the provisions of this chapter or
325 the rules or regulations of the board pertaining to the work of
326 residential building or residential improvement;

327 (b) Fraud, deceit or misrepresentation in obtaining a
328 license;

329 (c) Gross negligence or misconduct;

330 (d) Engaging in work of residential building or
331 residential improvement on an expired license or while under
332 suspension or revocation of license unless the suspension or
333 revocation be abated in accordance with this chapter;

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

335 (f) Failing to maintain workers' compensation
336 insurance, if applicable; or

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

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

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

350 The board shall send a certified inspector to inspect the
351 building or structure which is the subject of a complaint or the
352 board may use a county certified building inspector from the
353 county where the building or structure is located to inspect the
354 building or structure which is the subject of a complaint. The
355 report of the inspector shall be used in the investigation and the

356 determination of the board. The provisions above shall only apply
357 to hearings.

358 No disciplinary action may be taken until the accused has
359 been furnished both a statement of the charges against him and
360 notice of the time and place of the hearing thereon, which shall
361 be personally served on such accused or mailed by certified mail,
362 return receipt requested, to the last known business or residence
363 address of the accused not less than thirty (30) days prior to the
364 date fixed for the hearing. The complaining party shall be
365 notified of the place and time of the hearing by mail to the last
366 known business or residence address of the complaining party not
367 less than thirty (30) days prior to the date fixed for the
368 hearing.

369 (3) At any hearing held hereunder, the board shall have the
370 power to subpoena witnesses and compel their attendance and may
371 also require the production of books, papers, documents or other
372 materials which may be pertinent to the proceedings. The board
373 may designate or secure a hearing officer to conduct the hearing.
374 All evidence shall be presented under oath, which may be
375 administered by any member of the board, and thereafter the
376 proceedings may, if necessary, be transcribed in full by a court
377 reporter and filed as part of the record in the case. Copies of
378 such transcriptions may be provided to any party to the
379 proceedings at a price reflecting actual cost, to be fixed by the
380 board.

381 All witnesses who are subpoenaed and appear in any
382 proceedings before the board shall receive the same fees and
383 mileage as allowed by law to witnesses in county, circuit and
384 chancery court pursuant to Section 25-7-47, Mississippi Code of
385 1972, and all such fees shall be taxed as part of the costs in the
386 case.

387 When, in any proceeding before the board, any witness shall
388 fail or refuse to attend upon subpoena issued by the board, shall

389 refuse to testify, or shall refuse to produce any books and papers
390 the production of which is called for by the subpoena, the
391 attendance of such witness and the giving of his testimony and the
392 production of the books and papers shall be enforced by any court
393 of competent jurisdiction of this state in the manner provided for
394 the enforcement of attendance and testimony of witnesses in civil
395 cases in the courts of this state.

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

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

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

409 (a) Issue a public or private reprimand;

410 (b) Suspend or revoke the license of the accused; or

411 (c) In lieu of or in addition to any reprimand,
412 suspension or revocation, assess and levy upon the guilty party a
413 monetary penalty of not less than One Hundred Dollars (\$100.00)
414 nor more than Five Thousand Dollars (\$5,000.00) for each
415 violation.

416 (6) A monetary penalty assessed and levied under this
417 section shall be paid to the board upon the expiration of the
418 period allowed for appeal of such penalties under this section or
419 may be paid sooner if the guilty party elects. Money collected by
420 the board under this section shall be deposited to the credit of
421 the State Board of Contractors' Fund.

422 When payment of a monetary penalty assessed and levied by the
423 board in accordance with this section is not paid when due, the
424 board shall have the power to institute and maintain proceedings
425 in its name for enforcement of payment in the chancery court of
426 the county of residence of the delinquent party; however, if the
427 delinquent party is a nonresident of the State of Mississippi,
428 such proceedings shall be in the Chancery Court of the First
429 Judicial District of Hinds County, Mississippi.

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

437 (8) The board shall not assess any of the costs of
438 disciplinary proceedings conducted pursuant to this section
439 against the prevailing party.

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

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

447 (11) Any person aggrieved by any order or decision of the
448 board may appeal within ten (10) days from the date of adjournment
449 of the session at which the board rendered such order or decision,
450 and may embody the facts, order and decision in a bill of
451 exceptions which shall be signed by the person acting as chairman
452 of the board. The board shall transmit the bill of exceptions to
453 either the chancery court of the county of residence of the
454 appellant, or the Chancery Court of the First Judicial District of

455 Hinds County, at the election of the appellant, and the court or
456 chancellor shall hear and determine the same either in termtime or
457 in vacation, on the case as presented by the bill of exceptions,
458 as an appellant court, and shall affirm or reverse the judgment.
459 If the judgment be reversed, the chancery court or chancellor
460 shall render such order or judgment as the board ought to have
461 rendered, and certify the same to the board; and costs shall be
462 awarded as in other cases. The board may employ counsel to defend
463 such appeals, to be paid out of the funds in the State Board of
464 Contractors' Fund.

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

469 (12) Any political subdivision or agency of this state which
470 receives a complaint against a residential builder or remodeler
471 shall, in addition to exercising whatever authority such political
472 subdivision or agency has been given over such complaint, forward
473 the complaint to the board.

474 (13) In addition to the reasons specified in subsection (1)
475 of this section, the board shall be authorized to suspend the
476 license of any licensee for being out of compliance with an order
477 for support, as defined in Section 93-11-153. The procedure for
478 suspension of a license for being out of compliance with an order
479 for support, and the procedure for the reissuance or reinstatement
480 of a license suspended for that purpose, and the payment of any
481 fees for the reissuance or reinstatement of a license suspended
482 for that purpose, shall be governed by Section 93-11-157 or
483 93-11-163, as the case may be. Actions taken by the board in
484 suspending a license when required by Section 93-11-157 or
485 93-11-163 are not actions from which an appeal may be taken under
486 this section. Any appeal of a license suspension that is required
487 by Section 93-11-157 or 93-11-163 shall be taken in accordance

488 with the appeal procedure specified in Section 93-11-157 or
489 93-11-163, as the case may be, rather than the procedure specified
490 in this section. If there is any conflict between any provision
491 of Section 93-11-157 or 93-11-163 and any provision of this
492 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
493 case may be, shall control.

494 **SECTION 10.** Section 73-59-15, Mississippi Code of 1972, is
495 reenacted as follows:

496 73-59-15. (1) This chapter shall not apply to:

497 (a) Agricultural buildings, buildings used for
498 agricultural purposes, buildings constructed as a community
499 effort, or tenant houses;

500 (b) Any person who undertakes construction or
501 improvement on his own residence, or who acts as his own general
502 contractor in the performance of construction or improvement on
503 his own residence, or who acts under the supervision of the
504 owner-occupant who is the general contractor;

505 (c) Any person who undertakes residential construction
506 or improvement, or who acts as a general contractor in the
507 performance of residential construction or improvement, or who
508 acts under supervision of the owner-occupant with respect to
509 residential construction or improvement, when the owner of such
510 construction or improvement is related to such person by
511 consanguinity or direct affinity;

512 (d) The owners of property who supervise, superintend,
513 oversee, direct or in any manner assume charge of the
514 construction, alteration, repair, improvement, movement,
515 demolition, putting up, tearing down, or maintenance of any
516 building, railroad, excavation, project, development, improvement,
517 plant facility or any other construction undertaking on such
518 property for use by such owner and which will not be for sale,
519 rent, public use or public assembly;

520 (e) An employee of a licensed residential builder;

521 (f) A contractor holding a valid license or certificate
522 of responsibility for general construction from the board;

523 (g) Any nonresident contractor holding a valid license
524 or certificate of responsibility for general construction;

525 (h) Any person who constructs two (2) single residences
526 or less within a period of one (1) year in any county or
527 municipality which does not require a building permit or any local
528 certification for such construction.

529 (2) A person specified in subsection (1)(b) shall not make
530 more than two (2) applications for a permit to construct a single
531 residence or shall not construct more than two (2) single
532 residences within a period of one (1) year. There shall be a
533 rebuttable presumption that such person intends to construct for
534 the purpose of resale, lease, rent or any similar purpose if more
535 than two (2) applications are made for a permit to construct a
536 single residence or if more than two (2) single residences are
537 constructed within a period of one (1) year.

538 (3) The provisions of this section shall not apply to
539 builders and remodelers who are not domiciled in the State of
540 Mississippi. Builders and remodelers who are not domiciled in the
541 State of Mississippi are not required to be licensed under the
542 provisions of this chapter if the state in which they are
543 domiciled requires licensing and the licensing state's
544 requirements are at least the equivalent of those requirements
545 provided in this chapter.

546 **SECTION 11.** Section 73-59-17, Mississippi Code of 1972, is
547 reenacted as follows:

548 73-59-17. The building official, or other authority charged
549 with the duty of issuing building or similar permits, of any
550 municipality or county, shall refuse to issue a permit for any
551 undertaking which would classify the applicant as a residential
552 builder or remodeler under this chapter unless the applicant has
553 furnished evidence that he is either licensed as required by this

554 chapter or exempt from the requirements of this chapter. The
555 building official, or other authority charged with the duty of
556 issuing building or similar permits, shall also report to the
557 board the name and address of any person who, in his opinion, has
558 violated this chapter by accepting, or contracting to accomplish,
559 work which would classify the person as a residential builder or
560 remodeler under this chapter without a license or acknowledgement.

561 **SECTION 12.** Section 73-59-19, Mississippi Code of 1972, is
562 reenacted as follows:

563 73-59-19. Any residential builder or remodeler licensed
564 pursuant to the provisions of this chapter may, without being
565 required to obtain an additional license under any other law of
566 this state, construct, improve, repair, remodel or renovate any
567 commercial structure, provided the prescribed contract job does
568 not exceed seven thousand five hundred (7,500) square feet.

569 **SECTION 13.** Section 73-59-21, Mississippi Code of 1972, is
570 reenacted as follows:

571 73-59-21. (1) There is hereby created the Standing
572 Committee on Residential Builders and Remodelers which shall be
573 subordinate to the State Board of Contractors as set forth in
574 Section 31-3-3. The standing committee shall be composed of the
575 two (2) residential builders who serve as members of the State
576 Board of Contractors and three (3) additional residential builders
577 as defined in Section 73-59-1 to be appointed by the Governor.
578 The terms of the ex officio members shall be concurrent with their
579 terms as members of the State Board of Contractors. The initial
580 terms of the three (3) additional residential builders on the
581 Standing Committee on Residential Builders and Remodelers shall be
582 one (1), three (3) and five (5) years, respectively, beginning
583 July 1, 2000. Upon the expiration of the initial term of any
584 member not serving ex officio, his or her successor shall be
585 appointed for a term of five (5) years.

586 (2) The Governor shall appoint one (1) of the two (2) ex
587 officio members as Chairman of the Standing Committee on
588 Residential Builders and Remodelers. The Executive Secretary of
589 the State Board of Contractors as set forth in Section 31-3-11
590 shall serve as secretary of the standing committee. The standing
591 committee shall meet no less than once per quarter of each year at
592 a date and time to be set by its chairman upon at least five (5)
593 business days' notice by regular mail. The members of the
594 standing committee shall be entitled to receive a per diem as
595 provided in Section 31-3-9.

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

600 (4) The Standing Committee on Residential Builders and
601 Remodelers shall have the power to make recommendations to the
602 State Board of Contractors pertaining to all duties set forth in
603 Sections 73-59-11 and 73-59-13. The standing committee shall have
604 only the power to make recommendations to the State Board of
605 Contractors and the State Board of Contractors shall have the
606 power and authority to accept or reject any recommendation made by
607 the standing committee. Hearings regarding residential builders
608 and remodelers shall be exclusively under the jurisdiction of the
609 Standing Committee on Residential Builders and Remodelers.

610 **SECTION 14.** Section 14, Chapter 345, Laws of 2000, is
611 amended as follows:

612 Section 14. This act shall take effect and be in force from
613 and after its passage.

614 **SECTION 15.** This act shall take effect and be in force from
615 and after July 1, 2004.