

By: Representative Guice

To: Judiciary B

## HOUSE BILL NO. 573

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, 2005.