

By: Senator(s) Flowers, Mettetal, White,
Doxey

To: Business and Financial
Institutions

SENATE BILL NO. 2698

1 AN ACT TO REENACT SECTIONS 73-59-1 THROUGH 73-59-19,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSING AND
3 REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS; TO REENACT
4 SECTIONS 31-3-3 AND 31-3-5, MISSISSIPPI CODE OF 1972, WHICH
5 PROVIDE FOR THE STATE BOARD OF CONTRACTORS AND PROVIDE FOR THE
6 ORGANIZATION AND ADMINISTRATION OF THE BOARD; TO AMEND SECTION 14,
7 CHAPTER 345, LAWS OF 2000, TO EXTEND THE REPEALER REGARDING THE
8 LICENSING AND REGULATION OF RESIDENTIAL BUILDERS AND REMODELERS
9 AND THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 73-59-1, Mississippi Code of 1972, is
12 reenacted as follows:

13 73-59-1. For the purposes of this chapter, the following
14 words shall have the meanings ascribed herein:

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

17 (b) "Residential builder" means any corporation,
18 partnership or individual who constructs a building or structure
19 for sale for use by another as a residence or who, for a fixed
20 price, commission, fee, wage or other compensation, undertakes or
21 offers to undertake the construction, or superintending of the
22 construction, of any building or structure which is not more than
23 three (3) floors in height, to be used by another as a residence,
24 when the cost of the undertaking exceeds Fifty Thousand Dollars
25 (\$50,000.00).

26 (c) "Remodeler" means any corporation, partnership or
27 individual who, for a fixed price, commission, fee, wage or other
28 compensation, undertakes or offers to undertake the construction,
29 or superintending of the construction, of improvements to an

30 existing residence when the cost of the improvements exceeds Ten
31 Thousand Dollars (\$10,000.00).

32 (d) "Residential construction" means any undertaking
33 described in paragraph (b) of this section performed by a
34 residential builder.

35 (e) "Residential improvement" means any undertaking
36 described in paragraph (c) of this section performed by a
37 remodeler.

38 **SECTION 2.** Section 73-59-3, Mississippi Code of 1972, is
39 reenacted as follows:

40 73-59-3. (1) Except as otherwise provided in Section
41 73-59-15, persons who perform residential construction or
42 residential improvement shall be licensed by the board annually,
43 and, as a prerequisite to obtaining a license or renewal thereof,
44 each shall submit to the board:

45 (a) Proof of workers' compensation insurance, if
46 applicable;

47 (b) A federal employment identification number or
48 social security number.

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

52 (3) The board shall issue or renew a license to a
53 residential builder or remodeler upon payment to the board of the
54 license fee. The initial license fee shall be Fifty Dollars
55 (\$50.00). The license fee may thereafter be increased or
56 decreased by the board and cannot exceed One Hundred Dollars
57 (\$100.00); however, the receipts from fees collected by the board
58 shall be no greater than the amount required to pay all costs and
59 expenses incurred by the board in enforcing the provisions of this
60 chapter. Twenty-five Dollars (\$25.00) of the fee required by this
61 section which is assessed to residential builders licensed under
62 the provisions of Section 73-59-1 et seq. shall be deposited to

63 the Construction Education Fund created pursuant to Section
64 31-3-14 and shall be distributed to the Mississippi Housing
65 Institute. The remaining fees collected under this chapter shall
66 be deposited into the special fund in the State Treasury known as
67 the "State Board of Contractor's Fund" created pursuant to Section
68 31-3-17 and shall be used for the administration and enforcement
69 of this chapter and as provided in Section 31-3-14. Amounts in
70 such fund shall not lapse into the State General Fund at the end
71 of a fiscal year. Interest accrued to such fund shall remain in
72 the fund. All expenditures from the special fund shall be by
73 requisition to the Department of Finance and Administration,
74 signed by the executive secretary of the board and countersigned
75 by the chairman or vice chairman of the board.

76 (4) The license shall expire on the last day of the twelfth
77 month following its issuance or renewal and shall become invalid
78 unless renewed. The board shall notify by mail every licensee
79 under this chapter of the date of the expiration of his license
80 and the amount of the fee required for renewal of the license for
81 one (1) year. Such notice shall be mailed within thirty (30) days
82 prior to the expiration date of the license. The failure on the
83 part of any licensee to renew his license annually in such twelfth
84 month shall not deprive such licensee of the right of renewal,
85 provided that renewal is effected within one hundred twenty (120)
86 days after the expiration date of the license by payment of the
87 license fee plus a penalty of ten percent (10%) of the license
88 fee. A new license required to replace a revoked, lost, mutilated
89 or destroyed license may be issued, subject to the rules of the
90 board, for a charge of not more than Twenty-five Dollars (\$25.00).

91 (5) Any person who is not a resident of the State of
92 Mississippi who desires to perform residential construction or
93 residential improvement shall be licensed to perform such
94 construction or improvement as provided by this chapter.

95 **SECTION 3.** Section 73-59-5, Mississippi Code of 1972, is
96 reenacted as follows:

97 73-59-5. Any corporation, partnership or individual seeking
98 to be licensed and examined under this chapter shall file with the
99 board at least thirty (30) days prior to the next meeting of the
100 board a written application on such form as may be prescribed by
101 the board. Such application shall be accompanied by the payment
102 of the license fee. If the application sufficiently contains the
103 information required pursuant to this chapter, the applicant shall
104 be examined by the board at its next meeting using a uniform
105 written examination prescribed by the board. The board shall
106 administer an oral examination to applicants who are unable to
107 take the written examination. In addition, the board, in
108 examining such applicant, shall consider the following:

- 109 (a) Experience;
- 110 (b) Complaints; and
- 111 (c) Other pertinent information the board may require.

112 If, as a result of the examination, the board finds that the
113 applicant is qualified to engage in residential construction or
114 residential improvement in Mississippi, the applicant shall be
115 issued a license. Any applicant rejected by the board shall be
116 given the opportunity to be reexamined at the next regularly
117 scheduled examination date after a new application has been filed
118 and the license fee has again been paid.

119 The board shall make and preserve a record of each
120 examination of an applicant and the findings of the board
121 pertaining to such examination. A certified copy of such record,
122 omitting confidential test questions, shall be furnished to the
123 applicant so requesting such record upon the payment of a fee to
124 the board that reasonably reflects the cost of furnishing such
125 record to the applicant.

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

129 Each application for a license under this chapter shall
130 reveal any other states in which the applicant or any partner or
131 business associate of the applicant is licensed and whether the
132 applicant, partner or business associate has had a license revoked
133 or suspended in any other state. If the applicant fails to
134 provide this information, the board may deny or revoke the
135 applicant's license. If the applicant has had a license revoked
136 in another state, the board may deny the application for a license
137 in this state.

138 **SECTION 4.** Section 73-59-7, Mississippi Code of 1972, is
139 reenacted as follows:

140 73-59-7. In the event of a catastrophe or emergency which
141 arises out of a disaster, act of God, riot, civil commotion,
142 conflagration or other similar occurrence, the board, upon
143 application, may issue an emergency license to persons who are
144 residents or nonresidents of this state and who may or may not be
145 otherwise licensed residential builders or remodelers. Such
146 emergency license shall remain in force for a period not to exceed
147 ninety (90) days, unless extended for an additional period of
148 ninety (90) days by the board or until a contract to build or
149 remodel entered into during the period of the emergency license
150 has been completed.

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

158 disciplinary action or revocation of a residential builder's or
159 remodeler's license.

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

164 **SECTION 5.** Section 73-59-9, Mississippi Code of 1972, is
165 reenacted as follows:

166 73-59-9. (1) Any residential builder who undertakes or
167 attempts to undertake the business of residential construction
168 without having a valid license as required by this chapter, or who
169 knowingly presents to the board, or files with the board, false
170 information for the purpose of obtaining such license, shall be
171 deemed guilty of a misdemeanor and upon conviction shall be fined
172 not less than One Hundred Dollars (\$100.00) and not more than Five
173 Thousand Dollars (\$5,000.00) or be imprisoned for not less than
174 thirty (30) nor more than sixty (60) days in the county jail, or
175 both.

176 (2) Any remodeler who undertakes or attempts to undertake
177 the business of residential improvement without having a valid
178 license as required by this chapter, or who knowingly presents to
179 the board, or files with the board, false information for the
180 purpose of obtaining such license, shall be deemed guilty of a
181 misdemeanor and upon conviction shall be fined not less than One
182 Hundred Dollars (\$100.00) and not more than Five Thousand Dollars
183 (\$5,000.00) or be imprisoned for not less than thirty (30) nor
184 more than sixty (60) days in the county jail, or both.

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

189 **SECTION 6.** Section 73-59-11, Mississippi Code of 1972, is
190 reenacted as follows:

191 73-59-11. The board shall have the following additional
192 duties for the purposes of this chapter:

193 (a) To conduct thorough investigations of all
194 applicants seeking a license or licensees seeking renewal of their
195 licenses and of all complaints filed with the board concerning the
196 performance of a residential builder.

197 (b) To obtain information concerning the responsibility
198 of any applicant for a license or of a licensee. Such information
199 may be obtained by investigation, by hearings, or by any other
200 reasonable and lawful means. The board shall keep such
201 information appropriately filed.

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

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

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

212 (f) To adopt rules and regulations governing
213 disciplinary actions and the conduct of its hearings and to adopt
214 such other rules and regulations as the board finds necessary for
215 the proper administration of this chapter.

216 **SECTION 7.** Section 73-59-13, Mississippi Code of 1972, is
217 reenacted as follows:

218 73-59-13. (1) The board, upon satisfactory proof and in
219 accordance with the provisions of this chapter and the regulations
220 of the board pertaining thereto, is authorized to take the
221 disciplinary actions provided for in this section against any
222 person for any of the following reasons:

223 (a) Violating any of the provisions of this chapter or
224 the rules or regulations of the board pertaining to the work of
225 residential building or residential improvement;

226 (b) Fraud, deceit or misrepresentation in obtaining a
227 license;

228 (c) Gross negligence or misconduct;

229 (d) Engaging in work of residential building or
230 residential improvement on an expired license or while under
231 suspension or revocation of license unless the suspension or
232 revocation be abated in accordance with this chapter;

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

234 (f) Failing to maintain workers' compensation
235 insurance, if applicable; or

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

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

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

249 The board shall send a certified inspector to inspect the
250 building or structure which is the subject of a complaint or the
251 board may use a county certified building inspector from the
252 county where the building or structure is located to inspect the
253 building or structure which is the subject of a complaint. The
254 report of the inspector shall be used in the investigation and the

255 determination of the board. The provisions above shall only apply
256 to hearings.

257 No disciplinary action may be taken until the accused has
258 been furnished both a statement of the charges against him and
259 notice of the time and place of the hearing thereon, which shall
260 be personally served on such accused or mailed by certified mail,
261 return receipt requested, to the last known business or residence
262 address of the accused not less than thirty (30) days prior to the
263 date fixed for the hearing. The complaining party shall be
264 notified of the place and time of the hearing by mail to the last
265 known business or residence address of the complaining party not
266 less than thirty (30) days prior to the date fixed for the
267 hearing.

268 (3) At any hearing held hereunder, the board shall have the
269 power to subpoena witnesses and compel their attendance and may
270 also require the production of books, papers, documents or other
271 materials which may be pertinent to the proceedings. The board
272 may designate or secure a hearing officer to conduct the hearing.
273 All evidence shall be presented under oath, which may be
274 administered by any member of the board, and thereafter the
275 proceedings may, if necessary, be transcribed in full by a court
276 reporter and filed as part of the record in the case. Copies of
277 such transcriptions may be provided to any party to the
278 proceedings at a price reflecting actual cost, to be fixed by the
279 board.

280 All witnesses who are subpoenaed and appear in any
281 proceedings before the board shall receive the same fees and
282 mileage as allowed by law to witnesses in county, circuit and
283 chancery court pursuant to Section 25-7-47, Mississippi Code of
284 1972, and all such fees shall be taxed as part of the costs in the
285 case.

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

288 refuse to testify, or shall refuse to produce any books and papers
289 the production of which is called for by the subpoena, the
290 attendance of such witness and the giving of his testimony and the
291 production of the books and papers shall be enforced by any court
292 of competent jurisdiction of this state in the manner provided for
293 the enforcement of attendance and testimony of witnesses in civil
294 cases in the courts of this state.

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

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

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

308 (a) Issue a public or private reprimand;

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

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

315 (6) A monetary penalty assessed and levied under this
316 section shall be paid to the board upon the expiration of the
317 period allowed for appeal of such penalties under this section or
318 may be paid sooner if the guilty party elects. Money collected by
319 the board under this section shall be deposited to the credit of
320 the State Board of Contractors' Fund.

321 When payment of a monetary penalty assessed and levied by the
322 board in accordance with this section is not paid when due, the
323 board shall have the power to institute and maintain proceedings
324 in its name for enforcement of payment in the chancery court of
325 the county of residence of the delinquent party; however, if the
326 delinquent party is a nonresident of the State of Mississippi,
327 such proceedings shall be in the Chancery Court of the First
328 Judicial District of Hinds County, Mississippi.

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

336 (8) The board shall not assess any of the costs of
337 disciplinary proceedings conducted pursuant to this section
338 against the prevailing party.

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

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

346 (11) Any person aggrieved by any order or decision of the
347 board may appeal within ten (10) days from the date of adjournment
348 of the session at which the board rendered such order or decision,
349 and may embody the facts, order and decision in a bill of
350 exceptions which shall be signed by the person acting as chairman
351 of the board. The board shall transmit the bill of exceptions to
352 either the chancery court of the county of residence of the
353 appellant, or the Chancery Court of the First Judicial District of

354 Hinds County, at the election of the appellant, and the court or
355 chancellor shall hear and determine the same either in termtime or
356 in vacation, on the case as presented by the bill of exceptions,
357 as an appellant court, and shall affirm or reverse the judgment.
358 If the judgment be reversed, the chancery court or chancellor
359 shall render such order or judgment as the board ought to have
360 rendered, and certify the same to the board; and costs shall be
361 awarded as in other cases. The board may employ counsel to defend
362 such appeals, to be paid out of the funds in the State Board of
363 Contractors' Fund.

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

368 (12) Any political subdivision or agency of this state which
369 receives a complaint against a residential builder or remodeler
370 shall, in addition to exercising whatever authority such political
371 subdivision or agency has been given over such complaint, forward
372 the complaint to the board.

373 (13) In addition to the reasons specified in subsection (1)
374 of this section, the board shall be authorized to suspend the
375 license of any licensee for being out of compliance with an order
376 for support, as defined in Section 93-11-153. The procedure for
377 suspension of a license for being out of compliance with an order
378 for support, and the procedure for the reissuance or reinstatement
379 of a license suspended for that purpose, and the payment of any
380 fees for the reissuance or reinstatement of a license suspended
381 for that purpose, shall be governed by Section 93-11-157 or
382 93-11-163, as the case may be. Actions taken by the board in
383 suspending a license when required by Section 93-11-157 or
384 93-11-163 are not actions from which an appeal may be taken under
385 this section. Any appeal of a license suspension that is required
386 by Section 93-11-157 or 93-11-163 shall be taken in accordance

387 with the appeal procedure specified in Section 93-11-157 or
388 93-11-163, as the case may be, rather than the procedure specified
389 in this section. If there is any conflict between any provision
390 of Section 93-11-157 or 93-11-163 and any provision of this
391 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
392 case may be, shall control.

393 **SECTION 8.** Section 73-59-15, Mississippi Code of 1972, is
394 reenacted as follows:

395 73-59-15. (1) This chapter shall not apply to:

396 (a) Agricultural buildings, buildings used for
397 agricultural purposes, buildings constructed as a community
398 effort, or tenant houses;

399 (b) Any person who undertakes construction or
400 improvement on his own residence, or who acts as his own general
401 contractor in the performance of construction or improvement on
402 his own residence, or who acts under the supervision of the
403 owner-occupant who is the general contractor;

404 (c) Any person who undertakes residential construction
405 or improvement, or who acts as a general contractor in the
406 performance of residential construction or improvement, or who
407 acts under supervision of the owner-occupant with respect to
408 residential construction or improvement, when the owner of such
409 construction or improvement is related to such person by
410 consanguinity or direct affinity;

411 (d) The owners of property who supervise, superintend,
412 oversee, direct or in any manner assume charge of the
413 construction, alteration, repair, improvement, movement,
414 demolition, putting up, tearing down or maintenance of any
415 building, railroad, excavation, project, development, improvement,
416 plant facility or any other construction undertaking on such
417 property for use by such owner and which will not be for sale,
418 rent, public use or public assembly;

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

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

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

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

428 (2) A person specified in subsection (1) (b) shall not make
429 more than two (2) applications for a permit to construct a single
430 residence or shall not construct more than two (2) single
431 residences within a period of one (1) year. There shall be a
432 rebuttable presumption that such person intends to construct for
433 the purpose of resale, lease, rent or any similar purpose if more
434 than two (2) applications are made for a permit to construct a
435 single residence or if more than two (2) single residences are
436 constructed within a period of one (1) year.

437 (3) The provisions of this section shall not apply to
438 builders and remodelers who are not domiciled in the State of
439 Mississippi. Builders and remodelers who are not domiciled in the
440 State of Mississippi are not required to be licensed under the
441 provisions of this chapter if the state in which they are
442 domiciled requires licensing and the licensing state's
443 requirements are at least the equivalent of those requirements
444 provided in this chapter.

445 **SECTION 9.** Section 73-59-17, Mississippi Code of 1972, is
446 reenacted as follows:

447 73-59-17. The building official, or other authority charged
448 with the duty of issuing building or similar permits, of any
449 municipality or county, shall refuse to issue a permit for any
450 undertaking which would classify the applicant as a residential
451 builder or remodeler under this chapter unless the applicant has
452 furnished evidence that he is either licensed as required by this

453 chapter or exempt from the requirements of this chapter. The
454 building official, or other authority charged with the duty of
455 issuing building or similar permits, shall also report to the
456 board the name and address of any person who, in his opinion, has
457 violated this chapter by accepting, or contracting to accomplish,
458 work which would classify the person as a residential builder or
459 remodeler under this chapter without a license or acknowledgement.

460 **SECTION 10.** Section 73-59-19, Mississippi Code of 1972, is
461 reenacted as follows:

462 73-59-19. Any residential builder or remodeler licensed
463 pursuant to the provisions of this chapter may, without being
464 required to obtain an additional license under any other law of
465 this state, construct, improve, repair, remodel or renovate any
466 commercial structure, provided the prescribed contract job does
467 not exceed seven thousand five hundred (7,500) square feet.

468 **SECTION 11.** Section 31-3-3, Mississippi Code of 1972, is
469 reenacted as follows:

470 31-3-3. There is hereby created the State Board of
471 Contractors of the State of Mississippi, which shall consist of
472 ten (10) members who shall be appointed by the Governor. All
473 appointments to the board after July 1, 1980, shall be made with
474 the advice and consent of the Senate. Two (2) road contractors;
475 two (2) building contractors; two (2) residential builders as
476 defined in Section 73-59-1; one (1) plumbing or heating and air
477 conditioning contractor; one (1) electrical contractor; and one
478 (1) water and sewer contractor shall compose the board. From and
479 after July 1, 1992, the Governor shall appoint one (1) additional
480 member who shall be a roofing contractor and whose term of office
481 shall be five (5) years. Each member shall be an actual resident
482 of the State of Mississippi and must have been actually engaged in
483 the contracting business for a period of not less than ten (10)
484 years before appointment. The initial terms of the two (2)

485 residential builders shall be for two (2) and four (4) years,
486 respectively, beginning July 1, 1993.

487 Upon the expiration of the term of office of any member of
488 the board, the Governor shall appoint a new member for a term of
489 five (5) years, such new appointments being made so as to maintain
490 on the board two (2) building contractors; two (2) road
491 contractors; two (2) residential builders; one (1) plumbing or
492 heating and air conditioning contractor; one (1) electrical
493 contractor; and one (1) water and sewer contractor; and one (1)
494 roofing contractor. The Governor shall fill any vacancy by
495 appointment, such appointee to serve the balance of the term of
496 the original appointee. The Governor may remove any member of the
497 board for misconduct, incompetency or willful neglect of duty.

498 In the event the Governor fails to appoint a member of the
499 board within twelve (12) months of the occurrence of the vacancy,
500 such vacancy shall be filled by majority vote of the board,
501 subject to advice and consent of the Senate and the requirements
502 of this section.

503 **SECTION 12.** Section 31-3-5, Mississippi Code of 1972, is
504 reenacted as follows:

505 31-3-5. The board shall be assigned suitable office space at
506 the seat of government and shall elect one (1) of its members as
507 chairman and one (1) as vice chairman; and each shall perform the
508 usual duties of such offices. The board may adopt a seal. Six
509 (6) members of the board shall constitute a quorum, and a majority
510 vote of those present and voting at any meeting shall be necessary
511 for the transaction of any business coming before the board.
512 Members must be present to cast votes on any and all business.
513 The executive secretary shall serve as secretary of the board.
514 The board is authorized to employ such personnel as shall be
515 necessary in the performance of its duties including sufficient
516 administrative and clerical staff to process and review
517 applications for certificates of responsibility, to prepare and

518 administer tests therefor, to investigate applications for
519 certificates of responsibility and to inspect work performed by
520 contractors as may be necessary to enforce and carry out the
521 purpose of this chapter.

522 **SECTION 13.** Section 14, Chapter 345, Laws of 2000, is
523 amended as follows:

524 Section 14. This act shall take effect and be in force from
525 and after its passage, and shall stand repealed on July 1, 2009.

526 **SECTION 14.** This act shall take effect and be in force from
527 and after July 1, 2005.