

***** Pending *****

COMMITTEE AMENDMENT NO 1 PROPOSED TO

House Bill No. 1230

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

8 **SECTION 1.** Section 31-3-13, Mississippi Code of 1972, is
9 amended as follows:
10 31-3-13. The board shall have the following powers and
11 responsibilities:
12 (a) To receive applications for certificates of
13 responsibility, to investigate and examine applicants for same by
14 holding hearings and securing information, to conduct
15 examinations, and to issue certificates of responsibility to such
16 contractors as the board finds to be responsible. One-fourth
17 (1/4) of the certificates scheduled for renewal on the last day of
18 December 1980, shall be reviewed by the board on the first Tuesday
19 in January 1981. The remaining certificates shall be subject to
20 renewal in the following manner: one-fourth (1/4) on the first
21 Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in
22 July 1981; and one-fourth (1/4) on the first Tuesday in October
23 1981. The board is authorized to extend the dates of expiration
24 of certificates to coincide with the scheduled date of review of
25 individual contractors. Except for the certificates extended from

26 December 31, 1980, to the first Tuesday in January 1981, the board
27 shall charge fees for the extension of certificates as follows:

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

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

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

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

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

50 Additional fees may be required as provided in Section
51 31-3-14.

52 The board shall conduct an objective, standardized
53 examination of an applicant for a certificate to ascertain the
54 ability of the applicant to make practical application of his
55 knowledge of the profession or business of construction in the
56 category or categories for which he has applied for a certificate
57 of responsibility. The cost of the test and the cost of

58 administering the test shall be paid for by applicants for
59 certificates of responsibility at the time applications are filed.
60 The board shall investigate thoroughly the past record of all
61 applicants, which will include an effort toward ascertaining the
62 qualifications of applicants in reading plans and specifications,
63 estimating costs, construction ethics, and other similar matters.
64 The board shall take all applicants under consideration after
65 having examined him or them and go thoroughly into the records and
66 examinations, prior to granting any certificate of responsibility.
67 If the applicant is an individual, examination may be taken by his
68 personal appearance for examination or by the appearance for
69 examination of one or more of his responsible managing employees;
70 and if a copartnership or corporation or any other combination or
71 organization, by the examination of one or more of the responsible
72 managing officers or members of the executive staff of the
73 applicant's firm, according to its own designation.

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

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

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

89 for which a certificate of responsibility was issued, refused,
90 revoked or suspended.

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

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

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

117 The powers of the State Board of Contractors shall not extend
118 to fixing a maximum limit in the bid amount of any contractor, or
119 the bonding capacity, or a maximum amount of work which a
120 contractor may have under contract at any time, except as stated

121 in paragraph (a) of this section; and the Board of Contractors
122 shall not have jurisdiction or the power or authority to determine
123 the maximum bond a contractor may be capable of obtaining. The
124 board, in determining the qualifications of any applicant for an
125 original certificate of responsibility or any renewal thereof,
126 shall, among other things, take into consideration the following:
127 (1) experience and ability, (2) character, (3) the manner of
128 performance of previous contracts, (4) financial condition, (5)
129 equipment, (6) personnel, (7) work completed, (8) work on hand,
130 (9) ability to perform satisfactorily work under contract at the
131 time of an application for a certificate of responsibility or a
132 renewal thereof, (10) default in complying with provisions of this
133 law, or any other law of the state, and (11) the results of
134 objective, standardized examinations. A record shall be made and
135 preserved by the board of each examination of an applicant and the
136 findings of the board thereon, and a certified copy of the record
137 and findings shall be furnished to any applicant desiring to
138 appeal from any order or decision of the board.

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

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

148 The holder of any valid certificate of responsibility issued
149 by the Board of Public Contractors prior to January 1, 1986, shall
150 be automatically issued a certificate of responsibility by the
151 State Board of Contractors for the same classification or

152 classifications of work which the holder was entitled to perform
153 under the State Board of Public Contractors Act.

154 Notwithstanding any provision of law to the contrary, no
155 county or municipality shall require a holder of a valid
156 certificate of responsibility, or a person licensed by the State
157 Board of Contractors as a residential builder or remodeler, or a
158 person who has passed a test administered by the State Board of
159 Contractors which measures for industry expertise in plumbing,
160 electrical, HVAC or roofing classifications, to pass any
161 additional county or municipal test or examination. Such
162 individuals shall be eligible to contract for such work for which
163 they are certificated or licensed by the State Board of
164 Contractors by exhibiting the certificate, license or
165 documentation of test passage and paying the local fees as are
166 customarily required by any county or municipality.

167 **SECTION 2.** Section 27-17-457, Mississippi Code of 1972, is
168 amended as follows:

169 27-17-457. (1) Any contractor, including, but not limited
170 to, any electrical, plumbing, heating and air conditioning, water
171 and sewer, roofing or mechanical contractor, who is licensed by
172 any one (1) municipality or county of the State of Mississippi,
173 which municipality or county has an examining board where there is
174 regularly given a written examination, and who does not hold a
175 current certificate of responsibility issued by the State Board of
176 Public Contractors, shall be allowed to do business in any other
177 municipality or county in the state without being required to
178 obtain a license in such other municipality or county or to
179 undergo any further examination provided:

180 (a) That he furnishes evidence that he has such
181 license;

182 (b) That he furnishes evidence that he actually took
183 and passed the written examination which qualified him for such

184 license; however, in lieu thereof evidence that if said contractor
185 was issued a license prior to May 1, 1972, and prior to the
186 existence of such written examination by a county or municipality
187 which has an examining board that does presently require written
188 examination to qualify for a license; and

189 (c) That he is not operating a separate place of
190 business located in such other municipality or county.

191 (2) Any contractor, including, but not limited to, any
192 electrical, plumbing, heating and air conditioning, water and
193 sewer, roofing or mechanical contractor, who is licensed by any
194 one (1) municipality or county of the State of Mississippi, which
195 municipality or county has an examining board where there is
196 regularly given a written examination, and who holds a current
197 certificate of responsibility issued by the State Board of Public
198 Contractors shall be allowed to do business in any other
199 municipality or county in the state without being required to
200 obtain a separate license in such other municipality or county or
201 to undergo any further examination provided said contractor meets
202 the requirements of paragraphs (a) and (b) of subsection (1) of
203 this section.

204 (3) No additional privilege license bond shall be required
205 in order for such a contractor to do business in another
206 municipality or county in the state as long as the contractor has
207 obtained the bond in the municipality or county where he is
208 licensed.

209 (4) Nothing in this Section 27-17-457 supercedes or
210 otherwise affects the provisions of Title 31, Chapter 3, or the
211 provisions of Title 73, Chapter 59. In the event any provision in
212 Section 27-17-457 conflicts with any provision of Title 31,
213 Chapter 3, or of Title 73, Chapter 59, the latter titles and
214 chapters are hereby deemed and shall be controlling over the
215 provisions of Section 27-17-457.

216 (5) This Section 27-17-457 is intended to apply only to the
217 Local Privilege Tax Law, and is not intended to apply to or
218 restrict the powers and authority granted to municipalities and
219 counties in Sections 21-19-25 and 19-5-9, or any powers or
220 authority derived from said sections related to permits and permit
221 bonds, and the issuance, denial or requirements thereof.

222 (6) No taxpayer receiving a privilege license under this
223 Section 27-17-457 shall be authorized to advertise to the public
224 that they are "licensed" unless said taxpayer is currently in
225 compliance with paragraph (b) of subsection (1) of this section,
226 or holds a current license or certificate of responsibility from
227 the State Board of Contractors. Any officer collecting the tax
228 may suspend the issuance or renewal of a privilege license granted
229 under this section until such time as said officer finds that such
230 taxpayer is in compliance with the provisions of this subsection.
231 If any taxpayer receiving a privilege license under this section
232 presents themselves to the public as "licensed" then said taxpayer
233 must state to the public that they are "licensed by the city of"
234 and/or "county of" followed by the name or names of the
235 appropriate city and/or county from which such taxpayer is
236 currently in compliance with paragraph (b) of subsection (1) of
237 this section; or, if otherwise appropriate, "licensed by the State
238 Board of Contractors."

239 Notwithstanding any provision of law to the contrary, no
240 county or municipality shall require a holder of a valid
241 certificate of responsibility, or a person licensed by the State
242 Board of Contractors as a residential builder or remodeler, or a
243 person who has passed a test administered by the State Board of
244 Contractors which measures for industry expertise in plumbing,
245 electrical, HVAC or roofing classifications, to pass any
246 additional county or municipal test or examination. Such
247 individuals shall be eligible to contract for such work for which

248 they are certificated or licensed by the State Board of
249 Contractors by exhibiting the certificate, license or
250 documentation of test passage and paying the local fees as are
251 customarily required by any county or municipality.

252 **SECTION 3.** Section 17-25-5, Mississippi Code of 1972, is
253 amended as follows:

254 17-25-5. (1) Every municipality and county of the State of
255 Mississippi shall grant competency examination reciprocity to any
256 contractor including, but not limited to, any electrical,
257 plumbing, heating and air conditioning, water and sewer, roofing
258 or mechanical contractor, who is licensed by another municipality
259 or county of this state without imposing any further competency
260 examination requirements provided:

261 (a) That the contractor furnishes evidence that he has
262 a license issued on the basis of a competency examination
263 administered in one (1) municipality or county of the State of
264 Mississippi which has an examining board that regularly gives a
265 written examination which has been approved by the State Board of
266 Public Contractors or the Building Officials Association of
267 Mississippi;

268 (b) That he furnishes evidence that he actually took
269 and passed the written examination which qualified him for such
270 license; however, in lieu thereof, he may furnish evidence that
271 he was issued a license prior to May 1, 1972, and prior to the
272 existence of a written examination by a county or municipality
273 which has an examining board that requires written examination to
274 qualify for a license;

275 (c) That he has been actively engaged in the business
276 for which he is licensed for two (2) years or more;

277 (d) That he has held a license for his business for one
278 (1) year or more; and

279 (e) That he pays the license fee to the municipality or
280 county to which application is made for a license unless he holds
281 a current certificate of responsibility issued by the State Board
282 of Public Contractors, in which case no license fee shall be
283 collected.

284 (2) (a) Any contractor who operates more than one (1)
285 separate place of business within the state must obtain the
286 appropriate privilege license and pay the privilege license fee
287 for each location if required by the local jurisdiction.

288 (b) Every jurisdiction in which a contractor does
289 business may impose its own separate bonding requirements on the
290 contractor desiring to do business there.

291 Notwithstanding any provision of law to the contrary, no
292 county or municipality shall require a holder of a valid
293 certificate of responsibility, or a person licensed by the State
294 Board of Contractors as a residential builder or remodeler, or a
295 person who has passed a test administered by the State Board of
296 Contractors which measures for industry expertise in plumbing,
297 electrical, HVAC or roofing classifications, to pass any
298 additional county or municipal test or examination. Such
299 individuals shall be eligible to contract for such work for which
300 they are certificated or licensed by the State Board of
301 Contractors by exhibiting the certificate, license or
302 documentation of test passage and paying the local fees as are
303 customarily required by any county or municipality.

304 **SECTION 4.** This act shall take effect and be in force from
305 and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT MUNICIPALITIES AND COUNTIES FROM REQUIRING ADDITIONAL
3 TESTING ONCE A CONTRACTOR HAS RECEIVED HIS OR HER CERTIFICATE OF
4 RESPONSIBILITY; TO AMEND SECTIONS 27-17-457 AND 17-25-5,

5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.