

By: Representative Smith (39th)

To: Judiciary A

## HOUSE BILL NO. 1446

1 AN ACT TO AMEND SECTION 73-59-1, MISSISSIPPI CODE OF 1972, TO  
2 DEFINE THE TERMS "ACTIVE LICENSEE" AND "INACTIVE LICENSEE"; TO  
3 AMEND SECTION 73-59-3, MISSISSIPPI CODE OF 1972, TO REQUIRE PROOF  
4 OF WORKERS' COMPENSATION INSURANCE AND PROOF OF LIABILITY  
5 INSURANCE BEFORE OBTAINING A LICENSE AS A RESIDENTIAL BUILDER OR  
6 REMODELER, AND TO REQUIRE PROOF OF CONTINUING EDUCATION AS A  
7 PREREQUISITE FOR LICENSE RENEWAL; TO AMEND SECTION 71-3-5,  
8 MISSISSIPPI CODE OF 1972, TO REQUIRE ALL STATE BOARD OF CONTRACTOR  
9 LICENSEES TO BE EMPLOYERS SUBJECT TO THE PROVISIONS OF THE  
10 WORKERS' COMPENSATION ACT; TO AMEND SECTION 73-59-13, MISSISSIPPI  
11 CODE OF 1972, GRANTING THE BOARD THE ABILITY TO ISSUE CEASE AND  
12 DESIST ORDERS AGAINST RESIDENTIAL BUILDERS AND REMODELERS; TO  
13 AMEND SECTION 73-59-15, MISSISSIPPI CODE OF 1972, TO LIMIT THE  
14 NUMBER OF ANNUAL RESIDENTIAL BUILDINGS PERMITTED WITHIN ONE YEAR  
15 WITHOUT A LICENSE; TO AMEND SECTION 73-59-17, MISSISSIPPI CODE OF  
16 1972, TO REQUIRE DISPLAYING LICENSE NUMBERS AT JOB SITES; TO AMEND  
17 SECTION 31-3-15, MISSISSIPPI CODE OF 1972, TO REQUIRE PLACEMENT OF  
18 A SIGN BEARING CERTIFICATE OF RESPONSIBILITY NUMBER; AND FOR  
19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 73-59-1, Mississippi Code of 1972, is  
22 amended as follows:

23 73-59-1. For the purposes of this chapter, the following  
24 words shall have the meanings ascribed herein:

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

27 (b) "Residential builder" means any corporation,  
28 partnership or individual who constructs a building or structure  
29 for sale for use by another as a residence or who, for a fixed  
30 price, commission, fee, wage or other compensation, undertakes or  
31 offers to undertake the construction, or superintending of the  
32 construction, of any building or structure which is not more than  
33 three (3) floors in height, to be used by another as a residence,  
34 when the cost of the undertaking exceeds Fifty Thousand Dollars  
35 (\$50,000.00).

36 (c) "Remodeler" means any corporation, partnership or  
37 individual who, for a fixed price, commission, fee, wage or other  
38 compensation, undertakes or offers to undertake the construction,  
39 or superintending of the construction, of improvements to an  
40 existing residence when the cost of the improvements exceeds Ten  
41 Thousand Dollars (\$10,000.00).

42 (d) "Residential construction" means any undertaking  
43 described in paragraph (b) of this section performed by a  
44 residential builder.

45 (e) "Residential improvement" means any undertaking  
46 described in paragraph (c) of this section performed by a  
47 remodeler.

48 (f) "Active licensee" means any builder or remodeler  
49 licensed under this chapter and engaged in building and  
50 remodeling.

51 (g) "Inactive licensee" means any builder or remodeler  
52 licensed under this chapter and not engaged in building or  
53 remodeling.

54 **SECTION 2.** Section 73-59-3, Mississippi Code of 1972, is  
55 amended as follows:

56 73-59-3. (1) Except as otherwise provided in Section  
57 73-59-15, persons who perform or formerly performed residential  
58 construction or residential improvement shall be licensed by the  
59 board annually as an active licensee or inactive licensee, as  
60 appropriate, and, as a prerequisite to obtaining a license or  
61 renewal thereof, each shall submit to the board:

62 (a) Proof of workers' compensation insurance, however,  
63 workers' compensation insurance shall not be required for inactive  
64 licensees;

65 (b) A federal employment identification number or  
66 social security number;

67 (c) Proof of general liability insurance, however,  
68 liability insurance shall not be required for inactive licensees.

69 \* \* \*

70 (2) The board shall issue or renew an active or inactive  
71 license to a residential builder or remodeler upon payment to the  
72 board of the license fee and, for renewal of an active license,  
73 upon submission of proof that a licensee has fulfilled a program  
74 of continuing education deemed adequate in accordance with duly  
75 promulgated rules and regulations of the board. The initial  
76 license fee shall be Fifty Dollars (\$50.00). The license fee may  
77 thereafter be increased or decreased by the board and cannot  
78 exceed One Hundred Dollars (\$100.00); however, the receipts from  
79 fees collected by the board shall be no greater than the amount  
80 required to pay all costs and expenses incurred by the board in  
81 enforcing the provisions of this chapter. Twenty-five Dollars  
82 (\$25.00) of the fee required by this section which is assessed to  
83 residential builders licensed under the provisions of Section  
84 73-59-1 et seq. shall be deposited to the Construction Education  
85 Fund created pursuant to Section 31-3-14 and shall be distributed  
86 to the Mississippi Housing Institute. The remaining fees  
87 collected under this chapter shall be deposited into the special  
88 fund in the State Treasury known as the "State Board of  
89 Contractor's Fund" created pursuant to Section 31-3-17 and shall  
90 be used for the administration and enforcement of this chapter and  
91 as provided in Section 31-3-14. Amounts in such fund shall not  
92 lapse into the State General Fund at the end of a fiscal year.  
93 Interest accrued to such fund shall remain in the fund. All  
94 expenditures from the special fund shall be by requisition to the  
95 Department of Finance and Administration, signed by the executive  
96 secretary of the board and countersigned by the chairman or vice  
97 chairman of the board.

98 (3) The license shall expire on the last day of the twelfth  
99 month following its issuance or renewal and shall become invalid  
100 unless renewed. The board shall notify by mail every licensee  
101 under this chapter of the date of the expiration of his license

102 and the amount of the fee required, along with continuing  
103 education program requirements, for renewal of the license for one  
104 (1) year. Such notice shall be mailed within thirty (30) days  
105 prior to the expiration date of the license. The failure on the  
106 part of any licensee to renew his license annually in such twelfth  
107 month shall not deprive such licensee of the right of renewal,  
108 provided that renewal is effected within one hundred twenty (120)  
109 days after the expiration date of the license by payment of the  
110 license fee plus a penalty of ten percent (10%) of the license  
111 fee. A new license required to replace a revoked, lost, mutilated  
112 or destroyed license may be issued, subject to the rules of the  
113 board, for a charge of not more than Twenty-five Dollars (\$25.00).  
114 An inactive licensee may become an active licensee upon  
115 application meeting all the requirements of Section 73-59-3.

116 (4) Any person who is not a resident of the State of  
117 Mississippi who desires to perform residential construction or  
118 residential improvement shall be licensed to perform such  
119 construction or improvement as provided by this chapter.

120 **SECTION 3.** Section 71-3-5, Mississippi Code of 1972, is  
121 amended as follows:

122 71-3-5. The following shall constitute employers subject to  
123 the provisions of this chapter:

124 Every person, firm and private corporation, including any  
125 public service corporation but excluding, however, all nonprofit  
126 charitable, fraternal, cultural, or religious corporations or  
127 associations, that have in service five (5) or more workmen or  
128 operatives regularly in the same business or in or about the same  
129 establishment under any contract of hire, express or implied,  
130 except that all persons licensed by the State Board of Contractors  
131 pursuant to Section 73-59-1 et seq. shall be employers subject to  
132 the provisions of this chapter.

133 Any state agency, state institution, state department, or  
134 subdivision thereof, including counties, municipalities and school

135 districts, or the singular thereof, not heretofore included under  
136 the Workers' Compensation Law, may elect, by proper action of its  
137 officers or department head, to come within its provisions and, in  
138 such case, shall notify the commission of such action by filing  
139 notice of compensation insurance with the commission. Payment for  
140 compensation insurance policies so taken may be made from any  
141 appropriation or funds available to such agency, department or  
142 subdivision thereof, or from the general fund of any county or  
143 municipality.

144 From and after July 1, 1990, all offices, departments,  
145 agencies, bureaus, commissions, boards, institutions, hospitals,  
146 colleges, universities, airport authorities or other  
147 instrumentalities of the "state" as such term is defined in  
148 Section 11-46-1, Mississippi Code of 1972, shall come under the  
149 provisions of the Workers' Compensation Law. Payment for  
150 compensation insurance policies so taken may be made from any  
151 appropriation or funds available to such office, department,  
152 agency, bureau, commission, board, institution, hospital, college,  
153 university, airport authority or other instrumentality of the  
154 state.

155 From and after October 1, 1990, counties and municipalities  
156 shall come under the provisions of the Workers' Compensation Law.  
157 Payment for compensation insurance policies so taken may be made  
158 from any funds available to such counties and municipalities.

159 From and after October 1, 1993, all "political subdivisions,"  
160 as such term is defined in Section 11-46-1, Mississippi Code of  
161 1972, except counties and municipalities shall come under the  
162 provisions of the Workers' Compensation Law. Payment for  
163 compensation insurance policies so taken may be made from any  
164 funds available to such political subdivisions.

165 From and after July 1, 1988, the "state" as such term is  
166 defined in Section 11-46-1, Mississippi Code of 1972, may elect to  
167 become a self-insurer under the provisions elsewhere set out by

168 law, by notifying the commission of its intent to become a  
169 self-insurer. The cost of being such a self-insurer, as provided  
170 otherwise by law, may be paid from funds available to the offices,  
171 departments, agencies, bureaus, commissions, boards, institutions,  
172 hospitals, colleges, universities, airport authorities or other  
173 instrumentalities of the state.

174 The Mississippi Transportation Commission, the Department of  
175 Public Safety and the Mississippi Industries for the Blind may  
176 elect to become self-insurers under the provisions elsewhere set  
177 out by law by notifying the commission of their intention of  
178 becoming such a self-insurer. The cost of being such a  
179 self-insurer, as provided elsewhere by law, may be paid from funds  
180 available to the Mississippi Transportation Commission, the  
181 Department of Public Safety or the Mississippi Industries for the  
182 Blind.

183 The Mississippi State Senate and the Mississippi House of  
184 Representatives may elect to become self-insurers under provisions  
185 elsewhere set out by law by notifying the commission of their  
186 intention of becoming such self-insurers. The cost of being such  
187 self-insurers, as provided elsewhere by law, may be paid from  
188 funds available to the Mississippi State Senate and the  
189 Mississippi House of Representatives. The Mississippi State  
190 Senate and the Mississippi House of Representatives are authorized  
191 and empowered to provide workers' compensation benefits for  
192 employees after January 1, 1970.

193 Any municipality of the State of Mississippi having forty  
194 thousand (40,000) population or more desiring to do so may elect  
195 to become a self-insurer under provisions elsewhere set out by law  
196 by notifying the commission of its intention of becoming such an  
197 insurer. The cost of being such a self-insurer, as provided  
198 elsewhere by law, may be provided from any funds available to such  
199 municipality.

200           The commission may, under such rules and regulations as it  
201 prescribes, permit two (2) or more "political subdivisions," as  
202 such term is defined in Section 11-46-1, Mississippi Code of 1972,  
203 to pool their liabilities to participate in a group workers'  
204 compensation self-insurance program. The governing authorities of  
205 any political subdivision may authorize the organization and  
206 operation of, or the participation in such a group self-insurance  
207 program with other political subdivisions, provided such program  
208 is approved by the commission. The cost of participating in a  
209 group self-insurance program may be provided from any funds  
210 available to a political subdivision.

211           Domestic servants, farmers and farm labor are not included  
212 under the provisions of this chapter, but this exemption does not  
213 apply to the processing of agricultural products when carried on  
214 commercially. Any purchaser of timber products shall not be  
215 liable for workers' compensation for any person who harvests and  
216 delivers timber to such purchaser if such purchaser is not liable  
217 for unemployment tax on the person harvesting and delivering the  
218 timber as provided by United States Code Annotated, Title 26,  
219 Section 3306, as amended. Provided, however, nothing in this  
220 section shall be construed to exempt an employer who would  
221 otherwise be covered under Section 71-3-5 from providing workers'  
222 compensation coverage on those employees for whom he is liable for  
223 unemployment tax.

224           Employers exempted by this section may assume, with respect  
225 to any employee or classification of employees, the liability for  
226 compensation imposed upon employers by this chapter with respect  
227 to employees within the coverage of this chapter. The purchase  
228 and acceptance by such employer of valid workers' compensation  
229 insurance applicable to such employee or classification of  
230 employees shall constitute, as to such employer, an assumption by  
231 him of such liability under this chapter without any further act  
232 on his part notwithstanding any other provisions of this chapter,

233 but only with respect to such employee or such classification of  
234 employees as are within the coverage of the state fund. Such  
235 assumption of liability shall take effect and continue from the  
236 effective date of such workers' compensation insurance and as long  
237 only as such coverage shall remain in force, in which case the  
238 employer shall be subject with respect to such employee or  
239 classification of employees to no other liability than the  
240 compensation as provided for in this chapter.

241 An owner/operator, and his drivers, must provide a  
242 certificate of insurance of workers' compensation coverage to the  
243 motor carrier or proof of coverage under a self-insured plan or an  
244 occupational accident policy. Any such occupational accident  
245 policy shall provide a minimum of One Million Dollars  
246 (\$1,000,000.00) of coverage. Should the owner/operator fail to  
247 provide written proof of coverage to the motor carrier, then the  
248 owner/operator, and his drivers, shall be covered under the motor  
249 carrier's workers' compensation insurance program and the motor  
250 carrier is authorized to collect payment of the premium from the  
251 owner/operator. In the event that coverage is obtained by the  
252 owner/operator under a workers' compensation policy or through a  
253 self-insured or occupational accident policy, then the  
254 owner/operator, and his drivers, shall not be entitled to benefits  
255 under the motor carrier's workers' compensation insurance program  
256 unless the owner/operator has elected in writing to be covered  
257 under the carrier's workers' compensation program or policy or if  
258 the owner/operator is covered by the carrier's plan because he  
259 failed to obtain coverage. Coverage under the motor carrier's  
260 workers' compensation insurance program does not terminate the  
261 independent contractor status of the owner/operator under the  
262 written contract or lease agreement. Nothing shall prohibit or  
263 prevent an owner/operator from having or securing an occupational  
264 accident policy in addition to any workers' compensation coverage  
265 authorized by this section. Other than the amendments to this



266 section by Chapter 523, Laws of 2006, the provisions of this  
267 section shall not be construed to have any effect on any other  
268 provision of law, judicial decision or any applicable common law.

269 This chapter shall not apply to transportation and maritime  
270 employments for which a rule of liability is provided by the laws  
271 of the United States.

272 This chapter shall not be applicable to a mere direct  
273 buyer-seller or vendor-vendee relationship where there is no  
274 employer-employee relationship as defined by Section 71-3-3, and  
275 any insurance carrier is hereby prohibited from charging a premium  
276 for any person who is a seller or vendor rather than an employee.

277 Any employer may elect, by proper and written action of its  
278 own governing authority, to be exempt from the provisions of the  
279 Workers' Compensation Law as to its sole proprietor, its partner  
280 in a partnership or to its employee who is the owner of fifteen  
281 percent (15%) or more of its stock in a corporation, if such sole  
282 proprietor, partner or employee also voluntarily agrees thereto in  
283 writing. Any sole proprietor, partner or employee owning fifteen  
284 percent (15%) or more of the stock of his/her corporate employer  
285 who becomes exempt from coverage under the Workers' Compensation  
286 Law shall be excluded from the total number of workers or  
287 operatives toward reaching the mandatory coverage threshold level  
288 of five (5).

289 **SECTION 4.** Section 73-59-13, Mississippi Code of 1972, is  
290 amended as follows:

291 73-59-13. (1) The board, upon satisfactory proof and in  
292 accordance with the provisions of this chapter and the regulations  
293 of the board pertaining thereto, is authorized to take the  
294 disciplinary actions provided for in this section against any  
295 person for any of the following reasons:

296 (a) Violating any of the provisions of this chapter or  
297 the rules or regulations of the board pertaining to the work of  
298 residential building or residential improvement;

299 (b) Fraud, deceit or misrepresentation in obtaining a  
300 license;

301 (c) Gross negligence or misconduct;

302 (d) Engaging in work of residential building or  
303 residential improvement on an expired license or while under  
304 suspension or revocation of license unless the suspension or  
305 revocation be abated in accordance with this chapter;

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

307 (f) Failing to maintain workers' compensation  
308 insurance, if applicable; or

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

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

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

322 The board shall send a certified inspector to inspect the  
323 building or structure which is the subject of a complaint or the  
324 board may use a county certified building inspector from the  
325 county where the building or structure is located to inspect the  
326 building or structure which is the subject of a complaint. The  
327 report of the inspector shall be used in the investigation and the  
328 determination of the board. The provisions above shall only apply  
329 to hearings.

330 No disciplinary action may be taken until the accused has  
331 been furnished both a statement of the charges against him and

332 notice of the time and place of the hearing thereon, which shall  
333 be personally served on such accused or mailed by certified mail,  
334 return receipt requested, to the last known business or residence  
335 address of the accused not less than thirty (30) days prior to the  
336 date fixed for the hearing. The complaining party shall be  
337 notified of the place and time of the hearing by mail to the last  
338 known business or residence address of the complaining party not  
339 less than thirty (30) days prior to the date fixed for the  
340 hearing.

341 (3) At any hearing held hereunder, the board shall have the  
342 power to subpoena witnesses and compel their attendance and may  
343 also require the production of books, papers, documents or other  
344 materials which may be pertinent to the proceedings. The board  
345 may designate or secure a hearing officer to conduct the hearing.  
346 All evidence shall be presented under oath, which may be  
347 administered by any member of the board, and thereafter the  
348 proceedings may, if necessary, be transcribed in full by a court  
349 reporter and filed as part of the record in the case. Copies of  
350 such transcriptions may be provided to any party to the  
351 proceedings at a price reflecting actual cost, to be fixed by the  
352 board.

353 All witnesses who are subpoenaed and appear in any  
354 proceedings before the board shall receive the same fees and  
355 mileage as allowed by law to witnesses in county, circuit and  
356 chancery court pursuant to Section 25-7-47, Mississippi Code of  
357 1972, and all such fees shall be taxed as part of the costs in the  
358 case.

359 When, in any proceeding before the board, any witness shall  
360 fail or refuse to attend upon subpoena issued by the board, shall  
361 refuse to testify, or shall refuse to produce any books and papers  
362 the production of which is called for by the subpoena, the  
363 attendance of such witness and the giving of his testimony and the  
364 production of the books and papers shall be enforced by any court

365 of competent jurisdiction of this state in the manner provided for  
366 the enforcement of attendance and testimony of witnesses in civil  
367 cases in the courts of this state.

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

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

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

381 (a) Issue a public or private reprimand;

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

383 (c) In lieu of or in addition to any reprimand,

384 suspension or revocation, assess and levy upon the guilty party a  
385 monetary penalty of not less than One Hundred Dollars (\$100.00)  
386 nor more than Five Thousand Dollars (\$5,000.00) for each  
387 violation.

388 (6) A monetary penalty assessed and levied under this  
389 section shall be paid to the board upon the expiration of the  
390 period allowed for appeal of such penalties under this section or  
391 may be paid sooner if the guilty party elects. Money collected by  
392 the board under this section shall be deposited to the credit of  
393 the State Board of Contractors' Fund.

394 When payment of a monetary penalty assessed and levied by the  
395 board in accordance with this section is not paid when due, the  
396 board shall have the power to institute and maintain proceedings  
397 in its name for enforcement of payment in the chancery court of

398 the county of residence of the delinquent party; however, if the  
399 delinquent party is a nonresident of the State of Mississippi,  
400 such proceedings shall be in the Chancery Court of the First  
401 Judicial District of Hinds County, Mississippi.

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

409 (8) The board shall not assess any of the costs of  
410 disciplinary proceedings conducted pursuant to this section  
411 against the prevailing party.

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

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

419 (11) Whenever it appears to the board that any person has  
420 engaged or is about to engage in any act or practice constituting  
421 a violation of any provision of this chapter or any rule or order  
422 issued hereunder, it may, in its discretion, and in addition to  
423 other remedies authorized by law, issue a cease and desist order,  
424 with or without a prior notice and hearing, against the person or  
425 persons engaged in the prohibited activities. Such cease and  
426 desist order shall direct the person or persons to cease and  
427 desist from such illegal activity.

428 (12) Any person aggrieved by any order or decision of the  
429 board may appeal within ten (10) days from the date of adjournment  
430 of the session at which the board rendered such order or decision,

431 and may embody the facts, order and decision in a bill of  
432 exceptions which shall be signed by the person acting as chairman  
433 of the board. The board shall transmit the bill of exceptions to  
434 either the chancery court of the county of residence of the  
435 appellant, or the Chancery Court of the First Judicial District of  
436 Hinds County, at the election of the appellant, and the court or  
437 chancellor shall hear and determine the same either in termtime or  
438 in vacation, on the case as presented by the bill of exceptions,  
439 as an appellant court, and shall affirm or reverse the judgment.  
440 If the judgment be reversed, the chancery court or chancellor  
441 shall render such order or judgment as the board ought to have  
442 rendered, and certify the same to the board; and costs shall be  
443 awarded as in other cases. The board may employ counsel to defend  
444 such appeals, to be paid out of the funds in the State Board of  
445 Contractors' Fund.

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

450 (13) Any political subdivision or agency of this state which  
451 receives a complaint against a residential builder or remodeler  
452 shall, in addition to exercising whatever authority such political  
453 subdivision or agency has been given over such complaint, forward  
454 the complaint to the board.

455 (14) In addition to the reasons specified in subsection (1)  
456 of this section, the board shall be authorized to suspend the  
457 license of any licensee for being out of compliance with an order  
458 for support, as defined in Section 93-11-153. The procedure for  
459 suspension of a license for being out of compliance with an order  
460 for support, and the procedure for the reissuance or reinstatement  
461 of a license suspended for that purpose, and the payment of any  
462 fees for the reissuance or reinstatement of a license suspended  
463 for that purpose, shall be governed by Section 93-11-157 or

464 93-11-163, as the case may be. Actions taken by the board in  
465 suspending a license when required by Section 93-11-157 or  
466 93-11-163 are not actions from which an appeal may be taken under  
467 this section. Any appeal of a license suspension that is required  
468 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
469 with the appeal procedure specified in Section 93-11-157 or  
470 93-11-163, as the case may be, rather than the procedure specified  
471 in this section. If there is any conflict between any provision  
472 of Section 93-11-157 or 93-11-163 and any provision of this  
473 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
474 case may be, shall control.

475 **SECTION 5.** Section 73-59-15, Mississippi Code of 1972, is  
476 amended as follows:

477 73-59-15. (1) This chapter shall not apply to:

478 (a) Agricultural buildings, buildings used for  
479 agricultural purposes, buildings constructed as a community  
480 effort, or tenant houses;

481 (b) Any person who undertakes construction or  
482 improvement on his own residence, or who acts as his own general  
483 contractor in the performance of construction or improvement on  
484 his own residence, or who acts under the supervision of the  
485 owner-occupant who is the general contractor;

486 (c) Any person who undertakes residential construction  
487 or improvement, or who acts as a general contractor in the  
488 performance of residential construction or improvement, or who  
489 acts under supervision of the owner-occupant with respect to  
490 residential construction or improvement, when the owner of such  
491 construction or improvement is related to such person by  
492 consanguinity or direct affinity;

493 (d) The owners of property who supervise, superintend,  
494 oversee, direct or in any manner assume charge of the  
495 construction, alteration, repair, improvement, movement,  
496 demolition, putting up, tearing down or maintenance of any

497 building, railroad, excavation, project, development, improvement,  
498 plant facility or any other construction undertaking on such  
499 property for use by such owner and which will not be for sale,  
500 rent, public use or public assembly;

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

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

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

506 (h) Any person who constructs one (1) single residence  
507 or less within a period of one (1) year in any county or  
508 municipality which does not require a building permit or any local  
509 certification for such construction.

510 (2) A person specified in subsection (1)(b) shall not make  
511 more than one (1) application for a permit to construct a single  
512 residence or shall not construct more than one (1) single  
513 residence within a period of one (1) year. There shall be a  
514 rebuttable presumption that such person intends to construct for  
515 the purpose of resale, lease, rent or any similar purpose if more  
516 than one (1) application is made for a permit to construct a  
517 single residence or if more than one (1) single residence is  
518 constructed within a period of one (1) year.

519 (3) The provisions of this section shall not apply to  
520 builders and remodelers who are not domiciled in the State of  
521 Mississippi. Builders and remodelers who are not domiciled in the  
522 State of Mississippi are not required to be licensed under the  
523 provisions of this chapter if the state in which they are  
524 domiciled requires licensing and the licensing state's  
525 requirements are at least the equivalent of those requirements  
526 provided in this chapter.

527 **SECTION 6.** Section 73-59-17, Mississippi Code of 1972, is  
528 amended as follows:



529           73-59-17. (1) The building official, or other authority  
530 charged with the duty of issuing building or similar permits, of  
531 any municipality or county, shall refuse to issue a permit for any  
532 undertaking which would classify the applicant as a residential  
533 builder or remodeler under this chapter unless the applicant has  
534 furnished evidence that he is either licensed as required by this  
535 chapter or exempt from the requirements of this chapter. The  
536 building official, or other authority charged with the duty of  
537 issuing building or similar permits, shall also report to the  
538 board the name and address of any person who, in his opinion, has  
539 violated this chapter by accepting, or contracting to accomplish,  
540 work which would classify the person as a residential builder or  
541 remodeler under this chapter without a license or acknowledgement.

542           (2) Once a building permit is issued to a residential  
543 builder or remodeler by the building official, or other authority  
544 charged with the duty of issuing building or similar permits, of  
545 any municipality or county, such licensed builder or remodeler  
546 shall exhibit a sign at the permitted job site which shall  
547 include, prominently displayed, the license number of the builder  
548 or remodeler and the state issuing the license.

549           **SECTION 7.** Section 31-3-15, Mississippi Code of 1972, is  
550 amended as follows:

551           31-3-15. No contract for public or private projects shall be  
552 issued or awarded to any contractor who did not have a current  
553 certificate of responsibility issued by said board at the time of  
554 the submission of the bid, or a similar certificate issued by a  
555 similar board of another state which recognizes certificates  
556 issued by said board. Any contract issued or awarded in violation  
557 of this section shall be null and void. In addition, any  
558 contractor awarded a contract for public or private projects shall  
559 exhibit a sign at the job site which shall include, prominently  
560 displayed, his certificate of responsibility number and the name  
561 of the state issuing the certificate.

562           **SECTION 8.** This act shall take effect and be in force from  
563 and after July 1, 2007.