

By: Senator(s) Mettetal

To: Business and Financial
Institutions

SENATE BILL NO. 2683

1 AN ACT TO AMEND SECTION 73-59-1, MISSISSIPPI CODE OF 1972, TO
 2 DEFINE THE TERMS "ACTIVE LICENSEE" AND "INACTIVE LICENSEE" IN
 3 RELATION TO THE RESIDENTIAL BUILDERS AND REMODELERS LICENSING LAW;
 4 TO AMEND SECTION 73-59-3, MISSISSIPPI CODE OF 1972, TO REQUIRE
 5 PROOF OF WORKERS' COMPENSATION INSURANCE AND LIABILITY INSURANCE
 6 BEFORE OBTAINING A LICENSE, AND TO REQUIRE CONTINUING EDUCATION
 7 BEFORE LICENSE RENEWAL; TO AMEND SECTION 73-59-13, MISSISSIPPI
 8 CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF CONTRACTORS TO ISSUE
 9 CEASE AND DESIST ORDERS UNDER THE RESIDENTIAL BUILDERS AND
 10 REMODELERS LICENSING LAW; TO AMEND SECTION 73-59-15, MISSISSIPPI
 11 CODE OF 1972, TO REVISE THE NUMBER OF SINGLE RESIDENCES ALLOWED TO
 12 BE CONSTRUCTED WITHIN ONE YEAR BY A PERSON WITHOUT A LICENSE; TO
 13 AMEND SECTION 73-59-17, MISSISSIPPI CODE OF 1972, TO REQUIRE
 14 LICENSED RESIDENTIAL BUILDERS AND REMODELERS AT PERMITTED JOB
 15 SITES TO DISPLAY THEIR LICENSE NUMBER AND THE STATE ISSUING THE
 16 LICENSE; TO AMEND SECTION 31-3-15, MISSISSIPPI CODE OF 1972, TO
 17 REQUIRE ANY CONTRACTOR TO DISPLAY AT THE JOB SITE HIS CERTIFICATE
 18 OF RESPONSIBILITY NUMBER AND THE STATE ISSUING THE CERTIFICATE; TO
 19 AMEND SECTION 71-3-5, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL
 20 STATE BOARD OF CONTRACTOR LICENSEES TO BE EMPLOYERS SUBJECT TO THE
 21 PROVISIONS OF THE WORKERS' COMPENSATION ACT; AND FOR RELATED
 22 PURPOSES.

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

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

26 73-59-1. For the purposes of this chapter, the following
 27 words shall have the meanings ascribed herein:

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

30 (b) "Residential builder" means any corporation,
 31 partnership or individual who constructs a building or structure
 32 for sale for use by another as a residence or who, for a fixed
 33 price, commission, fee, wage or other compensation, undertakes or
 34 offers to undertake the construction, or superintending of the
 35 construction, of any building or structure which is not more than
 36 three (3) floors in height, to be used by another as a residence,

37 when the cost of the undertaking exceeds Fifty Thousand Dollars
38 (\$50,000.00).

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

45 (d) "Residential construction" means any undertaking
46 described in paragraph (b) of this section performed by a
47 residential builder.

48 (e) "Residential improvement" means any undertaking
49 described in paragraph (c) of this section performed by a
50 remodeler.

51 (f) "Active licensee" means any builder or remodeler
52 licensed under this chapter and engaged in building and
53 remodeling.

54 (g) "Inactive licensee" means any builder or remodeler
55 licensed under this chapter and not engaged in building or
56 remodeling.

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

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

65 (a) Proof of workers' compensation insurance, however,
66 workers' compensation insurance shall not be required for inactive
67 licensees;

68 (b) A federal employment identification number or
69 social security number;

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

72 * * *

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

101 (3) The license shall expire on the last day of the twelfth
102 month following its issuance or renewal and shall become invalid

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

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

123 **SECTION 3.** Section 73-59-13, Mississippi Code of 1972, is
124 amended as follows:

125 73-59-13. (1) The board, upon satisfactory proof and in
126 accordance with the provisions of this chapter and the regulations
127 of the board pertaining thereto, is authorized to take the
128 disciplinary actions provided for in this section against any
129 person for any of the following reasons:

130 (a) Violating any of the provisions of this chapter or
131 the rules or regulations of the board pertaining to the work of
132 residential building or residential improvement;

133 (b) Fraud, deceit or misrepresentation in obtaining a
134 license;

135 (c) Gross negligence or misconduct;

136 (d) Engaging in work of residential building or
137 residential improvement on an expired license or while under
138 suspension or revocation of license unless the suspension or
139 revocation be abated in accordance with this chapter;

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

141 (f) Failing to maintain workers' compensation
142 insurance, if applicable; or

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

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

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

156 The board may send a certified inspector to inspect the
157 building or structure which is the subject of a complaint or the
158 board may use a county certified building inspector from the
159 county where the building or structure is located to inspect the
160 building or structure which is the subject of a complaint. The
161 report of the inspector shall be used in the investigation and the
162 determination of the board. The provisions above shall only apply
163 to hearings.

164 No disciplinary action may be taken until the accused has
165 been furnished both a statement of the charges against him and
166 notice of the time and place of the hearing thereon, which shall
167 be personally served on such accused or mailed by certified mail,
168 return receipt requested, to the last known business or residence

169 address of the accused not less than thirty (30) days prior to the
170 date fixed for the hearing. The complaining party shall be
171 notified of the place and time of the hearing by mail to the last
172 known business or residence address of the complaining party not
173 less than thirty (30) days prior to the date fixed for the
174 hearing.

175 (3) At any hearing held hereunder, the board shall have the
176 power to subpoena witnesses and compel their attendance and may
177 also require the production of books, papers, documents or other
178 materials which may be pertinent to the proceedings. The board
179 may designate or secure a hearing officer to conduct the hearing.
180 All evidence shall be presented under oath, which may be
181 administered by any member of the board, and thereafter the
182 proceedings may, if necessary, be transcribed in full by a court
183 reporter and filed as part of the record in the case. Copies of
184 such transcriptions may be provided to any party to the
185 proceedings at a price reflecting actual cost, to be fixed by the
186 board.

187 All witnesses who are subpoenaed and appear in any
188 proceedings before the board shall receive the same fees and
189 mileage as allowed by law to witnesses in county, circuit and
190 chancery court pursuant to Section 25-7-47, Mississippi Code of
191 1972, and all such fees shall be taxed as part of the costs in the
192 case.

193 When, in any proceeding before the board, any witness shall
194 fail or refuse to attend upon subpoena issued by the board, shall
195 refuse to testify, or shall refuse to produce any books and papers
196 the production of which is called for by the subpoena, the
197 attendance of such witness and the giving of his testimony and the
198 production of the books and papers shall be enforced by any court
199 of competent jurisdiction of this state in the manner provided for
200 the enforcement of attendance and testimony of witnesses in civil
201 cases in the courts of this state.

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

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

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

215 (a) Issue a public or private reprimand;

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

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

222 (6) A monetary penalty assessed and levied under this
223 section shall be paid to the board upon the expiration of the
224 period allowed for appeal of such penalties under this section or
225 may be paid sooner if the guilty party elects. Money collected by
226 the board under this section shall be deposited to the credit of
227 the State Board of Contractors' Fund.

228 When payment of a monetary penalty assessed and levied by the
229 board in accordance with this section is not paid when due, the
230 board shall have the power to institute and maintain proceedings
231 in its name for enforcement of payment in the chancery court of
232 the county of residence of the delinquent party; however, if the
233 delinquent party is a nonresident of the State of Mississippi,

234 such proceedings shall be in the Chancery Court of the First
235 Judicial District of Hinds County, Mississippi.

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

243 (8) The board shall not assess any of the costs of
244 disciplinary proceedings conducted pursuant to this section
245 against the prevailing party.

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

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

253 (11) Whenever it appears to the board that any person has
254 engaged or is about to engage in any act or practice constituting
255 a violation of any provision of this chapter or any rule or order
256 issued hereunder, it may, in its discretion, and in addition to
257 other remedies authorized by law, issue a cease and desist order,
258 with or without a prior notice and hearing, against the person or
259 persons engaged in the prohibited activities. Such cease and
260 desist order shall direct the person or persons to cease and
261 desist from such illegal activity.

262 (12) Any person aggrieved by any order or decision of the
263 board may appeal within ten (10) days from the date of adjournment
264 of the session at which the board rendered such order or decision,
265 and may embody the facts, order and decision in a bill of
266 exceptions which shall be signed by the person acting as chairman

267 of the board. The board shall transmit the bill of exceptions to
268 either the chancery court of the county of residence of the
269 appellant, or the Chancery Court of the First Judicial District of
270 Hinds County, at the election of the appellant, and the court or
271 chancellor shall hear and determine the same either in termtime or
272 in vacation, on the case as presented by the bill of exceptions,
273 as an appellant court, and shall affirm or reverse the judgment.
274 If the judgment be reversed, the chancery court or chancellor
275 shall render such order or judgment as the board ought to have
276 rendered, and certify the same to the board; and costs shall be
277 awarded as in other cases. The board may employ counsel to defend
278 such appeals, to be paid out of the funds in the State Board of
279 Contractors' Fund.

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

284 (13) Any political subdivision or agency of this state which
285 receives a complaint against a residential builder or remodeler
286 shall, in addition to exercising whatever authority such political
287 subdivision or agency has been given over such complaint, forward
288 the complaint to the board.

289 (14) In addition to the reasons specified in subsection (1)
290 of this section, the board shall be authorized to suspend the
291 license of any licensee for being out of compliance with an order
292 for support, as defined in Section 93-11-153. The procedure for
293 suspension of a license for being out of compliance with an order
294 for support, and the procedure for the reissuance or reinstatement
295 of a license suspended for that purpose, and the payment of any
296 fees for the reissuance or reinstatement of a license suspended
297 for that purpose, shall be governed by Section 93-11-157 or
298 93-11-163, as the case may be. Actions taken by the board in
299 suspending a license when required by Section 93-11-157 or

300 93-11-163 are not actions from which an appeal may be taken under
301 this section. Any appeal of a license suspension that is required
302 by Section 93-11-157 or 93-11-163 shall be taken in accordance
303 with the appeal procedure specified in Section 93-11-157 or
304 93-11-163, as the case may be, rather than the procedure specified
305 in this section. If there is any conflict between any provision
306 of Section 93-11-157 or 93-11-163 and any provision of this
307 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
308 case may be, shall control.

309 **SECTION 4.** Section 73-59-15, Mississippi Code of 1972, is
310 amended as follows:

311 73-59-15. (1) This chapter shall not apply to:

312 (a) Agricultural buildings, buildings used for
313 agricultural purposes, buildings constructed as a community
314 effort, or tenant houses;

315 (b) Any person who undertakes construction or
316 improvement on his own residence, or who acts as his own general
317 contractor in the performance of construction or improvement on
318 his own residence, or who acts under the supervision of the
319 owner-occupant who is the general contractor;

320 (c) Any person who undertakes residential construction
321 or improvement, or who acts as a general contractor in the
322 performance of residential construction or improvement, or who
323 acts under supervision of the owner-occupant with respect to
324 residential construction or improvement, when the owner of such
325 construction or improvement is related to such person by
326 consanguinity or direct affinity;

327 (d) The owners of property who supervise, superintend,
328 oversee, direct or in any manner assume charge of the
329 construction, alteration, repair, improvement, movement,
330 demolition, putting up, tearing down or maintenance of any
331 building, railroad, excavation, project, development, improvement,
332 plant facility or any other construction undertaking on such

333 property for use by such owner and which will not be for sale,
334 rent, public use or public assembly;

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

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

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

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

344 (2) A person specified in subsection (1)(b) shall not make
345 more than one (1) application for a permit to construct a single
346 residence or shall not construct more than one (1) single
347 residence within a period of one (1) year. There shall be a
348 rebuttable presumption that such person intends to construct for
349 the purpose of resale, lease, rent or any similar purpose if more
350 than one (1) application is made for a permit to construct a
351 single residence or if more than one (1) single residence is
352 constructed within a period of one (1) year.

353 (3) The provisions of this section shall not apply to
354 builders and remodelers who are not domiciled in the State of
355 Mississippi. Builders and remodelers who are not domiciled in the
356 State of Mississippi are not required to be licensed under the
357 provisions of this chapter if the state in which they are
358 domiciled requires licensing and the licensing state's
359 requirements are at least the equivalent of those requirements
360 provided in this chapter.

361 **SECTION 5.** Section 73-59-17, Mississippi Code of 1972, is
362 amended as follows:

363 73-59-17. (1) The building official, or other authority
364 charged with the duty of issuing building or similar permits, of
365 any municipality or county, shall refuse to issue a permit for any

366 undertaking which would classify the applicant as a residential
367 builder or remodeler under this chapter unless the applicant has
368 furnished evidence that he is either licensed as required by this
369 chapter or exempt from the requirements of this chapter. The
370 building official, or other authority charged with the duty of
371 issuing building or similar permits, shall also report to the
372 board the name and address of any person who, in his opinion, has
373 violated this chapter by accepting, or contracting to accomplish,
374 work which would classify the person as a residential builder or
375 remodeler under this chapter without a license or acknowledgement.

376 (2) Upon the issuance of a building permit to a residential
377 builder or remodeler by the building official, or other authority
378 charged with the duty of issuing building or similar permits, of
379 any municipality or county, the licensed builder or remodeler
380 shall exhibit a sign at the permitted job site which shall
381 include, prominently displayed, the license number of the builder
382 or remodeler and the state issuing the license.

383 **SECTION 6.** Section 31-3-15, Mississippi Code of 1972, is
384 amended as follows:

385 31-3-15. (1) No contract for public or private projects
386 shall be issued or awarded to any contractor who did not have a
387 current certificate of responsibility issued by the board at the
388 time of the submission of the bid, or a similar certificate issued
389 by a similar board of another state which recognizes certificates
390 issued by the board. Any contract issued or awarded in violation
391 of this section shall be null and void.

392 (2) Any contractor awarded a contract for public or private
393 projects shall exhibit a sign at the job site which shall include,
394 prominently displayed, his certificate of responsibility number
395 and the name of the state issuing the certificate.

396 **SECTION 7.** Section 71-3-5, Mississippi Code of 1972, is
397 amended as follows:

398 71-3-5. The following shall constitute employers subject to
399 the provisions of this chapter:

400 Every person, firm and private corporation, including any
401 public service corporation but excluding * * * all nonprofit
402 charitable, fraternal, cultural, or religious corporations or
403 associations, that have in service five (5) or more workmen or
404 operatives regularly in the same business or in or about the same
405 establishment under any contract of hire, express or implied;
406 however, all persons licensed by the State Board of Contractors
407 pursuant to Section 73-59-1 et seq. shall be employers subject to
408 the provisions of this chapter.

409 Any state agency, state institution, state department, or
410 subdivision thereof, including counties, municipalities and school
411 districts, or the singular thereof, not heretofore included under
412 the Workers' Compensation Law, may elect, by proper action of its
413 officers or department head, to come within its provisions and, in
414 such case, shall notify the commission of such action by filing
415 notice of compensation insurance with the commission. Payment for
416 compensation insurance policies so taken may be made from any
417 appropriation or funds available to such agency, department or
418 subdivision thereof, or from the general fund of any county or
419 municipality.

420 From and after July 1, 1990, all offices, departments,
421 agencies, bureaus, commissions, boards, institutions, hospitals,
422 colleges, universities, airport authorities or other
423 instrumentalities of the "state" as such term is defined in
424 Section 11-46-1, Mississippi Code of 1972, shall come under the
425 provisions of the Workers' Compensation Law. Payment for
426 compensation insurance policies so taken may be made from any
427 appropriation or funds available to such office, department,
428 agency, bureau, commission, board, institution, hospital, college,
429 university, airport authority or other instrumentality of the
430 state.

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

435 From and after October 1, 1993, all "political subdivisions,"
436 as such term is defined in Section 11-46-1, Mississippi Code of
437 1972, except counties and municipalities shall come under the
438 provisions of the Workers' Compensation Law. Payment for
439 compensation insurance policies so taken may be made from any
440 funds available to such political subdivisions.

441 From and after July 1, 1988, the "state" as such term is
442 defined in Section 11-46-1, Mississippi Code of 1972, may elect to
443 become a self-insurer under the provisions elsewhere set out by
444 law, by notifying the commission of its intent to become a
445 self-insurer. The cost of being such a self-insurer, as provided
446 otherwise by law, may be paid from funds available to the offices,
447 departments, agencies, bureaus, commissions, boards, institutions,
448 hospitals, colleges, universities, airport authorities or other
449 instrumentalities of the state.

450 The Mississippi Transportation Commission, the Department of
451 Public Safety and the Mississippi Industries for the Blind may
452 elect to become self-insurers under the provisions elsewhere set
453 out by law by notifying the commission of their intention of
454 becoming such a self-insurer. The cost of being such a
455 self-insurer, as provided elsewhere by law, may be paid from funds
456 available to the Mississippi Transportation Commission, the
457 Department of Public Safety or the Mississippi Industries for the
458 Blind.

459 The Mississippi State Senate and the Mississippi House of
460 Representatives may elect to become self-insurers under provisions
461 elsewhere set out by law by notifying the commission of their
462 intention of becoming such self-insurers. The cost of being such
463 self-insurers, as provided elsewhere by law, may be paid from

464 funds available to the Mississippi State Senate and the
465 Mississippi House of Representatives. The Mississippi State
466 Senate and the Mississippi House of Representatives are authorized
467 and empowered to provide workers' compensation benefits for
468 employees after January 1, 1970.

469 Any municipality of the State of Mississippi having forty
470 thousand (40,000) population or more desiring to do so may elect
471 to become a self-insurer under provisions elsewhere set out by law
472 by notifying the commission of its intention of becoming such an
473 insurer. The cost of being such a self-insurer, as provided
474 elsewhere by law, may be provided from any funds available to such
475 municipality.

476 The commission may, under such rules and regulations as it
477 prescribes, permit two (2) or more "political subdivisions," as
478 such term is defined in Section 11-46-1, Mississippi Code of 1972,
479 to pool their liabilities to participate in a group workers'
480 compensation self-insurance program. The governing authorities of
481 any political subdivision may authorize the organization and
482 operation of, or the participation in such a group self-insurance
483 program with other political subdivisions, provided such program
484 is approved by the commission. The cost of participating in a
485 group self-insurance program may be provided from any funds
486 available to a political subdivision.

487 Domestic servants, farmers and farm labor are not included
488 under the provisions of this chapter, but this exemption does not
489 apply to the processing of agricultural products when carried on
490 commercially. Any purchaser of timber products shall not be
491 liable for workers' compensation for any person who harvests and
492 delivers timber to such purchaser if such purchaser is not liable
493 for unemployment tax on the person harvesting and delivering the
494 timber as provided by United States Code Annotated, Title 26,
495 Section 3306, as amended. Provided, however, nothing in this
496 section shall be construed to exempt an employer who would

497 otherwise be covered under Section 71-3-5 from providing workers'
498 compensation coverage on those employees for whom he is liable for
499 unemployment tax.

500 Employers exempted by this section may assume, with respect
501 to any employee or classification of employees, the liability for
502 compensation imposed upon employers by this chapter with respect
503 to employees within the coverage of this chapter. The purchase
504 and acceptance by such employer of valid workers' compensation
505 insurance applicable to such employee or classification of
506 employees shall constitute, as to such employer, an assumption by
507 him of such liability under this chapter without any further act
508 on his part notwithstanding any other provisions of this chapter,
509 but only with respect to such employee or such classification of
510 employees as are within the coverage of the state fund. Such
511 assumption of liability shall take effect and continue from the
512 effective date of such workers' compensation insurance and as long
513 only as such coverage shall remain in force, in which case the
514 employer shall be subject with respect to such employee or
515 classification of employees to no other liability than the
516 compensation as provided for in this chapter.

517 An owner/operator, and his drivers, must provide a
518 certificate of insurance of workers' compensation coverage to the
519 motor carrier or proof of coverage under a self-insured plan or an
520 occupational accident policy. Any such occupational accident
521 policy shall provide a minimum of One Million Dollars
522 (\$1,000,000.00) of coverage. Should the owner/operator fail to
523 provide written proof of coverage to the motor carrier, then the
524 owner/operator, and his drivers, shall be covered under the motor
525 carrier's workers' compensation insurance program and the motor
526 carrier is authorized to collect payment of the premium from the
527 owner/operator. In the event that coverage is obtained by the
528 owner/operator under a workers' compensation policy or through a
529 self-insured or occupational accident policy, then the

530 owner/operator, and his drivers, shall not be entitled to benefits
531 under the motor carrier's workers' compensation insurance program
532 unless the owner/operator has elected in writing to be covered
533 under the carrier's workers' compensation program or policy or if
534 the owner/operator is covered by the carrier's plan because he
535 failed to obtain coverage. Coverage under the motor carrier's
536 workers' compensation insurance program does not terminate the
537 independent contractor status of the owner/operator under the
538 written contract or lease agreement. Nothing shall prohibit or
539 prevent an owner/operator from having or securing an occupational
540 accident policy in addition to any workers' compensation coverage
541 authorized by this section. Other than the amendments to this
542 section by Chapter 523, Laws of 2006, the provisions of this
543 section shall not be construed to have any effect on any other
544 provision of law, judicial decision or any applicable common law.

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

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

553 Any employer may elect, by proper and written action of its
554 own governing authority, to be exempt from the provisions of the
555 Workers' Compensation Law as to its sole proprietor, its partner
556 in a partnership or to its employee who is the owner of fifteen
557 percent (15%) or more of its stock in a corporation, if such sole
558 proprietor, partner or employee also voluntarily agrees thereto in
559 writing. Any sole proprietor, partner or employee owning fifteen
560 percent (15%) or more of the stock of his/her corporate employer
561 who becomes exempt from coverage under the Workers' Compensation
562 Law shall be excluded from the total number of workers or

563 operatives toward reaching the mandatory coverage threshold level
564 of five (5).

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