

By: Senator(s) Harkins, McMahan

To: Finance

SENATE BILL NO. 2874

1 AN ACT TO CREATE A NEW SECTION IN TITLE 73, CHAPTER 59,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT ALL RESIDENTIAL
3 CONTRACTORS, IN ORDER TO OBTAIN A BUILDING PERMIT IN THIS STATE,
4 POSSESS A PERMIT FROM THE DEPARTMENT OF REVENUE ISSUED UNDER
5 SECTION 27-65-27; TO DEFINE "RESIDENTIAL CONTRACTOR" FOR PURPOSES
6 OF THIS PERMIT REQUIREMENT; TO CREATE A NEW SECTION IN TITLE 31,
7 CHAPTER 3, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT ALL
8 COMMERCIAL CONTRACTORS, IN ORDER TO OBTAIN A BUILDING PERMIT IN
9 THIS STATE, POSSESS A PERMIT FROM THE DEPARTMENT OF REVENUE ISSUED
10 UNDER SECTION 27-65-27; TO DEFINE "COMMERCIAL CONTRACTOR" FOR
11 PURPOSES OF THIS PERMIT REQUIREMENT; TO AMEND SECTION 27-65-27,
12 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE ABOVE PROVISIONS;
13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** All residential contractors, in order to obtain a
16 building permit in the State of Mississippi, shall possess a
17 permit from the Department of Revenue issued under Section
18 27-65-27.

19 Notwithstanding the definitions of "residential builder" and
20 "remodeler" in Section 73-59-1, for purposes of this section, a
21 residential contractor is a person or entity contracting or
22 offering to contract with an owner or possessor of residential
23 real estate to construct a residence or appurtenant structure



thereon, or to repair or renovate any portion of a residence or appurtenant structure thereon, regardless of the cost of the project, and regardless of whether all or part of the cost is expected to be paid as a benefit of a property and casualty insurance policy. A residential contractor is not a person building, repairing or renovating his or her own personal residence.

SECTION 2. All commercial contractors, in order to obtain a building permit in the State of Mississippi, shall possess a permit from the Department of Revenue issued under Section 27-65-27.

Notwithstanding the definition of "contractor" in Section 31-3-1, for purposes of this section, a commercial contractor is a person or entity contracting or offering to contract with an owner or possessor of commercial real estate to construct a building thereon, or to repair or renovate any portion of a building thereon, regardless of the cost of the project, and regardless of whether all or part of the cost is expected to be paid as a benefit of a property and casualty insurance policy.

SECTION 3. Section 27-65-27, Mississippi Code of 1972, is amended as follows:

27-65-27. (1) Any person who engages, or who intends to engage, in any business or activity which will subject such person to a privilege tax imposed by this chapter, or which falls within the scope of Section 1 or Section 2 of this act, shall apply to



49 the commissioner for a permit to engage in and to conduct any
50 business or activity upon the condition that he shall pay the tax
51 accruing to the State of Mississippi under the provisions of this
52 chapter, and shall keep adequate records of such business or
53 activity as required by this chapter. By making an application
54 for a permit issued pursuant to this section, a person agrees,
55 regardless of his presence in this state, to:

56 (a) Be subject to the jurisdiction of this state for
57 purposes of taxation;

58 (b) Collect and remit all taxes levied under this
59 chapter on the type of business or activity to be conducted by the
60 applicant;

61 (c) Be subject to all the provisions of this chapter.

62 (2) Upon receipt of the permit, the applicant shall be duly
63 licensed under this chapter to engage in and conduct the business
64 or activity. The permit shall continue in force so long as the
65 person to whom it is issued shall continue in the same business at
66 the same location, unless revoked by the commissioner for cause.

67 (3) The commissioner shall require of every person desiring
68 to engage in business within this state who maintains no permanent
69 place of business within this state, of every person desiring to
70 engage in the business of making sales of mobile homes, a cash
71 bond or an approved surety bond in an amount sufficient to cover
72 twice the estimated tax liability for a period of three (3)
73 months. However, the bond shall in no case be less than One



74 Hundred Dollars (\$100.00) and the tax may be prepaid in lieu of
75 filing bond if the amount is approved by the commissioner. This
76 bond shall be filed with the commissioner prior to the issuance of
77 a permit to do business and before any such person may engage in
78 business within this state. Failure to comply with the provision
79 will subject such person to the penalties provided by this
80 chapter.

81 (4) The commissioner is authorized to deny the application
82 for a permit or revoke the permit of any person who has failed or
83 is failing to comply with any of the provisions of this chapter.
84 The commissioner may also deny the application for a permit or
85 revoke the permit of any person who has failed to satisfy all of
86 the finally determined tax liabilities owed by that person. If
87 the applicant or taxpayer is an entity, the commissioner may deny
88 the application for a permit or revoke the permit if any partner,
89 member, principal officer or director of such entity has failed to
90 satisfy all of the finally determined tax liabilities owed by that
91 partner, member, principal officer or director. Any denial or
92 revocation of an entity's permit based on a partner, member,
93 principal officer or director's finally determined tax liability
94 shall only be authorized if the partner, member, principal officer
95 or director owns ten percent (10%) or more of the entity and is or
96 will be exercising responsibility for fiscal management. In lieu
97 of denying or revoking an entity's permit, the commissioner may
98 accept an increased or additional bond from the entity to cover



99 the additional risk involved with having an individual with a
100 finally determined tax liability involved. As used in this
101 subsection, "finally determined tax liabilities" means any state
102 tax, fee, penalty and/or interest owed by a person to the
103 Department of Revenue where the assessment of the liability has
104 been made against that person as provided by law and such
105 assessment is not subject to any further timely filed
106 administrative or judicial review. Revocation of such permit, or
107 engaging or continuing in business after such permit is revoked or
108 engaging in business without a permit, shall subject the person to
109 all the penalties imposed by this chapter.

110 (5) Any person liable for the tax who fails to obtain a
111 permit from the commissioner, or who continues in business after
112 such permit has been revoked, or who fails to make his returns for
113 taxation as provided, or who fails to keep adequate records and
114 invoices provided by this chapter, or who fails or refuses to
115 permit inspection of such records, or who fails to pay any taxes
116 due hereunder, shall forfeit his rights to do business in this
117 state until he complies with all the provisions of this chapter
118 and until he enters into a bond, with sureties, to be approved by
119 the commissioner, in an amount not to exceed twice the amount of
120 all taxes estimated to become due under this chapter by the person
121 for any period of three (3) months, conditioned to comply with the
122 provisions of this chapter, and pay all taxes legally due by him.



(6) If any person is engaged in or continuing in this state in any business or activity without obtaining a permit, or after the permit has been revoked, or without filing a required bond, or without keeping and allowing inspection of all records required by this chapter, or without making a return, or returns, and without paying all taxes due by him hereunder, it shall be the duty of the commissioner to proceed by injunction to prevent the continuance of the business. Any temporary injunction enjoining the continuance of the business shall be granted without notice by a judge or chancellor now authorized to grant injunctions.

SECTION 4. (1) Section 1 of this act shall be codified in Title 73, Chapter 59, Mississippi Code of 1972.

(2) Section 2 of this act shall be codified in Title 31, Chapter 3, Mississippi Code of 1972.

SECTION 5. This act shall take effect and be in force from and after its passage.

