

By: Representatives Smith, Morgan, Rushing

To: County Affairs;
Municipalities

HOUSE BILL NO. 1165

1 AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE COUNTIES AND MUNICIPALITIES TO CHOOSE
3 NOT TO BE SUBJECT TO THE PROVISIONS OF LAW REQUIRING THAT COUNTIES
4 AND MUNICIPALITIES REQUIRE PERMITTING AS A CONDITION TO
5 CONSTRUCTION; TO BRING FORWARD SECTIONS 73-59-1 THROUGH 73-59-19,
6 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF LAW REGULATING
7 RESIDENTIAL BUILDERS AND REMODELERS; FOR THE PURPOSES OF POSSIBLE
8 AMENDMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 19-5-9, Mississippi Code of 1972, is
11 amended as follows:

12 19-5-9. (1) The construction codes published by a
13 nationally recognized code group which sets minimum standards and
14 has the proper provisions to maintain up-to-date amendments are
15 adopted as minimum standard guides for building, plumbing,
16 electrical, gas, sanitary, and other related codes in Mississippi.
17 Any county within the State of Mississippi, in the discretion of
18 the board of supervisors, may adopt building codes, plumbing
19 codes, electrical codes, sanitary codes, or other related codes
20 dealing with general public health, safety or welfare, or a
21 combination of the same, within but not exceeding the provisions



22 of the construction codes published by nationally recognized code
23 groups, by order or resolution in the manner prescribed in this
24 section, but those codes so adopted shall apply only to the
25 unincorporated areas of the county. However, those codes shall
26 not apply to the erection, maintenance, repair or extension of
27 farm buildings or farm structures, except as may be required under
28 the terms of the "Flood Disaster Protection Act of 1973," and
29 shall apply to a master planned community as defined in Section
30 19-5-10 only to the extent allowed in Section 19-5-10. The
31 provisions of this section shall not be construed to authorize the
32 adoption of any code which applies to the installation, repair or
33 maintenance of electric wires, pipelines, apparatus, equipment or
34 devices by or for a utility rendering public utility services,
35 required by it to be utilized in the rendition of its duly
36 authorized service to the public. Before any such code shall be
37 adopted, it shall be either printed or typewritten and shall be
38 presented in pamphlet form to the board of supervisors at a
39 regular meeting. The order or resolution adopting the code shall
40 not set out the code in full, but shall merely identify the same.
41 The vote or passage of the order or resolution shall be the same
42 as on any other order or resolution. After its adoption, the code
43 or codes shall be certified to by the president and clerk of the
44 board of supervisors and shall be filed as a permanent record in
45 the office of the clerk who shall not be required to transcribe



46 and record the same in the minute book as other orders and
47 resolutions.

48 (2) If the board of supervisors of any county adopts or has
49 adopted construction codes which do not have proper provisions to
50 maintain up-to-date amendments, specifications in such codes for
51 cements used in portland cement concrete shall be superseded by
52 nationally recognized specifications referenced in any code
53 adopted by the Mississippi Building Code Council.

54 (3) All provisions of this section shall apply to amendments
55 and revisions of the codes mentioned in this section. The
56 provisions of this section shall be in addition and supplemental
57 to any existing laws authorizing the adoption, amendment or
58 revision of county orders, resolutions or codes.

59 (4) Any code adopted under the provisions of this section
60 shall not be in operation or force until sixty (60) days have
61 elapsed from the adoption of same; however, any code adopted for
62 the immediate preservation of the public health, safety and
63 general welfare may be effective from and after its adoption by a
64 unanimous vote of the members of the board. Within five (5) days
65 after the adoption or passage of an order or resolution adopting
66 that code or codes the clerk of the board of supervisors shall
67 publish in a legal newspaper published in the county the full text
68 of the order or resolution adopting and approving the code, and
69 the publication shall be inserted at least three (3) times, and



70 shall be completed within thirty (30) days after the passage of
71 the order or resolution.

72 (5) Any person or persons objecting to the code or codes may
73 object in writing to the provisions of the code or codes within
74 sixty (60) days after the passage of the order or resolution
75 approving same, and if the board of supervisors adjudicates that
76 ten percent (10%) or more of the qualified electors residing in
77 the affected unincorporated areas of the county have objected in
78 writing to the code or codes, then in such event the code shall be
79 inoperative and not in effect unless adopted for the immediate
80 preservation of the public health, safety and general welfare
81 until approved by a special election called by the board of
82 supervisors as other special elections are called and conducted by
83 the election commissioners of the county as other special
84 elections are conducted, the special election to be participated
85 in by all the qualified electors of the county residing in the
86 unincorporated areas of the county. If the voters approve the
87 code or codes in the special election it shall be in force and in
88 operation thereafter until amended or modified as provided in this
89 section. If the majority of the qualified electors voting in the
90 special election vote against the code or codes, then, in such
91 event, the code or codes shall be void and of no force and effect,
92 and no other code or codes dealing with that subject shall be
93 adopted under the provisions of this section until at least two
94 (2) years thereafter.



95 (6) After any such code shall take effect the board of
96 supervisors is authorized to employ such directors and other
97 personnel as the board, in its discretion, deems necessary and to
98 expend general county funds or any other funds available to the
99 board to fulfill the purposes of this section.

100 (7) For the purpose of promoting health, safety, morals or
101 the general welfare of the community, the governing authority of
102 any municipality, and, with respect to the unincorporated part of
103 any county, the governing authority of any county, in its
104 discretion, is empowered to regulate the height, number of stories
105 and size of building and other structures, the percentage of lot
106 that may be occupied, the size of the yards, courts and other open
107 spaces, the density or population, and the location and use of
108 buildings, structures and land for trade, industry, residence or
109 other purposes, but no permits shall be required except as may be
110 required under the terms of the "Flood Disaster Protection Act of
111 1973" for the erection, maintenance, repair or extension of farm
112 buildings or farm structures outside the corporate limits of
113 municipalities.

114 (8) The authority granted in this section is cumulative and
115 supplemental to any other authority granted by law.

116 (9) Notwithstanding any provision of this section to the
117 contrary, any code adopted by a county before or after April 12,
118 2001, is subject to the provisions of Section 41-26-14(10).



119 (10) Notwithstanding any provision of this section to the
120 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,
121 Stone and Pearl River Counties shall enforce the requirements
122 imposed under Section 17-2-1 as provided in such section.

123 (11) Except as otherwise provided in this subsection,
124 regardless of whether a county adopts or has adopted codes, as set
125 forth in this section, each and every county in this state shall
126 require permitting as a condition to construction within the
127 unincorporated areas of the county, and such permits shall
128 contain, on their face, in conspicuous print, (a) the contractor's
129 material purchase certificate number to the extent furnished by
130 the Department of Revenue pursuant to Section 27-65-21(3) or the
131 contractor's Taxpayer Identification Number as furnished by the
132 Internal Revenue Service, and either a copy of such material
133 purchase certificate furnished by the Department of Revenue
134 pursuant to Section 27-65-21(3), or a copy of the contractor's
135 W-9, as the case may be, shall be required to be provided to the
136 county as part of the prime contractor's application for such
137 permit, prior to the issuance of such permit, and (b) the
138 contractor's license or certificate of responsibility number as
139 required by either Section 31-3-14 et seq., 51-5-1 et seq. or
140 73-59-1 et seq. The provisions of this subsection shall not apply
141 to any county that within ninety (90) days after the effective
142 date of this act, by resolution duly adopted by the board of



143 supervisors of the county and spread upon its minutes, chooses not
144 to be subject to the provisions of this subsection.

145 **SECTION 2.** Section 21-19-25, Mississippi Code of 1972, is
146 amended as follows:

147 21-19-25. (1) Any municipality within the State of
148 Mississippi may, in the discretion of its governing authority,
149 adopt building codes, plumbing codes, electrical codes, gas codes,
150 sanitary codes, or any other codes dealing with general public
151 health, safety or welfare, or a combination of the same, by
152 ordinance, in the manner prescribed in this section. Before any
153 such code shall be adopted, it shall be either printed or
154 typewritten, and it shall be presented in pamphlet form to the
155 governing authority of the municipality at a regular meeting. The
156 ordinance adopting the code shall not set out the code in full,
157 but shall merely identify the same. The vote on passage of the
158 ordinance shall be the same as on any other ordinances. After its
159 adoption, the code shall be certified to by the mayor and clerk of
160 the municipality, and shall be filed as a permanent record in the
161 office of the clerk, who shall not be required to transcribe and
162 record the same in the ordinance book as other ordinances. It
163 shall not be necessary that the ordinance adopting the code or the
164 code itself be published in full, but notice of the adoption of
165 the code shall be given by publication in some newspaper of the
166 municipality for one (1) time, or if there be no such newspaper,



167 by posting at three (3) or more public places within the corporate
168 limits, a notice in substantially the following form:

169 Notice is given that the city (or town or village) of
170 _____, on the (give date of ordinance adopting code), adopted
171 (state type of code and other information serving to identify the
172 same) code.

173 (2) If the governing authority of any municipality adopts or
174 has adopted construction codes which do not have proper provisions
175 to maintain up-to-date amendments, specifications in such codes
176 for cements used in portland cement concrete shall be superseded
177 by nationally recognized specifications referenced in any code
178 adopted by the Mississippi Building Code Council.

179 (3) All the provisions of this section shall apply to
180 amendments and revisions of the code mentioned in this section.
181 Any code adopted in accordance with this section shall not be in
182 force for one (1) month after its passage, unless the municipal
183 authorities in the ordinance authorize to the contrary. The
184 provisions of this section shall be in addition and supplemental
185 to any existing laws authorizing the adoption, amendment or
186 revision of municipal ordinances or codes.

187 (4) Notwithstanding any provision of this section to the
188 contrary, any code adopted by a municipality before or after April
189 12, 2001, is subject to the provisions of Section 41-26-14(10).

190 (5) Notwithstanding any provision of this section to the
191 contrary, the governing authorities of each municipality in



192 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall
193 enforce the requirements imposed under Section 17-2-1 as provided
194 in such section.

195 (6) Except as otherwise provided in this subsection,
196 regardless of whether the governing authority of any municipality
197 adopts or has adopted construction codes, as set forth in this
198 section, each and every governing authority of any municipality
199 shall require permitting as a condition to construction within the
200 municipality's jurisdiction, and any and all such permits shall
201 contain on their faces, in conspicuous print, (a) the contractor's
202 material purchase certificate number to the extent one is
203 furnished by the Department of Revenue pursuant to Section
204 27-65-21(3) or the contractor's Taxpayer Identification Number as
205 furnished by the Internal Revenue Service, and either a copy of
206 such material purchase certificate furnished by the Department of
207 Revenue pursuant to Section 27-65-21(3), or a copy of the
208 contractor's W-9, as the case may be, shall be required to be
209 provided to the governing authority of such municipality as part
210 of the contractor's application for such permit, prior to the
211 issuance of such permit, and (b) the contractor's license or
212 certificate of responsibility number as required by either Section
213 31-3-14 et seq., 51-5-1 et seq. or 73-59-1 et seq. The provisions
214 of this subsection shall not apply to any municipality that within
215 ninety (90) days after the effective date of this act, by
216 resolution duly adopted by the governing authority of the



217 municipality and spread upon its minutes, chooses not to be
218 subject to the provisions of this subsection.

219 (7) The provisions of this section shall apply to all
220 municipalities of this state, whether operating under the code
221 charter, a special charter, commission form, or other form of
222 government.

223 **SECTION 3.** Section 73-59-1, Mississippi Code of 1972, is
224 brought forward as follows:

225 73-59-1. For the purposes of this chapter, the following
226 words shall have the meanings ascribed herein:

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

229 (b) "Residential builder" means any corporation,
230 partnership or individual who constructs a building or structure
231 for sale for use by another as a residence or who, for a fixed
232 price, commission, fee, wage or other compensation, undertakes or
233 offers to undertake the construction, or superintending of the
234 construction, of any building or structure which is not more than
235 three (3) floors in height, to be used by another as a residence,
236 when the total cost of the undertaking exceeds Fifty Thousand
237 Dollars (\$50,000.00).

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



242 existing residence when the total cost of the improvements exceeds
243 Ten Thousand Dollars (\$10,000.00).

244 (d) "Residential construction" means any undertaking
245 described in paragraph (b) of this section performed by a
246 residential builder.

247 (e) "Residential improvement" means any undertaking
248 described in paragraph (c) of this section performed by a
249 remodeler.

250 (f) "Active licensee" means any builder or remodeler
251 licensed under this chapter and engaged in building and
252 remodeling.

253 (g) "Inactive licensee" means any builder or remodeler
254 licensed under this chapter and not engaged in building or
255 remodeling.

256 (h) "Construction manager" means any person or entity,
257 other than a residential builder, remodeler or owner, who has a
258 contract or agreement with the owner of the property for
259 residential construction or residential improvement, no matter if
260 that owner himself is the general contractor or a holder of a
261 building permit.

262 (i) "Residential solar contractor" means any person or
263 entity who installs, modifies, maintains, and repairs thermal and
264 photovoltaic solar energy systems.

265 **SECTION 4.** Section 73-59-3, Mississippi Code of 1972, is
266 brought forward as follows:



267 73-59-3. (1) Except as otherwise provided in Section
268 73-59-15 or Section 33-1-39, the following persons or entities
269 shall be licensed by the board annually as an active licensee or
270 inactive licensee, as appropriate:

271 (a) Persons or entities acting in the capacity as a
272 residential builder;

273 (b) Persons or entities acting in the capacity as a
274 residential remodeler;

275 (c) Persons or entities acting in the capacity as a
276 construction manager through a contract or an agreement with the
277 owner of the property being improved or constructed upon;

278 (d) Any subcontractor, of any tier, performing the
279 following work or within the following trade, on any residential
280 construction or residential improvement project, no matter the
281 dollar amount of the construction or improvements:

282 (i) Electrical;

283 (ii) Plumbing;

284 (iii) Mechanical; and/or

285 (iv) Heating, ventilation and/or air conditioning;

286 and

287 (e) Persons or entities acting in the capacity as a
288 residential solar contractor.

289 (2) As a prerequisite to obtaining a license or renewal
290 thereof, each of the persons or entities in subsection (1) of this
291 section shall submit to the board:



292 (a) Proof of workers' compensation insurance, if
293 required by applicable law; however, workers' compensation
294 insurance shall not be required for inactive licensees;

295 (b) A federal employment identification number or
296 social security number.

297 (3) The board may require liability insurance to be licensed
298 under this chapter and it shall be reflected on the certificate of
299 licensure; however, liability insurance shall not be required for
300 inactive licensees.

301 (4) The board shall issue or renew a license to persons or
302 entities required by subsection (1) of this section to be
303 licensed, upon payment to the board of the license fee. The
304 initial license fee shall be Fifty Dollars (\$50.00). The license
305 fee may thereafter be increased or decreased by the board and
306 cannot exceed One Hundred Dollars (\$100.00); however, the receipts
307 from fees collected by the board shall be no greater than the
308 amount required to pay all costs and expenses incurred by the
309 board in enforcing the provisions of this chapter. Twenty-five
310 Dollars (\$25.00) of the fee required by this section which is
311 assessed to residential builders licensed under the provisions of
312 Section 73-59-1 et seq. shall be deposited to the Construction
313 Education Fund created pursuant to Section 31-3-14 and shall be
314 distributed to the Mississippi Housing Institute. The remaining
315 fees collected under this chapter shall be deposited into the
316 special fund in the State Treasury known as the "State Board of



317 Contractors Fund" created pursuant to Section 31-3-17 and shall be
318 used for the administration and enforcement of this chapter and as
319 provided in Section 31-3-14. Amounts in such fund shall not lapse
320 into the State General Fund at the end of a fiscal year. Interest
321 accrued to such fund shall remain in the fund. All expenditures
322 from the special fund shall be by requisition to the Department of
323 Finance and Administration, signed by the executive director of
324 the board and countersigned by the chairman or vice chairman of
325 the board.

326 (5) Except as provided in Section 33-1-39, the license shall
327 expire on the last day of the twelfth month following its issuance
328 or renewal and shall become invalid unless renewed. The board may
329 notify by mail or email every licensee under this chapter of the
330 date of the expiration of his license and the amount of the fee
331 required for renewal of the license for one (1) year. To receive
332 notification by email, a licensee must notify the board of his
333 desire to receive notification by email and provide an email
334 address. Such notice may be mailed or emailed within thirty (30)
335 days prior to the expiration date of the license. The failure on
336 the part of any licensee to renew his license annually in such
337 twelfth month shall not deprive such licensee of the right of
338 renewal, provided that renewal is effected within one hundred
339 eighty (180) days after the expiration date of the license by
340 payment of the license fee plus a penalty of ten percent (10%) of
341 the license fee. A new license required to replace a revoked,



342 lost, mutilated or destroyed license may be issued, subject to the
343 rules of the board, for a charge of not more than Fifty Dollars
344 (\$50.00). An inactive licensee may become an active licensee upon
345 application meeting all the requirements of this section.

346 (6) Any person who is not a resident of the State of
347 Mississippi who desires to perform residential construction or
348 residential improvement shall be licensed to perform such
349 construction or improvement as provided by this chapter.

350 **SECTION 5.** Section 73-59-5, Mississippi Code of 1972, is
351 brought forward as follows:

352 73-59-5. Any corporation, partnership or individual seeking
353 to be licensed and examined under this chapter shall file with the
354 board a written application on such form as may be prescribed by
355 the board. Such application shall be accompanied by the payment
356 of the license fee. If the application sufficiently contains the
357 information required pursuant to this chapter, the applicant shall
358 be examined by the board at its next meeting using a uniform
359 written examination prescribed by the board. The board shall
360 administer an oral examination to applicants who are unable to
361 take the written examination. In addition, the board, in
362 examining such applicant, shall consider the following:

- 363 (a) Experience;
- 364 (b) Complaints; and
- 365 (c) Other pertinent information the board may require.



366 If, as a result of the examination, the board finds that the
367 applicant is qualified to engage in residential construction or
368 residential improvement in Mississippi, the applicant shall be
369 issued a license. Any applicant rejected by the board shall be
370 given the opportunity to be reexamined at the next regularly
371 scheduled examination date after a new application has been filed
372 and the license fee has again been paid.

373 The board shall make and preserve a record of each
374 examination of an applicant and the findings of the board
375 pertaining to such examination. A certified copy of such record,
376 omitting confidential test questions, shall be furnished to the
377 applicant so requesting such record upon the payment of a fee to
378 the board that reasonably reflects the cost of furnishing such
379 record to the applicant.

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

383 Each application for a license under this chapter shall
384 reveal any other states in which the applicant or any partner or
385 business associate of the applicant is licensed and whether the
386 applicant, partner or business associate has had a license revoked
387 or suspended in any other state. If the applicant fails to
388 provide this information, the board may deny or revoke the
389 applicant's license. If the applicant has had a license revoked



390 in another state, the board may deny the application for a license
391 in this state.

392 **SECTION 6.** Section 73-59-7, Mississippi Code of 1972, is
393 brought forward as follows:

394 73-59-7. In the event of a catastrophe or emergency which
395 arises out of a disaster, act of God, riot, civil commotion,
396 conflagration or other similar occurrence, the board, upon
397 application, may issue an emergency license to persons who are
398 residents or nonresidents of this state and who may or may not be
399 otherwise licensed residential builders or remodelers. Such
400 emergency license shall remain in force for a period not to exceed
401 ninety (90) days, unless extended for an additional period of
402 ninety (90) days by the board or until a contract to build or
403 remodel entered into during the period of the emergency license
404 has been completed.

405 Within five (5) days of any applicant beginning work as a
406 residential builder or remodeler under this section, the employer
407 or person contracting with such person shall certify to the board
408 such application without being deemed in violation of this
409 chapter, provided that the board, after notice and hearing, may
410 take disciplinary action or revoke the emergency license upon
411 grounds as otherwise contained in this chapter providing for such
412 disciplinary action or revocation of a residential builder's or
413 remodeler's license.



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

418 **SECTION 7.** Section 73-59-9, Mississippi Code of 1972, is
419 brought forward as follows:

420 73-59-9. (1) Any person or entity required to have a
421 license under Section 73-59-3(1) who undertakes or attempts to
422 undertake the business of residential construction or improvement
423 without having a valid license as required by this chapter, or who
424 knowingly presents to the board, or files with the board, false
425 information for the purpose of obtaining such license, shall be
426 deemed guilty of a misdemeanor and, upon conviction, shall be
427 fined not less than One Hundred Dollars (\$100.00) and not more
428 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not
429 less than thirty (30) nor more than sixty (60) days in the county
430 jail, or both.

431 (2) Any person or entity required to have a license under
432 Section 73-59-3(1) who does not have the license provided by this
433 chapter at the time construction, building or remodeling services
434 are rendered may not bring any action, either at law or in equity,
435 to enforce any contract for residential building or remodeling or
436 to enforce a sales contract, but instead shall be only permitted
437 to recover as damages actual documented expenses for labor,
438 materials or both, incurred as a result of the construction,



439 building or remodeling services rendered, but only for those
440 expenses which can be shown by clear and convincing evidence.

441 (3) The board shall have the authority to issue a citation
442 and may stop work of a residential builder or remodeler performing
443 work without having a valid license as required by this chapter.

444 **SECTION 8.** Section 73-59-11, Mississippi Code of 1972, is
445 brought forward as follows:

446 73-59-11. The board shall have the following additional
447 duties for the purposes of this chapter:

448 (a) To conduct thorough investigations of all
449 applicants seeking a license or licensees seeking renewal of their
450 licenses and of all complaints filed with the board concerning the
451 performance of a residential builder.

452 (b) To obtain information concerning the responsibility
453 of any applicant for a license or of a licensee. Such information
454 may be obtained by investigation, by hearings, or by any other
455 reasonable and lawful means. The board shall keep such
456 information appropriately filed.

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

460 (d) To prepare annually a complete roster that shows
461 all the names and places of business of the residential builders
462 and remodelers licensed by the board during the preceding year and



463 to forward a copy of the roster to each municipality and county in
464 the state and to file the roster with the Secretary of State.

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

467 (f) To adopt rules and regulations governing
468 disciplinary actions and the conduct of its hearings and to adopt
469 such other rules and regulations as the board finds necessary for
470 the proper administration of this chapter.

471 (g) The board may require continuing education for any
472 residential builder or remodeler licensed under this chapter;
473 provided, however, that any residential builder or remodeler who
474 has held a valid license under this chapter before July 1, 2015,
475 shall be exempt from any continuing education requirements. No
476 more than two (2) hours of continuing education shall be required
477 by the board per year.

478 The holder of a valid license shall disclose to the owner or
479 other person with whom the holder is contracting at the signing of
480 a contract or the initial agreement to perform work whether the
481 holder carries general liability insurance. The disclosure shall
482 be written, the structure and composition of which shall be
483 determined by the State Board of Contractors, and shall be placed
484 immediately before the space reserved in the contract for the
485 signature of the purchaser. The disclosure shall be boldfaced and
486 conspicuous type which is larger than the type of the remaining
487 text of the contract.



488 **SECTION 9.** Section 73-59-13, Mississippi Code of 1972, is
489 brought forward as follows:

490 73-59-13. (1) The board, upon satisfactory proof and in
491 accordance with the provisions of this chapter and the regulations
492 of the board pertaining thereto, is authorized to take the
493 disciplinary actions provided for in this section against any
494 person for any of the following reasons:

495 (a) Violating any of the provisions of this chapter or
496 the rules or regulations of the board pertaining to the work of
497 residential building or residential improvement;

498 (b) Fraud, deceit or misrepresentation in obtaining a
499 license;

500 (c) Gross negligence or misconduct;

501 (d) Engaging in work of residential building or
502 residential improvement on an expired license or while under
503 suspension or revocation of license unless the suspension or
504 revocation be abated in accordance with this chapter;

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

506 (f) Failing to maintain workers' compensation
507 insurance, if applicable; or

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

510 (2) Any person, including members of the board, may prefer
511 charges against any other person for committing any of the acts
512 set forth in subsection (1) of this section. Such charges shall



513 be sworn to, either upon actual knowledge or upon information and
514 belief, and shall be filed with the board.

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

521 The board may send a certified inspector to inspect the
522 building or structure which is the subject of a complaint or the
523 board may use a county certified building inspector from the
524 county where the building or structure is located to inspect the
525 building or structure which is the subject of a complaint. The
526 report of the inspector shall be used in the investigation and the
527 determination of the board. The provisions above shall only apply
528 to hearings.

529 No disciplinary action may be taken until the accused has
530 been furnished both a statement of the charges against him and
531 notice of the time and place of the hearing thereon, which shall
532 be personally served on such accused or mailed by certified mail,
533 return receipt requested, to the last known business or residence
534 address of the accused not less than thirty (30) days prior to the
535 date fixed for the hearing. The complaining party shall be
536 notified of the place and time of the hearing by mail to the last
537 known business or residence address of the complaining party not



538 less than thirty (30) days prior to the date fixed for the
539 hearing.

540 (3) At any hearing held hereunder, the board shall have the
541 power to subpoena witnesses and compel their attendance and may
542 also require the production of books, papers, documents or other
543 materials which may be pertinent to the proceedings. The board
544 may designate or secure a hearing officer to conduct the hearing.
545 All evidence shall be presented under oath, which may be
546 administered by any member of the board, and thereafter the
547 proceedings may, if necessary, be transcribed in full by a court
548 reporter and filed as part of the record in the case. Copies of
549 such transcriptions may be provided to any party to the
550 proceedings at a price reflecting actual cost, to be fixed by the
551 board.

552 All witnesses who are subpoenaed and appear in any
553 proceedings before the board shall receive the same fees and
554 mileage as allowed by law to witnesses in county, circuit and
555 chancery court pursuant to Section 25-7-47, Mississippi Code of
556 1972, and all such fees shall be taxed as part of the costs in the
557 case.

558 When, in any proceeding before the board, any witness shall
559 fail or refuse to attend upon subpoena issued by the board, shall
560 refuse to testify, or shall refuse to produce any books and papers
561 the production of which is called for by the subpoena, the
562 attendance of such witness and the giving of his testimony and the



563 production of the books and papers shall be enforced by any court
564 of competent jurisdiction of this state in the manner provided for
565 the enforcement of attendance and testimony of witnesses in civil
566 cases in the courts of this state.

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

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

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

580 (a) Issue a public or private reprimand;

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

582 (c) Order completion of an additional educational
583 requirement prescribed by the board not to exceed two (2) hours
584 per violation; or

585 (d) In lieu of or in addition to any reprimand,
586 suspension, revocation, or education requirement, assess and levy
587 upon the guilty party a monetary penalty of not less than One



588 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
589 (\$5,000.00) for each violation.

590 (6) A monetary penalty assessed and levied under this
591 section shall be paid to the board upon the expiration of the
592 period allowed for appeal of such penalties under this section or
593 may be paid sooner if the guilty party elects. Money collected by
594 the board under this section shall be deposited to the credit of
595 the State Board of Contractors Fund.

596 When payment of a monetary penalty assessed and levied by the
597 board in accordance with this section is not paid when due, the
598 board shall have the power to institute and maintain proceedings
599 in its name for enforcement of payment in the chancery court of
600 the county of residence of the delinquent party; however, if the
601 delinquent party is a nonresident of the State of Mississippi,
602 such proceedings shall be in the Chancery Court of the First
603 Judicial District of Hinds County, Mississippi.

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



611 (8) The board shall not assess any of the costs of
612 disciplinary proceedings conducted pursuant to this section
613 against the prevailing party.

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

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

621 (11) Within ten (10) days after any order, judgment or
622 action of the board, any person aggrieved thereby may appeal such
623 order, judgment or action either to the chancery court of the
624 county wherein the appellant resides or to the Chancery Court of
625 the First Judicial District of Hinds County, Mississippi, upon
626 giving bond with sufficient security in the amount of Two Hundred
627 Fifty Dollars (\$250.00), approved by the clerk of the chancery
628 court and conditioned to pay any costs which may be adjudged
629 against such person. In lieu of the bond, the appellant may post
630 Two Hundred Fifty Dollars (\$250.00) with the clerk of the chancery
631 court and conditioned to pay any costs which may be adjudged
632 against such person.

633 Notice of appeal shall be filed in the office of the clerk of
634 the chancery clerk, who shall issue a writ of certiorari directed
635 to the board commanding it within forty-five (45) days after



636 service thereof to certify to such court its entire record in the
637 matter in which the appeal has been taken. The appeal shall
638 thereupon be heard in due course by the court, and the court shall
639 review the record and shall affirm or reverse the judgment. If
640 the judgment is reversed, the chancery court or chancellor shall
641 render such order or judgment as the board ought to have rendered,
642 and certify the same to the board; and costs shall be awarded as
643 in other cases.

644 Appeals may be had to the Supreme Court of the State of
645 Mississippi as provided by law from any final action of the
646 chancery court. The board may employ counsel to defend all such
647 appeals, to be paid out of the funds in the State Board of
648 Contractors Fund.

649 On appeal, any order, judgment or action of the board
650 revoking a certificate of responsibility or residential license
651 shall remain in full force unless the chancery court or Supreme
652 Court reverses such order, judgment or action of the board.

653 The remedies provided under this chapter for any aggrieved
654 person shall not be exclusive, but shall be cumulative of and
655 supplemental to any other remedies which he may otherwise have in
656 law or in equity, whether by injunction or otherwise.

657 (12) Any political subdivision or agency of this state which
658 receives a complaint against a residential builder or remodeler
659 shall, in addition to exercising whatever authority such political



660 subdivision or agency has been given over such complaint, forward
661 the complaint to the board.

662 (13) In addition to the reasons specified in subsection (1)
663 of this section, the board shall be authorized to suspend the
664 license of any licensee for being out of compliance with an order
665 for support, as defined in Section 93-11-153. The procedure for
666 suspension of a license for being out of compliance with an order
667 for support, and the procedure for the reissuance or reinstatement
668 of a license suspended for that purpose, and the payment of any
669 fees for the reissuance or reinstatement of a license suspended
670 for that purpose, shall be governed by Section 93-11-157 or
671 93-11-163, as the case may be. Actions taken by the board in
672 suspending a license when required by Section 93-11-157 or
673 93-11-163 are not actions from which an appeal may be taken under
674 this section. Any appeal of a license suspension that is required
675 by Section 93-11-157 or 93-11-163 shall be taken in accordance
676 with the appeal procedure specified in Section 93-11-157 or
677 93-11-163, as the case may be, rather than the procedure specified
678 in this section. If there is any conflict between any provision
679 of Section 93-11-157 or 93-11-163 and any provision of this
680 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
681 case may be, shall control.

682 **SECTION 10.** Section 73-59-15, Mississippi Code of 1972, is
683 brought forward as follows:

684 73-59-15. (1) This chapter shall not apply to:



685 (a) Agricultural buildings, buildings used for
686 agricultural purposes, buildings constructed as a community
687 effort, or tenant houses;

688 (b) Any person who undertakes construction or
689 improvement on his own residence, or who acts as his own general
690 contractor in the performance of construction or improvement on
691 his own residence;

692 (c) Any person who undertakes residential construction
693 or improvement, or who acts as a general contractor in the
694 performance of residential construction or improvement, or who
695 acts under supervision of the owner-occupant with respect to
696 residential construction or improvement, when the owner of such
697 construction or improvement is related to such person by
698 consanguinity or direct affinity, and the property or improvement
699 will not be for sale, rent, public use or public assembly;

700 (d) The owners of property who supervise, superintend,
701 oversee, direct or in any manner assume charge of the
702 construction, alteration, repair, improvement, movement,
703 demolition, putting up, tearing down or maintenance of any
704 building, railroad, excavation, project, development, improvement,
705 plant facility or any other construction undertaking on such
706 property for use by such owner and which will not be for sale,
707 rent, public use or public assembly;



708 (e) Any contractor holding a valid license or
709 certificate of responsibility for general construction from the
710 board;

711 (f) Any nonresident contractor holding a valid license
712 or certificate of responsibility for building construction;

713 (g) Any person who constructs two (2) single residences
714 or less within a period of one (1) year in any county or
715 municipality which does not require a building permit or any local
716 certification for such construction, provided that the person is
717 not building the residences for sale, profit or remuneration.

718 (2) A person specified in subsection (1)(b) or (c) shall not
719 make more than one (1) application for a permit to construct a
720 single residence or shall not construct more than one (1) single
721 residence within a period of one (1) year. There shall be a
722 rebuttable presumption that such person intends to construct for
723 the purpose of sale, lease, rent or any similar purpose if more
724 than one (1) application is made for a permit to construct a
725 single residence or if more than one (1) single residence is
726 constructed within a period of one (1) year.

727 **SECTION 11.** Section 73-59-17, Mississippi Code of 1972, is
728 brought forward as follows:

729 73-59-17. The building official, or other authority charged
730 with the duty of issuing building or similar permits, of any
731 municipality or county, shall refuse to issue a permit for any
732 undertaking which would classify the applicant as a residential



733 builder or remodeler under this chapter unless the applicant has
734 furnished evidence that he is either licensed as required by this
735 chapter or exempt from the requirements of this chapter. The
736 building official, or other authority charged with the duty of
737 issuing building or similar permits, shall also report to the
738 board the name and address of any person who, in his opinion, has
739 violated this chapter by accepting, or contracting to accomplish,
740 work which would classify the person as a residential builder or
741 remodeler under this chapter without a license or acknowledgement.

742 **SECTION 12.** Section 73-59-18, Mississippi Code of 1972, is
743 brought forward as follows:

744 73-59-18. All residential contractors, in order to obtain a
745 building permit in the State of Mississippi, shall possess a
746 permit from the Department of Revenue issued under Section
747 27-65-27.

748 Notwithstanding the definitions of "residential builder" and
749 "remodeler" in Section 73-59-1, for purposes of this section, a
750 residential contractor is a person or entity contracting or
751 offering to contract with an owner or possessor of residential
752 real estate to construct a residence or appurtenant structure
753 thereon, or to repair or renovate any portion of a residence or
754 appurtenant structure thereon, regardless of the cost of the
755 project, and regardless of whether all or part of the cost is
756 expected to be paid as a benefit of a property and casualty
757 insurance policy. A residential contractor is not a person



758 building, repairing or renovating his or her own personal
759 residence.

760 This section shall not apply to a residential contractor
761 having a permanent place of business in the State of Mississippi
762 or licensed under Section 31-3-1 et seq.

763 **SECTION 13.** Section 73-59-19, Mississippi Code of 1972, is
764 brought forward as follows:

765 73-59-19. Any residential builder licensed pursuant to the
766 provisions of this chapter may, without being required to obtain
767 an additional license under any other law of this state,
768 construct, improve, repair, remodel or renovate any commercial
769 structure, provided the prescribed contract job does not exceed
770 seven thousand five hundred (7,500) square feet.

771 **SECTION 14.** This act shall take effect and be in force from
772 and after July 1, 2023.

