

By: Representative Smith

To: Business and Commerce;  
County Affairs

## HOUSE BILL NO. 1073

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.



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

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

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

(9) Notwithstanding any provision of this section to the contrary, any code adopted by a county before or after April 12, 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.



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.



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, 2025.

