

By: Representatives Guice, Smith (39th)

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 895

1 AN ACT TO AMEND SECTION 31-3-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE NEW COMMERCIAL CONSTRUCTION PROJECTS NOT EXCEEDING
3 SEVENTY-FIVE HUNDRED SQUARE FEET AND NOT MORE THAN TWO STORIES IN
4 HEIGHT AS AN EXEMPTION UNDER THE DEFINITION OF A CONTRACTOR; TO
5 AMEND SECTION 31-3-17, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
6 CONTRACTORS TO PAY AN APPLICATION FEE FOR A CERTIFICATE OF
7 RESPONSIBILITY; TO AMEND SECTION 73-59-5, MISSISSIPPI CODE OF
8 1972, TO PROVIDE THAT LICENSE FEES SHALL NOT BE RETURNED WHEN
9 LICENSES ARE DENIED; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 31-3-1, Mississippi Code of 1972, is
12 amended as follows:

13 31-3-1. The following words, as used in this chapter, shall
14 have the meanings specified below:

15 "Board": The State Board of Contractors created under this
16 chapter.

17 "Contractor": Any person contracting or undertaking as prime
18 contractor, subcontractor or sub-subcontractor of any tier to do
19 any erection, building, construction, reconstruction, repair,
20 maintenance or related work on any public or private project;
21 however, "contractor" shall not include any owner of a dwelling or
22 other structure to be constructed, altered, repaired or improved
23 and not for sale, lease, public use or assembly. It is further
24 provided that nothing herein shall apply to:

25 (a) Any contract or undertaking on a public project by
26 a prime contractor, subcontractor or sub-subcontractor of any tier
27 involving erection, building, construction, reconstruction,
28 repair, maintenance or related work where such contract,
29 subcontract or undertaking is less than Fifty Thousand Dollars
30 (\$50,000.00);

31 (b) Any contract or undertaking on a private project by
32 a prime contractor, subcontractor or sub-subcontractor of any tier
33 involving erection, building, construction, reconstruction,
34 repair, maintenance or related work where such contract,
35 subcontract or undertaking is less than One Hundred Thousand
36 Dollars (\$100,000.00);

37 (c) Highway construction, highway bridges, overpasses
38 and any other project incidental to the construction of highways
39 which are designated as federal aid projects and in which federal
40 funds are involved;

41 (d) A residential project to be occupied by fifty (50)
42 or fewer families and not more than three (3) stories in height;

43 (e) A residential subdivision where the contractor is
44 developing either single-family or multi-family lots;

45 (f) A new commercial construction project not exceeding
46 seventy-five hundred (7500) square feet and not more than two (2)
47 stories in height undertaken by an individual or entity licensed
48 under the provisions of Section 73-59-1 et seq.;

49 (g) Erection of a microwave tower built for the purpose
50 of telecommunication transmissions;

51 (h) Any contract or undertaking on a public project by
52 a prime contractor, subcontractor or sub-subcontractor of any tier
53 involving the construction, reconstruction, repair or maintenance
54 of fire protection systems where such contract, subcontract or
55 undertaking is less than Five Thousand Dollars (\$5,000.00);

56 (i) Any contract or undertaking on a private project by
57 a prime contractor, subcontractor or sub-subcontractor of any tier
58 involving the construction, reconstruction, repair or maintenance
59 of fire protection systems where such contract, subcontract or
60 undertaking is less than Ten Thousand Dollars (\$10,000.00); or

61 (j) Any contract or undertaking on a private or public
62 project by a prime contractor, subcontractor or sub-subcontractor
63 of any tier involving the construction, reconstruction, repair or

64 maintenance of technically specialized installations if performed
65 by a Mississippi contractor who has been in the business of
66 installing fire protection sprinkler systems on or before July 1,
67 2000.

68 "Certificate of responsibility": A certificate numbered and
69 held by a contractor issued by the board under the provisions of
70 this chapter after payment of the special privilege license tax
71 therefor levied under this chapter.

72 "Person": Any person, firm, corporation, joint venture or
73 partnership, association or other type of business entity.

74 "Private project": Any project for erection, building,
75 construction, reconstruction, repair, maintenance or related work
76 which is not funded in whole or in part with public funds.

77 "Public agency": Any board, commission, council or agency of
78 the State of Mississippi or any district, county or municipality
79 thereof, including school, hospital, airport and all other types
80 of governing agencies created by or operating under the laws of
81 this state.

82 "Public funds": Monies of public agencies, whether obtained
83 from taxation, donation or otherwise; or monies being expended by
84 public agencies for the purposes for which such public agencies
85 exist.

86 "Public project": Any project for erection, building,
87 construction, reconstruction, repair, maintenance or related work
88 which is funded in whole or in part with public funds.

89 **SECTION 2.** Section 31-3-17, Mississippi Code of 1972, is
90 amended as follows:

91 31-3-17. There is hereby levied, in addition to any taxes
92 otherwise provided for by law, a special privilege license tax of
93 One Hundred Dollars (\$100.00) on each contractor who applies for
94 certificate of responsibility * * * issued under this chapter; and
95 such tax shall be paid to the executive secretary of the board
96 upon making such application in this state. The board may levy an

97 additional special privilege license tax not to exceed Fifty
98 Dollars (\$50.00) for each additional classification for which a
99 contractor applies and is found to be qualified. The executive
100 secretary of the board shall promptly deposit all monies received
101 under this chapter in the State Treasury. Except for the civil
102 penalty provided in Section 31-3-21 which shall be deposited into
103 the State General Fund and the fee provided in Section 31-3-14,
104 all monies received under this chapter shall be kept in a special
105 fund in the State Treasury known as the "State Board of
106 Contractors Fund," and shall be used only for the purposes of this
107 chapter. Such monies shall not lapse at the end of each fiscal
108 year, but all monies in such State Board of Contractors Fund in
109 excess of the sum of fifty percent (50%) of the approved budget
110 for the fiscal year shall be paid over into the General Fund of
111 the State Treasury. All expenditures from the Board of
112 Contractors Fund shall be by requisition to the State Auditor,
113 signed by the executive secretary of the board and countersigned
114 by the chairman or vice chairman of the board, and the State
115 Treasurer shall issue his warrants thereon.

116 **SECTION 3.** Section 73-59-5, Mississippi Code of 1972, is
117 amended as follows:

118 73-59-5. Any corporation, partnership or individual seeking
119 to be licensed and examined under this chapter shall file with the
120 board at least thirty (30) days prior to the next meeting of the
121 board a written application on such form as may be prescribed by
122 the board. Such application shall be accompanied by the payment
123 of the license fee. * * * If the application sufficiently contains
124 the information required pursuant to this chapter, the applicant
125 shall be examined by the board at its next meeting using a uniform
126 written examination prescribed by the board. The board shall
127 administer an oral examination to applicants who are unable to
128 take the written examination. In addition, the board, in
129 examining such applicant, shall consider the following:

- 130 (a) Experience;
- 131 (b) Complaints; and
- 132 (c) Other pertinent information the board may require.

133 If, as a result of the examination, the board finds that the
134 applicant is qualified to engage in residential construction or
135 residential improvement in Mississippi, the applicant shall be
136 issued a license. * * * Any applicant rejected by the board shall
137 be given the opportunity to be reexamined at the next regularly
138 scheduled examination date after a new application has been filed
139 and the license fee has again been paid.

140 The board shall make and preserve a record of each
141 examination of an applicant and the findings of the board
142 pertaining to such examination. A certified copy of such record,
143 omitting confidential test questions, shall be furnished to the
144 applicant so requesting such record upon the payment of a fee to
145 the board that reasonably reflects the cost of furnishing such
146 record to the applicant.

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

150 Each application for a license under this chapter shall
151 reveal any other states in which the applicant or any partner or
152 business associate of the applicant is licensed and whether the
153 applicant, partner or business associate has had a license revoked
154 or suspended in any other state. If the applicant fails to
155 provide this information, the board may deny or revoke the
156 applicant's license. If the applicant has had a license revoked
157 in another state, the board may deny the application for a license
158 in this state.

159 **SECTION 4.** This act shall take effect and be in force from
160 and after July 1, 2004.