

By: Representatives Smith, Horne

To: County Affairs

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 331

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, by resolution duly adopted by the board of
142 supervisors of the county and spread upon its minutes, chooses not
143 to be subject to the provisions of this subsection.



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

146 21-19-25. (1) Any municipality within the State of
147 Mississippi may, in the discretion of its governing authority,
148 adopt building codes, plumbing codes, electrical codes, gas codes,
149 sanitary codes, or any other codes dealing with general public
150 health, safety or welfare, or a combination of the same, by
151 ordinance, in the manner prescribed in this section. Before any
152 such code shall be adopted, it shall be either printed or
153 typewritten, and it shall be presented in pamphlet form to the
154 governing authority of the municipality at a regular meeting. The
155 ordinance adopting the code shall not set out the code in full,
156 but shall merely identify the same. The vote on passage of the
157 ordinance shall be the same as on any other ordinances. After its
158 adoption, the code shall be certified to by the mayor and clerk of
159 the municipality, and shall be filed as a permanent record in the
160 office of the clerk, who shall not be required to transcribe and
161 record the same in the ordinance book as other ordinances. It
162 shall not be necessary that the ordinance adopting the code or the
163 code itself be published in full, but notice of the adoption of
164 the code shall be given by publication in some newspaper of the
165 municipality for one (1) time, or if there be no such newspaper,
166 by posting at three (3) or more public places within the corporate
167 limits, a notice in substantially the following form:



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

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175 for cements used in portland cement concrete shall be superseded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

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

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

189 (5) Notwithstanding any provision of this section to the
190 contrary, the governing authorities of each municipality in
191 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall



192 enforce the requirements imposed under Section 17-2-1 as provided
193 in such section.

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



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

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

223 73-59-1. For the purposes of this chapter, the following
224 words shall have the meanings ascribed herein:

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

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

236 (c) "Remodeler" means any corporation, partnership or
237 individual who, for a fixed price, commission, fee, wage or other
238 compensation, undertakes or offers to undertake the construction,
239 or superintending of the construction, of improvements to an
240 existing residence when the total cost of the improvements exceeds
241 Ten Thousand Dollars (\$10,000.00).



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

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

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

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

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

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

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

265 73-59-3. (1) Except as otherwise provided in Section
266 73-59-15 or Section 33-1-39, the following persons or entities



267 shall be licensed by the board annually as an active licensee or
268 inactive licensee, as appropriate:

269 (a) Persons or entities acting in the capacity as a
270 residential builder;

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

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

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

280 (i) Electrical;

281 (ii) Plumbing;

282 (iii) Mechanical; and/or

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

284 and

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

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



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

293 (b) A federal employment identification number or
294 social security number.

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

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



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

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



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

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

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

350 73-59-5. Any corporation, partnership or individual seeking
351 to be licensed and examined under this chapter shall file with the
352 board a written application on such form as may be prescribed by
353 the board. Such application shall be accompanied by the payment
354 of the license fee. If the application sufficiently contains the
355 information required pursuant to this chapter, the applicant shall
356 be examined by the board at its next meeting using a uniform
357 written examination prescribed by the board. The board shall
358 administer an oral examination to applicants who are unable to
359 take the written examination. In addition, the board, in
360 examining such applicant, shall consider the following:

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



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

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

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

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



388 in another state, the board may deny the application for a license
389 in this state.

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

392 73-59-7. In the event of a catastrophe or emergency which
393 arises out of a disaster, act of God, riot, civil commotion,
394 conflagration or other similar occurrence, the board, upon
395 application, may issue an emergency license to persons who are
396 residents or nonresidents of this state and who may or may not be
397 otherwise licensed residential builders or remodelers. Such
398 emergency license shall remain in force for a period not to exceed
399 ninety (90) days, unless extended for an additional period of
400 ninety (90) days by the board or until a contract to build or
401 remodel entered into during the period of the emergency license
402 has been completed.

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



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

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

418 73-59-9. (1) Any person or entity required to have a
419 license under Section 73-59-3(1) who undertakes or attempts to
420 undertake the business of residential construction or improvement
421 without having a valid license as required by this chapter, or who
422 knowingly presents to the board, or files with the board, false
423 information for the purpose of obtaining such license, shall be
424 deemed guilty of a misdemeanor and, upon conviction, shall be
425 fined not less than One Hundred Dollars (\$100.00) and not more
426 than Five Thousand Dollars (\$5,000.00) or be imprisoned for not
427 less than thirty (30) nor more than sixty (60) days in the county
428 jail, or both.

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



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

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

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

444 73-59-11. The board shall have the following additional
445 duties for the purposes of this chapter:

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

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

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

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



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

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

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

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

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



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

488 73-59-13. (1) The board, upon satisfactory proof and in
489 accordance with the provisions of this chapter and the regulations
490 of the board pertaining thereto, is authorized to take the
491 disciplinary actions provided for in this section against any
492 person for any of the following reasons:

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

496 (b) Fraud, deceit or misrepresentation in obtaining a
497 license;

498 (c) Gross negligence or misconduct;

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

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

504 (f) Failing to maintain workers' compensation
505 insurance, if applicable; or

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

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



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

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

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

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



536 less than thirty (30) days prior to the date fixed for the
537 hearing.

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

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

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



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

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

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

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

578 (a) Issue a public or private reprimand;

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

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

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



586 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
587 (\$5,000.00) for each violation.

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

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

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



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

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

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

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

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



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

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

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

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

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



658 subdivision or agency has been given over such complaint, forward
659 the complaint to the board.

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

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

682 73-59-15. (1) This chapter shall not apply to:



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

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

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

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



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

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

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

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

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

727 73-59-17. The building official, or other authority charged
728 with the duty of issuing building or similar permits, of any
729 municipality or county, shall refuse to issue a permit for any
730 undertaking which would classify the applicant as a residential



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

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

742 73-59-18. All residential contractors, in order to obtain a
743 building permit in the State of Mississippi, shall possess a
744 permit from the Department of Revenue issued under Section
745 27-65-27.

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



756 building, repairing or renovating his or her own personal
757 residence.

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

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

763 73-59-19. Any residential builder licensed pursuant to the
764 provisions of this chapter may, without being required to obtain
765 an additional license under any other law of this state,
766 construct, improve, repair, remodel or renovate any commercial
767 structure, provided the prescribed contract job does not exceed
768 seven thousand five hundred (7,500) square feet.

769 **SECTION 14.** This act shall take effect and be in force from
770 and after July 1, 2024.

