MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Representative Gipson

To: Judiciary B;
Appropriations

HOUSE BILL NO. 1021

AN ACT TO AMEND SECTION 73-59-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "ACTIVE LICENSEE" AND "INACTIVE LICENSEE" IN RELATION TO THE RESIDENTIAL BUILDERS AND REMODELERS ACT; TO AMEND SECTION 73-59-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF CONTRACTORS TO REQUIRE LIABILITY INSURANCE BEFORE OBTAINING A LICENSE AND TO REQUIRE PROOF OF CONTINUING EDUCATION BEFORE LICENSE RENEWAL; TO AMEND SECTION 73-59-15, MISSISSIPPI CODE OF 1972, TO REVISE THE EXEMPTIONS FROM THE RESIDENTIAL BUILDERS AND REMODELERS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-59-1, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

SECTION 2. Section 73-59-3, Mississippi Code of 1972, is amended as follows:

73-59-3. (1) Except as otherwise provided in Section 73-59-15 or Section 33-1-39, persons who perform or formerly performed residential construction or residential improvement shall be licensed by the board annually as an active licensee or inactive licensee, as appropriate, and, as a prerequisite to obtaining a license or renewal thereof, each shall submit to the board:

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

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

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

(3) The board shall issue or renew a license to an active or inactive residential builder or remodeler upon payment to the board of the license fee, and, for renewal of an active license, upon submission of proof that a licensee has fulfilled a program of continuing education deemed adequate in accordance with duly promulgated rules and regulations of the board. Such continuing requirements shall not apply to any person holding a license prior to July 1, 2012. The initial license fee shall be Fifty Dollars ($50.00). The license fee may thereafter be increased or decreased by the board and cannot exceed One Hundred Dollars ($100.00); however, the receipts from fees collected by the board shall be no greater than the amount required to pay all costs and expenses incurred by the board in enforcing the provisions of this chapter. Twenty-five Dollars ($25.00) of the fee required by this section which is assessed to residential builders licensed under the provisions of Section 73-59-1 et seq. shall be deposited to the Construction Education Fund created pursuant to Section 31-3-14 and shall be distributed to the Mississippi Housing Institute. The remaining fees collected under this chapter shall be deposited into the special fund in the State Treasury known as the "State Board of Contractors Fund" created pursuant to Section 31-3-17 and shall be used for the administration and enforcement of this chapter and as provided in Section 31-3-14. Amounts in such fund shall not lapse into the State General Fund at the end of a fiscal year. Interest accrued to such fund shall remain in the fund. All expenditures from the special fund shall be by requisition to the Department of Finance and Administration, signed by the executive secretary of the board and countersigned by the chairman or vice chairman of the board.

(4) Except as provided in Section 33-1-39, the license shall expire on the last day of the twelfth month following its issuance or renewal and shall become invalid unless renewed. The board may notify by mail or e-mail every licensee under this chapter of the

date of the expiration of his license and the amount of the fee required, along with continuing education requirements, for renewal of the license for one (1) year. To receive notification by e-mail, a licensee must notify the board of his desire to receive notification by e-mail and provide an e-mail address. Such notice may be mailed or e-mailed within thirty (30) days prior to the expiration date of the license. The failure on the part of any licensee to renew his license annually in such twelfth month shall not deprive such licensee of the right of renewal, provided that renewal is effected within one hundred twenty (120) days after the expiration date of the license by payment of the license fee plus a penalty of ten percent (10%) of the license fee. A new license required to replace a revoked, lost, mutilated or destroyed license may be issued, subject to the rules of the board, for a charge of not more than Twenty-five Dollars ($25.00). An inactive licensee may become an active licensee upon application meeting all the requirements of this section.

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

SECTION 3. Section 73-59-15, Mississippi Code of 1972, is amended as follows:

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

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

(b) Any person who undertakes construction or improvement on his own residence, or who acts as his own general contractor in the performance of construction or improvement on his own residence, or who acts under the supervision of the owner-occupant who is the general contractor;

(c) Any person who undertakes residential construction or improvement, or who acts as a general contractor in the performance of residential construction or improvement, or who acts under supervision of the owner-occupant with respect to residential construction or improvement, when the owner of such construction or improvement is related to such person by consanguinity or direct affinity;

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

(e) Any employee of a licensed residential builder, provided that the employee is not building a residence for sale;

(f) Any contractor holding a valid license or certificate of responsibility for general construction from the board;

(g) Any nonresident contractor holding a valid license or certificate of responsibility for general construction;

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

(2) A person specified in subsection (1)(b) or (c) shall not make more than two (2) applications for a permit to construct a single residence or shall not construct more than two (2) single residences within a period of one (1) year. There shall be a rebuttable presumption that such person intends to construct for the purpose of sale, lease, rent or any similar purpose if more

than two (2) applications are made for a permit to construct a single residence or if more than two (2) single residences are constructed within a period of one (1) year.

(3) The provisions of this section shall not apply to builders and remodelers who are not domiciled in the State of Mississippi. Builders and remodelers who are not domiciled in the State of Mississippi are not required to be licensed under the provisions of this chapter if the state in which they are domiciled requires licensing and the licensing state's requirements are at least the equivalent of those requirements provided in this chapter.

SECTION 4. This act shall take effect and be in force from and after July 1, 2012.