

Chapter No. 304
10/HR07/R1844CS
JP / EW

HOUSE BILL NO. 1555

Originated in House Don Richardson Clerk

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AN ACT TO AMEND SECTIONS 31-3-13 AND 73-59-11, MISSISSIPPI CODE OF 1972, TO REQUIRE DISCLOSURE IN CONTRACTS BY CONTRACTORS WHETHER THEY CARRY GENERAL LIABILITY INSURANCE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 31-3-13, Mississippi Code of 1972, is amended as follows:

31-3-13. The board shall have the following powers and responsibilities:

(a) To receive applications for certificates of responsibility, to investigate and examine applicants for same by holding hearings and securing information, to conduct examinations, and to issue certificates of responsibility to such contractors as the board finds to be responsible. One-fourth (1/4) of the certificates scheduled for renewal on the last day of December 1980, shall be reviewed by the board on the first Tuesday in January 1981. The remaining certificates shall be subject to renewal in the following manner: one-fourth (1/4) on the first Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in July 1981; and one-fourth (1/4) on the first Tuesday in October 1981. The board is authorized to extend the dates of expiration of certificates to coincide with the scheduled date of review of individual contractors. Except for the certificates extended from December 31, 1980, to the first Tuesday in January 1981, the board shall charge fees for the extension of certificates as follows:

(i) Twenty-five Dollars (\$25.00) if the date of renewal of the extended certificate is the first Tuesday in April 1981;

(ii) Fifty Dollars (\$50.00) if the date of renewal of the extended certificate is the first Tuesday in July 1981; and

(iii) Seventy-five Dollars (\$75.00) if the date of renewal of the extended certificate is the first Tuesday in October 1981.

The extended certificates renewed in compliance with this paragraph (a) and all original certificates and renewals thereof issued on or after July 1, 1980, shall expire one (1) year from the date of issuance. No certificate or any renewal thereof shall be issued until the application has been on file with the board for at least thirty (30) days. Application for renewal of certificates of responsibility, together with the payment of a special privilege license tax as provided under this chapter, shall serve to extend the current certificate until the board either renews the certificate or denies the application.

No certificate of responsibility or any renewal thereof shall be issued until the applicant furnishes to the board his Mississippi state sales tax number or Mississippi state use tax number and his state income tax identification numbers.

Additional fees may be required as provided in Section 31-3-14.

The board shall conduct an objective, standardized examination of an applicant for a certificate to ascertain the ability of the applicant to make practical application of his knowledge of the profession or business of construction in the category or categories for which he has applied for a certificate of responsibility. The cost of the test and the cost of administering the test shall be paid for by applicants for certificates of responsibility at the time applications are filed. The board shall investigate thoroughly the past record of all

applicants, which will include an effort toward ascertaining the qualifications of applicants in reading plans and specifications, estimating costs, construction ethics, and other similar matters. The board shall take all applicants under consideration after having examined him or them and go thoroughly into the records and examinations, prior to granting any certificate of responsibility. If the applicant is an individual, examination may be taken by his personal appearance for examination or by the appearance for examination of one or more of his responsible managing employees; and if a copartnership or corporation or any other combination or organization, by the examination of one or more of the responsible managing officers or members of the executive staff of the applicant's firm, according to its own designation.

(b) To conduct thorough investigations of all applicants seeking renewal of their licenses and of all complaints filed with the board concerning the performance of a contractor on a public or private project.

(c) To obtain information concerning the responsibility of any applicant for a certificate of responsibility or a holder of a certificate of responsibility under this chapter. Such information may be obtained by investigation, by hearings, or by any other reasonable and lawful means. The board shall keep such information appropriately filed and shall disseminate same to any interested person. The board shall have the power of subpoena.

(d) To maintain a list of contractors to whom certificates of responsibility are issued, refused, revoked or suspended, which list shall be available to any interested person. Such list shall indicate the kind or kinds of works or projects for which a certificate of responsibility was issued, refused, revoked or suspended.

(e) To revoke by order entered on its minutes a certificate of responsibility upon a finding by the board that a particular contractor is not responsible, and to suspend such

certificate of responsibility in particular cases pending investigation, upon cause to be stated in the board's order of suspension. No such revocation or suspension shall be ordered without a hearing conducted upon not less than ten (10) days' notice to such certificate holder by certified or registered mail, wherein the holder of the certificate of responsibility shall be given an opportunity to present all lawful evidence which he may offer.

(f) To adopt rules and regulations setting forth the requirements for certificates of responsibility, the revocation or suspension thereof, and all other matters concerning same; rules and regulations governing the conduct of the business of the board and its employees; and such other rules and regulations as the board finds necessary for the proper administration of this chapter, including those for the conduct of its hearings on the revocation or suspension of certificates of responsibility. Such rules and regulations shall not conflict with the provisions of this chapter.

(g) The board shall have the power and responsibility to classify the kind or kinds of works or projects that a contractor is qualified and entitled to perform under the certificate of responsibility issued to him. Such classification shall be specified in the certificate of responsibility.

The powers of the State Board of Contractors shall not extend to fixing a maximum limit in the bid amount of any contractor, or the bonding capacity, or a maximum amount of work which a contractor may have under contract at any time, except as stated in paragraph (a) of this section; and the Board of Contractors shall not have jurisdiction or the power or authority to determine the maximum bond a contractor may be capable of obtaining. The board, in determining the qualifications of any applicant for an original certificate of responsibility or any renewal thereof, shall, among other things, take into consideration the following:

(1) experience and ability, (2) character, (3) the manner of performance of previous contracts, (4) financial condition, (5) equipment, (6) personnel, (7) work completed, (8) work on hand, (9) ability to perform satisfactorily work under contract at the time of an application for a certificate of responsibility or a renewal thereof, (10) default in complying with provisions of this law, or any other law of the state, and (11) the results of objective, standardized examinations. A record shall be made and preserved by the board of each examination of an applicant and the findings of the board thereon, and a certified copy of the record and findings shall be furnished to any applicant desiring to appeal from any order or decision of the board.

(h) The board shall enter upon its minutes an order or decision upon each application filed with it, and it may state in such order or decision the reason or reasons for its order or decision.

Upon failure of the board to enter an order or decision upon its minutes as to any application within one hundred eighty (180) days from the date of filing such application, the applicant shall have the right of appeal as otherwise provided by this chapter.

The holder of any valid certificate of responsibility issued by the Board of Public Contractors prior to January 1, 1986, shall be automatically issued a certificate of responsibility by the State Board of Contractors for the same classification or classifications of work which the holder was entitled to perform under the State Board of Public Contractors Act.

The holder of a valid certificate of responsibility shall disclose to the owner or other person with whom the holder is contracting at the signing of a contract or the initial agreement to perform work whether the holder carries general liability insurance. The disclosure shall be written, the structure and composition of which shall be determined by the State Board of Contractors, and shall be placed immediately before the space

reserved in the contract for the signature of the purchaser. The disclosure shall be boldfaced and conspicuous type which is larger than the type of the remaining text of the contract.

SECTION 2. Section 73-59-11, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) To prepare annually a complete roster that shows all the names and places of business of the residential builders and remodelers licensed by the board during the preceding year and to forward a copy of the roster to each municipality and county in the state and to file the roster with the Secretary of State.

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

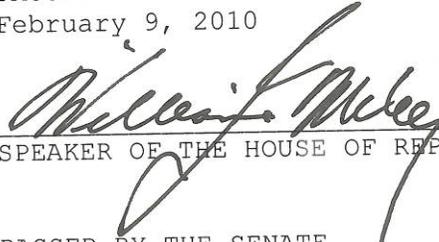
(f) To adopt rules and regulations governing disciplinary actions and the conduct of its hearings and to adopt such other rules and regulations as the board finds necessary for the proper administration of this chapter.

The holder of a valid license shall disclose to the owner or other person with whom the holder is contracting at the signing of a contract or the initial agreement to perform work whether the

holder carries general liability insurance. The disclosure shall be written, the structure and composition of which shall be determined by the State Board of Contractors, and shall be placed immediately before the space reserved in the contract for the signature of the purchaser. The disclosure shall be boldfaced and conspicuous type which is larger than the type of the remaining text of the contract.

SECTION 3. This act shall take effect and be in force from and after July 1, 2010.

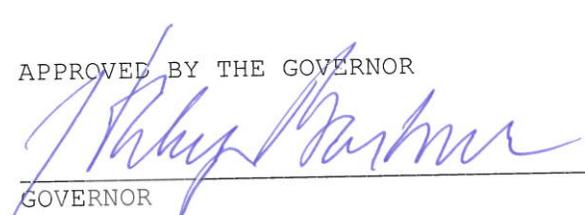
PASSED BY THE HOUSE OF REPRESENTATIVES
February 9, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 4, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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