

By: Representative Holland

To: Agriculture

## HOUSE BILL NO. 346

1 AN ACT TO REENACT SECTIONS 73-36-1 THROUGH 73-36-5 AND  
2 73-36-9 THROUGH 73-36-35, MISSISSIPPI CODE OF 1972, WHICH CREATE A  
3 BOARD OF REGISTRATION FOR FORESTERS AND PRESCRIBE ITS DUTIES AND  
4 POWERS; TO AMEND REENACTED SECTION 73-36-3, MISSISSIPPI CODE OF  
5 1972, TO REVISE THE TERM "PRACTICE OF FORESTRY"; TO AMEND  
6 REENACTED SECTION 73-36-5, MISSISSIPPI CODE OF 1972, TO REMOVE  
7 EXEMPTIONS FROM REGISTRATION WITH THE STATE BOARD OF REGISTRATION  
8 FOR FORESTERS; TO AMEND REENACTED SECTION 73-36-9, MISSISSIPPI  
9 CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE STATE BOARD OF  
10 REGISTRATION FOR FORESTERS; TO AMEND REENACTED SECTIONS 73-36-21,  
11 73-36-27, AND 73-36-31, MISSISSIPPI CODE OF 1972, TO CLARIFY  
12 TERMINOLOGY; TO AMEND REENACTED SECTION 73-36-23, MISSISSIPPI CODE  
13 OF 1972, TO INCREASE THE REGISTRATION FEE FOR A LICENSE AS A  
14 REGISTERED FORESTER; TO AMEND REENACTED SECTION 73-36-25,  
15 MISSISSIPPI CODE OF 1972, TO INCREASE THE EXAMINATION FEE FOR  
16 FORESTERS; TO AMEND REENACTED SECTION 73-36-29, MISSISSIPPI CODE  
17 OF 1972, TO REVISE THE TIME FOR RENEWAL OF THE LICENSE FOR  
18 FORESTERS AND TO INCREASE THE LICENSE RENEWAL FEE; TO AMEND  
19 REENACTED SECTION 73-36-35, MISSISSIPPI CODE OF 1972, TO REVISE  
20 PENALTIES FOR VIOLATIONS; TO AMEND SECTION 73-36-37, MISSISSIPPI  
21 CODE OF 1972, TO EXTEND THE REPEALER ON THE SECTIONS OF LAW  
22 CREATING A BOARD OF REGISTRATION FOR FORESTERS; TO REPEAL SECTION  
23 73-36-7, MISSISSIPPI CODE OF 1972, WHICH ALLOWS PERSONS TO  
24 PRACTICE FORESTRY IF SUCH ACTS ARE NOT PERFORMED OR OFFERED TO THE  
25 PUBLIC FOR COMPENSATION; AND FOR RELATED PURPOSES.

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

27 SECTION 1. Section 73-36-1, Mississippi Code of 1972, is  
28 reenacted as follows:

29 73-36-1. This chapter may be cited as the "Foresters  
30 Registration Law of 1977."

31 SECTION 2. Section 73-36-3, Mississippi Code of 1972, is  
32 reenacted and amended as follows:

33 73-36-3. As used in this chapter the following words and  
34 phrases shall include the meanings ascribed in this section unless  
35 the context clearly requires a different meaning:

36 (a) The term "person" means a natural person.

37 (b) The term "forester" means a person who, by reason  
38 of his knowledge of the natural sciences, mathematics, economics

39 and the principles of forestry, and by his demonstrated skills  
40 acquired through professional forestry education as set forth in  
41 Section 73-36-21, is qualified to engage in the practice of  
42 forestry and who also has been duly registered and holds a current  
43 valid license issued by the board.

44 (c) The term "registered forester" means a person who  
45 has been registered and licensed pursuant to this chapter.

46 (d) The term "practice of forestry" means any  
47 professional forestry service, including but not limited to  
48 consultation, investigation, evaluation, valuation, planning,  
49 marketing and selling of timber and other forest products,  
50 recommending silvicultural or harvesting practices or responsible  
51 supervision of any forestry activities in connection with any  
52 public or private lands wherein the public welfare and property  
53 are concerned or involved when such professional services require  
54 the application of forestry principles, knowledge and data.

55 (e) The term "board" means the State Board of  
56 Registration for Foresters.

57 SECTION 3. Section 73-36-5, Mississippi Code of 1972, is  
58 reenacted and amended as follows:

59 73-36-5. In order to benefit and protect the public and the  
60 forest resources, no person in either public or private capacity  
61 shall practice or offer to practice forestry, unless he shall  
62 first have submitted evidence that he is qualified so to practice  
63 and shall be registered by the board as hereinafter provided

64 \* \* \*. It shall be unlawful for any person to practice or offer  
65 to practice forestry in this state \* \* \* , as defined by this  
66 chapter, or to use in connection with his name or otherwise  
67 assume, use or advertise any title or description tending to  
68 convey the impression that he is a forester, unless such person  
69 has been duly registered \* \* \* .

70 This chapter shall not be construed to prevent or to affect:

71 (a) The conduct of business and support services  
72 including: tree planting, timber stand improvement, pesticide

73 application, pest control, site preparation, heavy equipment  
74 operation, prescribed fire application, timber buying, logging  
75 contracting, timber cruising and timber marketing.

76 (b) The application of forestry principles and  
77 procedures on any timberlands, woodlands or forest in which such  
78 person, firm, partnership or corporation owns such timberlands,  
79 woodlands or forest; or persons, firms, partnerships and  
80 corporations having the right to manage and administer forestlands  
81 in any legal manner.

82 (c) The work of an employee or a subordinate of any  
83 forester holding a license under this chapter; provided, that such  
84 work is done under the direction, supervision and responsibility  
85 of a person holding a license under this chapter.

86 (d) The practice of forestry by officers and employees  
87 of the United States Government on federally owned lands.

88 (e) The practice of forestry by officers and employees  
89 of the State of Mississippi on state-owned lands.

90 (f) Employees of the federal government, state  
91 government and educational institutions of the State of  
92 Mississippi who, in the exercise of their assigned duties, conduct  
93 forestry education programs.

94 (g) Persons who hold valid licenses prior to July 1,  
95 1989.

96 SECTION 4. Section 73-36-9, Mississippi Code of 1972, is  
97 reenacted and amended as follows:

98 73-36-9. There is hereby created the State Board of  
99 Registration for Foresters of the State of Mississippi for the  
100 purposes of safeguarding forests by regulating the practice of  
101 forestry and requiring that persons practicing or offering to  
102 practice forestry \* \* \* be registered. The board shall be  
103 composed of seven (7) members appointed by the Governor with the  
104 advice and consent of the Senate. One (1) member shall be  
105 appointed from each of the six (6) forestry commission districts  
106 as presently constituted and one (1) member shall be appointed at

107 large from any one (1) of the six (6) districts. The State  
108 Forester of Mississippi shall serve as an ex officio member of the  
109 board. Each of the members shall be a forester within the meaning  
110 of this chapter with at least three (3) years' experience in such  
111 field, and a resident and citizen of the State of Mississippi at  
112 the time of his appointment. Within thirty (30) days after the  
113 passage of this chapter, the Governor shall appoint the members,  
114 designating a term of office of one (1), two (2), three (3), four  
115 (4) or five (5) years for each of the members as appointed;  
116 provided, however, two (2) members shall serve a term of one (1)  
117 year and two (2) shall serve a term of four (4) years. As the  
118 terms of office of the members so appointed expire, successors  
119 shall be appointed for terms of five (5) years, and all members  
120 thereafter appointed shall likewise be appointed for terms of five  
121 (5) years. Any vacancy occurring in the membership of the board  
122 shall be filled by the Governor for the unexpired term of such  
123 membership. The Governor shall have the right, upon the approval  
124 of a majority of the board, to remove any members of the board for  
125 inefficiency, neglect of duty or dishonorable conduct.

126 SECTION 5. Section 73-36-11, Mississippi Code of 1972, is  
127 reenacted as follows:

128 73-36-11. The first seven (7) members appointed to the board  
129 shall issue to themselves the licenses as registered foresters  
130 upon the payment of the fees hereinafter provided by virtue of  
131 their appointment. After the first seven (7) members of said  
132 board have so qualified and been administered the oath of office,  
133 no person shall thereafter be appointed a member of this board  
134 unless such person at the time appointed has held a license as a  
135 registered forester for at least five (5) years.

136 SECTION 6. Section 73-36-13, Mississippi Code of 1972, is  
137 reenacted as follows:

138 73-36-13. Each year the board shall elect one (1) of its  
139 members as chairman, one (1) as vice chairman, and one (1) as  
140 secretary, and each shall perform the usual duties of such

141 offices. The board may adopt an official seal. Four (4) members  
142 of the board shall constitute a quorum, and a majority vote of  
143 those present at any meeting shall be necessary for the adoption  
144 of any order proposed or the disposition of other business coming  
145 before said board.

146 SECTION 7. Section 73-36-15, Mississippi Code of 1972, is  
147 reenacted as follows:

148 73-36-15. The board shall hold an organizational meeting  
149 within thirty (30) days after its members are appointed. The  
150 board shall hold at least two (2) regular meetings during each  
151 year and such other meetings as the chairman may find necessary.  
152 Notice of the time and place of the meetings of the board shall be  
153 mailed to each of the members of the board at least five (5) days  
154 before such meeting and, in addition, shall be posted as provided  
155 by the rules and regulations of the board at least five (5) days  
156 prior to said meeting.

157 SECTION 8. Section 73-36-17, Mississippi Code of 1972, is  
158 reenacted as follows:

159 73-36-17. Each member of the board shall receive per diem  
160 compensation as authorized by Section 25-3-69, and shall be  
161 reimbursed for such other expenses at the same rate and under the  
162 same conditions as provided for public officers and employees in  
163 Section 25-3-41. The board shall pay for all expenses incurred by  
164 the board, including such clerical help as shall be needed,  
165 provided that itemized statements of the foregoing are first  
166 approved by order of the board entered on its minutes. The board  
167 shall not expend in any fiscal year more monies than the amount of  
168 fees collected as hereinafter provided. All fees hereinafter  
169 provided shall be paid to the secretary of the board and said  
170 secretary shall deposit all monies received under this chapter in  
171 the State Treasury. All such monies shall be kept in a special  
172 fund in the State Treasury known as the "State Board of Registered  
173 Foresters Fund" and shall be used for the administration of this  
174 chapter. Said funds shall not lapse at the end of each year. All

175 expenditures from said fund shall be by requisition to the  
176 Executive Director of the Department of Finance and  
177 Administration, signed by the board chairman, and the State  
178 Treasurer shall issue his warrant thereon. The secretary of the  
179 board shall be under a surety bond in the penal sum of Five  
180 Thousand Dollars (\$5,000.00) with a surety company authorized to  
181 do business in this state, said bond to be conditioned for the  
182 faithful performance of his duties, and the fee therefor to be  
183 paid by the board.

184 SECTION 9. Section 73-36-19, Mississippi Code of 1972, is  
185 reenacted as follows:

186 73-36-19. The State Board of Registration for Foresters  
187 shall have the following powers and duties:

188 (a) To adopt rules and regulations governing the  
189 holding of its meetings, hearings, applications for licenses and  
190 any and all other duties provided by this chapter.

191 (b) To establish and promulgate standards of practice  
192 and a code of ethics for registered foresters and provide for the  
193 enforcement thereof.

194 (c) To establish minimum requirements for professional  
195 continuing education.

196 (d) To prepare a biennial roster showing the names,  
197 business addresses and such other information as the board may  
198 deem necessary of all registered foresters qualified according to  
199 the provisions of this chapter, and to provide copies of same to  
200 the registered foresters and the public. A copy of such roster  
201 shall be filed with the Secretary of State of the State of  
202 Mississippi on or before April 1 in the year such roster is  
203 prepared.

204 (e) To issue, suspend or revoke licenses as hereinafter  
205 provided and to take all actions necessary with reference thereto.

206 (f) At any hearing before the board, any member may  
207 administer oaths to witnesses appearing before the board. If any  
208 person shall refuse to testify or to produce any books, papers or

209 documents, the board may present its petition to any court of  
210 competent jurisdiction within the state setting forth the facts,  
211 and thereupon such court, in a proper case, may issue its subpoena  
212 to such person requiring his attendance before said court and  
213 there to testify or to produce such books, papers and documents as  
214 may be deemed necessary and pertinent thereto. Any person failing  
215 or refusing to obey the subpoena of said court may be proceeded  
216 against in the same manner as for refusal to obey any other  
217 subpoena of said court.

218 (g) The board shall keep a record of its proceedings  
219 and a register of all applications for registration, which  
220 register shall show the name, age and residence of each applicant,  
221 the date of the application and the board's action thereon and  
222 such other information as may be deemed necessary by the board.  
223 The board shall submit an annual report to the Governor of its  
224 transactions and a report to the regular session of the  
225 Legislature. The report to the Legislature shall include a  
226 financial statement of the transactions of the board during the  
227 year.

228 SECTION 10. Section 73-36-21, Mississippi Code of 1972, is  
229 reenacted and amended as follows:

230 73-36-21. Any person who shall have graduated with a  
231 bachelor's degree or higher degree from a university or college of  
232 forestry in a curriculum in forestry acceptable to the board and  
233 found by the board to be substantially equivalent to curricula in  
234 schools of forestry accredited by the Society of American  
235 Foresters shall be eligible for registration as a \* \* \* forester,  
236 and a license shall be issued upon application and payment of the  
237 required fee, provided further, that such person file such  
238 application for registration with the board and successfully  
239 passes a written and/or oral examination.

240 SECTION 11. Section 73-36-23, Mississippi Code of 1972, is  
241 reenacted and amended as follows:

242 73-36-23. Applications for registration shall be made on

243 forms prescribed and furnished by the board. The initial  
244 registration fee for a license as a registered forester shall be  
245 fixed by the board, but shall not exceed One Hundred Dollars  
246 (\$100.00). Should the board deny the issuance of a license to any  
247 applicant, the fee deposited shall be retained by the board as an  
248 application fee.

249 Each application or filing made under this section shall  
250 include the Social Security number(s) of the applicant in  
251 accordance with Section 93-11-64, Mississippi Code of 1972.

252 SECTION 12. Section 73-36-25, Mississippi Code of 1972, is  
253 reenacted and amended as follows:

254 73-36-25. When written examinations are required, they shall  
255 be held at such time and place as the board shall determine. The  
256 methods of procedure shall be prescribed by the board. A  
257 candidate failing an examination may apply for reexamination at  
258 the expiration of six (6) months and shall be entitled to one (1)  
259 reexamination without payment of an additional fee. Subsequent  
260 examinations may be granted upon payment of a fee to be determined  
261 by the board, but not in excess of One Hundred Dollars (\$100.00).

262 SECTION 13. Section 73-36-27, Mississippi Code of 1972, is  
263 reenacted and amended as follows:

264 73-36-27. The board shall issue a properly authenticated,  
265 serially numbered license upon payment of the registration fee as  
266 provided in this chapter to any applicant who in the opinion of  
267 the board has satisfactorily met all the requirements of this  
268 chapter and the rules and regulations of the board duly adopted  
269 under the provisions of this chapter. The issuance of a license  
270 by the board shall be evidence that the person named therein is  
271 entitled to all the rights and privileges of a \* \* \* forester  
272 while the \* \* \* license remains unrevoked or unexpired.

273 SECTION 14. Section 73-36-29, Mississippi Code of 1972, is  
274 reenacted and amended as follows:

275 73-36-29. All licenses issued under the provisions of this  
276 chapter shall expire on December 31 of odd-numbered years and



277 shall become invalid on that date unless renewed. It shall be the  
278 duty of the secretary of the board to mail a notice to every  
279 person registered under this chapter notifying such person of the  
280 date of the expiration of his license and the amount of fee  
281 required for its renewal for one (1) year, such notice to be  
282 mailed to the latest known address, according to the board's  
283 records, at least one (1) month in advance of the date of the  
284 expiration of the license. The board shall from time to time fix  
285 the fee for renewal of licenses, provided the fee shall not exceed  
286 the amount of Two Hundred Dollars (\$200.00) for two (2) years'  
287 renewal. Any registrant failing to renew his license and desiring  
288 to apply for a license shall be required to pay a fee as set by  
289 the board not to exceed twice the total amount the license fees  
290 would have been had his license been continued in effect, and also  
291 to comply with such other reasonable requirements as may be  
292 established by rules and regulations of the board \* \* \*.

293 SECTION 15. Section 73-36-31, Mississippi Code of 1972, is  
294 reenacted and amended as follows:

295 73-36-31. A person not a resident of and having no  
296 established place of business in Mississippi, or who has recently  
297 become a resident thereof, may use the title of registered  
298 forester in Mississippi, provided: (a) such person is legally  
299 licensed as a \* \* \* forester in his own state or county and has  
300 submitted evidence to the board that he is so licensed and that  
301 the requirements for registration therein are at least  
302 substantially equivalent to the requirements of this chapter; and  
303 (b) the state or county in which he is so licensed observes these  
304 same rules of reciprocity in regard to persons originally licensed  
305 under the provisions of this chapter. Each person seeking the  
306 privileges of reciprocity granted under this chapter shall submit  
307 his application therefor to the board and must receive a card or  
308 certificate from the board before exercising such privileges. The  
309 fee for obtaining such a license through reciprocity shall be the  
310 same as charged a Mississippi licensee.

311 SECTION 16. Section 73-36-33, Mississippi Code of 1972, is  
312 reenacted as follows:

313 73-36-33. (1) The board shall have the power, after notice  
314 and hearing, to suspend or revoke the license of any registrant  
315 who (a) is found guilty by the board of fraud or gross negligence  
316 in the practice of professional forestry; (b) fails to comply with  
317 board rules and regulations; (c) is found guilty by the board of  
318 unprofessional or unethical conduct; or (d) has had his license  
319 suspended or revoked for cause in another jurisdiction.

320 (2) Any person may prefer charges of fraud or gross  
321 negligence in connection with any forestry practice against any  
322 registrant. Such charges shall be in writing, shall be sworn to  
323 by the person making them, and shall be filed with the secretary  
324 of the board. All charges shall be heard by the board pursuant to  
325 its rules and regulations without undue delay.

326 (3) Any applicant whose license is suspended or revoked by  
327 the board may apply for a review of the proceedings with reference  
328 to such suspension or revocation by appealing to the Chancery  
329 Court of the First Judicial District of Hinds County, Mississippi,  
330 provided a notice of appeal is filed by such applicant with the  
331 clerk of said court within sixty (60) days from entry of an order  
332 by the board suspending or revoking his license, provided said  
333 applicant files with said notice of appeal a bond to be approved  
334 by the court assuring the prompt payment of any and all costs of  
335 said appeal, said amount to be fixed by the court. Upon the  
336 filing of such notice of appeal and posting of such bond, the  
337 clerk of the said court shall notify the secretary of the board  
338 thereof and the record of the proceedings involved shall be  
339 prepared by the secretary and forwarded to the court within a  
340 period of sixty (60) days from such notice by the clerk. The  
341 court shall thereupon review the proceedings on the record  
342 presented and may hear such additional testimony as to the court  
343 may appear material and dispose of the appeal in termtime or in  
344 vacation, and the court may sustain or dismiss the appeal, or

345 modify or vacate the order complained of, but in case the order is  
346 modified or vacated, the court may also, in its discretion, remand  
347 the matter to the board for such further proceedings not  
348 inconsistent with the court's order as, in the opinion of the  
349 court, justice may require. The decision of the chancery court  
350 may be appealed as other cases to the Supreme Court.

351 (4) The board is authorized to secure, by contract, the  
352 services of an investigator when deemed necessary by the board to  
353 properly consider any charge then before it. The board may, at  
354 its discretion, establish a program of routine inspections.

355 (5) In addition to the reasons specified in subsection (1)  
356 of this section, the board shall be authorized to suspend the  
357 license of any licensee for being out of compliance with an order  
358 for support, as defined in Section 2 of this act. The procedure  
359 for suspension of a license for being out of compliance with an  
360 order for support, and the procedure for the reissuance or  
361 reinstatement of a license suspended for that purpose, and the  
362 payment of any fees for the reissuance or reinstatement of a  
363 license suspended for that purpose, shall be governed by Section 4  
364 or 7 of this act, as the case may be. Actions taken by the board  
365 in suspending a license when required by Section 4 or 7 of this  
366 act are not actions from which an appeal may be taken under this  
367 section. Any appeal of a license suspension that is required by  
368 Section 4 or 7 of this act shall be taken in accordance with the  
369 appeal procedure specified in Section 4 or 7 of this act, as the  
370 case may be, rather than the procedure specified in this section.  
371 If there is any conflict between any provision of Section 4 or 7  
372 of this act and any provision of this chapter, the provisions of  
373 Section 4 or 7 of this act, as the case may be, shall control.

374 SECTION 17. Section 73-36-35, Mississippi Code of 1972, is  
375 reenacted and amended as follows:

376 73-36-35. Any person who shall practice or offer to practice  
377 the profession of forestry in this state \* \* \* without being  
378 registered in accordance with the provisions of this chapter, or

379 any person who shall use in connection with his name, or otherwise  
380 assume, use or advertise any title or description tending to  
381 convey the impression that he is a \* \* \* forester without being  
382 registered in accordance with the provisions of this chapter, or  
383 any person who shall present or attempt to use as his own the  
384 license of another, or any person who shall give any false or  
385 forged evidence of any kind to the board or any member thereof in  
386 obtaining a license, or any person who shall attempt to use an  
387 expired or revoked license, or any person, firm, partnership or  
388 corporation who shall violate any of the provisions of this  
389 chapter shall be subject to an administrative fine issued by the  
390 board not to exceed One Thousand Dollars (\$1,000.00) for each such  
391 violation but only after the person, firm, partnership or  
392 corporation has been given the opportunity to be heard by the  
393 board and has received written notice of the alleged violation at  
394 least ten (10) days before the hearing. Unless such fines are  
395 paid within ninety (90) days after the board's order, the order  
396 shall become a judgment and may be filed and executed upon.  
397 However, the person, firm, partnership or corporation, within  
398 thirty (30) days of the board's order being issued, may appeal the  
399 order to the Circuit Court of Hinds County to be reviewed on the  
400 record. Any person, firm, partnership or corporation that  
401 violates any of the provisions of this chapter and has not been  
402 issued an administrative fine by the board for the violation is  
403 guilty of a misdemeanor and, upon conviction, shall be fined not  
404 more than Ten Thousand Dollars (\$10,000.00) for each such  
405 violation. The board, or such person or persons as may be  
406 designated by the board to act in its stead, is empowered to  
407 prefer charges for any violations of this chapter in any court of  
408 competent jurisdiction. It shall be the duty of all duly  
409 constituted officers of the law of this state to enforce the  
410 provisions of this chapter and to prosecute any persons, firms,  
411 partnerships or corporations violating same. The Attorney General  
412 of the state or his designated assistant shall act as legal

413 advisor of the board and render such assistance as may be  
414 necessary in carrying out the provisions of this chapter.

415 SECTION 18. Section 73-36-37, Mississippi Code of 1972, is  
416 amended as follows:

417 73-36-37. Sections 73-36-1 through 73-36-5 and 73-36-9  
418 through 73-36-35, which create a board of registration for  
419 foresters and prescribe its duties and powers, shall stand  
420 repealed as of December 31, 2000.

421 SECTION 19. Section 73-36-7, Mississippi Code of 1972, which  
422 allows persons to practice forestry if such acts are not performed  
423 or offered to the public for compensation as the services of a  
424 registered forester, is repealed.

425 SECTION 20. This act shall take effect and be in force from  
426 and after July 1, 1999.