

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 913

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, recommending silvicultural or
50 harvesting practices or responsible supervision of any forestry
51 activities in connection with any public or private lands wherein
52 the public welfare and property are concerned or involved when
53 such professional services require the application of forestry
54 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 marking.

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 after December 31 of odd-numbered years and

277 shall become invalid after that date unless renewed. It shall be
278 the 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 two (2) years, 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 93-11-153. The procedure for
359 suspension of a license for being out of compliance with an order
360 for support, and the procedure for the reissuance or reinstatement
361 of a license suspended for that purpose, and the payment of any
362 fees for the reissuance or reinstatement of a license suspended
363 for that purpose, shall be governed by Section 93-11-157 or
364 93-11-163, as the case may be. Actions taken by the board in
365 suspending a license when required by Section 93-11-157 or
366 93-11-163, are not actions from which an appeal may be taken under
367 this section. Any appeal of a license suspension that is required
368 by Section 93-11-157 or 93-11-163 shall be taken in accordance
369 with the appeal procedure specified in Section 93-11-157 or
370 93-11-163, as the case may be, rather than the procedure specified
371 in this section. If there is any conflict between any provision
372 of Section 93-11-157 or 93-11-163 and any provision of this
373 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
374 case may be, shall control.

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

377 73-36-35. Any person who shall practice or offer to practice
378 the profession of forestry in this state * * * without being

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

413 of the state or his designated assistant shall act as legal
414 advisor of the board and render such assistance as may be
415 necessary in carrying out the provisions of this chapter.

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

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

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

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