

By: Ford

To: Agriculture

HOUSE BILL NO. 257

1 AN ACT TO REENACT SECTIONS 73-36-1 THROUGH 73-36-35,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE A BOARD OF REGISTRATION FOR
3 FORESTERS AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND SECTION
4 73-36-37, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER; AND
5 FOR RELATED PURPOSES.

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

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

9 73-36-1. This chapter may be cited as the "Foresters
10 Registration Law of 1977."

11 SECTION 2. Section 73-36-3, Mississippi Code of 1972, is
12 reenacted as follows:

13 73-36-3. As used in this chapter the following words and
14 phrases shall include the meanings ascribed in this section unless
15 the context clearly requires a different meaning:

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

17 (b) The term "forester" means a person who, by reason
18 of his knowledge of the natural sciences, mathematics, economics
19 and the principles of forestry, and by his demonstrated skills
20 acquired through professional forestry education as set forth in
21 Section 73-36-21, is qualified to engage in the practice of
22 forestry and who also has been duly registered and holds a current

23 valid license issued by the board.

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

26 (d) The term "practice of forestry" means any
27 professional forestry service, including but not limited to
28 consultation, investigation, evaluation, valuation, planning,
29 recommending silvicultural or harvesting practices or responsible
30 supervision of any forestry activities in connection with any
31 public or private lands wherein the public welfare and property
32 are concerned or involved when such professional services require
33 the application of forestry principles, knowledge and data.

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

36 SECTION 3. Section 73-36-5, Mississippi Code of 1972, is
37 reenacted as follows:

38 73-36-5. In order to benefit and protect the public and the
39 forest resources, no person in either public or private capacity
40 shall practice or offer to practice forestry, unless he shall
41 first have submitted evidence that he is qualified so to practice
42 and shall be registered by the board as hereinafter provided or
43 unless he is specifically exempted from registration under the
44 provisions of this chapter. It shall be unlawful for any person
45 to practice or offer to practice in this state forestry, as
46 defined by this chapter, or to use in connection with his name or
47 otherwise assume, use or advertise any title or description
48 tending to convey the impression that he is a forester, unless
49 such person has been duly registered or is exempt from
50 registration under the provisions of this chapter.

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

52 (a) The practice of any other legally recognized
53 profession or trade to include vendors of tree planting, timber

54 stand improvement, pesticide application, pest control, site
55 preparation, heavy equipment operators, prescribed fire
56 applicators, timber buyers, logging contractors, timber cruisers
57 and timber markers.

58 (b) The application of forestry principles and
59 procedures on any timberlands, woodlands or forest in which such
60 person, firm, partnership or corporation owns such timberlands,
61 woodlands or forest; or persons, firms, partnerships and
62 corporations having the right to manage and administer forestlands
63 in any legal manner.

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

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

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

72 (f) Employees of the federal government, state
73 government and educational institutions of the State of
74 Mississippi who, in the exercise of their assigned duties, conduct
75 forestry education programs.

76 (g) Persons who hold valid licenses prior to July 1,
77 1989.

78 SECTION 4. Section 73-36-7, Mississippi Code of 1972, is
79 reenacted as follows:

80 73-36-7. Nothing contained in this chapter shall be
81 construed as preventing any person, firm, partnership or

82 corporation from practicing forestry or managing woodlands,
83 forests or trees on any land, provided such acts are not performed
84 or offered to the public for compensation as the services of a
85 registered forester.

86 SECTION 5. Section 73-36-9, Mississippi Code of 1972, is
87 reenacted as follows:

88 73-36-9. There is hereby created the State Board of
89 Registration for Foresters of the State of Mississippi for the
90 purposes of safeguarding forests by regulating the practice of
91 forestry and requiring that persons practicing or offering to
92 practice forestry as a registered forester be registered. The
93 board shall be composed of seven (7) members appointed by the
94 Governor with the advice and consent of the Senate. One (1)
95 member shall be appointed from each of the seven (7) forestry
96 commission districts as presently constituted. The State Forester
97 of Mississippi shall serve as an ex officio member of the board.
98 Each of said members shall be a forester within the meaning of
99 this chapter with at least three (3) years' experience in such
100 field, and a resident and citizen of the State of Mississippi at
101 the time of his appointment. Within thirty (30) days after the
102 passage of this chapter, the Governor shall appoint said members,
103 designating a term of office of one (1), two (2), three (3), four
104 (4) or five (5) years for each of said members as appointed;
105 provided, however, two (2) members shall serve a term of one (1)
106 year and two (2) shall serve a term of four (4) years. As the
107 terms of office of the members so appointed expire, successors
108 shall be appointed for terms of five (5) years, and all members
109 thereafter appointed shall likewise be appointed for terms of five

110 (5) years. Any vacancy occurring in the membership of the board
111 shall be filled by the Governor for the unexpired term of such
112 membership. The Governor shall have the right, upon the approval
113 of a majority of the board, to remove any members of said board
114 for inefficiency, neglect of duty or dishonorable conduct.

115 SECTION 6. Section 73-36-11, Mississippi Code of 1972, is
116 reenacted as follows:

117 73-36-11. The first seven (7) members appointed to the board
118 shall issue to themselves the licenses as registered foresters
119 upon the payment of the fees hereinafter provided by virtue of
120 their appointment. After the first seven (7) members of said
121 board have so qualified and been administered the oath of office,
122 no person shall thereafter be appointed a member of this board
123 unless such person at the time appointed has held a license as a
124 registered forester for at least five (5) years.

125 SECTION 7. Section 73-36-13, Mississippi Code of 1972, is
126 reenacted as follows:

127 73-36-13. Each year the board shall elect one (1) of its
128 members as chairman, one (1) as vice-chairman, and one (1) as
129 secretary, and each shall perform the usual duties of such
130 offices. The board may adopt an official seal. Four (4) members
131 of the board shall constitute a quorum, and a majority vote of
132 those present at any meeting shall be necessary for the adoption
133 of any order proposed or the disposition of other business coming
134 before said board.

135 SECTION 8. Section 73-36-15, Mississippi Code of 1972, is
136 reenacted as follows:

137 73-36-15. The board shall hold an organizational meeting

138 within thirty (30) days after its members are appointed. The
139 board shall hold at least two (2) regular meetings during each
140 year and such other meetings as the chairman may find necessary.
141 Notice of the time and place of the meetings of the board shall be
142 mailed to each of the members of the board at least five (5) days
143 before such meeting and, in addition, shall be posted as provided
144 by the rules and regulations of the board at least five (5) days
145 prior to said meeting.

146 SECTION 9. Section 73-36-17, Mississippi Code of 1972, is
147 reenacted as follows:

148 73-36-17. Each member of the board shall receive per diem
149 compensation as authorized by Section 25-3-69, and shall be
150 reimbursed for such other expenses at the same rate and under the
151 same conditions as provided for public officers and employees in
152 Section 25-3-41. The board shall pay for all expenses incurred by
153 the board, including such clerical help as shall be needed,
154 provided that itemized statements of the foregoing are first
155 approved by order of the board entered on its minutes. The board
156 shall not expend in any fiscal year more monies than the amount of
157 fees collected as hereinafter provided. All fees hereinafter
158 provided shall be paid to the secretary of the board and said
159 secretary shall deposit all monies received under this chapter in
160 the State Treasury. All such monies shall be kept in a special
161 fund in the State Treasury known as the "State Board of Registered
162 Foresters Fund" and shall be used for the administration of this
163 chapter. Said funds shall not lapse at the end of each year. All
164 expenditures from said fund shall be by requisition to the
165 Executive Director of the Department of Finance and

166 Administration, signed by the board chairman, and the State
167 Treasurer shall issue his warrant thereon. The secretary of the
168 board shall be under a surety bond in the penal sum of Five
169 Thousand Dollars (\$5,000.00) with a surety company authorized to
170 do business in this state, said bond to be conditioned for the
171 faithful performance of his duties, and the fee therefor to be
172 paid by the board.

173 SECTION 10. Section 73-36-19, Mississippi Code of 1972, is
174 reenacted as follows:

175 73-36-19. The State Board of Registration for Foresters
176 shall have the following powers and duties:

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

180 (b) To establish and promulgate standards of practice
181 and a code of ethics for registered foresters and provide for the
182 enforcement thereof.

183 (c) To establish minimum requirements for professional
184 continuing education.

185 (d) To prepare a biennial roster showing the names,
186 business addresses and such other information as the board may
187 deem necessary of all registered foresters qualified according to
188 the provisions of this chapter, and to provide copies of same to
189 the registered foresters and the public. A copy of such roster
190 shall be filed with the Secretary of State of the State of
191 Mississippi on or before April 1 in the year such roster is
192 prepared.

193 (e) To issue, suspend or revoke licenses as hereinafter

194 provided and to take all actions necessary with reference thereto.

195 (f) At any hearing before the board, any member may
196 administer oaths to witnesses appearing before the board. If any
197 person shall refuse to testify or to produce any books, papers or
198 documents, the board may present its petition to any court of
199 competent jurisdiction within the state setting forth the facts,
200 and thereupon such court, in a proper case, may issue its subpoena
201 to such person requiring his attendance before said court and
202 there to testify or to produce such books, papers and documents as
203 may be deemed necessary and pertinent thereto. Any person failing
204 or refusing to obey the subpoena of said court may be proceeded
205 against in the same manner as for refusal to obey any other
206 subpoena of said court.

207 (g) The board shall keep a record of its proceedings
208 and a register of all applications for registration, which
209 register shall show the name, age and residence of each applicant,
210 the date of the application and the board's action thereon and
211 such other information as may be deemed necessary by the board.
212 The board shall submit an annual report to the Governor of its
213 transactions and a report to the regular session of the
214 Legislature. The report to the Legislature shall include a
215 financial statement of the transactions of the board during the
216 year.

217 SECTION 11. Section 73-36-21, Mississippi Code of 1972, is
218 reenacted as follows:

219 73-36-21. Any person who shall have graduated with a
220 bachelor's degree or higher degree from a university or college of
221 forestry in a curriculum in forestry acceptable to the board and

222 found by the board to be substantially equivalent to curricula in
223 schools of forestry accredited by the Society of American
224 Foresters shall be eligible for registration as a registered
225 forester, and a license shall be issued upon application and
226 payment of the required fee, provided further, that such person
227 file such application for registration with the board and
228 successfully passes a written and/or oral examination.

229 SECTION 12. Section 73-36-23, Mississippi Code of 1972, is
230 reenacted as follows:

231 73-36-23. Applications for registration shall be made on
232 forms prescribed and furnished by the board. The initial
233 registration fee for a license as a registered forester shall be
234 fixed by the board, but shall not exceed Fifty Dollars (\$50.00).
235 Should the board deny the issuance of a license to any applicant,
236 the fee deposited shall be retained by the board as an application
237 fee.

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

241 SECTION 13. Section 73-36-25, Mississippi Code of 1972, is
242 reenacted as follows:

243 73-36-25. When written examinations are required, they shall
244 be held at such time and place as the board shall determine. The
245 methods of procedure shall be prescribed by the board. A
246 candidate failing an examination may apply for reexamination at
247 the expiration of six (6) months and shall be entitled to one (1)
248 reexamination without payment of an additional fee. Subsequent
249 examinations may be granted upon payment of a fee to be determined

250 by the board, but not in excess of Fifty Dollars (\$50.00).

251 SECTION 14. Section 73-36-27, Mississippi Code of 1972, is
252 reenacted as follows:

253 73-36-27. The board shall issue a properly authenticated,
254 serially numbered license upon payment of the registration fee as
255 provided in this chapter to any applicant who in the opinion of
256 the board has satisfactorily met all the requirements of this
257 chapter and the rules and regulations of the board duly adopted
258 under the provisions of this chapter. The issuance of a license
259 by the board shall be evidence that the person named therein is
260 entitled to all the rights and privileges of a registered forester
261 while the said license remains unrevoked or unexpired.

262 SECTION 15. Section 73-36-29, Mississippi Code of 1972, is
263 reenacted as follows:

264 73-36-29. All licenses issued under the provisions of this
265 chapter shall expire on December 31 following their issuance or
266 renewal and shall become invalid on that date unless renewed. It
267 shall be the duty of the secretary of the board to mail a notice
268 to every person registered under this chapter notifying such
269 person of the date of the expiration of his license and the amount
270 of fee required for its renewal for one (1) year, such notice to
271 be mailed to the latest known address, according to the board's
272 records, at least one (1) month in advance of the date of the
273 expiration of said license. The board shall from time to time fix
274 the fee for renewal of licenses, provided said fee shall not
275 exceed the amount of Fifty Dollars (\$50.00) for one (1) year's
276 renewal. Any registrant failing to renew his license annually
277 desiring to apply for a license shall be required to pay a fee

278 equal to the total amount said license fees would have been had
279 his license been continued in effect, and also to comply with such
280 other reasonable requirements as may be established by rules and
281 regulations of the board, provided such requirement shall not be
282 greater than the requirements for an applicant who has never been
283 licensed.

284 SECTION 16. Section 73-36-31, Mississippi Code of 1972, is
285 reenacted as follows:

286 73-36-31. A person not a resident of and having no
287 established place of business in Mississippi, or who has recently
288 become a resident thereof, may use the title of registered
289 forester in Mississippi, provided: (a) such person is legally
290 licensed as a registered forester in his own state or county and
291 has submitted evidence to the board that he is so licensed and
292 that the requirements for registration therein are at least
293 substantially equivalent to the requirements of this chapter; and
294 (b) the state or county in which he is so licensed observes these
295 same rules of reciprocity in regard to persons originally licensed
296 under the provisions of this chapter. Each person seeking the
297 privileges of reciprocity granted under this chapter shall submit
298 his application therefor to the board and must receive a card or
299 certificate from the board before exercising such privileges. The
300 fee for obtaining such a license through reciprocity shall be the
301 same as charged a Mississippi licensee.

302 SECTION 17. Section 73-36-33, Mississippi Code of 1972, is
303 reenacted as follows:

304 73-36-33. (1) The board shall have the power, after notice
305 and hearing, to suspend or revoke the license of any registrant

306 who (a) is found guilty by the board of fraud or gross negligence
307 in the practice of professional forestry; (b) fails to comply with
308 board rules and regulations; (c) is found guilty by the board of
309 unprofessional or unethical conduct; or (d) has had his license
310 suspended or revoked for cause in another jurisdiction.

311 (2) Any person may prefer charges of fraud or gross
312 negligence in connection with any forestry practice against any
313 registrant. Such charges shall be in writing, shall be sworn to
314 by the person making them, and shall be filed with the secretary
315 of the board. All charges shall be heard by the board pursuant to
316 its rules and regulations without undue delay.

317 (3) Any applicant whose license is suspended or revoked by
318 the board may apply for a review of the proceedings with reference
319 to such suspension or revocation by appealing to the Chancery
320 Court of the First Judicial District of Hinds County, Mississippi,
321 provided a notice of appeal is filed by such applicant with the
322 clerk of said court within sixty (60) days from entry of an order
323 by the board suspending or revoking his license, provided said
324 applicant files with said notice of appeal a bond to be approved
325 by the court assuring the prompt payment of any and all costs of
326 said appeal, said amount to be fixed by the court. Upon the
327 filing of such notice of appeal and posting of such bond, the
328 clerk of the said court shall notify the secretary of the board
329 thereof and the record of the proceedings involved shall be
330 prepared by the secretary and forwarded to the court within a
331 period of sixty (60) days from such notice by the clerk. The
332 court shall thereupon review the proceedings on the record
333 presented and may hear such additional testimony as to the court

334 may appear material and dispose of the appeal in termtime or in
335 vacation, and the court may sustain or dismiss the appeal, or
336 modify or vacate the order complained of, but in case the order is
337 modified or vacated, the court may also, in its discretion, remand
338 the matter to the board for such further proceedings not
339 inconsistent with the court's order as, in the opinion of the
340 court, justice may require. The decision of the chancery court
341 may be appealed as other cases to the Supreme Court.

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

346 (5) In addition to the reasons specified in subsection (1)
347 of this section, the board shall be authorized to suspend the
348 license of any licensee for being out of compliance with an order
349 for support, as defined in Section 93-11-153. The procedure for
350 suspension of a license for being out of compliance with an order
351 for support, and the procedure for the reissuance or reinstatement
352 of a license suspended for that purpose, and the payment of any
353 fees for the reissuance or reinstatement of a license suspended
354 for that purpose, shall be governed by Section 93-11-157 or
355 93-11-163, as the case may be. Actions taken by the board in
356 suspending a license when required by Section 93-11-157 or
357 93-11-163 are not actions from which an appeal may be taken under
358 this section. Any appeal of a license suspension that is required
359 by Section 93-11-157 or 93-11-163 shall be taken in accordance
360 with the appeal procedure specified in Section 93-11-157 or
361 93-11-163, as the case may be, rather than the procedure specified

362 in this section. If there is any conflict between any provision
363 of Section 93-11-157 or 93-11-163 and any provision of this
364 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
365 case may be, shall control.

366 SECTION 18. Section 73-36-35, Mississippi Code of 1972, is
367 reenacted as follows:

368 73-36-35. Any person who shall practice or offer to practice
369 the profession of forestry in this state as a registered forester
370 without being registered in accordance with the provisions of this
371 chapter, or any person who shall use in connection with his name,
372 or otherwise assume, use or advertise any title or description
373 tending to convey the impression that he is a registered forester
374 without being registered in accordance with the provisions of this
375 chapter, or any person who shall present or attempt to use as his
376 own the license of another, or any person who shall give any false
377 or forged evidence of any kind to the board or any member thereof
378 in obtaining a license, or any person who shall attempt to use an
379 expired or revoked license, or any person, firm, partnership or
380 corporation who shall violate any of the provisions of this
381 chapter shall be guilty of a misdemeanor and upon conviction
382 thereof shall be fined not more than Five Hundred Dollars
383 (\$500.00) for each such violation. The board, or such person or
384 persons as may be designated by the board to act in its stead, is
385 empowered to prefer charges for any violations of this chapter in
386 any court of competent jurisdiction. It shall be the duty of all
387 duly constituted officers of the law of this state to enforce the
388 provisions of this chapter and to prosecute any persons, firms,
389 partnerships or corporations violating same. The Attorney General

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

393 SECTION 19. Section 73-36-37, Mississippi Code of 1972, is
394 amended as follows:

395 73-36-37. Sections 73-36-1 through 73-36-35, which create a
396 board of registration for foresters and prescribe its duties and
397 powers, shall stand repealed as of December 31, 2001.

398 SECTION 20. This act shall take effect and be in force from
399 and after July 1, 2000.