

By: Holland

To: Agriculture

HOUSE BILL NO. 559

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 REENACTED
4 SECTION 73-36-5, MISSISSIPPI CODE OF 1972, TO REMOVE EXEMPTIONS
5 FROM REGISTRATION WITH THE STATE BOARD OF REGISTRATION FOR
6 FORESTERS; TO AMEND REENACTED SECTION 73-36-9, MISSISSIPPI CODE OF
7 1972, TO REVISE THE MEMBERSHIP OF THE STATE BOARD OF REGISTRATION
8 FOR FORESTERS; TO AMEND REENACTED SECTIONS 73-36-7, 73-36-11,
9 73-36-13, 73-36-15, 73-36-17, 73-36-19, 73-36-21, 73-36-23,
10 73-36-27 AND 73-36-31, MISSISSIPPI CODE OF 1972, TO CLARIFY
11 TERMINOLOGY; TO AMEND REENACTED SECTION 73-36-29, MISSISSIPPI CODE
12 OF 1972, TO REVISE THE TIME FOR RENEWAL OF THE LICENSE FOR
13 FORESTERS; TO AMEND REENACTED SECTION 73-36-35, MISSISSIPPI CODE
14 OF 1972, TO REVISE PENALTIES FOR VIOLATIONS; TO PROVIDE FOR AN
15 ADMINISTRATIVE FINE; TO AMEND SECTION 73-36-37, MISSISSIPPI CODE
16 OF 1972, TO EXTEND THE REPEALER ON THE SECTIONS OF LAW CREATING A
17 BOARD OF REGISTRATION FOR FORESTERS; AND FOR RELATED PURPOSES.

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

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

21 This chapter may be cited as the "Foresters Registration Law
22 of 1977."

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

25 73-36-3. As used in this chapter the following words and
26 phrases shall include the meanings ascribed in this section unless
27 the context clearly requires a different meaning:

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

29 (b) The term "forester" means a person who, by reason
30 of his knowledge of the natural sciences, mathematics, economics
31 and the principles of forestry, and by his demonstrated skills
32 acquired through professional forestry education as set forth in
33 Section 73-36-21, is qualified to engage in the practice of

34 forestry and who also has been duly registered and holds a current
35 valid license issued by the board.

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

38 (d) The term "practice of forestry" means any
39 professional forestry service, including but not limited to
40 consultation, investigation, evaluation, valuation, planning,
41 recommending silvicultural or harvesting practices or responsible
42 supervision of any forestry activities in connection with any
43 public or private lands wherein the public welfare and property
44 are concerned or involved when such professional services require
45 the application of forestry principles, knowledge and data.

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

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

50 73-36-5. In order to benefit and protect the public and the
51 forest resources, no person in either public or private capacity
52 shall practice or offer to practice forestry, unless he shall
53 first have submitted evidence that he is qualified so to practice
54 and shall be registered by the board * * *. It is unlawful for
55 any person to practice or offer to practice forestry in this
56 state * * *, as defined by this chapter, or to use in connection
57 with his name or otherwise assume, use or advertise any title or
58 description tending to convey the impression that he is a
59 forester, unless the person has been duly registered * * *.

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

61 (a) The conduct of business and support services
62 including: tree planting, timber stand improvement, pesticide
63 application, pest control, site preparation, heavy equipment
64 operation, prescribed fire application, timber buying, logging
65 contracting, timber cruising, timber marking and the application
66 of best management practices.

67 (b) The application of forestry principles and
68 procedures on any timberlands, woodlands or forest in which the
69 person, firm, partnership or corporation owns the timberlands,
70 woodlands or forest; or persons, firms, partnerships and

71 corporations having the right to manage and administer forestlands
72 in any legal manner.

73 (c) The work of an employee or a subordinate of any
74 forester holding a license under this chapter; if that * * * work
75 is done under the direction, supervision and responsibility of a
76 person holding a license under this chapter.

77 (d) The practice of forestry by officers and employees
78 of the United States government on federally owned lands.

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

81 (f) Employees of the federal government, state
82 government and educational institutions of the State of
83 Mississippi who, in the exercise of their assigned duties, conduct
84 forestry education programs.

85 (g) Persons who hold valid licenses prior to July 1,
86 1989.

87 SECTION 4. Section 73-36-7, Mississippi Code of 1972, is
88 reenacted and amended as follows:

89 73-36-7. Nothing contained in this chapter shall be
90 construed as preventing any person, firm, partnership or
91 corporation from practicing forestry or managing woodlands,
92 forests or trees on any land, provided such acts are not performed
93 or offered to the public for compensation * * *.

94 SECTION 5. Section 73-36-9, Mississippi Code of 1972, is
95 reenacted and amended as follows:

96 73-36-9. There is hereby created the State Board of
97 Registration for Foresters of the State of Mississippi for the
98 purposes of safeguarding forests by regulating the practice of
99 forestry and requiring that persons practicing or offering to
100 practice forestry * * * be registered. The board shall be
101 composed of seven (7) members appointed by the Governor with the
102 advice and consent of the Senate. One (1) member shall be
103 appointed from each of the six (6) forestry commission districts

104 as * * * constituted on January 1, 1999, and one (1) member shall
105 be appointed at large. The State Forester of Mississippi shall
106 serve as an ex officio member of the board. Each of the members
107 shall be a forester within the meaning of this chapter with at
108 least three (3) years' experience in such field, and a resident
109 and citizen of the State of Mississippi at the time of his
110 appointment. Within thirty (30) days after the passage of this
111 chapter, the Governor shall appoint the members, designating a
112 term of office of one (1), two (2), three (3), four (4) or five
113 (5) years for each of the members as appointed; provided, however,
114 two (2) members shall serve a term of one (1) year and two (2)
115 shall serve a term of four (4) years. As the terms of office of
116 the members so appointed expire, successors shall be appointed for
117 terms of five (5) years * * *. Any vacancy occurring in the
118 membership of the board shall be filled by the Governor for the
119 unexpired term * * *. The Governor shall have the right, upon the
120 approval of a majority of the board, to remove any members of the
121 board for inefficiency, neglect of duty or dishonorable conduct.

122 SECTION 6. Section 73-36-11, Mississippi Code of 1972, is
123 reenacted and amended as follows:

124 73-36-11. * * * No person shall * * * be appointed a member
125 of the board unless the person at the time appointed has held a
126 license as a registered forester for at least five (5) years.

127 SECTION 7. Section 73-36-13, Mississippi Code of 1972, is
128 reenacted and amended as follows:

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

137 SECTION 8. Section 73-36-15, Mississippi Code of 1972, is
138 reenacted and amended as follows:

139 73-36-15. * * * The board shall hold at least two (2)
140 regular meetings during each year and such other meetings as the
141 chairman may find necessary. Notice of the time and place of the
142 meetings of the board shall be mailed to each of the members of
143 the board at least five (5) days before the meeting and, in
144 addition, shall be posted as provided by the rules and regulations
145 of the board at least five (5) days prior to the meeting.

146 SECTION 9. Section 73-36-17, Mississippi Code of 1972, is
147 reenacted and amended 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 * * * clerical help as may be needed, if
154 itemized statements of the expenses are first approved by order of
155 the board entered on its minutes. The board shall not expend in
156 any fiscal year more monies than the amount of fees
157 collected * * *. All fees * * * shall be paid to the secretary of
158 the board and the secretary shall deposit all monies received
159 under this chapter in the State Treasury. All such monies shall
160 be kept in a special fund in the State Treasury known as the
161 "State Board of Registered Foresters Fund" and shall be used for
162 the administration of this chapter. The funds shall not lapse at
163 the end of each year. All expenditures from the fund shall be by
164 requisition to the Executive Director of the Department of Finance
165 and Administration and signed by the board chairman * * *. The
166 secretary of the board shall be under a surety bond in the penal
167 sum of Five Thousand Dollars (\$5,000.00) with a surety company
168 authorized to do business in this state, the bond to be
169 conditioned for the faithful performance of his duties, and the

170 fee shall be paid by the board.

171 SECTION 10. Section 73-36-19, Mississippi Code of 1972, is
172 reenacted and amended as follows:

173 73-36-19. (1) The State Board of Registration for Foresters
174 shall have the following powers and duties:

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

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

181 (c) To establish minimum requirements for professional
182 continuing education.

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

190 (e) To issue, suspend or revoke licenses * * * and to
191 take all actions necessary * * *.

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

203 subpoena of the court.

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

213 SECTION 11. Section 73-36-21, Mississippi Code of 1972, is
214 reenacted and amended as follows:

215 73-36-21. Any person who has graduated with a bachelor's
216 degree or higher degree from a university or college of forestry
217 in a curriculum in forestry acceptable to the board and found by
218 the board to be substantially equivalent to curricula in schools
219 of forestry accredited by the Society of American Foresters shall
220 be eligible for registration as a * * * forester, and a license
221 shall be issued upon application and payment of the required fee,
222 if the person files an application for registration with the board
223 and successfully passes a written and/or oral examination.

224 SECTION 12. Section 73-36-23, Mississippi Code of 1972, is
225 reenacted and amended as follows:

226 73-36-23. Applications for registration shall be made on
227 forms prescribed and furnished by the board. The initial
228 registration fee for a license as a registered forester shall be
229 fixed by the board, but shall not exceed Fifty Dollars (\$50.00).
230 If the board denies the issuance of a license to any applicant,
231 the fee deposited shall be retained by the board as an application
232 fee.

233 Each application or filing made under this section shall
234 include the social security number(s) of the applicant in
235 accordance with Section 93-11-64, Mississippi Code of 1972.

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

238 73-36-25. When written examinations are required, they shall
239 be held at such time and place as the board shall determine. The
240 methods of procedure shall be prescribed by the board. A
241 candidate failing an examination may apply for reexamination at
242 the expiration of six (6) months and shall be entitled to one (1)
243 reexamination without payment of an additional fee. Subsequent
244 examinations may be granted upon payment of a fee to be determined
245 by the board, but not in excess of Fifty Dollars (\$50.00).

246 SECTION 14. Section 73-36-27, Mississippi Code of 1972, is
247 reenacted and amended as follows:

248 73-36-27. The board shall issue a properly authenticated,
249 serially numbered license upon payment of the registration
250 fee * * * to any applicant who in the opinion of the board has
251 satisfactorily met all the requirements of this chapter and the
252 rules and regulations of the board duly adopted under * * * this
253 chapter. The issuance of a license by the board shall be evidence
254 that the person named therein is entitled to all the rights and
255 privileges of a * * * forester while the * * * license remains
256 unrevoked or unexpired.

257 SECTION 15. Section 73-36-29, Mississippi Code of 1972, is
258 reenacted and amended as follows:

259 73-36-29. All licenses issued under the provisions of this
260 chapter shall expire after December 31 of odd numbered years and
261 shall become invalid after that date unless renewed. * * * The
262 secretary of the board shall mail a notice to every person
263 registered under this chapter notifying the person of the date of
264 the expiration of his license and the amount of fee required for
265 its renewal for two (2) years. The notice shall be mailed to the
266 latest known address, according to the board's records, at least
267 one (1) month in advance of the date of the expiration of the
268 license. The board shall from time to time fix the fee for

269 renewal of licenses, provided the fee shall not exceed the amount
270 of One Hundred Dollars (\$100.00) for two (2) years' renewal. Any
271 registrant failing to renew his license * * * and applying for a
272 license shall be required to pay a fee as set by the board not to
273 exceed twice the total amount of the license fees * * * had his
274 license been continued in effect, and also to comply with such
275 other reasonable requirements as may be established by rules and
276 regulations of the board * * *.

277 SECTION 16. Section 73-36-31, Mississippi Code of 1972, is
278 reenacted and amended as follows:

279 73-36-31. A person not a resident of and having no
280 established place of business in Mississippi, or who has recently
281 become a resident * * *, may use the title of registered forester
282 in Mississippi, provided: (a) such person is legally licensed as
283 a * * * forester in his own state or county and has submitted
284 evidence to the board that he is so licensed and that the
285 requirements for registration * * * are at least substantially
286 equivalent to the requirements of this chapter; and (b) the state
287 or county in which he is so licensed observes these same rules of
288 reciprocity in regard to persons * * * licensed under * * * this
289 chapter. Each person seeking the privileges of reciprocity
290 granted under this chapter shall submit his application * * * to
291 the board and must receive a card or certificate from the board
292 before exercising such privileges. The fee for obtaining * * * a
293 license through reciprocity shall be the same as charged a
294 Mississippi licensee.

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

297 73-36-33. (1) The board shall have the power, after notice
298 and hearing, to suspend or revoke the license of any registrant
299 who (a) is found guilty by the board of fraud or gross negligence
300 in the practice of professional forestry; (b) fails to comply with
301 board rules and regulations; (c) is found guilty by the board of

302 unprofessional or unethical conduct; or (d) has had his license
303 suspended or revoked for cause in another jurisdiction.

304 (2) Any person may prefer charges of fraud or gross
305 negligence in connection with any forestry practice against any
306 registrant. Such charges shall be in writing, shall be sworn to
307 by the person making them, and shall be filed with the secretary
308 of the board. All charges shall be heard by the board pursuant to
309 its rules and regulations without undue delay.

310 (3) Any applicant whose license is suspended or revoked by
311 the board may apply for a review of the proceedings with reference
312 to such suspension or revocation by appealing to the Chancery
313 Court of the First Judicial District of Hinds County, Mississippi,
314 provided a notice of appeal is filed by such applicant with the
315 clerk of said court within sixty (60) days from entry of an order
316 by the board suspending or revoking his license, provided said
317 applicant files with said notice of appeal a bond to be approved
318 by the court assuring the prompt payment of any and all costs of
319 said appeal, said amount to be fixed by the court. Upon the
320 filing of such notice of appeal and posting of such bond, the
321 clerk of the said court shall notify the secretary of the board
322 thereof and the record of the proceedings involved shall be
323 prepared by the secretary and forwarded to the court within a
324 period of sixty (60) days from such notice by the clerk. The
325 court shall thereupon review the proceedings on the record
326 presented and may hear such additional testimony as to the court
327 may appear material and dispose of the appeal in termtime or in
328 vacation, and the court may sustain or dismiss the appeal, or
329 modify or vacate the order complained of, but in case the order is
330 modified or vacated, the court may also, in its discretion, remand
331 the matter to the board for such further proceedings not
332 inconsistent with the court's order as, in the opinion of the
333 court, justice may require. The decision of the chancery court
334 may be appealed as other cases to the Supreme Court.

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

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

359 SECTION 18. Section 73-36-35, Mississippi Code of 1972, is
360 reenacted and amended as follows:

361 73-36-35. Any person who shall practice or offer to practice
362 the profession of forestry in this state * * * without being
363 registered in accordance with * * * this chapter, or any person
364 who shall use in connection with his name, or otherwise assume,
365 use or advertise any title or description tending to convey the
366 impression that he is a * * * forester without being registered in
367 accordance with * * * this chapter, or any person who shall

368 present or attempt to use as his own the license of another, or
369 any person who shall give any false or forged evidence of any kind
370 to the board or any member * * * in obtaining a license, or any
371 person who shall attempt to use an expired or revoked license, or
372 any person, firm, partnership or corporation who shall violate any
373 of the provisions of this chapter shall be subject to an
374 administrative fine issued by the board not to exceed One Thousand
375 Dollars (\$1,000.00) for each violation but only after the person,
376 firm, partnership or corporation has been given the opportunity to
377 be heard by the board and has received written notice of the
378 alleged violation at least ten (10) days before the hearing.
379 Unless the fines are paid within ninety (90) days after the
380 board's order, the order shall become a judgment and may be filed
381 and executed. However, the person, firm, partnership or
382 corporation, within thirty (30) days of the board's order being
383 issued, may appeal the order to the Circuit Court of Hinds County
384 to be reviewed on the record. Any person, firm, partnership or
385 corporation that violates any of the provisions of this chapter
386 and has not been issued an administrative fine by the board for
387 the violation is guilty of a misdemeanor and, upon
388 conviction, * * * shall be fined not more than Ten Thousand
389 Dollars (\$10,000.00) for each * * * violation. The board, or any
390 person or persons as may be designated by the board to act in its
391 stead, is empowered to prefer charges for any violations of this
392 chapter in any court of competent jurisdiction. It shall be the
393 duty of all duly constituted officers of the law of this state to
394 enforce the provisions of this chapter and to prosecute any
395 persons, firms, partnerships or corporations violating same. The
396 Attorney General of the state or his designated assistant shall
397 act as legal advisor of the board and render such assistance as
398 may be necessary in carrying out the provisions of this chapter.

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

401 73-36-37. Sections 73-36-1 through 73-36-35, which create a
402 board of registration for foresters and prescribe its duties and
403 powers, shall stand repealed as of December 31, 2010.

404 SECTION 20. Each section of the Mississippi Code of 1972
405 that is reenacted but not amended by this act, and that appears in
406 the main volume of the Code, shall not be reprinted in the
407 supplement. Instead, an editor's note shall be placed in the
408 supplement following the section to explain that the section was
409 reenacted, and that it has not been reprinted in the supplement
410 because the language of the section in the main volume was
411 unaffected by the legislation.

412 SECTION 21. This act shall take effect and be in force from
413 and after July 1, 2000.