

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2583

By Representative(s) Committee

19 Amend by striking all after the enacting clause and inserting
20 in lieu thereof the following:

21

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

24 This chapter may be cited as the "Foresters Registration Law
25 of 1977."

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

28 73-36-3. As used in this chapter the following words and
29 phrases shall include the meanings ascribed in this section unless
30 the context clearly requires a different meaning:

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

32 (b) The term "forester" means a person who, by reason
33 of his knowledge of the natural sciences, mathematics, economics
34 and the principles of forestry, and by his demonstrated skills
35 acquired through professional forestry education as set forth in
36 Section 73-36-21, is qualified to engage in the practice of
37 forestry and who also has been duly registered and holds a current
38 valid license issued by the board.

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

41 (d) The term "practice of forestry" means any

42 professional forestry service, including but not limited to
43 consultation, investigation, evaluation, valuation, planning,
44 recommending silvicultural or harvesting practices or responsible
45 supervision of any forestry activities in connection with any
46 public or private lands wherein the public welfare and property
47 are concerned or involved when such professional services require
48 the application of forestry principles, knowledge and data.

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

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

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

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

67 (a) The conduct of business and support services
68 including: tree planting, timber stand improvement, pesticide
69 application, pest control, site preparation, heavy equipment
70 operation, prescribed fire application, timber buying, logging
71 contracting, timber cruising, timber marking and the application
72 of best management practices.

73 (b) The application of forestry principles and
74 procedures on any timberlands, woodlands or forest in which the
75 person, firm, partnership or corporation owns the timberlands,
76 woodlands or forest; or persons, firms, partnerships and

77 corporations having the right to manage and administer forestlands
78 in any legal manner.

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

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

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

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

91 (g) Persons who hold valid licenses prior to July 1,
92 1989.

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

95 73-36-7. Nothing contained in this chapter shall be
96 construed as preventing any person, firm, partnership or
97 corporation from practicing forestry or managing woodlands,
98 forests or trees on any land, provided such acts are not performed
99 or offered to the public for compensation as the services of a
100 registered forester.

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

103 73-36-9. There is hereby created the State Board of
104 Registration for Foresters of the State of Mississippi for the
105 purposes of safeguarding forests by regulating the practice of
106 forestry and requiring that persons practicing or offering to
107 practice forestry * * * be registered. The board shall be
108 composed of seven (7) members appointed by the Governor with the
109 advice and consent of the Senate. One (1) member shall be
110 appointed from each of the six (6) forestry commission districts
111 as * * * constituted on January 1, 1999, and one (1) member shall

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

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

131 73-36-11. * * * No person shall * * * be appointed a member
132 of the board unless the person at the time appointed has held a
133 license as a registered forester for at least five (5) years.

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

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

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

146 73-36-15. * * * The board shall hold at least two (2)

147 regular meetings during each year and such other meetings as the
148 chairman may find necessary. Notice of the time and place of the
149 meetings of the board shall be mailed to each of the members of
150 the board at least five (5) days before the meeting and, in
151 addition, shall be posted as provided by the rules and regulations
152 of the board at least five (5) days prior to the meeting.

153 SECTION 9. Section 73-36-17, Mississippi Code of 1972, is
154 reenacted and amended as follows:

155 73-36-17. Each member of the board shall receive per diem
156 compensation as authorized by Section 25-3-69, and shall be
157 reimbursed for such other expenses at the same rate and under the
158 same conditions as provided for public officers and employees in
159 Section 25-3-41. The board shall pay for all expenses incurred by
160 the board, including * * * clerical help as may be needed, if
161 itemized statements of the expenses are first approved by order of
162 the board entered on its minutes. The board shall not expend in
163 any fiscal year more monies than the amount of fees
164 collected * * *. All fees * * * shall be paid to the secretary of
165 the board and the secretary shall deposit all monies received
166 under this chapter in the State Treasury. All such monies shall
167 be kept in a special fund in the State Treasury known as the
168 "State Board of Registered Foresters Fund" and shall be used for
169 the administration of this chapter. The funds shall not lapse at
170 the end of each year. All expenditures from the fund shall be by
171 requisition to the Executive Director of the Department of Finance
172 and Administration and signed by the board chairman * * *. The
173 secretary of the board shall be under a surety bond in the penal
174 sum of Five Thousand Dollars (\$5,000.00) with a surety company
175 authorized to do business in this state, the bond to be
176 conditioned for the faithful performance of his duties, and the
177 fee shall be paid by the board.

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

180 73-36-19. (1) The State Board of Registration for Foresters
181 shall have the following powers and duties:

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

185 (b) To establish and promulgate standards of practice
186 and a code of ethics for registered foresters and provide for the
187 enforcement thereof.

188 (c) To establish minimum requirements for professional
189 continuing education.

190 (d) To prepare a biennial roster showing the names,
191 business addresses and such other information as the board may
192 deem necessary of all * * * foresters registered under * * * this
193 chapter, and to provide copies * * * to the registered foresters
194 and the public. A copy of the roster shall be filed with the
195 Secretary of State of the State of Mississippi on or before April
196 1 in the year such roster is prepared.

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

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

211 (3) The board shall keep a record of its proceedings and a
212 register of all applications for registration. The register shall
213 show the name, age and residence of each applicant, the date of
214 the application and the board's action on the application and any
215 other information as may be deemed necessary by the board. The
216 board shall submit an annual report to the Governor * * * and a

217 report to the regular session of the Legislature. The report to
218 the Legislature shall include a financial statement of the
219 transactions of the board during the year.

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

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

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

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

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

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

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

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

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

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

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

266 73-36-29. All licenses issued under the provisions of this
267 chapter shall expire after December 31 of odd numbered years and
268 shall become invalid after that date unless renewed. * * * The
269 secretary of the board shall mail a notice to every person
270 registered under this chapter notifying the person of the date of
271 the expiration of his license and the amount of fee required for
272 its renewal for two (2) years. The notice shall be mailed to the
273 latest known address, according to the board's records, at least
274 one (1) month in advance of the date of the expiration of the
275 license. The board shall from time to time fix the fee for
276 renewal of licenses, provided the fee shall not exceed the amount
277 of One Hundred Dollars (\$100.00) for two (2) years' renewal. Any
278 registrant failing to renew his license * * * and applying for a
279 license shall be required to pay a fee as set by the board not to
280 exceed twice the total amount of the license fees * * * had his
281 license been continued in effect, and also to comply with such
282 other reasonable requirements as may be established by rules and
283 regulations of the board * * *.

284 SECTION 16. Section 73-36-31, Mississippi Code of 1972, is
285 reenacted and amended 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 * * *, may use the title of registered forester
289 in Mississippi, provided: (a) such person is legally licensed as
290 a * * * forester in his own state or county and has submitted
291 evidence to the board that he is so licensed and that the
292 requirements for registration * * * are at least substantially
293 equivalent to the requirements of this chapter; and (b) the state
294 or county in which he is so licensed observes these same rules of
295 reciprocity in regard to persons * * * licensed under * * * this
296 chapter. Each person seeking the privileges of reciprocity
297 granted under this chapter shall submit his application * * * to
298 the board and must receive a card or certificate from the board
299 before exercising such privileges. The fee for obtaining * * * a
300 license through reciprocity shall be the same as charged a
301 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 and amended as follows:

368 73-36-35. Any person who shall practice or offer to practice
369 the profession of forestry in this state * * * without being
370 registered in accordance with * * * this chapter, or any person
371 who shall use in connection with his name, or otherwise assume,
372 use or advertise any title or description tending to convey the
373 impression that he is a * * * forester without being registered in
374 accordance with * * * this chapter, or any person who shall
375 present or attempt to use as his own the license of another, or
376 any person who shall give any false or forged evidence of any kind
377 to the board or any member * * * in obtaining a license, or any
378 person who shall attempt to use an expired or revoked license, or
379 any person, firm, partnership or corporation who shall violate any
380 of the provisions of this chapter shall be subject to an
381 administrative fine issued by the board not to exceed One Thousand
382 Dollars (\$1,000.00) for each violation but only after the person,
383 firm, partnership or corporation has been given the opportunity to
384 be heard by the board and has received written notice of the
385 alleged violation at least ten (10) days before the hearing.
386 Unless the fines are paid within ninety (90) days after the
387 board's order, the order shall become a judgment and may be filed
388 and executed. However, the person, firm, partnership or
389 corporation, within thirty (30) days of the board's order being
390 issued, may appeal the order to the Circuit Court of Hinds County
391 to be reviewed on the record. Any person, firm, partnership or

392 corporation that violates any of the provisions of this chapter
393 and has not been issued an administrative fine by the board for
394 the violation is guilty of a misdemeanor and, upon
395 conviction, * * * shall be fined not more than Five Thousand
396 Dollars (\$5,000.00) for each * * * violation. The board, or any
397 person or persons as may be designated by the board to act in its
398 stead, is empowered to prefer charges for any violations of this
399 chapter in any court of competent jurisdiction. It shall be the
400 duty of all duly constituted officers of the law of this state to
401 enforce the provisions of this chapter and to prosecute any
402 persons, firms, partnerships or corporations violating same. The
403 Attorney General of the state or his designated assistant shall
404 act as legal advisor of the board and render such assistance as
405 may be necessary in carrying out the provisions of this chapter.

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

408 73-36-37. Sections 73-36-1 through 73-36-35, which create a
409 board of registration for foresters and prescribe its duties and
410 powers, shall stand repealed as of December 31, 2010.

411 SECTION 20. Each section of the Mississippi Code of 1972
412 that is reenacted but not amended by this act, and that appears in
413 the main volume of the Code, shall not be reprinted in the
414 supplement. Instead, an editor's note shall be placed in the
415 supplement following the section to explain that the section was
416 reenacted, and that it has not been reprinted in the supplement
417 because the language of the section in the main volume was
418 unaffected by the legislation.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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