HOUSE BILL NO. 442

AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM LAW AND ESTABLISH THE DUTIES OF THE STATE BOARD OF HEALTH AND DEPARTMENT OF ENVIRONMENTAL QUALITY TO IMPLEMENT AND ENFORCE THIS LAW; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL FROM JULY 1, 2001, TO JULY 1, 2002; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-67-1, Mississippi Code of 1972, is reenacted as follows:

41-67-1. This chapter shall be known and may be cited as the "Mississippi Individual On-Site Wastewater Disposal System Law."

SECTION 2. Section 41-67-2, Mississippi Code of 1972, is reenacted as follows:

41-67-2. For purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Board" means the Mississippi State Board of Health.

(b) "Commission" means the Commission on Environmental Quality.

(c) "Department" means the Mississippi State Department of Health.

(d) "Generator" means any person whose act or process produces sewage or other material suitable for disposal in an individual on-site wastewater disposal system.

(e) "Individual on-site wastewater disposal system" means an approved method of sewage disposal designed and installed...
in accordance with this law, and regulations of the board and the
commission.

(f) "Person" means any individual, trust, firm, joint-stock company, public or private corporation (including a
government corporation), partnership, association, state, or any
government or institution thereof, municipality, commission, political
subdivision of a state or any interstate body, and includes any
officer or governing or managing body of any municipality,
political subdivision, or the United States or any officer or
employee thereof.

(g) "Professional engineer" means any person who has met the qualifications required under Section 73-13-23(1) and who has been issued a certificate of registration as a professional engineer.

(h) "Property of the generator" means land owned by or under permanent legal easement or lease to the generator.

(i) "Subdivision" means any land that is divided into ten (10) or more lots, tracts, sites or parcels for the purpose of residential development.

SECTION 3. Section 41-67-3, Mississippi Code of 1972, is reenacted as follows:

41-67-3. (1) The State Board of Health shall have the following duties and responsibilities:

(a) To exercise general supervision over the design, construction, operation and maintenance of individual on-site wastewater disposal systems with flows substantially equivalent to a single family residential generator, except when the property owner or lessee chooses to employ a professional engineer to comply with this chapter. To effectively administer this law, the department and the Department of Environmental Quality shall enter into a memorandum of understanding, which at a minimum shall clearly define the jurisdiction of each department with regard to

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wastewater disposal and procedures for interdepartmental interaction and cooperation;

(b) To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to, to grant exemptions from and to enforce rules and regulations implementing or effectuating the duties of the board under this chapter to protect the public health. The board may grant variances from rules and regulations adopted under this chapter, including requirements for buffer zones, or from setbacks required under Section 41-67-7 where the granting of a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources;

(c) To provide or deny certification for persons engaging in the business of the design, construction or installation of individual on-site wastewater disposal systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems;

(d) To suspend or revoke certifications issued to persons engaging in the business of the design, construction or installation of individual on-site wastewater disposal systems or persons engaging in the removal and disposal of the sludge and liquid waste from those systems, when it is determined the person has violated this chapter or applicable rules and regulations; and

(e) To require the submission of information deemed necessary by the department to determine the suitability of individual lots for individual on-site wastewater disposal systems.

(2) Nothing in this chapter shall preclude a professional engineer from providing services relating to the design, construction or installation of an individual on-site wastewater disposal system to comply with this chapter. Except as otherwise required by subsection (4) of this section or Section 41-67-8, a
professional engineer shall notify the department in writing of those services being provided. If a professional engineer designs, constructs or installs or directly supervises the construction or installation of a design-based individual on-site wastewater disposal system consistent with this chapter and stamps the appropriate documentation with that professional engineer's seal, the department shall approve the design, construction or installation of the system, if requested. Professional engineers engaging in the design, construction or installation of individual on-site wastewater disposal systems shall not require certification under this chapter.

(3) To assure the effective and efficient administration of this chapter, the board shall adopt rules governing the design, construction or installation, operation and maintenance of individual on-site wastewater disposal systems, including rules concerning the:

(a) Review and approval of individual on-site wastewater disposal systems in accordance with Section 41-67-6;

(b) Certification of installers of individual on-site wastewater disposal systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems;

and

(c) Registration and requirements for testing and listing of manufacturers of aerobic treatment systems.

(4) In addition, the board shall adopt rules establishing performance standards for individual on-site wastewater disposal systems for single family residential generators and rules concerning the operation and maintenance of individual on-site wastewater disposal systems designed to meet those standards. The performance standards shall be consistent with the federal Clean Water Act, maintaining the wastes on the property of the generator except as authorized under Section 41-67-8, and protection of the public health. Rules for the operation and maintenance of.
individual on-site wastewater disposal systems designed to meet performance standards shall include rules concerning the following:

(a) A standard application form and requirements for supporting documentation;
(b) Application review;
(c) Approval or denial of authorization for proposed systems;
(d) Requirements, as deemed appropriate by the board, for annual renewal of authorization;
(e) Enforcement of the requirements and conditions of authorization; and
(f) Inspection, monitoring, sampling and reporting on the performance of the system.

Any system proposed for authorization in accordance with performance standards must be designed and certified by a professional engineer and must be authorized by the board before installation. Appeals from a final decision of the board regarding the authorization of an individual on-site wastewater disposal system based upon performance standards shall be taken using a procedure substantially equivalent to the procedure specified for hospital licenses in Chapter 9 of Title 41.

(5) To the extent practicable, all rules and regulations adopted under this chapter shall give maximum flexibility to persons installing individual on-site wastewater disposal systems and a maximum number of options consistent with the federal Clean Water Act, consistent with maintaining the wastes on the property of the generator except as authorized under Section 41-67-8, and consistent with protection of the public health. In addition, all rules and regulations, to the extent practicable, shall encourage the use of economically feasible systems, including alternative techniques and technologies for individual on-site wastewater disposal.
(6) All regulations shall be applied uniformly in all areas of the state and shall take into consideration and make provision for different types of soil in the state when performing soil and site evaluations.

SECTION 4. Section 41-67-4, Mississippi Code of 1972, is reenacted as follows:

41-67-4. (1) The Commission on Environmental Quality shall determine the feasibility of establishing community sewerage systems upon the submission by the developer of a preliminary design and feasibility study prepared by a professional engineer. The developer may request and obtain a hearing before the commission if the developer is dissatisfied with the commission's determination of feasibility. The determination that a sewerage system must be established shall be made without regard to whether the establishment of a sewerage system is authorized by law or is subject to approval by one or more state or local government or public bodies.

(2) Where residential subdivisions are proposed which are composed of fewer than thirty-five (35) building sites, and no system of sanitary sewers is available to which collection sewers may be feasibly connected, the board may waive the requirement for a feasibility study. If the feasibility study is waived, all sites within the subdivision shall be approved, if a certified installer attests that each site can be adequately served by an individual on-site wastewater disposal system.

(3) No feasibility study or community sewerage system shall be required for subdivisions designed, laid out, platted or partially constructed before July 1, 1988, or for any subdivision that was platted and recorded during the period from July 1, 1995 through June 30, 1996.

SECTION 5. Section 41-67-5, Mississippi Code of 1972, is reenacted as follows:
41-67-5. (1) No owner, lessee or developer shall construct or place any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an individual on-site wastewater disposal system, without having first submitted a notice of intent to the department. Upon receipt of a notice of intent, the department shall provide the owner, lessee or developer with complete information on individual on-site wastewater disposal systems, including but not limited to applicable rules and regulations regarding the design, construction, installation, operation and maintenance of individual on-site wastewater disposal systems and known requirements of lending institutions for approval of the systems.

(2) No new permanent water service connection shall be provided to any mobile, modular or permanently constructed residence, building or facility unless the owner, lessee or developer shows proof of the submission of the notice of intent required by this section.

SECTION 6. Section 41-67-6, Mississippi Code of 1972, is reenacted as follows:

41-67-6. (1) Within five (5) working days following receipt of the notice of intent and plot plan by an owner, lessee or developer of any lot or tract of land, the department shall conduct a soil and site evaluation, except in cases where a professional engineer provides services relating to the design, construction or installation of an individual on-site wastewater disposal system to comply with this chapter. Within ten (10) additional working days, the department shall make recommendations to the owner, lessee or developer of the type or types of individual on-site wastewater disposal systems suitable for installation on the lot or tract, unless there are conditions requiring further investigation that are revealed in the initial evaluation. In making recommendations on the type or types of individual on-site wastewater disposal systems suitable for
installation on a lot or tract, personnel of the department shall
use best professional judgment based on rules and regulations
adopted by the board, considering the type or types of systems
which are installed and functioning on lots or tracts near the
subject lot or tract. If existing systems in the surrounding area
function properly, systems of that same type shall be approved.

To the extent practicable, the recommendations shall give the
owner, lessee or developer maximum flexibility and a maximum
number of options consistent with the federal Clean Water Act,
consistent with maintaining the wastes on the property of the
generator except as authorized under Section 41-67-8, and
consistent with protection of the public health. The system or
systems recommended shall be environmentally sound and
cost-effective. The department or a professional engineer shall
provide complete information, including all applicable
requirements and regulations on all systems recommended. The
owner, lessee or developer shall have the right to choose among
systems. The department shall provide the owner, lessee or
developer with a form that specifies all types of individual
on-site wastewater disposal systems that are suitable for
installation on the lot or tract and lists all installers of those
systems that are certified by the department. Approval of the
design, construction or installation of an individual on-site
wastewater disposal system by the department is not required. If
any property owner, lessee or the owner's or lessee's lending
instituition requests the department to approve the design,
construction or installation of any system on the owner's or
lessee's property, the department shall approve the design,
construction or installation of that system, as requested, if the
system is designed, constructed and installed, as the case may be,
in accordance with the rules and regulations of the board. The
department shall not approve any individual on-site wastewater
disposal system that has a direct or point source discharge,
258 unless the Permit Board has issued a permit for that system under 259 Section 41-67-8.
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(2) Evaluations and recommendations for a subdivision shall 261 not be subject to the time constraints in this section.
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(3) If the department has been requested to approve the 263 design, construction or installation of an individual on-site 264 wastewater disposal system, an installer may not begin the design, 265 construction or installation of the individual on-site wastewater 266 disposal system, unless the installer notifies the department of 267 the date on which the installer plans to begin work on the system.
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(4) A person may not design, construct or install, or cause 269 to be designed, constructed or installed an individual on-site 270 wastewater disposal system that does not comply with this chapter 271 and rules and regulations of the board.
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(5) Any person who installs an individual on-site wastewater 273 disposal system shall sign and file with the department an 274 affidavit that the system was installed in compliance with all 275 requirements and regulations applicable to that type of system. 276 If any person or contractor fails to comply with all requirements 277 and regulations in the installation of the system, the board, 278 after due notice and hearing, may levy an administrative fine not 279 to exceed One Thousand Dollars ($1,000.00).
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(6) Any provisions of this chapter regarding the 281 department's approval of the design, construction and installation 282 of an individual on-site wastewater disposal system shall not 283 apply to a residence, building or facility that is located on a 284 land tract that is two (2) acres or larger.

SECTION 7. Section 41-67-7, Mississippi Code of 1972, is 286 reenacted as follows:
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41-67-7. Individual on-site wastewater disposal systems 288 shall be considered acceptable on lots in areas or subdivisions 289 where prior to the sale of the lots, the following requirements 290 are met:
(1) Individual on-site wastewater disposal systems with underground absorption fields shall be considered acceptable, provided the following requirements are met:
(a) Sewers are not available or feasible;
(b) The existing disposal systems in the area are functioning satisfactorily;
(c) Soil types, soil texture, seasonal water tables and other limiting factors are satisfactory for underground absorption; and
(d) Any private water supply is located at a higher elevation and at least fifty (50) feet from the individual on-site wastewater disposal system and at least one hundred (100) feet from the disposal field of the system.

(2) Except for systems utilizing underground absorption, alternative individual on-site wastewater disposal systems shall be considered acceptable, provided the following requirements are met:
(a) Sewers are not available or feasible;
(b) The systems meet applicable water quality requirements of the federal Clean Water Act and also requirements of the board and department; and
(c) Any discharge is confined within the boundaries of the property of the generator except as authorized under Section 41-67-8.

SECTION 8. Section 41-67-8, Mississippi Code of 1972, is reenacted as follows:

41-67-8. (1) This section shall be applicable only after the department has determined that there is no type of individual on-site wastewater disposal system authorized under subsection (3) or (4) of Section 41-67-3 or rules or regulations of the board that can maintain the wastes on the property of the generator.

(2) The owner of any individual on-site wastewater disposal system from which effluent is discharged off the property of the
generatory shall obtain a permit for that discharge, if required under Section 49-17-29, from the Permit Board created under Section 49-17-28.

(3) The Permit Board may issue general permits for individual on-site wastewater disposal systems as provided in Section 49-17-29.

(4) Any violation of this section shall be punished as provided in Section 49-17-43.

SECTION 9. Section 41-67-9, Mississippi Code of 1972, is reenacted as follows:

41-67-9. (1) Existing individual on-site wastewater disposal systems shall be considered acceptable, provided the following requirements are met:

(a) The lot is located in an area or subdivision where individual on-site wastewater disposal systems are considered acceptable under this chapter;

(b) The residence, building or facility has previously been occupied for a period of time deemed by the department necessary to determine the functioning capability of the individual on-site wastewater disposal system;

(c) The system is functioning properly with no evidence that any insufficiently treated effluent is or has been seeping to the surface of the ground and any discharge of treated effluent is confined within the boundaries of the property of the generator except as authorized under Section 41-67-8; and

(d) If a private water supply well is present, the well is located at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least four (4) inches extending at least two (2) feet in all directions from the well casing.

(2) If an existing residential individual on-site wastewater disposal system is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this
chapter and rules and regulations of the board. If replacement of
the existing system is not possible, the existing system shall be
repaired to reduce the volume of effluent, to adequately treat the
effluent and to the greatest extent possible, to confine the
discharge to the property of the generator except as authorized
under Section 41-67-8. If repairs are made to significantly
upgrade the existing individual on-site wastewater disposal
system, the department shall approve the system, if requested.

SECTION 10. Section 41-67-10, Mississippi Code of 1972, is
reenacted as follows:

41-67-10. Aerobic treatment systems may be installed only
if they have been tested and listed by a third party certifying
program. Aerobic treatment systems shall be in compliance with
standards for a Class I system as defined by the most current
revision of American National Standards Institute/National
Sanitation Foundation (ANSI/NSF) International Standard Number 40,
hereby incorporated by reference. Beginning on October 1, 1996,
an approved third party certifying program shall comply with the
following provisions for systems which it has certified to be
installed in Mississippi:

(a) Be accredited by the American National Standards
Institute;

(b) Have established procedures which send
representatives to distributors in Mississippi on a recurring
basis to conduct evaluations to assure that distributors of
certified aerobic treatment systems are providing proper
maintenance, have sufficient replacement parts available and are
maintaining service records;

(c) Notify the department of the results of monitoring
visits to manufacturers and distributors within sixty (60) days of
the conclusion of the monitoring; and

(d) Submit completion reports on testing and any other
information as the department may require for its review.
SECTION 11. Section 41-67-11, Mississippi Code of 1972, is
reenacted as follows:

41-67-11. (1) Temporary individual on-site wastewater
disposal systems may be approved in otherwise unapprovable areas
only after a contract has been awarded for the construction of
municipal or community sewers that upon completion will adequately
serve the property. Temporary individual on-site wastewater
disposal systems shall only be approved under the following
conditions:

(a) When the municipal or community sewers shall not be
completed and available for use within six (6) months, a complete
individual on-site wastewater disposal system complying with all
requirements of the board may be installed. Upon completion of
the sewer construction all systems shall be abandoned and all
residences, buildings or facilities connected to the sewer.

(b) When the public sewers shall be available and ready
for use within a period not to exceed six (6) months, or where a
minor extension is to be made to a municipal system by the
municipality and no contract is to be awarded, an individual
on-site wastewater disposal system with a minimum capacity of
three hundred (300) gallons and at least sixty percent (60%) of
the required disposal field may be installed. The board shall not
approve a temporary system under this subsection unless the
professional engineer designing the sewer system has certified to
the board in writing that the public sewer or extension shall be
completed within six (6) months, and the owner of the temporary
system has certified in writing that connection to the public
sewer shall be made as soon as it becomes available.

(2) The board may approve the installation of sewage holding
tanks in districts created under Sections 19-5-151 through
19-5-207 for the purpose of providing sewage services. The
district shall be required to maintain or provide for the
maintenance of those holding tanks. The board shall require that
residences be connected to a municipal or community sewage system when that system is available and ready to use.

SECTION 12. Section 41-67-12, Mississippi Code of 1972, is reenacted as follows:

41-67-12. (1) The department shall assess fees in the following amounts for the following purposes:

(a) A fee of Fifty Dollars ($50.00) shall be levied for soil and site evaluation and recommendation of individual on-site wastewater disposal systems.

(b) A fee of Fifty Dollars ($50.00) shall be levied annually for the certification of installers and persons engaging in the removal and disposal of the sludge and liquid wastes from individual on-site wastewater disposal systems.

(c) A fee of One Hundred Dollars ($100.00) shall be levied annually for the registration of manufacturers.

(2) In the discretion of the board, a person shall be liable for a penalty equal to one and one-half (1-1/2) times the amount of the fee due and payable for failure to pay the fee on or before the date due, plus any amount necessary to reimburse the cost of collection.

(3) The fee authorized under this section shall not be assessed for any system operated by state agencies or institutions, including without limitation, foster homes licensed by the State Department of Human Services. The fee authorized under this section shall not be charged again after payment of the initial fee for any system that has been installed in accordance with this chapter, within a period of twenty-four (24) months following the date that the system was originally installed.

SECTION 13. Section 41-67-15, Mississippi Code of 1972, is reenacted as follows:

41-67-15. Nothing in this chapter shall limit the authority of a municipality or board of supervisors to adopt similar ordinances which may be, in whole or in part, more restrictive
than this chapter, and in those cases the more restrictive
ordinances will govern.

SECTION 14. Section 41-67-16, Mississippi Code of 1972, is
reenacted as follows:

41-67-16. (1) Before January 1, 1997, the department shall
conduct a study of all individual on-site wastewater disposal
systems currently being recommended for use in the state to
determine the suitability of using those systems on lots or tracts
in areas of the state given the various soil types and
classifications. In conducting the study, the department shall
consider the type of system, lot size, effluent quality and other
recommended limitations which should be placed on the use of each
system.

(2) The department shall prepare and submit a report to the
Governor and the Legislature describing the results of its study.

SECTION 15. Section 41-67-19, Mississippi Code of 1972, is
reenacted as follows:

41-67-19. Each authorized agent of the department
implementing this chapter shall demonstrate to the department's
satisfaction that the person:

(a) Is competent to review and provide any requested
approval of design, construction and installation of individual
on-site wastewater disposal systems, as well as the operation,
repair or maintenance of those systems, to make soil permeability
tests or soil and site evaluations, and to conduct inspections of
individual on-site wastewater disposal systems in accordance with
this chapter and rules and regulations adopted under this chapter;
and

(b) Has successfully completed the installer
certification training program provided by the department.

SECTION 16. Section 41-67-21, Mississippi Code of 1972, is
reenacted as follows:
41-67-21. (1) The board or the department may require a property owner or lessee to repair a malfunctioning individual on-site wastewater disposal system on the owner's or lessee's property before the thirtieth day after the date on which the owner or lessee is notified by the department of the malfunctioning system.

(2) The property owner or lessee shall take adequate measures as soon as practicable to abate an immediate health hazard.

(3) The property owner or lessee may be assessed a civil penalty not to exceed Five Dollars ($5.00) for each day the individual on-site wastewater disposal system remains unrepaired after the thirty-day period specified in subsection (1) of this section.

(4) The board may assess the property owner or lessee of an individual on-site wastewater disposal system authorized pursuant to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars ($50.00) for each day the system fails to meet the performance standards of that system after the thirty-day period specified in subsection (1) of this section.

(5) All penalties collected by the board under this section shall be deposited in the State General Fund.

(6) Appeals from the imposition of civil penalty under this section may be taken as provided in Section 41-67-29.

SECTION 17. Section 41-67-23, Mississippi Code of 1972, is reenacted as follows:

41-67-23. The department or its authorized representative may enter onto property and make inspections of any individual on-site wastewater disposal system as necessary to ensure that the system is in compliance with this chapter and the rules adopted under this chapter. The department shall give reasonable notice to any property owner, lessee or occupant prior to entry onto the property. The owner, lessee, owner's representative, or occupant...
of the property on which the system is located shall give the
department or its authorized representative reasonable access to
the property at reasonable times to make necessary inspections.

SECTION 18. Section 41-67-25, Mississippi Code of 1972, is
reenacted as follows:

41-67-25. (1) A person may not operate as an installer in
this state unless that person is certified by the board except any
individual who installs an individual on-site wastewater disposal
system on his own property or a professional engineer.

(2) An installer of aerobic treatment plants or subsurface
drip disposal systems must be a factory-trained and authorized
representative. The manufacturer must furnish documentation to
the department certifying the satisfactory completion of factory
training and the establishment of the installer as an authorized
manufacturer's representative.

(3) The board shall issue a certification to an installer if
the installer:

(a) Completes an application form that complies with
this chapter and rules adopted under this chapter;

(b) Satisfactorily completes the training program
provided by the department; and

(c) Pays the annual certification fee.

(4) Each installer shall furnish proof of certification to a
property owner, lessee, the owner's representative or occupant of
the property on which an individual on-site wastewater disposal
system is to be designed, constructed, repaired or installed by
that installer and to the department or its authorized
representative, if requested.

(5) The department shall provide for annual renewal of
certifications.

(6) (a) An installer's certification may be suspended or
revoked by the board after notice and hearing if the installer
violates this chapter or any rule or regulation adopted under this chapter.

(b) The installer may appeal a suspension or revocation under this section as provided by law.

(7) The department semiannually shall disseminate to the public an official list of certified installers and provide to county health departments a monthly update of the list.

SECTION 19. Section 41-67-27, Mississippi Code of 1972, is reenacted as follows:

41-67-27. It is unlawful for a manufacturer of an individual on-site wastewater disposal system to operate a business in or to do business in the State of Mississippi without holding a valid registration issued by the department.

SECTION 20. Section 41-67-28, Mississippi Code of 1972, is reenacted as follows:

41-67-28. (1) Except as otherwise provided in this chapter, any person who shall knowingly violate this chapter or any rule or regulation or written order of the board in pursuance thereof is, upon conviction, guilty of a misdemeanor and shall be punished as provided in Section 41-3-59.

(2) Each day of a continuing violation is a separate violation.

(3) (a) In addition to all other statutory and common law rights, remedies and defenses, any person who purchases an individual on-site wastewater disposal system and suffers any ascertainable loss of money or property, real or personal, may bring an action at law in the court having jurisdiction in the county in which the installer or manufacturer has the principal place of business, where the act allegedly occurred, to recover any loss of money or damages for the loss of any property resulting from any of the following:

(i) Improper installation of an individual on-site wastewater disposal system due to faulty workmanship;

(ii) Improper...
(ii) Failure of an individual on-site wastewater disposal system to operate properly due to failure to install the system in accordance with any requirements of the manufacturer or in compliance with any rules and regulations of the board; or

(iii) Failure of an individual on-site wastewater disposal system to operate properly due to defective design or construction.

(b) Nothing in this chapter shall be construed to permit any class action or suit, but every private action must be maintained in the name of and for the sole use and benefit of the individual person.

(4) A person who violates this chapter thereby causing a discharge off the property of the generator shall be liable to the party aggrieved or damaged by that violation for the actual damages and additional punitive damages equal to a maximum of twenty-five percent (25%) of the actual damages proven by the aggrieved party, to be taxed by the court where the suit is heard on an original action, by appeal or otherwise and recovered by a suit at law in any court of competent jurisdiction. In addition, the court may award the prevailing party reasonable attorneys fees and court costs. Before filing suit, the party aggrieved or damaged must give thirty (30) days' written notice of its intent to file suit to the alleged violator.

SECTION 21. Section 41-67-29, Mississippi Code of 1972, is reenacted as follows:

41-67-29. Any person who is aggrieved by any final decision of the board may appeal that final decision to the chancery court of the county of the situs in whole or in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in a sum to be fixed by the board or the court and to be filed with and approved by the clerk of the court. The aggrieved party may, within thirty (30) days following a final decision of the board, petition the chancery court for an
appeal with supersedeas and the chancellor shall grant a hearing on the petition. Upon good cause shown the chancellor may grant the appeal with supersedeas. The appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. The chancery court shall always be deemed open for hearing of appeals and the chancellor may hear the appeal in termtime or in vacation at any place in his district. The appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact and may enter a final order or remand the matter to the board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, but if a supersedeas is desired by the party appealing to the chancery court, that party may apply therefor to the chancellor, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result. If material damage is likely to result, the chancellor shall require a supersedeas bond as deemed proper, which shall be liable to the state for any damage.

SECTION 22. Section 41-67-31, Mississippi Code of 1972, is reenacted and amended as follows:


SECTION 23. This act shall take effect and be in force from and after July 1, 2001.