

By: Representative Franks

To: Public Health and
Welfare

HOUSE BILL NO. 1114

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND REENACTED SECTION
4 41-67-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTHING IN THIS
5 LAW WILL PREVENT PROPERTY OWNERS FROM INSTALLING SEPTIC TANK
6 DISPOSAL SYSTEMS WITH SUBSURFACE DISPOSAL ON THEIR OWN PROPERTY;
7 TO AMEND REENACTED SECTION 41-67-5, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT NO PERMANENT UTILITY CONNECTION SHALL BE PROVIDED TO
9 ANY RESIDENCE, BUILDING OR FACILITY UNLESS ITS INDIVIDUAL ON-SITE
10 WASTEWATER DISPOSAL SYSTEM, IF ANY, HAS BEEN APPROVED BY THE STATE
11 DEPARTMENT OF HEALTH; TO REQUIRE PUBLIC UTILITY SYSTEMS TO NOTIFY
12 INDIVIDUALS OF THAT REQUIREMENT AT THE TIME THAT UTILITY SERVICE
13 IS REQUESTED; TO AMEND REENACTED SECTION 41-67-6, MISSISSIPPI CODE
14 OF 1972, TO REQUIRE APPROVAL OF THE INSTALLATION OF INDIVIDUAL
15 ON-SITE WASTEWATER DISPOSAL SYSTEMS BY THE DEPARTMENT UNLESS
16 OTHERWISE PROVIDED IN THIS LAW; TO PROVIDE THAT THE DEPARTMENT
17 SHALL APPROVE THE INSTALLATION OF AN INDIVIDUAL ON-SITE WASTEWATER
18 DISPOSAL SYSTEM IF THE SYSTEM IS INSTALLED IN ACCORDANCE WITH THIS
19 LAW AND THE RULES AND REGULATIONS OF THE STATE BOARD OF HEALTH; TO
20 AUTHORIZE THE INSTALLER OF AN INDIVIDUAL ON-SITE WASTEWATER
21 DISPOSAL SYSTEM TO FILE AN AFFIDAVIT OF SYSTEM INSTALLATION WITH
22 THE DEPARTMENT IF THE DEPARTMENT INSPECTOR DOES NOT KEEP THE
23 APPOINTMENT WITH THE INSTALLER FOR FINAL INSPECTION OF THE SYSTEM;
24 TO PROVIDE THAT IN SUCH CASE THE DEPARTMENT SHALL ISSUE ITS FINAL
25 APPROVAL BASED ON THE INFORMATION CONTAINED IN THE AFFIDAVIT; TO
26 PROVIDE THAT IF ANY CERTIFIED INSTALLER FILES AN AFFIDAVIT
27 CONTAINING FALSE OR INCORRECT INFORMATION, THE INSTALLER SHALL BE
28 FINED AND HIS LICENSE SHALL BE SUSPENDED FOR ONE YEAR; TO AMEND
29 REENACTED SECTION 41-67-12, MISSISSIPPI CODE OF 1972, TO PROVIDE
30 FOR A FEE TO BE CHARGED BY THE DEPARTMENT FOR APPROVAL OF
31 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO AMEND REENACTED
32 SECTION 41-67-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
33 DEPARTMENT SHALL REQUIRE PROPERTY OWNERS TO REPAIR MALFUNCTIONING
34 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS ON THE OWNERS'
35 PROPERTY WITHIN A SPECIFIED TIME; TO AMEND REENACTED SECTION
36 41-67-25, MISSISSIPPI CODE OF 1972, TO REQUIRE INSTALLERS TO
37 COMPLETE SIX HOURS OF CONTINUING EDUCATION UNITS ANNUALLY TO RENEW
38 THEIR CERTIFICATIONS; TO AMEND REENACTED SECTIONS 41-67-7, 41-67-9
39 AND 41-67-19, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
40 PRECEDING PROVISIONS; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE
41 OF 1972, TO EXTEND THE REPEALER ON THE MISSISSIPPI INDIVIDUAL
42 ON-SITE WASTEWATER DISPOSAL LAW; AND FOR RELATED PURPOSES.

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

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

46 41-67-1. This chapter shall be known and may be cited as the
47 "Mississippi Individual On-Site Wastewater Disposal System Law."



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

50 41-67-2. For purposes of this chapter, the following words
51 shall have the meanings ascribed herein unless the context clearly
52 indicates otherwise:

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

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

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

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

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

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

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

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



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

83 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is
84 reenacted and amended as follows:

85 41-67-3. (1) The State Board of Health shall have the
86 following duties and responsibilities:

87 (a) To exercise general supervision over the design,
88 construction, operation and maintenance of individual on-site
89 wastewater disposal systems with flows substantially equivalent to
90 a single family residential generator, except when the property
91 owner or lessee chooses to employ a professional engineer to
92 comply with this chapter. To effectively administer this law, the
93 department and the Department of Environmental Quality shall enter
94 into a memorandum of understanding, which at a minimum shall
95 clearly define the jurisdiction of each department with regard to
96 wastewater disposal and procedures for interdepartmental
97 interaction and cooperation;

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

109 (c) To provide or deny certification for persons
110 engaging in the business of the design, construction or
111 installation of individual on-site wastewater disposal systems and



112 persons engaging in the removal and disposal of the sludge and
113 liquid waste from those systems;

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

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

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

140 (3) Nothing in this chapter will prevent any individual from
141 installing a conventional individual on-site wastewater disposal
142 system on his or her own property, and any such installation shall
143 require the approval of the department under Section 41-67-6. For
144 the purposes of this subsection, a conventional individual on-site



145 wastewater disposal system means a septic tank disposal system
146 with subsurface disposal.

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

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

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

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

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

172 (a) A standard application form and requirements for
173 supporting documentation;

174 (b) Application review;

175 (c) Approval or denial of authorization for proposed
176 systems;



177 (d) Requirements, as deemed appropriate by the board,
178 for annual renewal of authorization;

179 (e) Enforcement of the requirements and conditions of
180 authorization; and

181 (f) Inspection, monitoring, sampling and reporting on
182 the performance of the system.

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

191 (6) To the extent practicable, all rules and regulations
192 adopted under this chapter shall give maximum flexibility to
193 persons installing individual on-site wastewater disposal systems
194 and a maximum number of options consistent with the federal Clean
195 Water Act, consistent with maintaining the wastes on the property
196 of the generator except as authorized under Section 41-67-8, and
197 consistent with protection of the public health. In addition, all
198 rules and regulations, to the extent practicable, shall encourage
199 the use of economically feasible systems, including alternative
200 techniques and technologies for individual on-site wastewater
201 disposal.

202 (7) All regulations shall be applied uniformly in all areas
203 of the state and shall take into consideration and make provision
204 for different types of soil in the state when performing soil and
205 site evaluations.

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

208 41-67-4. (1) The Commission on Environmental Quality shall
209 determine the feasibility of establishing community sewerage



210 systems upon the submission by the developer of a preliminary
211 design and feasibility study prepared by a professional engineer.
212 The developer may request and obtain a hearing before the
213 commission if the developer is dissatisfied with the commission's
214 determination of feasibility. The determination that a sewerage
215 system must be established shall be made without regard to whether
216 the establishment of a sewerage system is authorized by law or is
217 subject to approval by one or more state or local government or
218 public bodies.

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

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

232 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
233 reenacted and amended as follows:

234 41-67-5. (1) No owner, lessee or developer shall construct
235 or place any mobile, modular or permanently constructed residence,
236 building or facility, which may require the installation of an
237 individual on-site wastewater disposal system, without having
238 first submitted a notice of intent to the department. Upon
239 receipt of a notice of intent, the department shall provide the
240 owner, lessee or developer with complete information on individual
241 on-site wastewater disposal systems, including but not limited to
242 applicable rules and regulations regarding the design,



243 construction, installation, operation and maintenance of
244 individual on-site wastewater disposal systems and known
245 requirements of lending institutions for approval of the systems.

246 (2) No new permanent utility service connection shall be
247 provided to any mobile, modular or permanently constructed
248 residence, building or facility unless its individual on-site
249 wastewater disposal system, if any, has been approved by the
250 department. Public utility systems shall notify individuals of
251 the requirements of this section at the time that utility service
252 is requested.

253 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is
254 reenacted and amended as follows:

255 41-67-6. (1) Within five (5) working days following receipt
256 of the notice of intent and plot plan by an owner, lessee or
257 developer of any lot or tract of land, the department shall
258 conduct a soil and site evaluation, except in cases where a
259 professional engineer provides services relating to the design,
260 construction or installation of an individual on-site wastewater
261 disposal system to comply with this chapter. Within ten (10)
262 additional working days, the department shall make recommendations
263 to the owner, lessee or developer of the type or types of
264 individual on-site wastewater disposal systems acceptable for
265 installation on the lot or tract, unless there are conditions
266 requiring further investigation that are revealed in the initial
267 evaluation. In making recommendations on the type or types of
268 individual on-site wastewater disposal systems acceptable for
269 installation on a lot or tract, personnel of the department shall
270 use best professional judgment based on rules and regulations
271 adopted by the board, considering the type or types of systems
272 which are installed and functioning on lots or tracts near the
273 subject lot or tract. If existing systems in the surrounding area
274 function properly, systems of that same type shall be acceptable.
275 To the extent practicable, the recommendations shall give the



276 owner, lessee or developer maximum flexibility and a maximum
277 number of options consistent with the federal Clean Water Act,
278 consistent with maintaining the wastes on the property of the
279 generator except as authorized under Section 41-67-8, and
280 consistent with protection of the public health. The system or
281 systems recommended shall be environmentally sound and
282 cost-effective. The department or a professional engineer shall
283 provide complete information, including all applicable
284 requirements and regulations on all systems recommended. The
285 owner, lessee or developer shall have the right to choose among
286 acceptable systems. The department shall provide the owner,
287 lessee or developer with a form that specifies all types of
288 individual on-site wastewater disposal systems that are
289 acceptable for installation on the lot or tract and lists all
290 installers of those systems that are certified by the department.

291 The installation of an individual on-site wastewater disposal
292 system must be approved by the department unless otherwise
293 provided in this chapter. * * * The department shall approve
294 the * * * installation of an individual on-site wastewater
295 disposal system * * * if the system is * * * installed * * * in
296 accordance with this chapter and the rules and regulations of the
297 board. The department shall not perform any final inspection or
298 approval of an individual on-site wastewater disposal system that
299 was installed by a certified installer unless the installer holds
300 a valid performance bond as required by Section 41-67-25(3). The
301 department shall not approve any individual on-site wastewater
302 disposal system that has a direct or point source discharge,
303 unless the Permit Board has issued a permit for that system under
304 Section 41-67-8.

305 (2) Evaluations and recommendations for a subdivision shall
306 not be subject to the time constraints in this section.

307 (3) * * * An installer may not begin the design,
308 construction or installation of any individual on-site wastewater



309 disposal system, unless the installer notifies the department of
310 the date on which the installer plans to begin work on the system.
311 After the installer has installed an individual on-site wastewater
312 disposal system and is ready for final inspection and approval by
313 the department, the installer shall schedule a time for the
314 inspection with the appropriate county department of health not
315 less than forty-eight (48) hours before the anticipated time of
316 the inspection. If the county department of health inspector is
317 late or is unable to keep the appointment and the installer is not
318 notified, the installer shall wait thirty (30) minutes past the
319 scheduled appointment time before covering his or her work. The
320 installer then shall complete an affidavit of system installation
321 for the individual on-site wastewater disposal system and file the
322 affidavit with the county department of health. The department
323 then shall issue its final approval based on the information
324 contained in the affidavit.

325 (4) A person may not design, construct or install, or cause
326 to be designed, constructed or installed an individual on-site
327 wastewater disposal system that does not comply with this chapter
328 and rules and regulations of the board.

329 (5) Any person who installs an individual on-site wastewater
330 disposal system shall sign and file with the department an
331 affidavit that the system was installed in compliance with all
332 requirements and regulations applicable to that type of system.
333 If any person or contractor fails to comply with all requirements
334 and regulations in the installation of the system, the board,
335 after due notice and hearing, may levy an administrative fine not
336 to exceed One Thousand Dollars (\$1,000.00). If any certified
337 installer files an affidavit with the department containing false
338 or incorrect information that the installer knows to be false or
339 incorrect, the board, after due notice and hearing, shall levy an
340 administrative fine of Two Thousand Dollars (\$2,000.00) and



341 suspend the installer's certification under Section 41-67-25(6)
342 for a period of one (1) year.

343 (6) Any provisions of this chapter regarding the
344 department's approval of the design, construction and installation
345 of an individual on-site wastewater disposal system shall not
346 apply to a residence, building or facility that is located on a
347 land tract that is two (2) acres or larger.

348 **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is
349 reenacted and amended as follows:

350 41-67-7. Individual on-site wastewater disposal systems
351 may be approved on lots in areas or subdivisions where prior to
352 the sale of the lots, the following requirements are met:

353 (1) Individual on-site wastewater disposal systems with
354 underground absorption fields may be approved, provided the
355 following requirements are met:

356 (a) Sewers are not available or feasible;

357 (b) The existing disposal systems in the area are
358 functioning satisfactorily;

359 (c) Soil types, soil texture, seasonal water tables and
360 other limiting factors are satisfactory for underground
361 absorption; and

362 (d) Any private water supply is located at a higher
363 elevation and at least fifty (50) feet from the individual on-site
364 wastewater disposal system and at least one hundred (100) feet
365 from the disposal field of the system.

366 (2) Except for systems utilizing underground absorption,
367 alternative individual on-site wastewater disposal systems may be
368 approved, provided the following requirements are met:

369 (a) Sewers are not available or feasible;

370 (b) The systems meet applicable water quality
371 requirements of the federal Clean Water Act and also requirements
372 of the board and department; and



373 (c) Any discharge is confined within the boundaries of
374 the property of the generator except as authorized under Section
375 41-67-8.

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

378 41-67-8. (1) This section shall be applicable only after
379 the department has determined that there is no type of individual
380 on-site wastewater disposal system authorized under subsection (3)
381 or (4) of Section 41-67-3 or rules or regulations of the board
382 that can maintain the wastes on the property of the generator.

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

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

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

393 **SECTION 9.** Section 41-67-9, Mississippi Code of 1972, is
394 reenacted and amended as follows:

395 41-67-9. (1) Existing individual on-site wastewater
396 disposal systems may be approved, provided the following
397 requirements are met:

398 (a) The lot is located in an area or subdivision where
399 individual on-site wastewater disposal systems may be considered
400 for approval under this chapter;

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



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

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

415 (2) If an existing residential individual on-site wastewater
416 disposal system is malfunctioning, the system should be replaced,
417 where possible, with a system meeting all requirements of this
418 chapter and rules and regulations of the board. If replacement of
419 the existing system is not possible, the existing system shall be
420 repaired to reduce the volume of effluent, to adequately treat the
421 effluent and * * * to confine the discharge to the property of the
422 generator except as authorized under Section 41-67-8. If repairs
423 are made to significantly upgrade the existing individual on-site
424 wastewater disposal system, * * * the system must be approved by
425 the department.

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

428 41-67-10. Aerobic treatment systems may be installed only if
429 they have been tested and listed by a third party certifying
430 program. Aerobic treatment systems shall be in compliance with
431 standards for a Class I system as defined by the most current
432 revision of American National Standards Institute/National
433 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
434 hereby incorporated by reference. Beginning on October 1, 1996,
435 an approved third party certifying program shall comply with the
436 following provisions for systems which it has certified to be
437 installed in Mississippi:



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

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

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

449 (d) Submit completion reports on testing and any other
450 information as the department may require for its review.

451 **SECTION 11.** Section 41-67-11, Mississippi Code of 1972, is
452 reenacted as follows:

453 41-67-11. (1) Temporary individual on-site wastewater
454 disposal systems may be approved in otherwise unapprovable areas
455 only after a contract has been awarded for the construction of
456 municipal or community sewers that upon completion will adequately
457 serve the property. Temporary individual on-site wastewater
458 disposal systems shall only be approved under the following
459 conditions:

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

466 (b) When the public sewers shall be available and ready
467 for use within a period not to exceed six (6) months, or where a
468 minor extension is to be made to a municipal system by the
469 municipality and no contract is to be awarded, an individual
470 on-site wastewater disposal system with a minimum capacity of



471 three hundred (300) gallons and at least sixty percent (60%) of
472 the required disposal field may be installed. The board shall not
473 approve a temporary system under this subsection unless the
474 professional engineer designing the sewer system has certified to
475 the board in writing that the public sewer or extension shall be
476 completed within six (6) months, and the owner of the temporary
477 system has certified in writing that connection to the public
478 sewer shall be made as soon as it becomes available.

479 (2) The board may approve the installation of sewage holding
480 tanks in districts created under Sections 19-5-151 through
481 19-5-207 for the purpose of providing sewage services. The
482 district shall be required to maintain or provide for the
483 maintenance of those holding tanks. The board shall require that
484 residences be connected to a municipal or community sewage system
485 when that system is available and ready to use.

486 **SECTION 12.** Section 41-67-12, Mississippi Code of 1972, is
487 reenacted and amended as follows:

488 41-67-12. (1) The department shall assess fees in the
489 following amounts for the following purposes:

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

493 (b) A fee of Fifty Dollars (\$50.00) shall be levied for
494 approval of individual on-site wastewater disposal systems.

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

499 (d) A fee of One Hundred Dollars (\$100.00) shall be
500 levied annually for the registration of manufacturers.

501 (2) In the discretion of the board, a person shall be liable
502 for a penalty equal to one and one-half (1-1/2) times the amount
503 of the fee due and payable for failure to pay the fee on or before



504 the date due, plus any amount necessary to reimburse the cost of
505 collection.

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

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

516 41-67-15. Nothing in this chapter shall limit the authority
517 of a municipality or board of supervisors to adopt similar
518 ordinances which may be, in whole or in part, more restrictive
519 than this chapter, and in those cases the more restrictive
520 ordinances will govern.

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

523 41-67-16. (1) Before January 1, 1997, the department shall
524 conduct a study of all individual on-site wastewater disposal
525 systems currently being recommended for use in the state to
526 determine the suitability of using those systems on lots or tracts
527 in areas of the state given the various soil types and
528 classifications. In conducting the study, the department shall
529 consider the type of system, lot size, effluent quality and other
530 recommended limitations which should be placed on the use of each
531 system.

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

534 **SECTION 15.** Section 41-67-19, Mississippi Code of 1972, is
535 reenacted and amended as follows:



536 41-67-19. Each authorized agent of the department
537 implementing this chapter shall demonstrate to the department's
538 satisfaction that the person:

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

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

549 **SECTION 16.** Section 41-67-21, Mississippi Code of 1972, is
550 reenacted and amended as follows:

551 41-67-21. (1) The board or the department shall require a
552 property owner or lessee to repair a malfunctioning individual
553 on-site wastewater disposal system on the owner's or lessee's
554 property before the thirtieth day after the date on which the
555 owner or lessee is notified by the department of the
556 malfunctioning system.

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

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

565 (4) The board may assess the property owner or lessee of an
566 individual on-site wastewater disposal system authorized pursuant
567 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
568 (\$50.00) for each day the system fails to meet the performance



569 standards of that system after the thirty-day period specified in
570 subsection (1) of this section.

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

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

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

577 41-67-23. The department or its authorized representative
578 may enter onto property and make inspections of any individual
579 on-site wastewater disposal system as necessary to ensure that the
580 system is in compliance with this chapter and the rules adopted
581 under this chapter. The department shall give reasonable notice
582 to any property owner, lessee or occupant prior to entry onto the
583 property. The owner, lessee, owner's representative, or occupant
584 of the property on which the system is located shall give the
585 department or its authorized representative reasonable access to
586 the property at reasonable times to make necessary inspections.

587 **SECTION 18.** Section 41-67-25, Mississippi Code of 1972, is
588 reenacted and amended as follows:

589 41-67-25. (1) A person may not operate as an installer in
590 this state unless that person is certified by the board except any
591 individual who installs an individual on-site wastewater disposal
592 system on his own property or a professional engineer.

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

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



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

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

605 (c) Pays the annual certification fee; and

606 (d) Provides proof of having a valid public liability
607 insurance policy in effect with liability limits of at least Fifty
608 Thousand Dollars (\$50,000.00) per occurrence and at least One
609 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

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

616 (5) The department shall provide for annual renewal of
617 certifications. In addition to any other requirements imposed by
618 the department for renewal of certifications, an installer must
619 complete not less than six (6) hours of continuing education units
620 annually for renewal of his or her certification.

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

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

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

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

632 41-67-27. It is unlawful for a manufacturer of an individual
633 on-site wastewater disposal system to operate a business in or to



634 do business in the State of Mississippi without holding a valid
635 registration issued by the department.

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

638 41-67-28. (1) Except as otherwise provided in this chapter,
639 any person who shall knowingly violate this chapter or any rule or
640 regulation or written order of the board in pursuance thereof is,
641 upon conviction, guilty of a misdemeanor and shall be punished as
642 provided in Section 41-3-59.

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

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

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

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

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

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



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

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

681 41-67-29. Any person who is aggrieved by any final decision
682 of the board may appeal that final decision to the chancery court
683 of the county of the situs in whole or in part of the subject
684 matter. The appellant shall give a cost bond with sufficient
685 sureties, payable to the state in a sum to be fixed by the board
686 or the court and to be filed with and approved by the clerk of the
687 court. The aggrieved party may, within thirty (30) days following
688 a final decision of the board, petition the chancery court for an
689 appeal with supersedeas and the chancellor shall grant a hearing
690 on the petition. Upon good cause shown the chancellor may grant
691 the appeal with supersedeas. The appellant shall be required to
692 post a bond with sufficient sureties according to law in an amount
693 to be determined by the chancellor. The chancery court shall
694 always be deemed open for hearing of appeals and the chancellor
695 may hear the appeal in termtime or in vacation at any place in his
696 district. The appeal shall have precedence over all civil cases,
697 except election contests. The chancery court shall review all
698 questions of law and of fact and may enter a final order or remand
699 the matter to the board for appropriate action as may be indicated



700 or necessary under the circumstances. Appeals may be taken from
701 the chancery court to the Supreme Court in the manner as now
702 required by law, but if a supersedeas is desired by the party
703 appealing to the chancery court, that party may apply therefor to
704 the chancellor, who shall award a writ of supersedeas, without
705 additional bond, if in the chancellor's judgment material damage
706 is not likely to result. If material damage is likely to result,
707 the chancellor shall require a supersedeas bond as deemed proper,
708 which shall be liable to the state for any damage.

709 **SECTION 22.** Section 41-67-31, Mississippi Code of 1972, is
710 amended as follows:

711 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
712 repealed on July 1, 2006.

713 **SECTION 23.** This act shall take effect and be in force from
714 and after July 1, 2002.

