

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 570**

**By Senator(s) Committee**

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

7           **SECTION 1.** Section 91-9-9, Mississippi Code of 1972, is  
8 reenacted and amended as follows:

9           91-9-9. (1) In addition to powers, remedies and rights  
10 which may be set forth in any will, trust agreement or other  
11 document which is the source of authority, a trustee, executor,  
12 administrator, guardian, or one acting in any other fiduciary  
13 capacity, whether an individual, corporation or other entity  
14 ("fiduciary") shall have the following powers, rights and remedies  
15 whether or not set forth in the will, trust agreement or other  
16 document which is the source of authority:

17           (a) To inspect, investigate or cause to be inspected  
18 and investigated, property held by the fiduciary, including  
19 interests in sole proprietorships, partnerships, or corporations  
20 and any assets owned by any such business enterprise, for the  
21 purpose of determining compliance with any environmental law  
22 affecting such property and to respond to any actual or potential  
23 violation of any environmental law affecting property held by the  
24 fiduciary;

25           (b) To take on behalf of the estate or trust, any  
26 action necessary to prevent, abate, or otherwise remedy any actual

27 or potential violation of any environmental law affecting property  
28 held by the fiduciary, either before or after the initiation of an  
29 enforcement action by any governmental body;

30 (c) To refuse to accept property in trust if the  
31 fiduciary determines that any property to be donated or conveyed  
32 to the trust either is contaminated by any hazardous substance, or  
33 is being used or has been used for any activity directly or  
34 indirectly involving any hazardous substance, which could result  
35 in liability to the trust or otherwise impair the value of the  
36 assets held therein;

37 (d) To settle or compromise at any time any and all  
38 claims against the trust or estate which may be asserted by any  
39 governmental body or private party involving the alleged violation  
40 of any environmental law affecting property held in trust or in an  
41 estate;

42 (e) To disclaim any power granted by any document,  
43 statute, or rule of law which, in the sole discretion of the  
44 fiduciary, may cause the fiduciary to incur personal liability  
45 under any environmental law;

46 (f) To decline to serve as a fiduciary, if the  
47 fiduciary reasonably believes that there is or may be a conflict  
48 of interest between the fiduciary in its or his fiduciary capacity  
49 and in its or his individual capacity, because of potential claims  
50 or liabilities which may be asserted against the fiduciary on  
51 behalf of the trust or estate due to the type or condition of  
52 assets held therein.

53 (2) An administrator, executor, guardian or conservator is  
54 not relieved under this chapter from obtaining court approval for  
55 any actions which otherwise are required to be approved by a  
56 court.

57 (3) The fiduciary shall be entitled to charge the cost of  
58 any inspection, investigation, review, abatement, response,  
59 cleanup, or remedial action authorized herein against the income  
60 or principal of the trust or estate. A fiduciary shall not be  
61 personally liable to any beneficiary or other party for any

62 decrease in value of assets in trust or in an estate by reason of  
63 the fiduciary's compliance or efforts to comply with any  
64 environmental law, specifically including any reporting  
65 requirement under such law. Neither the acceptance by the  
66 fiduciary of property or a failure by the fiduciary to inspect or  
67 investigate property shall be deemed to create any inference as to  
68 whether there is or may be any liability under any environmental  
69 law with respect to such property.

70 (4) For purposes of this section, "environmental law" means  
71 any federal, state, or local law, rule, regulation, or ordinance  
72 relating to protection of the environment or human health. For  
73 purposes of this section, "hazardous substances" means any  
74 substance defined as hazardous or toxic or otherwise regulated by  
75 any environmental law.

76 (5) A fiduciary in its or his individual capacity shall not  
77 be considered an owner or operator of any property of the trust or  
78 estate for the purposes of any environmental law.

79 (6) Notwithstanding any other provision of this chapter, the  
80 fiduciary is subject at all times to the provisions of the Prudent  
81 Man Standard in all its dealings.

82 \* \* \*

83 **SECTION 2.** This act shall take effect and be in force from  
84 and after its passage.

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

1 AN ACT TO REENACT SECTION 91-9-9, MISSISSIPPI CODE OF 1972,  
2 WHICH PROVIDES FOR THE POWERS OF FIDUCIARIES TO PROMOTE COMPLIANCE  
3 WITH ENVIRONMENTAL LAWS; TO AMEND REENACTED SECTION 91-9-9,  
4 MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALER; AND FOR RELATED  
5 PURPOSES.