HOUSE BILL NO. 782
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 73-3-2 THROUGH 73-3-59,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE BOARD OF BAR
3 ADMISSIONS; TO AMEND SECTION 73-3-401, MISSISSIPPI CODE OF 1972,
4 TO EXTEND THE DATE OF REPEAL ON THE BOARD OF BAR ADMISSIONS; AND
5 FOR RELATED PURPOSES.

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

SECTION 1. Section 73-3-2, Mississippi Code of 1972, is
reenacted as follows:

73-3-2. (1) Power to admit persons to practice. The power
to admit persons to practice as attorneys in the courts of this
state is vested exclusively in the Supreme Court of Mississippi.

(2) Qualifications. (a) Each applicant for admission to
the bar, in order to be eligible for examination for admission,
shall be at least twenty-one (21) years of age, of good moral
character, and shall present to the Board of Bar Admissions
satisfactory evidence:

(i) That he has successfully completed, or is
within sixty (60) days of completion of, a general course of study
of law in a law school which is provisionally or fully approved by
the section on legal education and admission to the bar of the
American Bar Association, and that such applicant has received, or
will receive within sixty (60) days, a diploma or certificate from
such school evidencing the satisfactory completion of such course,
but in no event shall any applicant under this paragraph be
admitted to the bar until such applicant actually receives such
diploma or certificate. However, an applicant who, as of November
1, 1981, was previously enrolled in a law school in active
existence in Mississippi for more than ten (10) years prior to the
date of application shall be eligible for examination for
admission; provided that such an applicant graduated prior to
November 1, 1984;

(ii) That he has notified the Board of Bar
Admissions in writing of an intention to pursue a general course
of study of law under the supervision of a Mississippi lawyer
prior to July 1, 1979, and in fact began study prior to July 1,
1979, and who completed the required course of study prior to
November 1, 1984, in accordance with Sections 73-3-13(b) and
73-3-15 as the same exist prior to the effective date of this
section; or

(iii) That in addition to complying with either of
the above requirements, he has received a bachelor's degree from
an accredited college or university or that he has received credit
for the requirements of the first three (3) years of college work
from a college or university offering an integrated six-year
prelaw and law course, and has completed his law course at a
college or university offering such an integrated six-year course.

However, applicants who have already begun the general course of
study of law as of November 1, 1979, either in a law school or
under the supervision of a Mississippi lawyer shall submit proof
he has successfully completed two (2) full years of college work.

(b) The applicant shall bear the burden of establishing
his or her qualifications for admission to the satisfaction of the
Board of Bar Admissions. An applicant denied admission for
failure to satisfy qualifications for admission shall have the
right to appeal from the final order of the board to the Chancery
Court of Hinds County, Mississippi, within thirty (30) days of
entry of such order of denial.

(3) Creation of Board of Bar Admissions. There is hereby
created a board to be known as the "Board of Bar Admissions" which
shall be appointed by the Supreme Court of Mississippi. The board
shall consist of nine (9) members, who shall be members in good
standing of the Mississippi State Bar and shall serve for terms of three (3) years. Three (3) members shall be appointed from each Supreme Court district, one (1) by each Supreme Court Justice from his district, with the original appointments to be as follows: Three (3) to be appointed for a term of one (1) year, three (3) to be appointed for a term of two (2) years, and three (3) to be appointed for a term of three (3) years, one (1) from each district to be appointed each year. No member of the Board of Bar Admissions may be a member of the Legislature. Vacancies during a term shall be filled by the appointing justice or his successor for the remainder of the unexpired term.

The board shall promulgate the necessary rules for the administration of their duties, subject to the approval of the Chief Justice of the Supreme Court.

(4) **Written examination or graduation as prerequisite to admission.** Every person desiring admission to the bar, shall be required to take and pass a written bar examination in a manner satisfactory to the Board of Bar Admissions. The Board of Bar Admissions shall conduct not less than two (2) bar examinations each year.

(5) **Oath and compensation of board members.** The members of the Board of Bar Admissions shall take and subscribe an oath to be administered by one (1) of the judges of the Supreme Court to faithfully and impartially discharge the duties of the office. The members shall receive compensation as established by the Supreme Court for preparing, giving and grading the examination plus all reasonable and necessary travel expenses incurred in the performance of their duties under the provisions of this section.

(6) **Procedure for applicants who have failed.** Any applicant who fails the examination shall be allowed to take the next scheduled examination. A failing applicant may request in writing from the board, within thirty (30) days after the results of the examination have been made public, copies of his answers and model
answers used in grading the examination, at his expense. If a uniform, standardized examination is administered, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board. Any failing applicant shall have a right to a review of his failure by the board. The board shall enter an order on its minutes, prior to the administration of the next bar examination, either granting or denying the applicant's review, and shall notify the applicant of such order. The applicant shall have the right to appeal from this order to the Chancery Court of Hinds County, Mississippi, within thirty (30) days of entry of such order.

(7) Fees. The board shall set and collect the fees for examination and for admission to the bar. The fees for examination shall be based upon the annual cost of administering the examinations. The fees for admission shall be based upon the cost of conducting an investigation of the applicant and the administrative costs of sustaining the board, which shall include, but shall not be limited to:

(a) Expenses and travel for board members;
(b) Office facilities, supplies and equipment; and
(c) Clerical assistance.

All fees collected by the board shall be paid to the State Treasurer, who shall issue receipts therefor and who shall deposit such funds in the State Treasury in a special fund to the credit of said board. All such funds shall be expended only in accordance with the provisions of Chapter 496, Laws of 1962, as amended, being Section 27-103-1 et seq., Mississippi Code of 1972.

(8) The board, upon finding the applicant qualified for admission, shall issue to the applicant a certificate of admission. The applicant shall file the certificate and a petition for admission in the Chancery Court of Hinds County, Mississippi, or in the chancery court in the county of his
residence, or, in the case of an applicant who is a nonresident of
the State of Mississippi, in the chancery court of a county in
which the applicant intends to practice. The chancery court
shall, in termtime or in vacation, enter on the minutes of that
court an order granting to the applicant license to practice in
all courts in this state, upon taking by the applicant in the
presence of the court, the oath prescribed by law, Section
(9) Each application or filing made under this section shall
include the social security number(s) of the applicant in
accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 2. Section 73-3-25, Mississippi Code of 1972, is
reenacted as follows:

73-3-25. Any lawyer from another state whose requirements
for admission to the bar are equivalent to those of this state,
who has practiced not less than five (5) years in a state where he
was then admitted may be admitted to the practice in this state
upon taking and passing such examination as to his knowledge of
law as may be prescribed by rules adopted by the Board of Bar
Admissions and approved by the Supreme Court and upon complying
with the other requirements as set out in the laws and rules
governing admission to the bar. Provided, however, the laws of
the state from which the applicant comes grant similar privileges
to the applicants from this state.

Any lawyer from another state desiring to be admitted to
practice in Mississippi must make application to the Board of Bar
Admissions. Such applicant shall present to the bar evidence of
his good standing in the state from which he came, including a
certificate from the clerk of the highest appellate court of the
state from which he came, and from two (2) members of the bar of
such state, certifying to his qualifications, good standing and
moral character of the applicant, and may require the submission
of additional evidence by the applicant. Upon satisfactory proof
of the applicant's qualifications and upon the applicant's compliance with the requirements of this section, the board shall issue a certificate of admission to the applicant, as prescribed in Section 73-3-2(8). Each such applicant shall pay an application fee prescribed by the Board of Bar Admissions according to Section 73-3-2(7).

SECTION 3. Section 73-3-31, Mississippi Code of 1972, is reenacted as follows:

73-3-31. The educational requirements both as to general education and legal education shall not apply to any person who may have graduated from a law school prior to October 1, 1954.

SECTION 4. Section 73-3-35, Mississippi Code of 1972, is reenacted as follows:

73-3-35. Every attorney and counselor at law, before he shall be permitted to practice, shall produce his license in each court where he intends to practice, and in the presence of such court, shall take the following oath or affirmation to wit:

"I do solemnly swear (or affirm) that I will demean myself, as an attorney and counselor of this court, according to the best of my learning and ability, and with all good fidelity as well to the court as to the client; that I will use no falsehood nor delay any person's cause for lucre or malice, and that I will support the Constitution of the State of Mississippi so long as I continue a citizen thereof. So help me God."

And thereupon the name of such person, with the date of his admission, shall be entered in a roll or book to be kept in each court for that purpose.

SECTION 5. Section 73-3-37, Mississippi Code of 1972, is reenacted as follows:

73-3-37. It is the duty of attorneys:

(1) To support the Constitution and laws of this state and of the United States;
(2) To maintain the respect due to courts of justice and judicial officers;
(3) To employ for the purpose of maintaining the causes confided to them, such means only as are consistent with truth, and never to seek to mislead by any artifice or false statement of the law;
(4) To maintain inviolate the confidence and, at every peril to themselves, to preserve the secrets of their clients;
(5) To abstain from all offensive personalities, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which they are charged;
(6) To encourage neither the commencement nor continuance of an action or proceeding from any motives of passion or personal interest;
(7) Never to reject, for any consideration personal to themselves, the cause of the defenseless or oppressed.

SECTION 6. Section 73-3-39, Mississippi Code of 1972, is reenacted as follows:

73-3-39. (1) It is hereby declared to be the public policy of the State of Mississippi that the practice of law before any court or administrative agency is a matter of privilege and not a matter of right.

(2) Subject to the conditions, rules and regulations adopted by the Supreme Court of Mississippi, any attorney or counselor at law of another state, in good professional standing, of good moral character and who is familiar with the ethics, principles, practices, customs and usages of the legal profession in the State of Mississippi may appear and plead in any special cause before any court or administrative agency in this state; provided, however, that in so appearing such attorney or counselor at law shall subject himself to the jurisdiction of the State Board of
Bar Admissions and shall consent to the application of the provisions of this article.

(3) Upon petition of two (2) members in good standing of the bar of any county of the State of Mississippi, not members of the same firm, representing that any attorney or counselor at law of another state is appearing in any cause before any court or administrative agency of this state and raising the question of the qualifications of such attorney or counselor at law as set out in subsection (2) of this section or compliance by such attorney with the conditions, rules and regulations adopted by the Supreme Court of Mississippi, the State Board of Bar Admissions shall, or upon its own initiative may, make inquiry as to the professional standing, moral character, familiarity with the ethics, principles, practices, customs and usages of the legal profession in the State of Mississippi of any such attorney or counselor at law of another state and shall inquire as to such attorney's professional standing with his local bar and into the question of whether or not such attorney is familiar with and willing to abide by the ethics, principles, practices, customs and usages of the legal profession in the State of Mississippi.

(4) In conducting the inquiry referred to in the preceding section, the State Board of Bar Admissions shall have authority to require the appearance of the attorney or counselor at law involved before it and shall have the power to subpoena witnesses and require the production of evidence, oral and documentary, and issue appropriate process therefor, and to do any and all other things which may be required to determine fully and completely the facts as issued before it. After such hearing the State Board of Bar Admissions shall make such determination as, in its opinion and sound discretion, is justified from the evidence before it and may permit or refuse to permit the said attorney or counselor at law to continue to appear and plead in such special cause.
(5) The action or decision of the Board of Bar Admissions in administering this section is hereby declared to be a judicial function and not administrative in character, and appeals from the decision of said board may be taken in accordance with the provisions of Section 11-51-75, Mississippi Code of 1972.

(6) Any attorney or counselor at law who wilfully makes any false or misleading statement to said board touching upon the matters under inquiry shall be guilty of perjury, shall be punished according to law upon conviction thereof, and the judgment of the court imposing such punishment shall, in addition, provide that such attorney or counselor at law shall be perpetually barred from practice before any court or administrative agency of this state.

(7) Any such attorney or counselor at law of another state who shall appear or plead in any court or administrative agency in this state after his qualifications shall have been called into question by the petition hereinbefore mentioned or by the State Board of Bar Admissions acting upon its own initiative and before having obtained an order from the said State Board of Bar Admissions authorizing his appearance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment.

SECTION 7. Section 73-3-41, Mississippi Code of 1972, is reenacted as follows:

73-3-41. Every person who has been or shall hereafter be convicted of felony in a court of this or any other state or a court of the United States, manslaughter or a violation of the Internal Revenue Code excepted, shall be incapable of obtaining a license to practice law. Any court of the State of Mississippi in which a licensed attorney shall have been convicted of a felony,
other than manslaughter or a violation of the Internal Revenue
Code, shall enter an order disbarring the attorney.

SECTION 8. Section 73-3-43, Mississippi Code of 1972, is
reenacted as follows:

73-3-43. It shall not be lawful for a clerk of any court of
record or the deputy or assistant of any such clerk, or for any
sheriff or his deputy, to exercise the profession or employment of
an attorney or counselor at law, or to be engaged in the practice
of law, or to receive any fee or reward for any such services
rendered during his continuance in such position; and any person
offending herein shall be guilty of a misdemeanor, and, upon
conviction, to be fined in a sum not exceeding Five Hundred
Dollars ($500.00) and be removed from office; but this shall not
prohibit the clerk of any court of record or the sheriff of any
county from practicing in any of the courts so far as to enable
them to bring to conclusion civil cases in which such clerk or
sheriff are employed and which are actually filed and pending at
the time when such clerk or sheriff is appointed or nominated in a
party primary and subsequently elected to office.

SECTION 9. Section 73-3-45, Mississippi Code of 1972, is
reenacted as follows:

73-3-45. If any justice court judge or the partner in the
practice of law of any justice court judge shall appear before a
justice court judge of his district as attorney or counsel in any
misdemeanor case over which he has jurisdiction, or in any appeal
of any such case from the judgment of such officer, or in any
certiorari to any such officer for the same, he shall be guilty of
a misdemeanor and, on conviction, shall be fined not more than
Five Hundred Dollars ($500.00), or be imprisoned not more than six
(6) months, or both.

SECTION 10. Section 73-3-47, Mississippi Code of 1972, is
reenacted as follows:
73-3-47. If the partner in the practice of law of any justice court judge shall appear before such justice court judge of his district, as attorney or counsel in any case, civil or criminal, or in any appeal from the judgment of such officer, or in any certiorari to such officer, he shall be guilty of a misdemeanor and, on conviction, shall be fined not more than Five Hundred Dollars ($500.00), or be imprisoned not more than six (6) months, or both.

SECTION 11. Section 73-3-49, Mississippi Code of 1972, is reenacted as follows:

73-3-49. Where two (2) or more attorneys at law of this state are associated together in practice as attorneys or counselors at law, and one (1) of such attorneys shall be district attorney of his district or the county attorney of his county, it shall be unlawful for such other attorney, or partner, to appear and defend in any of the courts of that county any person charged with a misdemeanor or felony, and this section shall apply, even though such association may exist only for the transaction of civil business in a particular court.

Any attorney violating this section shall be deemed guilty of a misdemeanor and, on conviction shall be fined in the sum of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), and shall forfeit his license to practice law in this state.

SECTION 12. Section 73-3-51, Mississippi Code of 1972, is reenacted as follows:

73-3-51. It shall be unlawful for the Attorney General or any assistant attorney general, or any district attorney, or any attorney at law associated in the practice as attorney or counselor at law with any attorney general or district attorney, to accept employment from or to represent as attorney or counselor at law any railroad corporation, street railway corporation, telephone or telegraph corporation, express company, or other
common carrier, or public service corporation whatsoever, and any attorney violating this section shall be guilty of a misdemeanor and, on conviction, shall be fined in a sum not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), and shall forfeit his license to practice law in this state.

SECTION 13. Section 73-3-55, Mississippi Code of 1972, is reenacted as follows:

73-3-55. It shall be unlawful for any person to engage in the practice of law in this state who has not been licensed according to law. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished in accordance with the provisions of Section 97-23-43. Any person who shall for fee or reward or promise, directly or indirectly, write or dictate any paper or instrument of writing, to be filed in any cause or proceeding pending, or to be instituted in any court in this state, or give any counsel or advice therein, or who shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract, or last will and testament, or shall make or certify to any abstract of title to real estate other than his own or in which he may own an interest, shall be held to be engaged in the practice of law. This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this state from making abstract or certifying titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi with a paid-up capital of Fifty Thousand Dollars ($50,000.00) or more from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company.

SECTION 14. Section 73-3-57, Mississippi Code of 1972, is reenacted as follows:
73-3-57. It shall be unlawful for an attorney at law, either before or after action brought, to promise, or give or offer to promise or give, a valuable consideration to any person as an inducement to placing, or in consideration of having placed in his hands, or in the hands of any partnership of which he is a member, a demand of any kind, for the purpose of bringing suit or making claim against another, or to employ a person to search for and procure clients to be brought to such attorney.

SECTION 15. Section 73-3-59, Mississippi Code of 1972, is reenacted as follows:

73-3-59. Any attorney at law who shall violate the provisions of the preceding section shall be guilty of a misdemeanor and shall be removed and disbarred from acting as an attorney at law, and any person who shall, before or after suit brought, receive or agree to receive from any attorney at law, compensation for services in seeking out or placing in the hands of an attorney a demand of any kind for suit or a compromise, shall be guilty of a misdemeanor.

SECTION 16. Section 73-3-401, Mississippi Code of 1972, is amended as follows:

73-3-401. Sections 73-3-2 through 73-3-59, which create the Board of Bar Admissions and prescribe its duties and powers, and which provide certain regulations regarding the practice of law in this state, shall stand repealed as of December 31, 2006.

SECTION 17. This act shall take effect and be in force from and after July 1, 2003.