

By: Representative Ford

To: Judiciary A

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.

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

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

9 73-3-2. (1) **Power to admit persons to practice.** The power
10 to admit persons to practice as attorneys in the courts of this
11 state is vested exclusively in the Supreme Court of Mississippi.

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

17 (i) That he has successfully completed, or is
18 within sixty (60) days of completion of, a general course of study
19 of law in a law school which is provisionally or fully approved by
20 the section on legal education and admission to the bar of the
21 American Bar Association, and that such applicant has received, or
22 will receive within sixty (60) days, a diploma or certificate from
23 such school evidencing the satisfactory completion of such course,
24 but in no event shall any applicant under this paragraph be
25 admitted to the bar until such applicant actually receives such
26 diploma or certificate. However, an applicant who, as of November
27 1, 1981, was previously enrolled in a law school in active
28 existence in Mississippi for more than ten (10) years prior to the



29 date of application shall be eligible for examination for
30 admission; provided that such an applicant graduated prior to
31 November 1, 1984;

32 (ii) That he has notified the Board of Bar
33 Admissions in writing of an intention to pursue a general course
34 of study of law under the supervision of a Mississippi lawyer
35 prior to July 1, 1979, and in fact began study prior to July 1,
36 1979, and who completed the required course of study prior to
37 November 1, 1984, in accordance with Sections 73-3-13(b) and
38 73-3-15 as the same exist prior to the effective date of this
39 section; or

40 (iii) That in addition to complying with either of
41 the above requirements, he has received a bachelor's degree from
42 an accredited college or university or that he has received credit
43 for the requirements of the first three (3) years of college work
44 from a college or university offering an integrated six-year
45 prelaw and law course, and has completed his law course at a
46 college or university offering such an integrated six-year course.
47 However, applicants who have already begun the general course of
48 study of law as of November 1, 1979, either in a law school or
49 under the supervision of a Mississippi lawyer shall submit proof
50 he has successfully completed two (2) full years of college work.

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

58 (3) **Creation of Board of Bar Admissions.** There is hereby
59 created a board to be known as the "Board of Bar Admissions" which
60 shall be appointed by the Supreme Court of Mississippi. The board
61 shall consist of nine (9) members, who shall be members in good



62 standing of the Mississippi State Bar and shall serve for terms of
63 three (3) years. Three (3) members shall be appointed from each
64 Supreme Court district, one (1) by each Supreme Court Justice from
65 his district, with the original appointments to be as follows:
66 Three (3) to be appointed for a term of one (1) year, three (3) to
67 be appointed for a term of two (2) years, and three (3) to be
68 appointed for a term of three (3) years, one (1) from each
69 district to be appointed each year. No member of the Board of Bar
70 Admissions may be a member of the Legislature. Vacancies during a
71 term shall be filled by the appointing justice or his successor
72 for the remainder of the unexpired term.

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

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

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

90 (6) **Procedure for applicants who have failed.** Any applicant
91 who fails the examination shall be allowed to take the next
92 scheduled examination. A failing applicant may request in writing
93 from the board, within thirty (30) days after the results of the
94 examination have been made public, copies of his answers and model



95 answers used in grading the examination, at his expense. If a
96 uniform, standardized examination is administered, the board shall
97 only be required to provide the examination grade and such other
98 information concerning the applicant's examination results which
99 are available to the board. Any failing applicant shall have a
100 right to a review of his failure by the board. The board shall
101 enter an order on its minutes, prior to the administration of the
102 next bar examination, either granting or denying the applicant's
103 review, and shall notify the applicant of such order. The
104 applicant shall have the right to appeal from this order to the
105 Chancery Court of Hinds County, Mississippi, within thirty (30)
106 days of entry of such order.

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

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

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

123 (8) The board, upon finding the applicant qualified for
124 admission, shall issue to the applicant a certificate of
125 admission. The applicant shall file the certificate and a
126 petition for admission in the Chancery Court of Hinds County,
127 Mississippi, or in the chancery court in the county of his



128 residence, or, in the case of an applicant who is a nonresident of
129 the State of Mississippi, in the chancery court of a county in
130 which the applicant intends to practice. The chancery court
131 shall, in termtime or in vacation, enter on the minutes of that
132 court an order granting to the applicant license to practice in
133 all courts in this state, upon taking by the applicant in the
134 presence of the court, the oath prescribed by law, Section
135 73-3-35, Mississippi Code of 1972.

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

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

141 73-3-25. Any lawyer from another state whose requirements
142 for admission to the bar are equivalent to those of this state,
143 who has practiced not less than five (5) years in a state where he
144 was then admitted may be admitted to the practice in this state
145 upon taking and passing such examination as to his knowledge of
146 law as may be prescribed by rules adopted by the Board of Bar
147 Admissions and approved by the Supreme Court and upon complying
148 with the other requirements as set out in the laws and rules
149 governing admission to the bar. Provided, however, the laws of
150 the state from which the applicant comes grant similar privileges
151 to the applicants from this state.

152 Any lawyer from another state desiring to be admitted to
153 practice in Mississippi must make application to the Board of Bar
154 Admissions. Such applicant shall present to the bar evidence of
155 his good standing in the state from which he came, including a
156 certificate from the clerk of the highest appellate court of the
157 state from which he came, and from two (2) members of the bar of
158 such state, certifying to his qualifications, good standing and
159 moral character of the applicant, and may require the submission
160 of additional evidence by the applicant. Upon satisfactory proof



161 of the applicant's qualifications and upon the applicant's
162 compliance with the requirements of this section, the board shall
163 issue a certificate of admission to the applicant, as prescribed
164 in Section 73-3-2(8). Each such applicant shall pay an
165 application fee prescribed by the Board of Bar Admissions
166 according to Section 73-3-2(7).

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

169 73-3-31. The educational requirements both as to general
170 education and legal education shall not apply to any person who
171 may have graduated from a law school prior to October 1, 1954.

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

174 73-3-35. Every attorney and counselor at law, before he
175 shall be permitted to practice, shall produce his license in each
176 court where he intends to practice, and in the presence of such
177 court, shall take the following oath or affirmation to wit:

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

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

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

190 73-3-37. It is the duty of attorneys:

191 (1) To support the Constitution and laws of this state and
192 of the United States;



193 (2) To maintain the respect due to courts of justice and
194 judicial officers;

195 (3) To employ for the purpose of maintaining the causes
196 confided to them, such means only as are consistent with truth,
197 and never to seek to mislead by any artifice or false statement of
198 the law;

199 (4) To maintain inviolate the confidence and, at every peril
200 to themselves, to preserve the secrets of their clients;

201 (5) To abstain from all offensive personalities, and to
202 advance no fact prejudicial to the honor or reputation of a party
203 or witness, unless required by the justice of the cause with which
204 they are charged;

205 (6) To encourage neither the commencement nor continuance of
206 an action or proceeding from any motives of passion or personal
207 interest;

208 (7) Never to reject, for any consideration personal to
209 themselves, the cause of the defenseless or oppressed.

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

212 73-3-39. (1) It is hereby declared to be the public policy
213 of the State of Mississippi that the practice of law before any
214 court or administrative agency is a matter of privilege and not a
215 matter of right.

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



225 Bar Admissions and shall consent to the application of the
226 provisions of this article.

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

245 (4) In conducting the inquiry referred to in the preceding
246 section, the State Board of Bar Admissions shall have authority to
247 require the appearance of the attorney or counselor at law
248 involved before it and shall have the power to subpoena witnesses
249 and require the production of evidence, oral and documentary, and
250 issue appropriate process therefor, and to do any and all other
251 things which may be required to determine fully and completely the
252 facts as issued before it. After such hearing the State Board of
253 Bar Admissions shall make such determination as, in its opinion
254 and sound discretion, is justified from the evidence before it and
255 may permit or refuse to permit the said attorney or counselor at
256 law to continue to appear and plead in such special cause.



257 (5) The action or decision of the Board of Bar Admissions in
258 administering this section is hereby declared to be a judicial
259 function and not administrative in character, and appeals from the
260 decision of said board may be taken in accordance with the
261 provisions of Section 11-51-75, Mississippi Code of 1972.

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

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

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

283 73-3-41. Every person who has been or shall hereafter be
284 convicted of felony in a court of this or any other state or a
285 court of the United States, manslaughter or a violation of the
286 Internal Revenue Code excepted, shall be incapable of obtaining a
287 license to practice law. Any court of the State of Mississippi in
288 which a licensed attorney shall have been convicted of a felony,



289 other than manslaughter or a violation of the Internal Revenue
290 Code, shall enter an order disbaring the attorney.

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

293 73-3-43. It shall not be lawful for a clerk of any court of
294 record or the deputy or assistant of any such clerk, or for any
295 sheriff or his deputy, to exercise the profession or employment of
296 an attorney or counselor at law, or to be engaged in the practice
297 of law, or to receive any fee or reward for any such services
298 rendered during his continuance in such position; and any person
299 offending herein shall be guilty of a misdemeanor, and, upon
300 conviction, to be fined in a sum not exceeding Five Hundred
301 Dollars (\$500.00) and be removed from office; but this shall not
302 prohibit the clerk of any court of record or the sheriff of any
303 county from practicing in any of the courts so far as to enable
304 them to bring to conclusion civil cases in which such clerk or
305 sheriff are employed and which are actually filed and pending at
306 the time when such clerk or sheriff is appointed or nominated in a
307 party primary and subsequently elected to office.

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

310 73-3-45. If any justice court judge or the partner in the
311 practice of law of any justice court judge shall appear before a
312 justice court judge of his district as attorney or counsel in any
313 misdemeanor case over which he has jurisdiction, or in any appeal
314 of any such case from the judgment of such officer, or in any
315 certiorari to any such officer for the same, he shall be guilty of
316 a misdemeanor and, on conviction, shall be fined not more than
317 Five Hundred Dollars (\$500.00), or be imprisoned not more than six
318 (6) months, or both.

319 **SECTION 10.** Section 73-3-47, Mississippi Code of 1972, is
320 reenacted as follows:



321 73-3-47. If the partner in the practice of law of any
322 justice court judge shall appear before such justice court judge
323 of his district, as attorney or counsel in any case, civil or
324 criminal, or in any appeal from the judgment of such officer, or
325 in any certiorari to such officer, he shall be guilty of a
326 misdemeanor and, on conviction, shall be fined not more than Five
327 Hundred Dollars (\$500.00), or be imprisoned not more than six (6)
328 months, or both.

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

331 73-3-49. Where two (2) or more attorneys at law of this
332 state are associated together in practice as attorneys or
333 counselors at law, and one (1) of such attorneys shall be district
334 attorney of his district or the county attorney of his county, it
335 shall be unlawful for such other attorney, or partner, to appear
336 and defend in any of the courts of that county any person charged
337 with a misdemeanor or felony, and this section shall apply, even
338 though such association may exist only for the transaction of
339 civil business in a particular court.

340 Any attorney violating this section shall be deemed guilty of
341 a misdemeanor and, on conviction shall be fined in the sum of not
342 less than Ten Dollars (\$10.00) nor more than One Hundred Dollars
343 (\$100.00), and shall forfeit his license to practice law in this
344 state.

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

347 73-3-51. It shall be unlawful for the Attorney General or
348 any assistant attorney general, or any district attorney, or any
349 attorney at law associated in the practice as attorney or
350 counselor at law with any attorney general or district attorney,
351 to accept employment from or to represent as attorney or counselor
352 at law any railroad corporation, street railway corporation,
353 telephone or telegraph corporation, express company, or other



354 common carrier, or public service corporation whatsoever, and any
355 attorney violating this section shall be guilty of a misdemeanor
356 and, on conviction, shall be fined in a sum not less than Ten
357 Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), and
358 shall forfeit his license to practice law in this state.

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

361 73-3-55. It shall be unlawful for any person to engage in
362 the practice of law in this state who has not been licensed
363 according to law. Any person violating the provisions of this
364 section shall be deemed guilty of a misdemeanor, and, upon
365 conviction, shall be punished in accordance with the provisions of
366 Section 97-23-43. Any person who shall for fee or reward or
367 promise, directly or indirectly, write or dictate any paper or
368 instrument of writing, to be filed in any cause or proceeding
369 pending, or to be instituted in any court in this state, or give
370 any counsel or advice therein, or who shall write or dictate any
371 bill of sale, deed of conveyance, deed of trust, mortgage,
372 contract, or last will and testament, or shall make or certify to
373 any abstract of title to real estate other than his own or in
374 which he may own an interest, shall be held to be engaged in the
375 practice of law. This section shall not, however, prevent title
376 or abstract of title guaranty companies incorporated under the
377 laws of this state from making abstract or certifying titles to
378 real estate where it acts through some person as agent, authorized
379 under the laws of the State of Mississippi to practice law; nor
380 shall this section prevent any abstract company chartered under
381 the laws of the State of Mississippi with a paid-up capital of
382 Fifty Thousand Dollars (\$50,000.00) or more from making or
383 certifying to abstracts of title to real estate through the
384 president, secretary or other principal officer of such company.

385 **SECTION 14.** Section 73-3-57, Mississippi Code of 1972, is
386 reenacted as follows:



387 73-3-57. It shall be unlawful for an attorney at law, either
388 before or after action brought, to promise, or give or offer to
389 promise or give, a valuable consideration to any person as an
390 inducement to placing, or in consideration of having placed in his
391 hands, or in the hands of any partnership of which he is a member,
392 a demand of any kind, for the purpose of bringing suit or making
393 claim against another, or to employ a person to search for and
394 procure clients to be brought to such attorney.

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

397 73-3-59. Any attorney at law who shall violate the
398 provisions of the preceding section shall be guilty of a
399 misdemeanor and shall be removed and disbarred from acting as an
400 attorney at law, and any person who shall, before or after suit
401 brought, receive or agree to receive from any attorney at law,
402 compensation for services in seeking out or placing in the hands
403 of an attorney a demand of any kind for suit or a compromise,
404 shall be guilty of a misdemeanor.

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

407 73-3-401. Sections 73-3-2 through 73-3-59, which create the
408 Board of Bar Admissions and prescribe its duties and powers, and
409 which provide certain regulations regarding the practice of law in
410 this state, shall stand repealed as of December 31, 2006.

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

