

By: Representative Watson

To: Forestry

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 293

1 AN ACT TO REENACT SECTIONS 73-36-1 THROUGH 73-36-36,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE AND PROVIDE FOR THE
3 FORESTERS REGISTRATION LAW OF 1977; TO REPEAL SECTION 73-36-37,
4 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A REPEALER ON THE
5 FORESTERS REGISTRATION LAW OF 1977; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 73-36-1, Mississippi Code of 1972, is
8 reenacted as follows:

9 73-36-1. This chapter may be cited as the "Foresters
10 Registration Law of 1977."

11 **SECTION 2.** Section 73-36-3, Mississippi Code of 1972, is
12 reenacted as follows:

13 73-36-3. As used in this chapter the following words and
14 phrases shall include the meanings ascribed in this section unless
15 the context clearly requires a different meaning:

16 (a) The term "person" means a natural person.

17 (b) The term "forester" means a person who, by reason
18 of his knowledge of the natural sciences, mathematics, economics
19 and the principles of forestry, and by his demonstrated skills
20 acquired through professional forestry education as set forth in
21 Section 73-36-21, is qualified to engage in the practice of
22 forestry and who also has been duly registered and holds a current
23 valid license issued by the board.

24 (c) The term "registered forester" means a person who
25 has been registered and licensed pursuant to this chapter.

26 (d) The term "practice of forestry" means any
27 professional forestry service, including but not limited to
28 consultation, investigation, evaluation, valuation, planning,

29 recommending silvicultural or harvesting practices or responsible
30 supervision of any forestry activities in connection with any
31 public or private lands wherein the public welfare and property
32 are concerned or involved when such professional services require
33 the application of forestry principles, knowledge and data.

34 (e) The term "board" means the State Board of
35 Registration for Foresters.

36 **SECTION 3.** Section 73-36-5, Mississippi Code of 1972, is
37 reenacted as follows:

38 73-36-5. In order to benefit and protect the public and the
39 forest resources, no person in either public or private capacity
40 shall practice or offer to practice forestry, unless he shall
41 first have submitted evidence that he is qualified so to practice
42 and shall be registered by the board or unless he is specifically
43 exempted from registration under this chapter. It is unlawful for
44 any person to practice or offer to practice forestry in this
45 state, as defined by this chapter, or to use in connection with
46 his name or otherwise assume, use or advertise any title or
47 description tending to convey the impression that he is a
48 forester, unless the person has been duly registered or is exempt
49 from registration under this chapter.

50 This chapter shall not be construed to prevent or to affect:

51 (a) The conduct of business and support services
52 including: tree planting, timber stand improvement, pesticide
53 application, pest control, site preparation, heavy equipment
54 operation, prescribed fire application, timber buying, logging
55 contracting, timber cruising, timber marking and the application
56 of best management practices.

57 (b) The application of forestry principles and
58 procedures on any timberlands, woodlands or forest in which the
59 person, firm, partnership or corporation owns the timberlands,
60 woodlands or forest; or persons, firms, partnerships and

61 corporations having the right to manage and administer forestlands
62 in any legal manner.

63 (c) The work of an employee or a subordinate of any
64 forester holding a license under this chapter; if that work is
65 done under the direction, supervision and responsibility of a
66 person holding a license under this chapter.

67 (d) The practice of forestry by officers and employees
68 of the United States government on federally-owned lands.

69 (e) The practice of forestry by officers and employees
70 of the State of Mississippi on state-owned lands.

71 (f) Employees of the federal government, state
72 government and educational institutions of the State of
73 Mississippi who, in the exercise of their assigned duties, conduct
74 forestry education programs.

75 (g) Persons who hold valid licenses prior to July 1,
76 1989.

77 **SECTION 4.** Section 73-36-7, Mississippi Code of 1972, is
78 reenacted as follows:

79 73-36-7. Nothing contained in this chapter shall be
80 construed as preventing any person, firm, partnership or
81 corporation from practicing forestry or managing woodlands,
82 forests or trees on any land, provided such acts are not performed
83 or offered to the public for compensation as the services of a
84 registered forester.

85 **SECTION 5.** Section 73-36-9, Mississippi Code of 1972, is
86 reenacted as follows:

87 73-36-9. There is hereby created the State Board of
88 Registration for Foresters of the State of Mississippi for the
89 purposes of safeguarding forests by regulating the practice of
90 forestry and requiring that persons practicing or offering to
91 practice forestry as a registered forester to be registered. The
92 board shall be composed of seven (7) members appointed by the
93 Governor with the advice and consent of the Senate. One (1)

94 member shall be appointed from each of the six (6) forestry
95 commission districts as constituted on January 1, 1999, and one
96 (1) member shall be appointed at large. The State Forester of
97 Mississippi shall serve as an ex officio member of the board.
98 Each of the members shall be a forester within the meaning of this
99 chapter with at least three (3) years' experience in such field,
100 and a resident and citizen of the State of Mississippi at the time
101 of his appointment. Within thirty (30) days after the passage of
102 this chapter, the Governor shall appoint the members, designating
103 a term of office of one (1), two (2), three (3), four (4) or five
104 (5) years for each of the members as appointed; provided, however,
105 two (2) members shall serve a term of one (1) year and two (2)
106 shall serve a term of four (4) years. As the terms of office of
107 the members so appointed expire, successors shall be appointed for
108 terms of five (5) years. Any vacancy occurring in the membership
109 of the board shall be filled by the Governor for the unexpired
110 term. The Governor shall have the right, upon the approval of a
111 majority of the board, to remove any members of the board for
112 inefficiency, neglect of duty or dishonorable conduct.

113 **SECTION 6.** Section 73-36-11, Mississippi Code of 1972, is
114 reenacted as follows:

115 73-36-11. No person shall be appointed a member of the board
116 unless the person at the time appointed has held a license as a
117 registered forester for at least five (5) years.

118 **SECTION 7.** Section 73-36-13, Mississippi Code of 1972, is
119 reenacted as follows:

120 73-36-13. Each year the board shall elect one (1) of its
121 members as chairman, one (1) as vice chairman, and one (1) as
122 secretary, and each shall perform the usual duties of such
123 offices. The board may adopt an official seal. Four (4) members
124 of the board shall constitute a quorum, and a majority vote of
125 those present at any meeting shall be necessary for the adoption

126 of any order proposed or the disposition of other business coming
127 before the board.

128 **SECTION 8.** Section 73-36-15, Mississippi Code of 1972, is
129 reenacted as follows:

130 73-36-15. The board shall hold at least two (2) regular
131 meetings during each year and such other meetings as the chairman
132 may find necessary. Notice of the time and place of the meetings
133 of the board shall be mailed to each of the members of the board
134 at least five (5) days before the meeting and, in addition, shall
135 be posted as provided by the rules and regulations of the board at
136 least five (5) days prior to the meeting.

137 **SECTION 9.** Section 73-36-17, Mississippi Code of 1972, is
138 reenacted as follows:

139 73-36-17. Each member of the board shall receive per diem
140 compensation as authorized by Section 25-3-69, and shall be
141 reimbursed for such other expenses at the same rate and under the
142 same conditions as provided for public officers and employees in
143 Section 25-3-41. The board shall pay for all expenses incurred by
144 the board, including clerical help as may be needed, if itemized
145 statements of the expenses are first approved by order of the
146 board entered on its minutes. The board shall not expend in any
147 fiscal year more monies than the amount of fees collected. All
148 fees shall be paid to the secretary of the board and the secretary
149 shall deposit all monies received under this chapter in the State
150 Treasury. All such monies shall be kept in a special fund in the
151 State Treasury known as the "State Board of Registered Foresters
152 Fund" and shall be used for the administration of this chapter.
153 The funds shall not lapse at the end of each year. All
154 expenditures from the fund shall be by requisition to the
155 Executive Director of the Department of Finance and Administration
156 and signed by the board chairman. The secretary of the board
157 shall be under a surety bond in the penal sum of Five Thousand
158 Dollars (\$5,000.00) with a surety company authorized to do

159 business in this state, the bond to be conditioned for the
160 faithful performance of his duties, and the fee shall be paid by
161 the board.

162 **SECTION 10.** Section 73-36-19, Mississippi Code of 1972, is
163 reenacted as follows:

164 73-36-19. (1) The State Board of Registration for Foresters
165 shall have the following powers and duties:

166 (a) To adopt rules and regulations governing the
167 holding of its meetings, hearings, applications for licenses and
168 any and all other duties provided by this chapter.

169 (b) To establish and promulgate standards of practice
170 and a code of ethics for registered foresters and provide for the
171 enforcement thereof.

172 (c) To establish minimum requirements for professional
173 continuing education.

174 (d) To prepare a biennial roster showing the names,
175 business addresses and such other information as the board may
176 deem necessary of all foresters registered under this chapter, and
177 to provide copies to the registered foresters and the public. A
178 copy of the roster shall be filed with the Secretary of State of
179 the State of Mississippi on or before April 1 in the year such
180 roster is prepared.

181 (e) To issue, suspend or revoke licenses and to take
182 all actions necessary.

183 (2) At any hearing before the board, any member may
184 administer oaths to witnesses appearing before the board. If any
185 person shall refuse to testify or to produce any books, papers or
186 documents, the board may present its petition to any court of
187 competent jurisdiction within the state setting forth the facts,
188 and then the court, in a proper case, may issue its subpoena to
189 the person requiring his attendance before the court and to
190 testify or to produce such books, papers and documents as may be
191 deemed necessary and pertinent thereto. Any person failing or

192 refusing to obey the subpoena of the court may be proceeded
193 against in the same manner as for refusal to obey any other
194 subpoena of the court.

195 (3) The board shall keep a record of its proceedings and a
196 register of all applications for registration. The register shall
197 show the name, age and residence of each applicant, the date of
198 the application and the board's action on the application and any
199 other information as may be deemed necessary by the board. The
200 board shall submit an annual report to the Governor and a report
201 to the regular session of the Legislature. The report to the
202 Legislature shall include a financial statement of the
203 transactions of the board during the year.

204 **SECTION 11.** Section 73-36-21, Mississippi Code of 1972, is
205 reenacted as follows:

206 73-36-21. (1) Any person who has graduated with a
207 bachelor's degree or higher degree from a university or college of
208 forestry in a curriculum in forestry acceptable to the board and
209 found by the board to be substantially equivalent to curricula in
210 schools of forestry accredited by the Society of American
211 Foresters shall be eligible for registration as a registered
212 forester, and a license shall be issued upon application and
213 payment of the required fee, if the person files an application
214 for registration with the board and successfully passes a written
215 and/or oral examination.

216 (2) The board may review and investigate the denial of any
217 license, upon appeal by the denied applicant, and the board may
218 issue a license to an applicant who met the requirements for such
219 license at the time of application.

220 **SECTION 12.** Section 73-36-23, Mississippi Code of 1972, is
221 reenacted as follows:

222 73-36-23. Applications for registration shall be made on
223 forms prescribed and furnished by the board. The initial
224 registration fee for a license as a registered forester shall be

225 fixed by the board, but shall not exceed Fifty Dollars (\$50.00).
226 If the board denies the issuance of a license to any applicant,
227 the fee deposited shall be retained by the board as an application
228 fee.

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

232 **SECTION 13.** Section 73-36-25, Mississippi Code of 1972, is
233 reenacted as follows:

234 73-36-25. When written examinations are required, they shall
235 be held at such time and place as the board shall determine. The
236 methods of procedure shall be prescribed by the board. A
237 candidate failing an examination may apply for reexamination at
238 the expiration of six (6) months and shall be entitled to one (1)
239 reexamination without payment of an additional fee. Subsequent
240 examinations may be granted upon payment of a fee to be determined
241 by the board, but not in excess of Fifty Dollars (\$50.00).

242 **SECTION 14.** Section 73-36-27, Mississippi Code of 1972, is
243 reenacted as follows:

244 73-36-27. The board shall issue a properly authenticated,
245 serially numbered license upon payment of the registration fee to
246 any applicant who in the opinion of the board has satisfactorily
247 met all the requirements of this chapter and the rules and
248 regulations of the board duly adopted under this chapter. The
249 issuance of a license by the board shall be evidence that the
250 person named therein is entitled to all the rights and privileges
251 of a registered forester while the license remains unrevoked or
252 unexpired.

253 **SECTION 15.** Section 73-36-29, Mississippi Code of 1972, is
254 reenacted as follows:

255 73-36-29. All licenses issued under the provisions of this
256 chapter shall expire after December 31 of odd numbered years and
257 shall become invalid after that date unless renewed. The

258 secretary of the board shall mail a notice to every person
259 registered under this chapter notifying the person of the date of
260 the expiration of his license and the amount of fee required for
261 its renewal for two (2) years. The notice shall be mailed to the
262 latest known address, according to the board's records, at least
263 one (1) month in advance of the date of the expiration of the
264 license. The board shall from time to time fix the fee for
265 renewal of licenses, provided the fee shall not exceed the amount
266 of One Hundred Dollars (\$100.00) for two (2) years' renewal. Any
267 registrant failing to renew his license and applying for a license
268 shall be required to pay a fee as set by the board not to exceed
269 twice the total amount of the license fees had his license been
270 continued in effect, and also to comply with such other reasonable
271 requirements as may be established by rules and regulations of the
272 board.

273 **SECTION 16.** Section 73-36-31, Mississippi Code of 1972, is
274 reenacted as follows:

275 73-36-31. A person not a resident of and having no
276 established place of business in Mississippi, or who has recently
277 become a resident, may use the title of registered forester in
278 Mississippi, provided: (a) such person is legally licensed as a
279 registered forester in his own state or county and has submitted
280 evidence to the board that he is so licensed and that the
281 requirements for registration are at least substantially
282 equivalent to the requirements of this chapter; and (b) the state
283 or county in which he is so licensed observes these same rules of
284 reciprocity in regard to persons licensed under this chapter.
285 Each person seeking the privileges of reciprocity granted under
286 this chapter shall submit his application to the board and must
287 receive a card or certificate from the board before exercising
288 such privileges. The fee for obtaining a license through
289 reciprocity shall be the same as charged a Mississippi licensee.

290 **SECTION 17.** Section 73-36-33, Mississippi Code of 1972, is
291 reenacted as follows:

292 73-36-33. (1) The board shall have the power, after notice
293 and hearing, to suspend or revoke the license of any registrant
294 who (a) is found guilty by the board of fraud or gross negligence
295 in the practice of professional forestry; (b) fails to comply with
296 board rules and regulations; (c) is found guilty by the board of
297 unprofessional or unethical conduct; or (d) has had his license
298 suspended or revoked for cause in another jurisdiction.

299 (2) Any person may prefer charges of fraud or gross
300 negligence in connection with any forestry practice against any
301 registrant. Such charges shall be in writing, shall be sworn to
302 by the person making them, and shall be filed with the secretary
303 of the board. All charges shall be heard by the board pursuant to
304 its rules and regulations without undue delay.

305 (3) Any applicant whose license is suspended or revoked by
306 the board may apply for a review of the proceedings with reference
307 to such suspension or revocation by appealing to the Chancery
308 Court of the First Judicial District of Hinds County, Mississippi,
309 provided a notice of appeal is filed by such applicant with the
310 clerk of said court within sixty (60) days from entry of an order
311 by the board suspending or revoking his license, provided said
312 applicant files with said notice of appeal a bond to be approved
313 by the court assuring the prompt payment of any and all costs of
314 said appeal, said amount to be fixed by the court. Upon the
315 filing of such notice of appeal and posting of such bond, the
316 clerk of the said court shall notify the secretary of the board
317 thereof and the record of the proceedings involved shall be
318 prepared by the secretary and forwarded to the court within a
319 period of sixty (60) days from such notice by the clerk. The
320 court shall thereupon review the proceedings on the record
321 presented and may hear such additional testimony as to the court
322 may appear material and dispose of the appeal in termtime or in

323 vacation, and the court may sustain or dismiss the appeal, or
324 modify or vacate the order complained of, but in case the order is
325 modified or vacated, the court may also, in its discretion, remand
326 the matter to the board for such further proceedings not
327 inconsistent with the court's order as, in the opinion of the
328 court, justice may require. The decision of the chancery court
329 may be appealed as other cases to the Supreme Court.

330 (4) The board is authorized to secure, by contract, the
331 services of an investigator when deemed necessary by the board to
332 properly consider any charge then before it. The board may, at
333 its discretion, establish a program of routine inspections.

334 (5) In addition to the reasons specified in subsection (1)
335 of this section, the board shall be authorized to suspend the
336 license of any licensee for being out of compliance with an order
337 for support, as defined in Section 93-11-153. The procedure for
338 suspension of a license for being out of compliance with an order
339 for support, and the procedure for the reissuance or reinstatement
340 of a license suspended for that purpose, and the payment of any
341 fees for the reissuance or reinstatement of a license suspended
342 for that purpose, shall be governed by Section 93-11-157 or
343 93-11-163, as the case may be. Actions taken by the board in
344 suspending a license when required by Section 93-11-157 or
345 93-11-163 are not actions from which an appeal may be taken under
346 this section. Any appeal of a license suspension that is required
347 by Section 93-11-157 or 93-11-163 shall be taken in accordance
348 with the appeal procedure specified in Section 93-11-157 or
349 93-11-163, as the case may be, rather than the procedure specified
350 in this section. If there is any conflict between any provision
351 of Section 93-11-157 or 93-11-163 and any provision of this
352 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
353 case may be, shall control.

354 **SECTION 18.** Section 73-36-35, Mississippi Code of 1972, is
355 reenacted as follows:

356 73-36-35. Any person who practices or offers to practice the
357 profession of forestry in this state as a registered forester
358 without being registered in accordance with this chapter, or any
359 person who uses in connection with his name, or otherwise assumes,
360 uses or advertises any title or description tending to convey the
361 impression that he is a registered forester without being
362 registered in accordance with this chapter, or any person who
363 presents or attempts to use as his own the license of another, or
364 any person who gives any false or forged evidence of any kind to
365 the board or any member in obtaining a license, or any person who
366 attempts to use an expired or revoked license, or any person,
367 firm, partnership or corporation who violates any of the
368 provisions of this chapter and has not been issued an
369 administrative fine by the board for the violation is guilty of a
370 misdemeanor and, upon conviction, shall be fined not more than
371 Five Thousand Dollars (\$5,000.00) for each violation. The board,
372 or any person or persons as may be designated by the board to act
373 in its stead, is empowered to prefer charges for any violations of
374 this chapter in any court of competent jurisdiction. It shall be
375 the duty of all duly constituted officers of the law of this state
376 to enforce the provisions of this chapter and to prosecute any
377 persons, firms, partnerships or corporations violating same. The
378 Attorney General of the state or his designated assistant shall
379 act as legal advisor of the board and render such assistance as
380 may be necessary in carrying out the provisions of this chapter.

381 **SECTION 19.** Section 73-36-36, Mississippi Code of 1972, is
382 reenacted as follows:

383 73-36-36. In addition to the penalties provided under
384 Section 73-36-33 and Section 73-36-35, any person, found by the
385 board to be in violation of this chapter or any rule or regulation
386 of the board, shall be subject to an administrative fine of not
387 more than One Thousand Dollars (\$1,000.00) for each violation.
388 The person shall be given at least ten (10) days' written notice

389 and an opportunity for a hearing before the board. If the
390 administrative fine is not paid within ninety (90) days after the
391 date of the board's order, the order shall become a judgment and
392 may be filed and executed. Any person aggrieved of the board's
393 order may appeal the order to the Circuit Court of Hinds County
394 within thirty (30) days after the date of the order of the board
395 is issued. Appeal shall be on the record made before the board.

396 **SECTION 20.** Section 73-36-37, Mississippi Code of 1972,
397 which provides for a repealer on the sections of law that create
398 the board of registration for foresters and prescribe its duties
399 and powers, is repealed.

400 **SECTION 21.** This act shall take effect and be in force from
401 and after July 1, 2004.