

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 411

1 AN ACT TO REENACT SECTIONS 73-13-1 THROUGH 73-13-45 AND  
 2 73-13-71 THROUGH 73-13-97, MISSISSIPPI CODE OF 1972, WHICH CREATE  
 3 THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND  
 4 LAND SURVEYORS AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND  
 5 SECTION 73-13-99, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF  
 6 THE REPEALER ON THOSE REENACTED SECTIONS AND TO INCLUDE SECTION  
 7 73-13-103, MISSISSIPPI CODE OF 1972, WITHIN THE REPEALER; TO BRING  
 8 FORWARD SECTION 73-13-103, MISSISSIPPI CODE OF 1972, WHICH  
 9 PROVIDES THAT LAND SURVEYORS SHALL BE IMMUNE FROM CRIMINAL  
 10 LIABILITY FOR TRESPASS WHILE IN THE LAWFUL PERFORMANCE OF  
 11 SURVEYING DUTIES; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 73-13-1, Mississippi Code of 1972, is  
 14 reenacted as follows:

15 73-13-1. In order to safeguard life, health, and property,  
 16 and to promote the public welfare, any person in either public or  
 17 private capacity practicing or offering to practice engineering  
 18 shall hereafter be required to submit evidence that he is  
 19 qualified so to practice engineering and shall be registered as  
 20 hereinafter provided; and it shall be unlawful for any person to  
 21 practice or to offer to practice in this state, engineering, as  
 22 defined in the provisions of Sections 73-13-1 through 73-13-45, or  
 23 to use in connection with his name or otherwise assume, use, or  
 24 advertise any title or description tending to convey the  
 25 impression that he is a professional engineer, unless such person  
 26 has been duly registered under the provisions of Sections 73-13-1  
 27 through 73-13-45. There is specifically reserved to engineering  
 28 graduates of all universities and colleges accredited by a  
 29 regional accrediting body that is recognized by the United States  
 30 Department of Education, the right to disclose any college degrees  
 31 received by such individuals and use the words "graduate engineer"



32 on his stationery, business cards, and personal communications of  
33 any character.

34 **SECTION 2.** Section 73-13-3, Mississippi Code of 1972, is  
35 reenacted as follows:

36 73-13-3. The term "engineer" as used in Sections 73-13-1  
37 through 73-13-45 shall mean a professional engineer as hereinafter  
38 defined.

39 The term "professional engineer" within the meaning and  
40 intent of Sections 73-13-1 through 73-13-45 shall mean a person  
41 who has met the qualifications as required under Section  
42 73-13-23(1) and who has been issued a certificate of registration  
43 as a professional engineer.

44 The term "engineer intern" as used in Sections 73-13-1  
45 through 73-13-45 shall mean a candidate for registration as a  
46 professional engineer who has met the qualifications as required  
47 under Section 73-13-23(2) and who has been issued a certificate of  
48 enrollment as an engineer intern.

49 The term "practice of engineering" within the meaning and  
50 intent of Sections 73-13-1 through 73-13-45 shall mean any service  
51 or creative work the adequate performance of which requires  
52 engineering education, training, and experience in the application  
53 of special knowledge of the mathematical, physical, and  
54 engineering sciences to such services or creative work as  
55 consultation, investigation, evaluation, planning, design, and  
56 design coordination of engineering works and systems, planning the  
57 use of land and water, performing engineering surveys and studies,  
58 and the review of construction for the purpose of monitoring  
59 compliance with drawings and specifications; any of which embraces  
60 such services or work, either public or private, in connection  
61 with any highways, transportation facilities, utilities,  
62 structures, buildings, machines, equipment, processes, work  
63 systems, projects and industrial or consumer products or  
64 equipment, of a mechanical, electrical, hydraulic, pneumatic or



65 thermal nature, insofar as they involve safeguarding life, health  
66 or property, and including such other professional services as may  
67 be necessary to the planning, progress and completion of any  
68 engineering services.

69 Design coordination includes the review and coordination of  
70 those technical submissions prepared by others, including as  
71 appropriate and without limitation, consulting engineers,  
72 architects, landscape architects, land surveyors and other  
73 professionals working under direction of the engineer.

74 Engineering surveys include all survey activities required to  
75 support the sound conception, planning, design, construction,  
76 maintenance and operation of engineered projects but exclude the  
77 practice of land surveying as defined in Section 73-13-71(d).

78 A person shall be construed to practice or offer to practice  
79 engineering within the meaning and intent of Sections 73-13-1  
80 through 73-13-45, who practices any branch of the profession of  
81 engineering; or who, by verbal claim, sign, advertisement,  
82 letterhead, card, or in any other way represents himself to be a  
83 professional engineer, or through the use of some other title  
84 implies that he is a professional engineer; or who holds himself  
85 out as able to perform, or who does perform any engineering  
86 service or work or any other professional service designated by  
87 the practitioner or recognized by educational authorities as  
88 engineering.

89 The practice of engineering shall not include the work  
90 ordinarily performed by persons who operate or maintain:  
91 machinery, equipment, water plants, light plants, and sewage  
92 plants.

93 The term "board" as used in Sections 73-13-1 through 73-13-45  
94 shall mean the State Board of Registration for Professional  
95 Engineers and Land Surveyors provided for by said sections.

96 **SECTION 3.** Section 73-13-5, Mississippi Code of 1972, is  
97 reenacted as follows:



98           73-13-5. A State Board of Registration for Professional  
99 Engineers and Land Surveyors is hereby created whose duty it shall  
100 be to administer the provisions of this chapter. The board shall  
101 consist of five (5) registered professional engineers, who shall  
102 be appointed by the Governor from fifteen (15) nominees  
103 recommended by the Mississippi Engineering Society, and shall have  
104 the qualifications required by Section 73-13-7, and two (2)  
105 registered professional land surveyors who are not registered  
106 professional engineers, who shall be appointed by the Governor  
107 from six (6) nominees recommended by the Mississippi Association  
108 of Land Surveyors and who shall have the qualifications required  
109 by Section 73-13-77. The members of the board shall be appointed  
110 from the above nominees. The board so appointed shall have one  
111 (1) engineer member from each of the three (3) State Supreme Court  
112 districts, and two (2) engineer members appointed from the state  
113 at large to serve the following terms: the three (3) members first  
114 appointed from the three (3) Supreme Court districts shall serve  
115 for four (4) years and the two (2) members first appointed from  
116 the state at large shall serve two (2) years, from the date of  
117 their appointment, or until their successors are duly appointed  
118 and qualified, and the members recommended by the Mississippi  
119 Association of Land Surveyors shall be appointed from the state at  
120 large and serve for four (4) years, or until their successors are  
121 duly appointed and qualified. Each member of the board shall  
122 receive a certificate of appointment from the Governor, and before  
123 beginning his term of office he shall file with the Secretary of  
124 State the constitutional oath of office. On the expiration of the  
125 term of any member, the Governor shall in the manner hereinbefore  
126 provided appoint for a term of four (4) years a registered  
127 professional engineer having the qualifications required by  
128 Section 73-13-7, or a registered professional land surveyor having  
129 the qualifications required by Section 73-13-77 to take the place  
130 of the member of the board whose term is about to expire. Each



131 member shall hold office until the expiration of the term for  
132 which such member is appointed or until a successor shall have  
133 been duly appointed and shall have qualified.

134 It shall not be considered the duty of the State of  
135 Mississippi to provide office space and office equipment for the  
136 board herein created.

137 No member of the board shall, during the term of his office  
138 or thereafter, be required to defend any action for damages in any  
139 of the courts of this state where it is shown that said damage  
140 followed or resulted from any of the official acts of said board  
141 in the performance of its powers, duties or authority as set forth  
142 in this chapter. Any such action filed shall upon motion be  
143 dismissed, at the cost of the plaintiff, with prejudice.

144 **SECTION 4.** Section 73-13-7, Mississippi Code of 1972, is  
145 reenacted as follows:

146 73-13-7. Each member of the board shall be a citizen of the  
147 United States and shall have been a resident of the state for at  
148 least five (5) years prior to the appointment. He shall be at  
149 least thirty-two (32) years of age, shall have been engaged in the  
150 practice of engineering or land surveying, as the case may be, for  
151 at least ten (10) years and shall have been in responsible charge  
152 of important engineering or land surveying work, as the case may  
153 be, for at least five (5) years. Each year of teaching  
154 engineering or land surveying in a school or college shall be  
155 equivalent to a year of responsible charge of engineering or land  
156 surveying work. Not more than two (2) members of the board at any  
157 time may be teachers of engineering in the universities or  
158 colleges of the state. All members of the board shall be  
159 registered professional engineers or registered professional land  
160 surveyors, as the case may be.

161 **SECTION 5.** Section 73-13-9, Mississippi Code of 1972, is  
162 reenacted as follows:



163           73-13-9. Each member of the board shall receive per diem in  
164 accordance with Section 25-3-69 when actually attending to the  
165 work of the board or any of its committees, and shall be  
166 reimbursed for traveling expenses in accordance with Section  
167 25-3-41 in carrying out the provisions of this chapter.

168           **SECTION 6.** Section 73-13-11, Mississippi Code of 1972, is  
169 reenacted as follows:

170           73-13-11. The Governor may remove any member of the board  
171 for misconduct, incompetency, neglect of duty, or for any other  
172 sufficient cause. Vacancies in the membership of the board shall  
173 be filled for the unexpired term by appointment by the Governor as  
174 provided in Section 73-13-5.

175           **SECTION 7.** Section 73-13-13, Mississippi Code of 1972, is  
176 reenacted as follows:

177           73-13-13. The board shall hold at least two (2) regular  
178 meetings each year, in March and September. Special meetings  
179 shall be held at such time as the regulations of the board may  
180 provide. Notice of all meetings shall be given in such manner as  
181 the regulations of the board may provide. The board shall elect  
182 annually, at a regular or special meeting, the following officers:  
183 a president, a vice president, and a secretary. A quorum of the  
184 board shall consist of not less than four (4) members.

185           **SECTION 8.** Section 73-13-15, Mississippi Code of 1972, is  
186 reenacted as follows:

187           73-13-15. The board shall have the power to adopt and amend  
188 all regulations and rules of procedure, not inconsistent with the  
189 Constitution and laws of this state, which may be reasonably  
190 necessary for the proper performance of its duties and the  
191 regulations of the proceedings before it. The board shall adopt  
192 and have an official seal. It shall not be required to post bond  
193 on appeals. The board shall have the further power and authority  
194 to:

195           (a) Establish standards of conduct and ethics;



- 196 (b) Institute proceedings in its own name;
- 197 (c) Promulgate rules restricting competitive bidding;
- 198 (d) Promulgate rules limiting or restricting  
199 advertising;
- 200 (e) Promulgate rules requiring a demonstration of  
201 continuing education;
- 202 (f) Adopt and promulgate reasonable bylaws and rules  
203 and regulations necessary or appropriate for the proper  
204 fulfillment of its duties under state laws pertaining thereto;
- 205 (g) Provide for the enforcement of and to enforce the  
206 laws of the State of Mississippi and, in particular, the  
207 provisions of this chapter, and the bylaws, rules and regulations  
208 of the board;
- 209 (h) Provide by appropriate rules and regulations,  
210 within the provisions of this chapter, a system for taking the  
211 disciplinary actions provided for in Section 73-13-37, including  
212 the imposition of fines as provided therein; and
- 213 (i) Investigate, prosecute or initiate prosecution for  
214 violation of the laws of this state pertaining to the practices of  
215 engineering and land surveying, or matters affecting the rights  
216 and duties or otherwise related thereto.

217 In carrying into effect the provisions of this chapter, the  
218 board, under the hand of its president or secretary and the seal  
219 of the board may subpoena witnesses and compel their attendance,  
220 and also may require the production of books, papers, documents,  
221 etc., in any case involving the disciplinary actions provided for  
222 in Section 73-13-37 or 73-13-89 or practicing or offering to  
223 practice without registration. Any member of the board may  
224 administer oaths or affirmations to witnesses appearing before the  
225 board. If any person shall refuse to obey any subpoena so issued,  
226 or shall refuse to testify or produce any books, papers, or  
227 documents, the board may present its petition to such authority as  
228 may have jurisdiction, setting forth the facts, and thereupon such



229 authority shall, in a proper case, issue its subpoena to such  
230 person, requiring his attendance before such authority and there  
231 to testify or to produce such books, papers, and documents, as may  
232 be deemed necessary and pertinent by the board. Any person  
233 failing or refusing to obey the subpoena or order of the said  
234 authority may be proceeded against in the same manner as for  
235 refusal to obey any other subpoena or order of the authority.

236 **SECTION 9.** Section 73-13-17, Mississippi Code of 1972, is  
237 reenacted as follows:

238 73-13-17. (1) The board shall keep an account of all monies  
239 derived from the operation of this chapter. All fees and any  
240 other monies received by the board shall be deposited in a special  
241 fund that is created in the State Treasury and shall be used for  
242 the implementation and administration of this chapter when  
243 appropriated by the Legislature for such purpose. The monies in  
244 the special fund shall be subject to all provisions of the state  
245 budget laws that are applicable to special fund agencies, and  
246 disbursements from the special fund shall be made by the State  
247 Treasurer only upon warrants issued by the State Fiscal Officer  
248 upon requisitions signed by the executive director of the board  
249 and countersigned by the secretary of the board. Any interest  
250 earned on this special fund shall be credited by the State  
251 Treasurer to the fund and shall not be paid into the State General  
252 Fund. Any unexpended monies remaining in the special fund at the  
253 end of a fiscal year shall not lapse into the State General Fund.  
254 The State Auditor shall audit the financial affairs of the board  
255 and the transactions involving the special fund at least once a  
256 year in the same manner as for other special fund agencies.

257 (2) The executive director and the secretary of the board  
258 shall give a surety bond satisfactory to the other members of the  
259 board, conditioned upon the faithful performance of their duties.  
260 The premium on said bond shall be regarded as a proper and  
261 necessary expense of the board. When any member of the board or





262 any employee thereof is engaged on business of the board away from  
263 the principal office of the board, he shall be entitled to receive  
264 expenses as authorized in Section 25-3-41, and members of the  
265 board shall be entitled to per diem in an amount not to exceed  
266 that authorized in Section 25-3-69, all as approved by the board.

267 (3) The board shall employ an executive director and may  
268 employ such clerical or other assistants as are necessary for the  
269 proper performance of its work, and may make expenditures for any  
270 purpose which in the opinion of the board are reasonably necessary  
271 for the proper performance of its duties under this chapter.

272 **SECTION 10.** Section 73-13-19, Mississippi Code of 1972, is  
273 reenacted as follows:

274 73-13-19. The board shall keep a record of its proceedings  
275 and a register of all applications for registration, which  
276 register shall show (a) the name, age, and residence of such  
277 applicant, (b) the date of the application, (c) the place of  
278 business of such applicant, (d) his educational and other  
279 qualifications, (e) whether or not an examination was required,  
280 (f) whether the applicant was rejected, (g) whether a certificate  
281 of registration was granted, (h) the date of the action of the  
282 board, and (i) such other information as may be deemed necessary  
283 by the board.

284 The records of the board shall be prima facie evidence of the  
285 proceedings of the board set forth therein, and a transcript  
286 thereof, duly certified by the executive director of the board  
287 under seal, shall be admissible in evidence with the same force  
288 and effect as if the original were produced.

289 Annually, on or before March 15, the board shall submit to  
290 the Governor a report of its transactions of the preceding year,  
291 and shall file with the Secretary of State a copy of such report  
292 of the board, attested by affidavits of its president and its  
293 secretary.



294           **SECTION 11.** Section 73-13-21, Mississippi Code of 1972, is  
295 reenacted as follows:

296           73-13-21. A roster showing the names and places of business  
297 or residence of all registered professional engineers and  
298 registered professional land surveyors shall be prepared  
299 biennially by the board. Copies of this roster shall be mailed to  
300 each person so registered, placed on file with the Secretary of  
301 State and furnished to the public on request.

302           Registrants upon retirement may file a request biennially to  
303 be listed separately in the roster without payment of the renewal  
304 fee.

305           **SECTION 12.** Section 73-13-23, Mississippi Code of 1972, is  
306 reenacted as follows:

307           73-13-23. (1) (a) The following shall be considered as  
308 minimum evidence satisfactory to the board that the applicant is  
309 qualified for registration as a professional engineer:

310                   (i) Graduation in an engineering curriculum of  
311 four (4) years or more from a school or college approved by the  
312 board as of satisfactory standing or graduation in an engineering,  
313 engineering technology, or related science curriculum of four (4)  
314 scholastic years from a school or college other than those  
315 approved by the board plus a graduate degree in an engineering  
316 curriculum from a school or college wherein the same engineering  
317 curriculum at the undergraduate level is approved by the board as  
318 of satisfactory standing; a specific record of four (4) years of  
319 qualifying engineering experience indicating that the applicant is  
320 competent to practice engineering (in counting years of  
321 experience, the board at its discretion may give credit not in  
322 excess of three (3) years for satisfactory graduate study in  
323 engineering), and the successful passing of examinations in  
324 engineering as prescribed by the board; or

325                   (ii) A specific record of eight (8) years or more  
326 of qualifying engineering experience subsequent to graduation from



327 high school, indicating that the applicant is competent to  
328 practice engineering; and successfully passing examinations  
329 designed to show knowledge and skill approximating that attained  
330 through graduation in an approved four-year engineering  
331 curriculum, and to show competence in the use of such knowledge  
332 and skills in the practice of engineering. This subsection (1)  
333 (a) (ii) shall stand repealed from and after January 1, 2000.

334 (b) In considering the qualifications of applicants,  
335 engineering teaching may be construed as engineering experience.

336 (c) The satisfactory completion of each year of an  
337 approved curriculum in engineering in a school or college approved  
338 by the board as of satisfactory standing, without graduation,  
339 shall be considered as equivalent to a year of experience in  
340 subsection (1) (a) (ii) of this section. Graduation in a curriculum  
341 other than engineering from a college or university of recognized  
342 standing may be considered as equivalent to two (2) years of  
343 experience under subsection (1) (a) (ii); however, no applicant  
344 shall receive credit for more than four (4) years of experience  
345 because of undergraduate educational qualifications. This  
346 subsection (1) (c) shall stand repealed from and after January 1,  
347 2000.

348 (d) The mere execution, as a contractor, of work  
349 designed by a professional engineer, or the supervision of the  
350 construction of such work as a foreman or superintendent shall not  
351 be deemed to be the practice of engineering.

352 (e) Any person having the necessary qualifications  
353 prescribed in Sections 73-13-1 through 73-13-45 to entitle him to  
354 registration shall be eligible for such registration although he  
355 may not be practicing his profession at the time of making his  
356 application.

357 (f) No person shall be eligible for registration as a  
358 professional engineer who is not of good character and reputation



359 or who presents claims in support of his application which contain  
360 major discrepancies.

361 (2) The following shall be considered as minimum evidence  
362 satisfactory to the board that the applicant is qualified for  
363 enrollment as an engineer intern:

364 (a) Graduation in an engineering curriculum of four (4)  
365 scholastic years or more from a school or college approved by the  
366 board as of satisfactory standing or graduation in an engineering,  
367 engineering technology, or related science curriculum of four (4)  
368 scholastic years from a school or college other than those  
369 approved by the board plus a graduate degree in an engineering  
370 curriculum from a school or college wherein that same engineering  
371 curriculum at the undergraduate level is approved by the board as  
372 of satisfactory standing; and

373 (b) Successfully passing a written examination in the  
374 fundamental engineering subjects.

375 **SECTION 13.** Section 73-13-25, Mississippi Code of 1972, is  
376 reenacted as follows:

377 73-13-25. Applications for enrollment as an engineer intern  
378 or for registration as a professional engineer shall be on the  
379 forms prescribed and furnished by the board, shall contain  
380 statements made under oath, showing the applicant's education and  
381 detailed summary of the applicant's qualifying experience.

382 Applications for registration or reregistration as a professional  
383 engineer shall also contain not less than five (5) references, of  
384 whom three (3) or more shall be engineers having personal  
385 knowledge of the applicant's engineering experience.

386 The application fee for registration as a professional  
387 engineer shall be determined by the board but shall not exceed  
388 Seventy-five Dollars (\$75.00), which fee shall accompany the  
389 application.

390 The application fee for enrollment as an engineer intern  
391 shall be determined by the board but shall not exceed Twenty-five



392 Dollars (\$25.00), which fee shall accompany the application.  
393 Whenever an applicant is cited to an examination or reexamination,  
394 an additional fee equal to the actual cost of the examination  
395 shall be paid by the applicant.

396 Each application or filing made under this section shall  
397 include the Social Security number(s) of the applicant in  
398 accordance with Section 93-11-64, Mississippi Code of 1972.

399 **SECTION 14.** Section 73-13-27, Mississippi Code of 1972, is  
400 reenacted as follows:

401 73-13-27. Examinations shall be required for enrollment as  
402 an engineer intern and for registration as a professional  
403 engineer. The examinations shall be held at such time and place  
404 as the board may determine.

405 The scope of the examinations and the methods and procedure  
406 shall be prescribed by the board with special reference to the  
407 applicant's ability to design and supervise engineering works so  
408 as to insure the safety of life, health and property.

409 **SECTION 15.** Section 73-13-29, Mississippi Code of 1972, is  
410 reenacted as follows:

411 73-13-29. The board shall issue a certificate of  
412 registration upon payment of registration fee as provided for in  
413 Sections 73-13-1 through 73-13-45, to any applicant who, in the  
414 opinion of the board, has satisfactorily met all the requirements  
415 of said sections. In the case of a registered engineer, the  
416 certificate shall authorize the "practice of engineering." In the  
417 case of an engineer intern, the certificate shall state that the  
418 applicant has successfully passed the examination in fundamental  
419 engineering subjects required by the board and has been enrolled  
420 as an "engineer intern." Certificates shall show the full name,  
421 shall have a serial number, and shall be signed by the president  
422 and the secretary of the board under seal of the board.

423 The issuance of a certificate of registration by this board  
424 shall be prima facie evidence that the person named therein is



425 entitled to all the rights and privileges of a registered  
426 professional engineer while the said certificate remains unrevoked  
427 or unexpired.

428 Before engaging in the practice of the profession, each  
429 registrant hereunder shall upon registration obtain a seal of the  
430 design authorized by the board, bearing the registrant's name and  
431 the legend, "registered professional engineer." Plans,  
432 specifications and reports prepared by a registrant shall be  
433 stamped with the seal by the registrant during the life of the  
434 registrant's certificate, but it shall be unlawful for anyone to  
435 stamp or seal any documents with the seal after the certificate of  
436 the registrant named thereon is expired or revoked, or while the  
437 certificate is suspended. It shall be unlawful for anyone other  
438 than the registrant to whom the seal has been issued to stamp or  
439 seal any document utilizing such seal.

440 **SECTION 16.** Section 73-13-31, Mississippi Code of 1972, is  
441 reenacted as follows:

442 73-13-31. Certificates of registration shall expire on the  
443 last day of the month of December following their issuance or  
444 renewal and shall become invalid on that date unless renewed. It  
445 shall be the duty of the board to notify every person registered  
446 under this chapter, of the date of the expiration of his  
447 certificate and the amount of the fee that shall be required for  
448 its renewal for one (1) year. Such notice shall be sent by first  
449 class mail to the last known address of the registrant at least  
450 one (1) month in advance of the date of the expiration of said  
451 certificate. Renewal may be effected at any time during the month  
452 of December by the payment of a fee, as determined by the board,  
453 not to exceed Fifty Dollars (\$50.00). A person who is registered  
454 as a professional engineer and as a professional land surveyor may  
455 effect both renewals by the payment of a fee not to exceed  
456 Seventy-five Dollars (\$75.00). The failure on the part of any  
457 registrant to renew his certificate annually in the month of



458 December as required above, shall not deprive such person of the  
459 right of renewal, but the fee to be paid for the renewal of a  
460 certificate after the month of December shall be increased ten  
461 percent (10%) for each month, or fraction of a month that payment  
462 of renewal is delayed; provided, however, that the maximum fee for  
463 delayed renewal shall not exceed five (5) times the normal renewal  
464 fee. A state agency or any of the state's political subdivisions,  
465 such as a county or municipality, may pay the renewal fee of any  
466 registrant who is a full-time employee; provided, however, that  
467 any registrant who permits his/her renewal fee to be paid from any  
468 public funds shall not perform engineering or land surveying  
469 services for a fee or other emoluments for the public or for any  
470 other public entity. If a registrant fails to renew his  
471 certificate within five (5) years from the date of expiration, he  
472 must pay the back fees and be reexamined by the board in  
473 principles and practice before his certificate will be reissued.  
474 The reexamination requirement may be waived by the board provided  
475 the applicant has continued to practice in another jurisdiction  
476 from the date of expiration of his certificate.

477 **SECTION 17.** Section 73-13-33, Mississippi Code of 1972, is  
478 reenacted as follows:

479 73-13-33. All professional engineers, registered in  
480 accordance with the provisions of Chapter 56 of the Laws of  
481 Mississippi of 1928, Extraordinary Session, and as reenacted under  
482 Senate Bill No. 383, Chapter 131, Laws of 1940, and whose  
483 certificates of registration are in effect at the time of passage  
484 of Sections 73-13-1 through 73-13-45, shall be entitled to all the  
485 rights and privileges of a registered professional engineer as  
486 provided for in those sections, while the said certificate remains  
487 unrevoked or unexpired.

488 **SECTION 18.** Section 73-13-35, Mississippi Code of 1972, is  
489 reenacted as follows:



490           73-13-35. The board may, upon application therefor and the  
491 payment of a fee in accordance with Section 73-13-25, issue a  
492 certificate of registration as a professional engineer to any  
493 person who holds a certificate of qualification or registration  
494 issued to him by proper authority of any state or territory or  
495 possession of the United States, or of any country, provided that  
496 the applicant's qualifications meet the requirements of Sections  
497 73-13-1 through 73-13-45 and the rules established by the board.

498           **SECTION 19.** Section 73-13-37, Mississippi Code of 1972, is  
499 reenacted as follows:

500           73-13-37. (1) The board, upon satisfactory proof and in  
501 accordance with the provisions of this chapter and the  
502 implementing regulations of the board pertaining thereto, is  
503 authorized to take the disciplinary actions provided for  
504 hereinafter against any person practicing engineering or  
505 surveying, including nonregistrants, for any of the following  
506 reasons:

507                   (a) Violating any of the provisions of Sections 73-13-1  
508 through 73-13-45 or the implementing bylaws, rules, regulations,  
509 or standards of ethics or conduct duly adopted and promulgated by  
510 the board pertaining to the practice of engineering;

511                   (b) Fraud, deceit or misrepresentation in obtaining a  
512 certificate of registration;

513                   (c) Gross negligence, malpractice or incompetency;

514                   (d) Any professional misconduct, as defined by the  
515 board through bylaws, rules and regulations, and standards of  
516 conduct and ethics;

517                   (e) Practicing or offering to practice engineering on an  
518 expired certificate or while under suspension or revocation of  
519 certificate unless said suspension or revocation be abated through  
520 probation, as provided for hereinafter; or

521                   (f) Addiction to or dependence on alcohol or other  
522 habit-forming drugs or being an habitual user of alcohol,





523 narcotics, barbiturates, amphetamines, hallucinogens, or other  
524 drugs having similar effect.

525 (2) Any person may prefer charges against any other person  
526 practicing engineering or surveying, including nonregistrants, for  
527 committing any of the acts set forth in subsection (1). Such  
528 charges shall be sworn to, either upon actual knowledge or upon  
529 information and belief, and shall be filed with the board. In the  
530 event any person certified under Sections 73-13-1 through 73-13-45  
531 is expelled from membership in any Mississippi professional  
532 engineering society or association, the board shall thereafter  
533 cite said person to appear at a hearing before the board and to  
534 show cause why disciplinary action should not be taken against  
535 him.

536 The board shall investigate all charges filed with it and,  
537 upon finding reasonable cause to believe that the charges are not  
538 frivolous, unfounded or filed in bad faith, may, in its  
539 discretion, cause a hearing to be held, at a time and place fixed  
540 by the board, regarding the charges and may compel the accused by  
541 subpoena to appear before the board to respond to said charges.

542 No disciplinary action taken hereunder may be taken until the  
543 accused has been furnished both a statement of the charges against  
544 him and notice of the time and place of the hearing thereof, which  
545 shall be personally served on or mailed by registered or certified  
546 mail, return receipt requested, to the last-known business or  
547 residence address of the accused not less than thirty (30) days  
548 prior to the date fixed for the hearing.

549 (3) At any hearing held hereunder, the board shall have the  
550 power to subpoena witnesses and compel their attendance and may  
551 also require the production of books, papers, documents, etc., as  
552 provided elsewhere in this chapter. The board is authorized to  
553 designate or secure a hearing officer to conduct the hearing. All  
554 evidence shall be presented under oath, which may be administered  
555 by any member of the board, and thereafter the proceedings may, if



556 necessary, be transcribed in full by the court reporter and filed  
557 as part of the record in the case. Copies of such transcriptions  
558 may be provided to any party to the proceedings at a cost to be  
559 fixed by the board.

560 All witnesses who shall be subpoenaed and who shall appear in  
561 any proceedings before the board shall receive the same fees and  
562 mileage as allowed by law in judicial civil proceedings, and all  
563 such fees shall be taxed as part of the costs in the case.

564 Where in any proceeding before the board any witness shall  
565 fail or refuse to attend upon subpoena issued by the board, shall  
566 refuse to testify or shall refuse to produce any books and papers,  
567 the production of which is called for by the subpoena, the  
568 attendance of such witness and the giving of his testimony and the  
569 production of the books and papers shall be enforced by any court  
570 of competent jurisdiction of this state in the manner provided for  
571 the enforcement of attendance and testimony of witnesses in civil  
572 cases in the courts of this state.

573 The accused shall have the right to be present at the hearing  
574 in person, by counsel or other representative, or both. The board  
575 is authorized to continue or recess the hearing as may be  
576 necessary.

577 (4) At the conclusion of the hearing, the board may either  
578 decide the issue at that time or take the case under advisement  
579 for further deliberation. The board shall render its decision not  
580 more than ninety (90) days after the close of the hearing, and  
581 shall forward to the last-known business or residence address of  
582 the accused, by certified or registered mail, return receipt  
583 requested, a written statement of the decision of the board.

584 If a majority of the board finds the accused guilty of the  
585 charges filed, the board may: (a) issue a public or private  
586 reprimand; (b) require the guilty party to complete a course,  
587 approved by the board, in ethics; (c) suspend or revoke the  
588 certificate of the accused, if the accused is a registrant; or (d)



589 in lieu of or in addition to such reprimand, course completion,  
590 suspension or revocation, assess and levy upon the guilty party a  
591 monetary penalty of not less than One Hundred Dollars (\$100.00)  
592 nor more than Five Thousand Dollars (\$5,000.00) for each  
593 violation.

594 (5) A monetary penalty assessed and levied under this  
595 section shall be paid to the board upon the expiration of the  
596 period allowed for appeal of such penalties under this section, or  
597 may be paid sooner if the guilty party elects. Money collected by  
598 the board under this section shall be deposited to the credit of  
599 the board's special fund in the State Treasury.

600 When payment of a monetary penalty assessed and levied by the  
601 board in accordance with this section is not paid when due, the  
602 board shall have the power to institute and maintain proceedings  
603 in its name for enforcement of payment in the chancery court of  
604 the county and judicial district of residence of the guilty party  
605 and if the guilty party be a nonresident of the State of  
606 Mississippi, such proceedings shall be in the Chancery Court of  
607 the First Judicial District of Hinds County, Mississippi.

608 (6) When the board has taken a disciplinary action under  
609 this section, the board may, in its discretion, stay such action  
610 and place the guilty party on probation for a period not to exceed  
611 one (1) year upon the condition that the guilty party shall not  
612 further violate either the laws of the State of Mississippi  
613 pertaining to the practice of engineering or the bylaws, rules and  
614 regulations, or standards of conduct and ethics promulgated by the  
615 board.

616 (7) The board, in its discretion, may assess and tax any  
617 part or all of the costs of any disciplinary proceedings conducted  
618 under this section against either the accused, the charging party,  
619 or both, as it may elect.

620 (8) The power and authority of the board to assess and levy  
621 the monetary penalties provided for in this section shall not be



622 affected or diminished by any other proceeding, civil or criminal,  
623 concerning the same violation or violations except as provided in  
624 this section.

625 (9) The board, for sufficient cause, may reissue a revoked  
626 certificate of registration whenever a majority of the board  
627 members vote to do so.

628 (10) Any person aggrieved by an action of the board denying  
629 or revoking his certificate of registration or re-registration as  
630 a professional engineer or his certificate of enrollment as an  
631 engineer intern, or who is aggrieved by the action of the board as  
632 a result of disciplinary proceedings conducted under this section  
633 may appeal therefrom to the chancery court of either the county  
634 wherein the appellant resides or the Chancery Court of the First  
635 Judicial District of Hinds County, at the election of the  
636 appellant. If the appellant is a nonresident of this state, the  
637 appeal shall be made to the Chancery Court of the First Judicial  
638 District of Hinds County. Such appeal shall be perfected before  
639 the board by the filing with the board of a notice of appeal to  
640 the chancery court. The court shall require a bond in an amount  
641 not to exceed One Thousand Dollars (\$1,000.00) conditioned to pay  
642 all costs which may be adjudged against the appellant. The notice  
643 of appeal shall be filed not later than thirty (30) days after the  
644 decision of the board is forwarded to the guilty party, as  
645 provided hereinabove.

646 All appeals perfected hereunder shall act as a supersedeas,  
647 and shall be made to the chancery court solely upon the record  
648 made before the board during the disciplinary hearing. When the  
649 appeal shall have been properly perfected as provided herein, the  
650 board shall cause the record of the proceedings conducted before  
651 it to be compiled, certified and filed with the chancery court.  
652 The briefing schedule shall be the same as for appeals to the  
653 Supreme Court. The chancery court shall be required to rule on  
654 the case within sixty (60) days of the close of briefing. All



655 procedures and penalties provided for in this section shall apply  
656 to nonregistrants as well as registrants.

657         (11) In addition to the reasons specified in subsection (1)  
658 of this section, the board shall be authorized to suspend the  
659 certificate of registration of any person for being out of  
660 compliance with an order for support, as defined in Section  
661 93-11-153. The procedure for suspension of a certificate for  
662 being out of compliance with an order for support, and the  
663 procedure for the reissuance or reinstatement of a certificate  
664 suspended for that purpose, and the payment of any fees for the  
665 reissuance or reinstatement of a certificate suspended for that  
666 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
667 the case may be. Actions taken by the board in suspending a  
668 certificate when required by Section 93-11-157 or 93-11-163 are  
669 not actions from which an appeal may be taken under this section.  
670 Any appeal of a suspension of a certificate that is required by  
671 Section 93-11-157 or 93-11-163 shall be taken in accordance with  
672 the appeal procedure specified in Section 93-11-157 or 93-11-163,  
673 as the case may be, rather than the procedure specified in this  
674 section. If there is any conflict between any provision of  
675 Section 93-11-157 or 93-11-163 and any provision of this chapter,  
676 the provisions of Section 93-11-157 or 93-11-163, as the case may  
677 be, shall control.

678         (12) Any board member whose objectivity in a disciplinary  
679 proceeding is impaired shall either recuse himself from sitting as  
680 a member of the board in a formal disciplinary hearing in that  
681 proceeding or be disqualified therefrom. In the event a  
682 disciplinary proceeding is brought against a member or former  
683 member of the board, no member of the board who has served  
684 concurrently with the respondent in the disciplinary proceeding  
685 shall sit as a member of the board in a formal disciplinary  
686 hearing in that proceeding. If, after recusal or disqualification  
687 of board members as provided herein, there does not remain a



688 quorum of the board to sit for a disciplinary hearing, the board  
689 shall have the power to select, in accordance with duly  
690 promulgated regulations of the board, substitute panel members  
691 from slates of candidates established by the Mississippi  
692 Engineering Society and the Mississippi Association of  
693 Professional Surveyors to the extent necessary to achieve the  
694 number of panel members equivalent to a quorum of the board.  
695 Substitute panel members must meet the qualifications of board  
696 members as provided in Section 73-13-7 and shall receive  
697 compensation as provided for board members in Section 73-13-9.

698         **SECTION 20.** Section 73-13-39, Mississippi Code of 1972, is  
699 reenacted as follows:

700         73-13-39. Any person who shall practice, or offer to  
701 practice, engineering in this state without being registered in  
702 accordance with the provisions of Sections 73-13-1 through  
703 73-13-45, or any person presenting or attempting to use as his own  
704 the certificate of registration or seal of another, or any person  
705 who shall give any false or forged evidence of any kind to the  
706 board or to any member thereof in obtaining a certificate of  
707 registration, or any person who shall falsely impersonate any  
708 other registrant of like or different name, or any person who  
709 shall attempt to use an expired or revoked certificate of  
710 registration, or any person who shall violate any of the  
711 provisions of Sections 73-13-1 through 73-13-45, shall be guilty  
712 of a misdemeanor, and shall, upon conviction, be sentenced to pay  
713 a fine of not less than One Hundred Dollars (\$100.00), nor more  
714 than One Thousand Dollars (\$1,000.00), or suffer imprisonment for  
715 a period not exceeding three (3) months, or both. The criminal  
716 penalties provided for in this section may be assessed in addition  
717 to those civil penalties provided for in Section 73-13-37.

718         Unless registered in accordance with the provisions of  
719 Sections 73-13-1 through 73-13-45, no person shall:



720 (a) Directly or indirectly employ, use, cause to be  
721 used or make use of any of the following terms or any  
722 combinations, variations or abbreviations thereof as a  
723 professional, business or commercial identification, title, name,  
724 representation, claim, asset or means of advantage or benefit:  
725 "engineer," "professional engineer," "licensed engineer,"  
726 "registered engineer," "registered professional engineer,"  
727 "licensed professional engineer," "engineered," "engineering"; or

728 (b) Directly or indirectly employ, use, cause to be  
729 used or make use of any letter, abbreviation, word, symbol,  
730 slogan, sign or any combinations or variations thereof which in  
731 any manner whatsoever tends or is likely to create any impression  
732 with the public or any member thereof that any person is qualified  
733 or authorized to practice engineering; or

734 (c) Receive any fee or compensation or the promise of  
735 any fee or compensation for performing, offering or attempting to  
736 perform any service, work, act or thing which is any part of the  
737 practice of engineering.

738 Any person, firm, partnership, association or corporation  
739 which shall do, offer or attempt to do any one or more of the acts  
740 or things set forth in items (a) through (c) of the preceding  
741 paragraph shall be conclusively presumed and regarded as engaged  
742 in the practice of engineering.

743 It shall be the duty of all duly constituted officers of the  
744 law of this state, or any political subdivision thereof, to  
745 enforce the provisions of Sections 73-13-1 through 73-13-45 and to  
746 prosecute any persons violating same. The Attorney General of the  
747 state or his assistant shall act as legal advisor of the board in  
748 carrying out the provisions of Sections 73-13-1 through 73-13-45.

749 **SECTION 21.** Section 73-13-41, Mississippi Code of 1972, is  
750 reenacted as follows:

751 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not  
752 be construed to prevent or to affect:



753           (a) The practice of any other legally recognized  
754 profession or trade, such as: (i) engineers employed by  
755 contractors to supervise work on which a registered engineer is  
756 engaged; and (ii) architects who are registered under the  
757 provisions of Chapter 1 of this Title;

758           (b) The work of an employee or a subordinate of a  
759 person holding a certificate of registration under this act,  
760 provided such work does not include final designs or decisions and  
761 is done under the responsibility, checking and supervision of a  
762 person holding a certificate of registration under Sections  
763 73-13-1 through 73-13-45;

764           (c) The practice of officers and employees of the  
765 government of the United States while engaged within this state in  
766 the practice of engineering for said government; or

767           (d) The performance of engineering services by any  
768 regular full-time employee of a manufacturing, research and  
769 development, railroad or other industrial corporation, provided:

770                   (i) Such services are rendered on or in connection  
771 with existing fixed works, equipment, systems, processes or  
772 facilities owned, operated, or leased by such corporation and/or  
773 its affiliates;

774                   (ii) Such services are not rendered to third  
775 parties;

776                   (iii) Such services do not consist of original  
777 plant design, original system design, or original process design,  
778 other than routine system extensions that do not compromise the  
779 integrity of the original design;

780                   (iv) Such services comply with all requirements  
781 specified by the employee's company or corporation;

782                   (v) All fixed works, equipment, systems, processes  
783 or facilities modified by such services undergo a safety review  
784 that confirms: (A) the construction and equipment is in accordance  
785 with design specifications; and (B) safety, operating, maintenance





786 and emergency procedures are in place to safeguard life, health  
787 and property.

788 (vi) Such services are not required to be  
789 performed, approved, or certified by a professional engineer  
790 pursuant to law or regulation, whether federal, state, or local,  
791 other than Section 73-13-1 through 73-13-45 hereof or any  
792 applicable rules or regulations promulgated by the Mississippi  
793 State Board of Registration for Professional Engineers and Land  
794 Surveyors.

795 It is further stated that this subsection (d) is  
796 intended to codify the policy and practices of the board at the  
797 time of enactment of this Senate Bill No. 2380, 1999 Regular  
798 Session [Laws, 1999, ch. 534], and that any ambiguities in this  
799 subsection should be construed in accordance with this intent.

800 (e) The performance of engineering services with  
801 respect to utility facilities by any public utility subject to  
802 regulation by the Mississippi Public Service Commission, the  
803 Federal Communications Commission, the Federal Energy Regulatory  
804 Commission, or the Nuclear Regulatory Commission, including its  
805 parents, affiliates, subsidiaries; or by the officers and regular  
806 full-time employees of any such public utility, including its  
807 parents, affiliates or subsidiaries, provided that they are  
808 engaged solely and exclusively in performing service for such  
809 public utility and/or its parents, affiliates or subsidiaries, and  
810 as long as such services comply with all standard operating  
811 procedures and requirements specified by the employee's company or  
812 corporation. This exemption shall not extend to: (i) the practice  
813 of engineering performed by public utilities or their officers or  
814 employees when such services are rendered to non-affiliated third  
815 parties in exchange for compensation other than that received from  
816 their employer, or the use of any name, title or words which tend  
817 to convey the impression that a nonregistrant is offering  
818 engineering services to the public; and (ii) services which are



819 required to be performed, approved or certified by a professional  
820 engineer pursuant to law or regulation whether federal, state or  
821 local, other than Sections 73-13-1 through 73-13-45 hereof or any  
822 applicable rules or regulations promulgated by the Mississippi  
823 State Board of Registration for Professional Engineers and Land  
824 Surveyors.

825           It is further stated that this subsection (e) is  
826 intended to codify the policy and practices of the board at the  
827 time of enactment of this Senate Bill No. 2380, 1999 Regular  
828 Session [Laws, 1999, ch. 534], and that any ambiguities in this  
829 subsection should be construed in accordance with this intent.

830           (2) In addition to the exemptions provided in subsection  
831 (1), there is hereby granted and reserved to the board the  
832 authority to exempt from Sections 73-13-1 through 73-13-45 by  
833 regulation specific engineering tasks or functions performed by  
834 regular full-time employees of manufacturing, public utility,  
835 research and development, railroad or other industrial  
836 corporations rendered in the course and scope of their employment,  
837 on a case by case basis, if, in the opinion of the board, the  
838 public health and welfare is not endangered nor the engineering  
839 profession diminished.

840           **SECTION 22.** Section 73-13-43, Mississippi Code of 1972, is  
841 reenacted as follows:

842           73-13-43. A corporation, firm or partnership may engage in  
843 the practice of professional engineering in this state, providing  
844 the person or persons connected with such corporation, firm or  
845 partnership in charge of the designing, or supervision, which  
846 constitutes such practice, is or are registered as herein required  
847 of professional engineers. Any corporation, firm or partnership  
848 engaged in offering engineering services to the public must have  
849 at least one (1) registered professional engineer as a principal  
850 officer or partner of the firm who has management responsibility  
851 for such practice. A corporation, firm or partnership, when



852 performing engineering services to the public for a fee or other  
853 emoluments, shall include in each agreement for such services the  
854 name and registration number of the professional engineer who will  
855 bear the primary responsibility for the engineering work involved.  
856 The same exemptions shall apply to corporations, firms and  
857 partnerships as apply to individuals under Sections 73-13-1  
858 through 73-13-45.

859 **SECTION 23.** Section 73-13-45, Mississippi Code of 1972, is  
860 reenacted as follows:

861 73-13-45. (1) (a) Neither the state, nor any of its  
862 political subdivisions, such as a county, city or town, shall  
863 award construction contracts of any public work involving the  
864 practice of engineering or architecture unless the plans,  
865 specifications and estimates have been prepared and such work  
866 supervised by a registered professional engineer or architect;  
867 provided, that nothing in this subsection shall be held to apply  
868 to such public work wherein the expenditure does not exceed Fifty  
869 Thousand Dollars (\$50,000.00); and provided further, that nothing  
870 in this subsection shall apply to any municipality wherein such  
871 public work is not financed in whole or in part through the  
872 issuance of bonds and let to public contract.

873 (b) The state and any of its political subdivisions,  
874 such as a county, city or town, may engage in construction of  
875 public buildings involving the practice of engineering or  
876 architecture and using political subdivision work forces without  
877 the supervision of a registered professional engineer or  
878 architect, provided that the total cost of the public building  
879 does not exceed One Hundred Thousand Dollars (\$100,000.00). This  
880 paragraph (1) (b) shall not supersede any rules and regulations  
881 promulgated by the State Department of Health and the Department  
882 of Environmental Quality.

883 (2) (a) In the awarding of public contracts for  
884 professional engineering services, preference shall be given to



885 resident professional engineers over those nonresident  
886 professional engineers domiciled in a state having laws which  
887 grant a preference to the professional engineers who are residents  
888 of that state. Nonresident professional engineers shall be  
889 awarded Mississippi public contracts only on the same basis as the  
890 nonresident professional's state awards contracts to Mississippi  
891 professional engineers under similar circumstances. When a  
892 nonresident professional engineer submits a proposal for a public  
893 project, he shall attach thereto a copy of his resident state's  
894 current statute, resolution, policy, procedure or executive order  
895 pertaining to such state's treatment of nonresident professional  
896 engineers. Resident professional engineers actually domiciled in  
897 Mississippi, be they corporate, individuals or partnerships, shall  
898 be granted preference over nonresidents in the awarding of  
899 contracts in the same manner and to the same extent as provided by  
900 the laws of the state of domicile of the nonresident. As used in  
901 this section, the term "resident professional engineer" includes a  
902 nonresident person, firm or corporation that has been qualified to  
903 do business in this state and has maintained a permanent full-time  
904 office in the State of Mississippi for not less than two (2) years  
905 prior to submitting a proposal for a public project, and the  
906 subsidiaries and affiliates of such a person, firm or corporation.

907 (b) The provisions of this subsection shall not apply  
908 to any contract for any project upon which federal funds would be  
909 withheld because of the preference requirements of this  
910 subsection.

911 (c) Any contract, agreement or arrangement for  
912 professional engineering services negotiated, made or entered  
913 into, directly or indirectly, by the state, counties,  
914 municipalities or any political subdivision thereof, or by any  
915 special districts, which is in any way in violation of the  
916 provisions of this subsection is hereby declared to be void as  
917 contrary to the public policy of this state and shall not be given



918 effect or enforced by any court of this state or by any of its  
919 officers or employees.

920 (d) Nothing in this subsection shall affect the  
921 validity of any contract in existence prior to July 1, 1989.

922 (e) For purposes of this section, the term  
923 "professional engineering services" means those within the scope  
924 of the practice of professional engineering as defined by Sections  
925 73-13-1 through 73-13-45, or those performed by any registered  
926 professional engineer in connection with professional employment  
927 or practice.

928 **SECTION 24.** Section 73-13-71, Mississippi Code of 1972, is  
929 reenacted as follows:

930 73-13-71. (a) The term "board," as used in Sections  
931 73-13-71 through 73-13-105, shall mean the State Board of  
932 Registration for Professional Engineers and Land Surveyors as  
933 provided for in Section 73-13-5 of this chapter.

934 (b) The term "professional land surveyor," as used in  
935 Sections 73-13-71 through 73-13-105, shall mean a person who  
936 engages in the practice of land surveying as hereinafter defined,  
937 whether in an individual capacity, or in behalf of or as an  
938 employee of any state, county, or municipal authority of the State  
939 of Mississippi.

940 (c) The term "land surveyor intern," as used in Sections  
941 73-13-71 through 73-13-105, shall mean a candidate for  
942 registration as a professional land surveyor who has successfully  
943 passed the fundamentals of land surveying examination, has met the  
944 requirements of the board for enrollment, has received from the  
945 board a certificate stating that he has successfully passed this  
946 portion of the professional land surveying examinations and has  
947 been enrolled as a land surveyor intern.

948 (d) The practice of "land surveying," within the meaning and  
949 intent of Sections 73-13-71 through 73-13-105, is surveying of  
950 areas for their correct determination and description and for



951 conveyancing, or for the establishment or re-establishment of land  
952 boundaries and the platting of lands and subdivisions thereof, and  
953 such other duties as traditional or sound surveying practices  
954 would direct.

955         **SECTION 25.** Section 73-13-73, Mississippi Code of 1972, is  
956 reenacted as follows:

957         73-13-73. No person shall practice land surveying without  
958 having first been duly and regularly registered by the State Board  
959 of Registration for Professional Engineers and Land Surveyors as a  
960 professional land surveyor as required by Sections 73-13-71  
961 through 73-13-105, nor shall any person practice land surveying  
962 whose authority to practice is revoked by the said board.

963         Duties within the practice of land surveying, which must be  
964 performed by or under the direct supervision of a professional  
965 land surveyor and each map or drawing of which must be stamped  
966 with the seal of said registrant as provided in Section 73-13-83,  
967 include the following: property and boundary surveys; subdivision  
968 surveys and plats; public land surveys; easement surveys;  
969 right-of-way surveys; lease surveys; and all other surveys that  
970 require the establishment of property boundaries.

971         Duties within both the practice of land surveying and the  
972 practice of engineering, which must be performed by or under the  
973 direct supervision of a professional land surveyor or a  
974 professional engineer and each map, drawing or report of which  
975 must be stamped with the seal of said registrant as provided in  
976 Sections 73-13-29 and 73-13-83, include, but are not limited to,  
977 the following: topographic surveys; surveys for record drawing  
978 (as-built surveys excluding the location of property boundaries);  
979 cartographic surveys; hydrographic surveys; geodetic surveys; and  
980 mine surveys.

981         **SECTION 26.** Section 73-13-75, Mississippi Code of 1972, is  
982 reenacted as follows:



983           73-13-75. The Mississippi State Board of Registration for  
984 Professional Engineers and Land Surveyors is hereby authorized and  
985 empowered to examine applicants for registration to practice land  
986 surveying; to register and issue certificates of registration to  
987 all applicants whom it deems qualified to practice land surveying  
988 in accordance with Sections 73-13-71 through 73-13-105; and to  
989 revoke certificates of registration for just cause as provided for  
990 in Sections 73-13-71 through 73-13-105.

991           **SECTION 27.** Section 73-13-77, Mississippi Code of 1972, is  
992 reenacted as follows:

993           73-13-77. (1) The following shall be considered as minimum  
994 evidence satisfactory to the board that the applicant is qualified  
995 for registration as a professional land surveyor:

996           (a) The successful completion of a curriculum of two  
997 (2) scholastic years or more from a school or college approved by  
998 the board as of satisfactory standing, including the completion of  
999 approved courses in surveying and related subjects; a specific  
1000 record of three (3) years of qualifying land surveying experience  
1001 indicating that the applicant is competent to practice land  
1002 surveying; and successfully passing examinations in surveying  
1003 prescribed by the board; or

1004           (b) A specific record of seven (7) years' or more  
1005 experience in land surveying work of a character satisfactory to  
1006 the board and indicating that the applicant is competent to  
1007 practice land surveying; and successfully passing examinations in  
1008 surveying prescribed by the board.

1009           No person shall be eligible for registration as a  
1010 professional land surveyor who is not of good character and  
1011 reputation.

1012           (2) The following shall be considered as minimum evidence  
1013 satisfactory to the board that the applicant is qualified for  
1014 certification as a land surveyor intern:



1015           (a) The successful completion of two (2) scholastic  
1016 years or more from a school or college approved by the board as of  
1017 satisfactory standing, including the completion of approved  
1018 courses in land surveying and related subjects, and successfully  
1019 passing an examination in the fundamentals of land surveying; or

1020           (b) A specific record of three (3) years or more of  
1021 qualifying land surveying experience, and successfully passing an  
1022 examination in the fundamentals of land surveying.

1023           **SECTION 28.** Section 73-13-79, Mississippi Code of 1972, is  
1024 reenacted as follows:

1025           73-13-79. Application for enrollment as a land surveyor  
1026 intern or for registration as a professional land surveyor shall  
1027 be on forms prescribed and furnished by the board, shall contain  
1028 statements made under oath showing the applicant's education and a  
1029 detailed summary of the applicant's qualifying experience.  
1030 Applications for registration or reregistration as a professional  
1031 land surveyor shall also contain not less than five (5)  
1032 references, of whom three (3) or more shall be professional land  
1033 surveyors having personal knowledge of the applicant's land  
1034 surveying experience.

1035           The application fee for registration as a professional land  
1036 surveyor shall be determined by the board but shall not exceed  
1037 Seventy-five Dollars (\$75.00), which fee shall accompany the  
1038 application.

1039           The application fee for enrollment as a land surveyor intern  
1040 shall be determined by the board, but shall not exceed Twenty-five  
1041 Dollars (\$25.00), which fee shall accompany the application.

1042           Whenever an applicant is cited to an examination or  
1043 reexamination, an additional fee equal to the actual cost of the  
1044 examination shall be paid by the applicant.

1045           **SECTION 29.** Section 73-13-81, Mississippi Code of 1972, is  
1046 reenacted as follows:





1047           73-13-81. Examinations shall be required for enrollment as a  
1048 land surveyor intern and registration as a professional land  
1049 surveyor. The examinations shall be held at such time and place  
1050 as the board may determine.

1051           The scope of the examinations and the methods and procedures  
1052 shall be prescribed by the board with special reference to the  
1053 applicant's ability to exercise direct control and personal  
1054 supervision of all land surveying functions.

1055           The board shall cite applicants to examinations in accordance  
1056 with its rules and regulations.

1057           **SECTION 30.** Section 73-13-83, Mississippi Code of 1972, is  
1058 reenacted as follows:

1059           73-13-83. The board shall issue a certificate, upon payment  
1060 of the required fee, to any applicant who, in the opinion of the  
1061 board, has satisfactorily met all the requirements therefor. In  
1062 the case of registered professional land surveyors, the  
1063 certificate shall authorize the "practice of land surveying." In  
1064 the case of a land surveyor intern, the certificate shall state  
1065 that the applicant has successfully passed the examination in  
1066 fundamental land surveying subjects required by the board and has  
1067 been enrolled as a "land surveyor intern." Certificates shall show  
1068 the full name of the professional land surveyor or land surveyor  
1069 intern, shall have a serial number and shall be signed by the  
1070 president and the secretary of the board under seal of the board.

1071           The issuance of a certificate of registration by this board  
1072 shall be prima facie evidence that the person named therein is  
1073 entitled to all the rights and privileges of a registered  
1074 professional land surveyor, while the said certificate remains  
1075 unrevoked or unexpired.

1076           Each person registering as a professional land surveyor after  
1077 June 30, 1991, shall, upon registration, obtain a seal of the  
1078 design authorized by the board, bearing the registrant's name and  
1079 the legend "Registered Professional Land Surveyor." Each person



1080 registering as a professional land surveyor after June 30, 1991,  
1081 who is also registered as a professional engineer in accordance  
1082 with Sections 73-13-1 through 73-13-45 may also obtain one (1)  
1083 seal bearing the registrant's name and the legend "Registered  
1084 Professional Engineer and Professional Land Surveyor." Any person  
1085 who, before July 1, 1991, was registered under this chapter as a  
1086 land surveyor or as both a professional engineer and a land  
1087 surveyor may continue to use the seal or seals that he obtained  
1088 and that were authorized by the board to be used by such person  
1089 before July 1, 1991. Plats, maps and reports prepared by a  
1090 registrant shall be stamped with the seal during the life of the  
1091 registrant's certificate, but it shall be unlawful for anyone to  
1092 stamp or seal any documents with the seal after the certificate of  
1093 the registrant named thereon has expired or been revoked or  
1094 suspended. It shall be unlawful for anyone other than the  
1095 registrant to whom the seal has been issued to stamp or seal any  
1096 documents utilizing such seal.

1097 **SECTION 31.** Section 73-13-85, Mississippi Code of 1972, is  
1098 reenacted as follows:

1099 73-13-85. Certificates of registration shall expire on the  
1100 last day of the month of December following their issuance or  
1101 renewal and shall become invalid on that date unless renewed. It  
1102 shall be the duty of the board to notify every person registered  
1103 under Sections 73-13-71 through 73-13-105 of the date of the  
1104 expiration of his certificate and the amount of the fee that shall  
1105 be required for its renewal for one (1) year; such notice shall be  
1106 sent by first class mail to the last known address of the  
1107 registrant at least one (1) month in advance of the date of the  
1108 expiration of said certificate. Renewal may be effected at any  
1109 time during the month of December by the payment of a fee not to  
1110 exceed Fifty Dollars (\$50.00). A person who is registered as a  
1111 professional land surveyor and as a professional engineer may  
1112 effect both renewals by the payment of a single fee not to exceed



1113 Seventy-five Dollars (\$75.00). The failure on the part of any  
1114 registrant to renew his certificate annually in the month of  
1115 December as required above shall not deprive such person of the  
1116 right of renewal, but the fee to be paid for the renewal of a  
1117 certificate after the month of December shall be increased ten  
1118 percent (10%) for each month that payment of renewal is delayed;  
1119 however, the maximum fee for delayed renewal shall not exceed five  
1120 (5) times the normal renewal fee.

1121 If the registrant shall fail to renew his certificate within  
1122 five (5) years from the date of expiration, he must pay the back  
1123 fees and be reexamined by the board in principles and practice  
1124 before his certificate will be reissued. The reexamination may be  
1125 waived by the board provided the applicant has continued to  
1126 practice under another jurisdiction from the date of expiration of  
1127 his certificate.

1128 **SECTION 32.** Section 73-13-87, Mississippi Code of 1972, is  
1129 reenacted as follows:

1130 73-13-87. The board may, upon application therefor and the  
1131 payment of a fee to be determined by the board, but not to exceed  
1132 Seventy-five Dollars (\$75.00), issue a certificate of registration  
1133 as a professional land surveyor to any person who holds a  
1134 certificate of registration issued to him by the proper authority  
1135 of any state or territory or possession of the United States, or  
1136 of any country, provided that the applicant's qualifications meet  
1137 the requirements of Sections 73-13-71 through 73-13-105 and the  
1138 rules established by the board.

1139 **SECTION 33.** Section 73-13-89, Mississippi Code of 1972, is  
1140 reenacted as follows:

1141 73-13-89. The powers and duties of the board regarding  
1142 disciplinary actions against any person, including nonregistrants  
1143 accused of violating any of the laws of the State of Mississippi  
1144 regarding the practice of land surveying or the rules,  
1145 regulations, bylaws, or standards of conduct and ethics pertaining



1146 thereto as duly promulgated by the board, as well as the  
1147 procedures for conducting said disciplinary proceedings, the penal  
1148 sanctions available to the board in the event the charges are  
1149 established, and the procedures for appeal from such actions of  
1150 the board shall be the same as those set forth in Sections  
1151 73-13-37 and 73-13-39 regarding actions against persons charged  
1152 with similar violations related to the practice of engineering.

1153 **SECTION 34.** Section 73-13-93, Mississippi Code of 1972, is  
1154 reenacted as follows:

1155 73-13-93. Any person who may feel aggrieved by an action of  
1156 the board denying or revoking his certificate of registration or  
1157 re-registration as a professional land surveyor or enrollment as  
1158 land surveyor intern may appeal therefrom to the chancery court of  
1159 the county of residence of such person and, after full hearing,  
1160 the court shall make such order sustaining or reversing the action  
1161 of the board as to it may seem just and proper. However, in case  
1162 of a nonresident licensee or applicant, such appeal shall be taken  
1163 or made to the Chancery Court of the First Judicial District of  
1164 Hinds County, Mississippi.

1165 Actions taken by the board in suspending a certificate of  
1166 registration when required by Section 93-11-157 or 93-11-163 are  
1167 not actions from which an appeal may be taken under this section.  
1168 Any appeal of a suspension of a certificate that is required by  
1169 Section 93-11-157 or 93-11-163 shall be taken in accordance with  
1170 the appeal procedure specified in Section 93-11-157 or 93-11-163,  
1171 as the case may be, rather than the procedure specified in this  
1172 section.

1173 **SECTION 35.** Section 73-13-95, Mississippi Code of 1972, is  
1174 reenacted as follows:

1175 73-13-95. Any person who shall practice, or offer to  
1176 practice, land surveying in this state without being registered in  
1177 accordance with the provisions of Sections 73-13-71 through  
1178 73-13-105, or any person presenting or attempting to use as his



1179 own the certificate of registration or the seal of another, or any  
1180 person who shall give any false or forged evidence of any kind to  
1181 the board or to any member thereof in obtaining a certificate of  
1182 registration, or any person who shall falsely impersonate any  
1183 other registrant of like or different name, or any person who  
1184 shall attempt to use an expired or revoked certificate of  
1185 registration, or any person who shall violate any of the  
1186 provisions of Sections 73-13-71 through 73-13-105, shall be guilty  
1187 of a misdemeanor, and shall, upon conviction, be sentenced to pay  
1188 a fine of not less than One Hundred Dollars (\$100.00), nor more  
1189 than One Thousand Dollars (\$1,000.00), or suffer imprisonment for  
1190 a period of not exceeding three (3) months, or both. The criminal  
1191 penalties provided for in this section may be assessed in addition  
1192 to those civil penalties provided for in Section 73-13-37.

1193 Unless registered in accordance with the provisions of  
1194 Sections 73-13-71 through 73-13-105, no person shall:

1195 (a) Directly or indirectly employ, use, cause to be  
1196 used or make use of any of the following terms or any combination,  
1197 variations or abbreviations thereof as a professional, business or  
1198 commercial identification, title, name, representation, claim,  
1199 asset or means of advantage or benefit: "surveyor," "professional  
1200 surveyor," "licensed surveyor," "registered surveyor," "registered  
1201 professional surveyor," "licensed professional surveyor,"  
1202 "surveyed," "surveying," "professional land surveyor," or  
1203 "registered professional land surveyor";

1204 (b) Directly or indirectly employ, use, cause to be  
1205 used or make use of any letter, abbreviation, word, symbol,  
1206 slogan, sign or any combinations or variations thereof, which in  
1207 any manner whatsoever tends or is likely to create any impression  
1208 with the public or any member thereof that any person is qualified  
1209 or authorized to practice land surveying; or

1210 (c) Receive any fee or compensation or the promise of  
1211 any fee or compensation for performing, offering or attempting to



1212 perform any service, work, act or thing which is any part of the  
1213 practice of land surveying.

1214 Any person, firm, partnership, association or  
1215 corporation which shall do, offer or attempt to do any one or more  
1216 of the acts or things set forth in items (a) through (c) of the  
1217 preceding paragraph shall be conclusively presumed and regarded as  
1218 engaged in the practice of land surveying.

1219 It shall be the duty of all duly constituted officers of  
1220 the law of this state, or any political subdivision thereof, to  
1221 enforce the provisions of Sections 73-13-71 through 73-13-105 and  
1222 to prosecute any persons violating same. The Attorney General of  
1223 the state or his assistant shall act as legal adviser of the board  
1224 and render such legal assistance as may be necessary in carrying  
1225 out the provisions of Sections 73-13-71 through 73-13-105.

1226 **SECTION 36.** Section 73-13-97, Mississippi Code of 1972, is  
1227 reenacted as follows:

1228 73-13-97. Sections 73-13-71 through 73-13-105 shall not be  
1229 construed to prevent or to affect:

1230 (a) Other professions or trades. The practice of any  
1231 other legally recognized profession or trade; or

1232 (b) Employees and subordinates. The work of an  
1233 employee or a subordinate of a person holding a certificate of  
1234 registration under Sections 73-13-71 through 73-13-105; providing  
1235 such work does not include final decisions and is done under the  
1236 direct responsibility, checking and supervision of a person  
1237 holding a certificate of registration under Sections 73-13-71  
1238 through 73-13-105; or

1239 (c) Government officers and employees. The practice of  
1240 officers and employees of the government of the United States  
1241 while engaged within this state in the practice of land surveying  
1242 for said government; or

1243 (d) Certain elected or appointed county surveyors. A  
1244 county surveyor as provided for in Section 135 of the Mississippi



1245 Constitution, and Sections 19-27-1 through 19-27-35 implementing  
1246 the constitutional provision, who holds the office of county  
1247 surveyor by either election or appointment, shall be exempt,  
1248 through December 31, 1983, from the provisions of Sections  
1249 73-13-71 through 73-13-105 insofar as his statutory duties within  
1250 the boundaries of the county in which he is duly elected or  
1251 appointed are concerned. From and after January 1, 1984, such  
1252 surveyor shall not be exempt from the provisions of Sections  
1253 73-13-71 through 73-13-105 unless he held the office of county  
1254 surveyor by either election or appointment on December 31, 1983;  
1255 or

1256 (e) Employees of railroad, public service and/or  
1257 utility companies. The work or practice of a regular employee of  
1258 a railroad, or a public service company or public utility, by  
1259 rendering to such company land surveying service in connection  
1260 with its facilities which are subject to regulation, supervision  
1261 and control in order to safeguard life, health and property by the  
1262 Public Service Commission or the Mississippi Department of  
1263 Transportation of this state, shall be exempt so long as such  
1264 person is thus actually and exclusively employed and no longer.

1265 (f) The work of a regular employee of a railroad,  
1266 rendering to the railroad land surveying services in connection  
1267 with its facilities within the exclusive scope of his employment  
1268 provided that:

1269 (i) Any new right-of-way acquisitions for  
1270 construction of rail lines by class one railroads shall be  
1271 surveyed and platted in compliance with the Mississippi Minimum  
1272 Standards for Land Surveying by a Mississippi professional land  
1273 surveyor; and

1274 (ii) Upon the removal of track and disposition of  
1275 an abandoned rail line the railroad shall retain and make  
1276 available upon reasonable request from Mississippi licensed



1277 surveyors the railroad's valuation surveys for any such abandoned  
1278 rail line.

1279 **SECTION 37.** Section 73-13-99, Mississippi Code of 1972, is  
1280 reenacted as follows:

1281 73-13-99. Sections 73-13-19[73-13-1] through 73-13-45 and  
1282 73-13-71 through 73-13-103, Mississippi Code of 1972, which create  
1283 the State Board of Registration for Professional Engineers and  
1284 Land Surveyors and prescribe its duties and powers, shall stand  
1285 repealed as of December 31, 2006.

1286 **SECTION 38.** Section 73-13-103, Mississippi Code of 1972, is  
1287 reenacted as follows:

1288 73-13-103. (1) For the purposes of this section, the term  
1289 "surveyor" means a registered professional land surveyor as  
1290 defined in Section 73-13-71, and any person who is employed by or  
1291 under the direct supervision of a professional land surveyor  
1292 registered under Sections 73-13-71 through 73-13-97.

1293 (2) A surveyor may enter in or upon public or private lands  
1294 or waters, except buildings, while in the lawful performance of  
1295 surveying duties without criminal liability for trespass; however,  
1296 a surveyor shall make a good faith attempt to announce and  
1297 identify himself and his intentions before entering upon private  
1298 property and must present documentation sufficient to identify him  
1299 as a surveyor to anyone requesting such identification.

1300 (3) The provisions of this section do not relieve a surveyor  
1301 from any civil liability that otherwise is actionable at law or in  
1302 equity, and do not relieve a surveyor from criminal liability for  
1303 trespass if the entry in or upon the property extends beyond the  
1304 property or area that is necessary to actually perform the  
1305 surveying duties.

1306 (4) Surveyors shall be personally liable for any damage  
1307 caused to private property when exercising entry under this  
1308 section. No cause of action shall lie against a landowner for  
1309 damages to a surveyor while on such lands unless the damage is





1310 caused by the intentional tortious conduct of landowner or his  
1311 agent.

1312           **SECTION 39.** Each section of the Mississippi Code of 1972  
1313 that is reenacted but not amended by this act, and that appears in  
1314 the main volume of the Code, shall not be reprinted in the  
1315 supplement. Instead, an editor's note shall be placed in the  
1316 supplement following the section to explain that the section was  
1317 reenacted, and that it has not been reprinted in the supplement  
1318 because the language of the section in the main volume was  
1319 unaffected by the legislation.

1320           **SECTION 40.** This act shall take effect and be in force from  
1321 and after July 1, 2004.

