

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.