

By: Representative Simpson

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 792

1 AN ACT TO REENACT SECTIONS 73-13-1 THROUGH 73-13-103,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE REGULATION OF
3 ENGINEERS AND LAND SURVEYORS; TO AMEND REENACTED SECTION 73-13-1,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ENGINEERS SHALL BE
5 LICENSED; TO AMEND REENACTED SECTION 73-13-3, MISSISSIPPI CODE OF
6 1972, TO REVISE DEFINITIONS; TO AMEND REENACTED SECTION 73-13-5,
7 MISSISSIPPI CODE OF 1972, TO REVISE THE BOARD OF LICENSURE FOR
8 PROFESSIONAL ENGINEERS AND SURVEYORS; TO AMEND REENACTED SECTION
9 73-13-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
10 REENACTED SECTION 73-13-13, MISSISSIPPI CODE OF 1972, TO REVISE
11 BOARD MEETING TIMES AND THE QUORUM; TO AMEND REENACTED SECTION
12 73-13-15, MISSISSIPPI CODE OF 1972, TO REVISE THE BOARD
13 RULE-MAKING AUTHORITY; TO AMEND REENACTED SECTION 73-13-19,
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
15 SECTION 73-13-21, MISSISSIPPI CODE OF 1972, TO DELETE THE
16 REQUIREMENT THAT COPIES OF THE ROSTER OF ENGINEERS BE MAILED TO
17 ALL LICENSEES; TO AMEND REENACTED SECTION 73-13-23, MISSISSIPPI
18 CODE OF 1972, TO REVISE QUALIFICATIONS FOR LICENSURE; TO AMEND
19 REENACTED SECTION 73-13-25, MISSISSIPPI CODE OF 1972, TO REVISE
20 APPLICATION FEES; TO AMEND REENACTED SECTIONS 73-13-27 AND
21 73-13-29, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
22 REENACTED SECTION 73-13-31, MISSISSIPPI CODE OF 1972, TO REVISE
23 REQUIREMENTS REGARDING EXPIRED LICENSES; TO AMEND REENACTED
24 SECTIONS 73-13-33 AND 73-13-35, MISSISSIPPI CODE OF 1972, IN
25 CONFORMITY; TO AMEND REENACTED SECTION 73-13-37, MISSISSIPPI CODE
26 OF 1972, TO REVISE NOTICE REGARDING DISCIPLINARY ACTIONS; TO AMEND
27 REENACTED SECTION 73-13-39, MISSISSIPPI CODE OF 1972, TO REVISE
28 PENALTIES; TO AMEND REENACTED SECTION 73-13-41, MISSISSIPPI CODE
29 OF 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-43,
30 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CERTIFICATES OF AUTHORITY
31 FOR CORPORATIONS, FIRMS AND PARTNERSHIPS; TO AMEND REENACTED
32 SECTION 73-13-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
33 AMEND REENACTED SECTION 73-13-71, MISSISSIPPI CODE OF 1972, TO
34 DEFINE THE TERM "SURVEYING"; TO AMEND REENACTED SECTION 73-13-73,
35 MISSISSIPPI CODE OF 1972, TO CLARIFY DUTIES WITHIN THE PRACTICE OF
36 SURVEYING AND ENGINEERING; TO AMEND REENACTED SECTIONS 73-13-75
37 AND 73-13-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
38 REENACTED SECTION 73-13-79, MISSISSIPPI CODE OF 1972, TO REVISE
39 SURVEYOR APPLICATION FEES; TO AMEND REENACTED SECTION 73-13-81,
40 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
41 SECTION 73-13-83, MISSISSIPPI CODE OF 1972, TO REVISE SEAL
42 REQUIREMENTS; TO AMEND REENACTED SECTION 73-13-85, MISSISSIPPI
43 CODE OF 1972, TO REVISE RENEWAL OF EXPIRED LICENSE REQUIREMENTS;
44 TO AMEND REENACTED SECTIONS 73-13-87, 73-13-89 AND 73-13-93,
45 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
46 SECTION 73-13-95, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES;
47 TO AMEND REENACTED SECTION 73-13-97, MISSISSIPPI CODE OF 1972, IN
48 CONFORMITY; TO AMEND REENACTED SECTION 73-13-99, MISSISSIPPI CODE
49 OF 1972, TO EXTEND THE REPEALER ON THE BOARD OF LICENSURE FOR
50 PROFESSIONAL ENGINEERS AND SURVEYORS; TO AMEND REENACTED SECTION
51 73-13-103, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
52 SECTION 73-13-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR

53 SURVEYING CERTIFICATES OF AUTHORITY FOR CORPORATIONS, FIRMS AND
54 PARTNERSHIPS; AND FOR RELATED PURPOSES.

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

56 **SECTION 1.** Section 73-13-1, Mississippi Code of 1972, is
57 reenacted and amended as follows:

58 73-13-1. In order to safeguard life, health, and property,
59 and to promote the public welfare, any person or firm in either
60 public or private capacity practicing or offering to practice
61 engineering shall hereafter be required to submit evidence that
62 the person or firm is qualified so to practice engineering and
63 shall be licensed as hereinafter provided; and it shall be
64 unlawful for any person or firm to practice or to offer to
65 practice in this state, engineering, as defined in the provisions
66 of Sections 73-13-1 through 73-13-45, or to use in connection with
67 his name or otherwise assume, use, or advertise any title or
68 description tending to convey the impression that he is a
69 professional engineer, unless such person has been duly licensed
70 under the provisions of Sections 73-13-1 through 73-13-45. There
71 is specifically reserved to engineering graduates of all
72 universities and colleges accredited by a regional accrediting
73 body that is recognized by the United States Department of
74 Education, the right to disclose any college degrees received by
75 such individuals and use the words "graduate engineer" on his
76 stationery, business cards and personal communications of any
77 character.

78 **SECTION 2.** Section 73-13-3, Mississippi Code of 1972, is
79 reenacted and amended as follows:

80 73-13-3. The term "engineer" as used in Sections 73-13-1
81 through 73-13-45 shall mean a professional engineer as hereinafter
82 defined.

83 The term "professional engineer" within the meaning and
84 intent of Sections 73-13-1 through 73-13-45 shall mean a person
85 who has met the qualifications as required under Section

86 73-13-23(1) and who has been issued a certificate of registration
87 as a professional engineer.

88 The term "engineer intern" as used in Sections 73-13-1
89 through 73-13-45 shall mean a candidate for licensure as a
90 professional engineer who has met the qualifications as required
91 under Section 73-13-23(2) and who has been issued a certificate of
92 enrollment as an engineer intern.

93 The term "practice of engineering" within the meaning and
94 intent of Sections 73-13-1 through 73-13-45 shall mean any service
95 or creative work the adequate performance of which requires
96 engineering education, training, and experience in the application
97 of special knowledge of the mathematical, physical, and
98 engineering sciences to such services or creative work as
99 consultation, investigation, expert technical testimony
100 evaluation, planning, design, and design coordination of
101 engineering works and systems, planning the use of land, air and
102 water, performing engineering surveys and studies, and the review
103 of construction for the purpose of monitoring compliance with
104 drawings and specifications; any of which embraces such
105 engineering services or work, either public or private, in
106 connection with any * * * utilities, water resources, structures,
107 buildings, machines, equipment, processes, work systems, projects,
108 communication systems, transportation systems, industrial or
109 consumer products or equipment of control systems; or engineering
110 services or work of a communications, mechanical, electrical,
111 hydraulic, pneumatic, chemical, geotechnical (including geology
112 and geohydrology incidental to the practice of engineering),
113 geological, environmental, or thermal nature, insofar as they
114 involve safeguarding life, health or property, and including such
115 other professional services as may be necessary to the planning,
116 progress and completion of any engineering services.

117 Design coordination includes the review and coordination of
118 those technical submissions prepared by others, including as

119 appropriate and without limitation, consulting engineers,
120 surveyors, architects, landscape architects and other
121 professionals working under direction of the engineer.

122 The term "firm," as used in Sections 73-13-1 through
123 73-13-45, shall mean a business entity that offers the
124 professional engineering or surveying services to the public of
125 its licensed personnel who are either employees, officers,
126 directors, partners, members or managers. A business entity may
127 be formed as either:

128 (a) A professional service corporation;

129 (b) A corporation;

130 (c) A partnership, including limited partnerships and
131 limited liability partnerships; or

132 (d) A limited liability company.

133 Prior to any contract for or the provision of professional
134 engineering or surveying services in this jurisdiction, a firm
135 shall obtain a certificate of authority under Section 73-13-43 or
136 Section 73-13-105 of this chapter. A sole proprietorship, owned
137 and operated by a licensee under this chapter is not required to
138 obtain a certificate of authority under Section 73-13-43 or
139 Section 73-13-105. A professional association of licensed
140 professional engineers or professional surveyors is not required
141 to obtain a certificate of authority under Section 73-13-43 or
142 Section 73-13-105. Both the licensed sole proprietor and the
143 licensees within a professional association shall maintain their
144 individual licenses in active status and only offer the
145 professional services for which they are licensed and qualified to
146 provide.

147 Engineering surveys include all survey activities required to
148 support the sound conception, planning, design, construction,
149 maintenance and operation of engineered projects but exclude the
150 practice of * * * surveying as defined in Section 73-13-71(d).

151 A person or firm shall be construed to practice or offer to
152 practice engineering within the meaning and intent of Sections
153 73-13-1 through 73-13-45, who practices any branch of the
154 profession of engineering; or provides, by verbal claim, sign,
155 advertisement, letterhead, card, or in any other way represents
156 himself to be a professional engineer, or through the use of some
157 other title implies that he is a professional engineer; or who
158 holds himself out as able to perform or provide, or who does
159 perform any engineering service or work or any other professional
160 service designated by the practitioner or recognized by
161 educational authorities as engineering.

162 * * *

163 The term "board" as used in Sections 73-13-1 through 73-13-45
164 shall mean the * * * Board of Licensure for Professional Engineers
165 and * * * Surveyors provided for by said sections.

166 **SECTION 3.** Section 73-13-5, Mississippi Code of 1972, is
167 reenacted and amended as follows:

168 73-13-5. A * * * Board of Licensure for Professional
169 Engineers and * * * Surveyors is hereby created whose duty it
170 shall be to administer the provisions of Sections 73-13-1 through
171 73-13-105. The board shall consist of six (6) licensed
172 professional engineers, who shall be appointed by the Governor
173 from eighteen (18) nominees recommended by the Mississippi
174 Engineering Society, and shall have the qualifications required by
175 Section 73-13-7, and three (3) licensed professional * * *
176 surveyors who are not licensed professional engineers, who shall
177 be appointed by the Governor from nine (9) nominees recommended by
178 the Mississippi Association of Professional Surveyors and who
179 shall have the qualifications required by Section 73-13-77. The
180 members of the board shall be appointed from the above nominees.
181 The board so appointed shall have two (2) engineer members from
182 each of the three (3) state Supreme Court districts, * * *
183 designated by district, Post 1 and Post 2, and shall serve for

184 four (4) years, or until their successors are duly appointed and
185 qualified.

186 * * * The members recommended by the Mississippi Association
187 of Professional Surveyors shall be appointed from each of the
188 three (3) state Supreme Court districts and serve for four (4)
189 years, or until their successors are duly appointed and qualified.
190 Each member of the board shall receive a certificate of
191 appointment from the Governor, and before beginning his term of
192 office he shall file with the Secretary of State the
193 constitutional oath of office. On the expiration of the term of
194 any member, the Governor shall in the manner herein provided
195 appoint for a term of four (4) years a licensed professional
196 engineer having the qualifications required by Section 73-13-7, or
197 a licensed professional * * * surveyor having the qualifications
198 required by Section 73-13-77 to take the place of the member of
199 the board whose term is about to expire. Each member shall hold
200 office until the expiration of the term for which such member is
201 appointed or until a successor shall have been duly appointed and
202 shall have qualified.

203 The initial members of the reconstituted board shall serve
204 terms of office as follows:

205 (a) The term of the engineer member presently serving
206 at large, which term was set to expire on April 8, 2004, shall
207 expire on July 1, 2004; and from and after July 1, 2004, this
208 appointment shall be designated as Post 1.

209 (b) The term of the engineer member presently serving
210 at large, which term was set to expire on April 8, 2004, shall
211 expire on July 1, 2005; and from and after July 1, 2004, this
212 appointment shall be designated as Post 2.

213 (c) An appointment of an engineer member serving at
214 large shall be made on July 1, 2004, and shall expire on July 1,
215 2006; and from and after July 1, 2004, this appointment shall be
216 designated as Post 3.

217 (d) The term of the engineer member presently serving
218 from the First Supreme Court District, which term was set to
219 expire on April 8, 2006, shall expire on July 1, 2007; and from
220 and after July 1, 2004, this appointment shall be designated as
221 Post 4.

222 (e) The term of the engineer member presently serving
223 from the Second Supreme Court District, which term was set to
224 expire on April 8, 2006, shall expire on July 1, 2008; and from
225 and after July 1, 2004, this appointment shall be designated as
226 Post 5.

227 (f) The term of the engineer member presently serving
228 from the Third Supreme Court District, which term was set to
229 expire on April 8, 2006, shall expire on July 1, 2009; and from
230 and after July 1, 2004, this appointment shall be designated as
231 Post 6.

232 (g) The term of the surveyor member presently serving
233 at large, which term was set to expire on April 8, 2007, shall
234 expire on July 1, 2004; subsequent appointments shall be made from
235 the First Supreme Court District; from and after July 1, 2004,
236 this appointment shall be designated as Post 7.

237 (h) An appointment of a surveyor member shall be made
238 from the Second Supreme Court District; the appointment shall be
239 made on July 1, 2004, and shall expire on July 1, 2005; from and
240 after July 1, 2004, this appointment shall be designated as Post
241 8.

242 (i) The term of the surveyor member presently serving
243 at large, which term was set to expire on April 8, 2006, shall
244 expire on July 1, 2006; subsequent appointments shall be made from
245 the Third Supreme Court District; from and after July 1, 2004,
246 this appointment shall be designated as Post 9.

247 At the expiration of a term, members of the board shall be
248 appointed in the manner prescribed in this section for terms of
249 four (4) years from the expiration date of the previous terms.

250 Any vacancy on the board prior to the expiration of a term for any
251 reason, including resignation, removal, disqualification, death or
252 disability, shall be filled by appointment of the Governor in the
253 manner prescribed in this section for the balance of the unexpired
254 term. The Mississippi Engineering Society and/or the Mississippi
255 Association of Professional Surveyors shall submit a list of
256 nominees no more than ninety (90) days after a vacancy occurs, and
257 the Governor shall fill such vacancies within ninety (90) days
258 after each such vacancy occurs.

259 It shall not be considered the duty of the State of
260 Mississippi to provide office space and office equipment for the
261 board herein created.

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

269 **SECTION 4.** Section 73-13-7, Mississippi Code of 1972, is
270 reenacted and amended as follows:

271 73-13-7. Each member of the board shall be a citizen of the
272 United States and shall have been a resident of the state for at
273 least five (5) years prior to the appointment. He shall be at
274 least thirty-two (32) years of age, shall have been engaged in the
275 practice of engineering or * * * surveying, as the case may be,
276 for at least ten (10) years and shall have been in responsible
277 charge of important engineering or * * * surveying work, as the
278 case may be, for at least five (5) years. Each year of teaching
279 engineering or * * * surveying in a school or college shall be
280 equivalent to a year of responsible charge of engineering or * * *
281 surveying work. Not more than two (2) members of the board at any
282 time may be teachers of engineering in the universities or

283 colleges of the state. All members of the board shall be licensed
284 professional engineers or licensed professional * * * surveyors,
285 as the case may be.

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

288 73-13-9. Each member of the board shall receive per diem in
289 accordance with Section 25-3-69 when actually attending to the
290 work of the board or any of its committees, and shall be
291 reimbursed for traveling expenses in accordance with Section
292 25-3-41 in carrying out the provisions of Sections 73-13-1 through
293 73-13-105.

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

296 73-13-11. The Governor may remove any member of the board
297 for misconduct, incompetency, neglect of duty, or for any other
298 sufficient cause. Vacancies in the membership of the board shall
299 be filled for the unexpired term by appointment by the Governor as
300 provided in Section 73-13-5.

301 **SECTION 7.** Section 73-13-13, Mississippi Code of 1972, is
302 reenacted and amended as follows:

303 73-13-13. The board shall hold at least two (2) regular
304 meetings each year, in the first and third calendar quarters.
305 Special meetings shall be held at such time as the regulations of
306 the board may provide. Notice of all meetings shall be given in
307 such manner as the regulations of the board may provide. The
308 board shall elect annually, at a regular or special meeting, the
309 following officers: a president, a vice president, and a
310 secretary. A quorum of the board shall consist of not less than
311 five (5) members.

312 **SECTION 8.** Section 73-13-15, Mississippi Code of 1972, is
313 reenacted and amended as follows:

314 73-13-15. The board shall have the power to adopt and amend
315 all regulations and rules of procedure, not inconsistent with the

316 Constitution and laws of this state, which may be reasonably
317 necessary for the proper performance of its duties and the
318 regulations of the proceedings before it. The board shall adopt
319 and have an official seal. It shall not be required to post bond
320 on appeals. The board shall have the further power and authority
321 to:

322 (a) Establish standards of conduct and ethics;

323 (b) Institute proceedings in its own name;

324 (c) Promulgate rules restricting competitive bidding;

325 (d) Promulgate rules limiting or restricting
326 advertising;

327 (e) Promulgate rules requiring a demonstration of
328 continuing education;

329 (f) Adopt and promulgate reasonable bylaws and rules
330 and regulations necessary or appropriate for the proper
331 fulfillment of its duties under state laws pertaining thereto;

332 (g) Provide for the enforcement of and to enforce the
333 laws of the State of Mississippi and, in particular, the
334 provisions of this chapter, and the bylaws, rules and regulations
335 of the board;

336 (h) Provide by appropriate rules and regulations,
337 within the provisions of this chapter, a system for taking the
338 disciplinary actions provided for in Section 73-13-37, including
339 the imposition of fines as provided therein; * * *

340 (i) Investigate, prosecute or initiate prosecution for
341 violation of the laws of this state pertaining to the practices of
342 engineering and * * * surveying, or matters affecting the rights
343 and duties or otherwise related thereto; and

344 (j) Adopt rules setting forth qualifications and
345 standards of practice for firms.

346 In carrying into effect the provisions of Sections 73-13-1
347 through 73-13-105, the board, under the hand of its president or
348 secretary and the seal of the board may subpoena witnesses and

349 compel their attendance, and also may require the production of
350 books, papers, documents, etc., in any case involving the
351 disciplinary actions provided for in Section 73-13-37 or 73-13-89
352 or practicing or offering to practice without licensure. Any
353 member of the board may administer oaths or affirmations to
354 witnesses appearing before the board. If any person shall refuse
355 to obey any subpoena so issued, or shall refuse to testify or
356 produce any books, papers or documents, the board may present its
357 petition to such authority as may have jurisdiction, setting forth
358 the facts, and thereupon such authority shall, in a proper case,
359 issue its subpoena to such person, requiring his attendance before
360 such authority and there to testify or to produce such books,
361 papers, and documents, as may be deemed necessary and pertinent by
362 the board. Any person failing or refusing to obey the subpoena or
363 order of the said authority may be proceeded against in the same
364 manner as for refusal to obey any other subpoena or order of the
365 authority.

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

368 73-13-17. (1) The board shall keep an account of all monies
369 derived from the operation of Sections 73-13-1 through 73-13-105.
370 All fees and any other monies received by the board shall be
371 deposited in a special fund that is created in the State Treasury
372 and shall be used for the implementation and administration of
373 Sections 73-13-1 through 73-13-105 when appropriated by the
374 Legislature for such purpose. The monies in the special fund
375 shall be subject to all provisions of the state budget laws that
376 are applicable to special fund agencies, and disbursements from
377 the special fund shall be made by the State Treasurer only upon
378 warrants issued by the State Fiscal Officer upon requisitions
379 signed by the executive director of the board and countersigned by
380 the secretary of the board. Any interest earned on this special
381 fund shall be credited by the State Treasurer to the fund and

382 shall not be paid into the State General Fund. Any unexpended
383 monies remaining in the special fund at the end of a fiscal year
384 shall not lapse into the State General Fund. The State Auditor
385 shall audit the financial affairs of the board and the
386 transactions involving the special fund at least once a year in
387 the same manner as for other special fund agencies.

388 (2) The executive director and the secretary of the board
389 shall give a surety bond satisfactory to the other members of the
390 board, conditioned upon the faithful performance of their duties.
391 The premium on said bond shall be regarded as a proper and
392 necessary expense of the board. When any member of the board or
393 any employee thereof is engaged on business of the board away from
394 the principal office of the board, he shall be entitled to receive
395 expenses as authorized in Section 25-3-41, and members of the
396 board shall be entitled to per diem in an amount not to exceed
397 that authorized in Section 25-3-69, all as approved by the board.

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

403 **SECTION 10.** Section 73-13-19, Mississippi Code of 1972, is
404 reenacted and amended as follows:

405 73-13-19. The board shall keep a record of its proceedings
406 and a register of all applications for licensure, which register
407 shall show (a) the name, age and residence of such applicant, (b)
408 the date of the application, (c) the place of business of such
409 applicant, (d) his educational and other qualifications, (e)
410 whether or not an examination was required, (f) whether the
411 applicant was rejected, (g) whether a certificate of licensure was
412 granted, (h) the date of the action of the board, and (i) such
413 other information as may be deemed necessary by the board.

414 The records of the board shall be prima facie evidence of the
415 proceedings of the board set forth therein, and a transcript
416 thereof, duly certified by the executive director of the board
417 under seal, shall be admissible in evidence with the same force
418 and effect as if the original were produced.

419 Annually, on or before March 15, the board shall submit to
420 the Governor a report of its transactions of the preceding year,
421 and shall file with the Secretary of State a copy of such report
422 of the board, attested by affidavits of its president and its
423 secretary.

424 **SECTION 11.** Section 73-13-21, Mississippi Code of 1972, is
425 reenacted and amended as follows:

426 73-13-21. A roster showing the names and places of business
427 or residence of all licensed professional engineers and licensed
428 professional * * * surveyors and licensed firms shall be prepared
429 biennially by the board. * * *

430 * * *

431 **SECTION 12.** Section 73-13-23, Mississippi Code of 1972, is
432 reenacted and amended as follows:

433 73-13-23. (1) (a) The following shall be considered as
434 minimum evidence satisfactory to the board that the applicant is
435 qualified for licensure as a professional engineer:

436 * * * Graduation in an engineering curriculum of four (4)
437 years or more from a school or college approved by the board as of
438 satisfactory standing or graduation in an engineering, engineering
439 technology, or related science curriculum of four (4) scholastic
440 years from a school or college other than those approved by the
441 board plus a graduate degree in an engineering curriculum from a
442 school or college wherein the same engineering curriculum at the
443 undergraduate level is approved by the board as of satisfactory
444 standing; a specific record of four (4) years of qualifying
445 engineering experience indicating that the applicant is competent
446 to practice engineering (in counting years of experience, the

447 board at its discretion may give credit not in excess of three (3)
448 years for satisfactory graduate study in engineering), and the
449 successful passing of examinations in engineering as prescribed by
450 the board.

451 * * *

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

454 * * *

455 (c) The mere execution, as a contractor, of work
456 designed by a professional engineer, or the supervision of the
457 construction of such work as a foreman or superintendent shall not
458 be deemed to be the practice of engineering.

459 (d) Any person having the necessary qualifications
460 prescribed in Sections 73-13-1 through 73-13-45 to entitle him to
461 licensure shall be eligible for such licensure although he may not
462 be practicing his profession at the time of making his
463 application.

464 (e) No person shall be eligible for licensure as a
465 professional engineer who is not of good character and reputation,
466 as defined in the board's Code of Professional Conduct, or who
467 presents claims in support of his application which contain major
468 discrepancies.

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

472 (a) Graduation in an engineering curriculum of four (4)
473 scholastic years or more from a school or college approved by the
474 board as of satisfactory standing or graduation in an engineering,
475 engineering technology, or related science curriculum of four (4)
476 scholastic years from a school or college other than those
477 approved by the board plus a graduate degree in an engineering
478 curriculum from a school or college wherein that same engineering

479 curriculum at the undergraduate level is approved by the board as
480 of satisfactory standing; and

481 (b) Successfully passing a written examination in the
482 fundamental engineering subjects.

483 **SECTION 13.** Section 73-13-25, Mississippi Code of 1972, is
484 reenacted and amended as follows:

485 73-13-25. Applications for enrollment as an engineer intern
486 or for licensure as a professional engineer shall be on the forms
487 prescribed and furnished by the board, shall contain statements
488 made under oath, showing the applicant's education and detailed
489 summary of the applicant's qualifying experience. Applications
490 for licensure or relicensure as a professional engineer shall also
491 contain not less than five (5) references, of whom three (3) or
492 more shall be engineers having personal knowledge of the
493 applicant's engineering experience.

494 The application fee for licensure as a professional engineer
495 shall be determined by the board but shall not exceed One Hundred
496 Fifty Dollars (\$150.00), which fee shall accompany the
497 application.

498 The application fee for enrollment as an engineer intern
499 shall be determined by the board but shall not exceed Fifty
500 Dollars (\$50.00), which fee shall accompany the application.
501 Whenever an applicant is cited to an examination or reexamination,
502 an additional fee equal to the actual cost of the examination
503 shall be paid by the applicant.

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

507 **SECTION 14.** Section 73-13-27, Mississippi Code of 1972, is
508 reenacted and amended as follows:

509 73-13-27. Examinations shall be required for enrollment as
510 an engineer intern and for licensure as a professional engineer.

511 The examinations shall be held at such time and place as the board
512 may determine.

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

517 **SECTION 15.** Section 73-13-29, Mississippi Code of 1972, is
518 reenacted and amended as follows:

519 73-13-29. The board shall issue a certificate of licensure
520 upon payment of licensure fee as provided for in Sections 73-13-1
521 through 73-13-45, to any applicant who, in the opinion of the
522 board, has satisfactorily met all the requirements of said
523 sections. In the case of a licensed engineer, the certificate
524 shall authorize the "practice of engineering." In the case of an
525 engineer intern, the certificate shall state that the applicant
526 has successfully passed the examination in fundamental engineering
527 subjects required by the board and has been enrolled as an
528 "engineer intern." Certificates shall show the full name, shall
529 have a serial number, and shall be signed by the president and the
530 secretary of the board under seal of the board.

531 The issuance of a certificate of licensure by this board
532 shall be prima facie evidence that the person named therein is
533 entitled to all the rights and privileges of a registered
534 professional engineer while the said certificate remains unrevoked
535 or unexpired.

536 Before engaging in the practice of the profession, each
537 licensee hereunder shall upon licensure obtain a seal of the
538 design authorized by the board, bearing the licensee's name and
539 the legend "licensed professional engineer." Plans,
540 specifications and reports prepared by a licensee shall be stamped
541 with the seal by the licensee during the life of the licensee's
542 certificate, but it shall be unlawful for anyone to stamp or seal
543 any documents with the seal after the certificate of the licensee

544 named thereon is expired or revoked, or while the certificate is
545 suspended. It shall be unlawful for anyone other than the
546 licensee to whom the seal has been issued to stamp or seal any
547 document utilizing such seal.

548 **SECTION 16.** Section 73-13-31, Mississippi Code of 1972, is
549 reenacted and amended as follows:

550 73-13-31. Certificates of licensure shall expire on the last
551 day of the month of December following their issuance or renewal
552 and shall become invalid on that date unless renewed. It shall be
553 the duty of the board to notify every person licensed under this
554 chapter of the date of the expiration of his certificate and the
555 amount of the fee that shall be required for its renewal for one
556 (1) year. Such notice shall be sent by first class mail to the
557 last known address of the licensee at least one (1) month in
558 advance of the date of the expiration of said certificate.
559 Renewal may be effected at any time during the month of December
560 by the payment of a fee, as determined by the board, not to exceed
561 One Hundred Dollars (\$100.00). A person who is licensed as a
562 professional engineer and as a professional * * * surveyor may
563 effect both renewals by the payment of a fee not to exceed Two
564 Hundred Dollars (\$200.00). The failure on the part of any
565 licensee to renew his certificate annually in the month of
566 December as required above, shall not deprive such person of the
567 right of renewal, but the fee to be paid for the renewal of a
568 certificate after the month of December shall be increased ten
569 percent (10%) for each month, or fraction of a month that payment
570 of renewal is delayed; provided, however, that the maximum fee for
571 delayed renewal shall not exceed five (5) times the normal renewal
572 fee. A state agency or any of the state's political subdivisions,
573 such as a county or municipality, may pay the renewal fee of any
574 licensee who is a full-time employee; provided, however, that any
575 licensee who permits his/her renewal fee to be paid from any
576 public funds shall not perform engineering or * * * surveying

577 services for a fee or other emoluments for the public or for any
578 other public entity. If a certificate has expired for six (6)
579 months or more, the licensee shall be required to submit a new
580 application, paying back fees and submitting proof of continuing
581 professional competency compliance. If the certificate has
582 expired for five (5) years or more, in addition to submitting a
583 new application and proof of continuing professional competency
584 compliance, reexamination in the principles and practice may be
585 required. The reexamination requirement may be waived by the
586 board provided the applicant has continued to practice in another
587 jurisdiction from the date of expiration of his certificate.

588 **SECTION 17.** Section 73-13-33, Mississippi Code of 1972, is
589 reenacted and amended as follows:

590 73-13-33. All professional engineers, licensed in accordance
591 with the provisions of Chapter 56 of the Laws of Mississippi of
592 1928, Extraordinary Session, and as amended under Senate Bill No.
593 383, Chapter 131, Laws of 1940, and whose certificates of
594 licensure are in effect at the time of passage of Sections 73-13-1
595 through 73-13-45, shall be entitled to all the rights and
596 privileges of a licensed professional engineer as provided for in
597 those sections, while the said certificate remains unrevoked or
598 unexpired.

599 **SECTION 18.** Section 73-13-35, Mississippi Code of 1972, is
600 reenacted and amended as follows:

601 73-13-35. The board may, upon application therefor and the
602 payment of a fee in accordance with Section 73-13-25, issue a
603 certificate of licensure as a professional engineer to any person
604 who holds a certificate of qualification or licensure issued to
605 him by proper authority of any state or territory or possession of
606 the United States, or of any country, provided that the
607 applicant's qualifications meet the requirements of Sections
608 73-13-1 through 73-13-45 and the rules established by the board.

609 **SECTION 19.** Section 73-13-37, Mississippi Code of 1972, is
610 reenacted and amended as follows:

611 73-13-37. (1) The board, upon satisfactory proof and in
612 accordance with the provisions of this chapter and the
613 implementing regulations of the board pertaining thereto, is
614 authorized to take the disciplinary actions provided for
615 hereinafter against any person or firm practicing engineering or
616 surveying, including nonregistrants, for any of the following
617 reasons:

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

622 (b) Fraud, deceit or misrepresentation in obtaining a
623 certificate of licensure;

624 (c) Gross negligence, malpractice or incompetency;

625 (d) Any professional misconduct, as defined by the
626 board through bylaws, rules and regulations, and standards of
627 conduct and ethics;

628 (e) Practicing or offering to practice engineering on
629 an expired certificate or while under suspension or revocation of
630 certificate unless said suspension or revocation be abated through
631 probation, as provided for hereinafter; or

632 (f) Addiction to or dependence on alcohol or other
633 habit-forming drugs or being an habitual user of alcohol,
634 narcotics, barbiturates, amphetamines, hallucinogens, or other
635 drugs having similar effect.

636 (2) Any person may prefer charges against any other person
637 practicing engineering or surveying, including nonlicensees, for
638 committing any of the acts set forth in subsection (1). Such
639 charges shall be sworn to, either upon actual knowledge or upon
640 information and belief, and shall be filed with the board. In the
641 event any person certified under Sections 73-13-1 through 73-13-45

642 is expelled from membership in any Mississippi professional
643 engineering society or association, the board shall thereafter
644 cite said person to appear at a hearing before the board and to
645 show cause why disciplinary action should not be taken against
646 him.

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

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

660 Notice on a firm shall be had by notice on the principal or
661 officer designated by the firm as having management or supervision
662 of the engineering/surveying practice, or on the registered agent
663 in the case of a corporation not domiciled in Mississippi.

664 (3) At any hearing held hereunder, the board shall have the
665 power to subpoena witnesses and compel their attendance and may
666 also require the production of books, papers, documents, etc., as
667 provided elsewhere in this chapter. The board is authorized to
668 designate or secure a hearing officer to conduct the hearing. All
669 evidence shall be presented under oath, which may be administered
670 by any member of the board, and thereafter the proceedings may, if
671 necessary, be transcribed in full by the court reporter and filed
672 as part of the record in the case. Copies of such transcriptions
673 may be provided to any party to the proceedings at a cost to be
674 fixed by the board.

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

679 Where in any proceeding before the board any witness shall
680 fail or refuse to attend upon subpoena issued by the board, shall
681 refuse to testify or shall refuse to produce any books and papers,
682 the production of which is called for by the subpoena, the
683 attendance of such witness and the giving of his testimony and the
684 production of the books and papers shall be enforced by any court
685 of competent jurisdiction of this state in the manner provided for
686 the enforcement of attendance and testimony of witnesses in civil
687 cases in the courts of this state.

688 The accused shall have the right to be present at the hearing
689 in person, by counsel or other representative, or both. The board
690 is authorized to continue or recess the hearing as may be
691 necessary.

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

699 If a majority of the board finds the accused guilty of the
700 charges filed, the board may: (a) issue a public or private
701 reprimand; (b) require the guilty party to complete a course or
702 courses, approved by the board, in ethics or other appropriate
703 subjects; (c) suspend or revoke the certificate of the accused, if
704 the accused is a licensee; and/or (d) in lieu of or in addition to
705 such reprimand, course completion, suspension or revocation,
706 assess and levy upon the guilty party a monetary penalty of not

707 less than One Hundred Dollars (\$100.00) nor more than Five
708 Thousand Dollars (\$5,000.00) for each violation.

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

715 When payment of a monetary penalty assessed and levied by the
716 board in accordance with this section is not paid when due, the
717 board shall have the power to institute and maintain proceedings
718 in its name for enforcement of payment in the chancery court of
719 the county and judicial district of residence of the guilty party
720 and if the guilty party be a nonresident of the State of
721 Mississippi, such proceedings shall be in the Chancery Court of
722 the First Judicial District of Hinds County, Mississippi.

723 (6) When the board has taken a disciplinary action under
724 this section, the board may, in its discretion, stay such action
725 and place the guilty party on probation for a period not to exceed
726 one (1) year upon the condition that the guilty party shall not
727 further violate either the laws of the State of Mississippi
728 pertaining to the practice of engineering or the bylaws, rules and
729 regulations, or standards of conduct and ethics promulgated by the
730 board.

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

735 (8) The power and authority of the board to assess and levy
736 the monetary penalties provided for in this section shall not be
737 affected or diminished by any other proceeding, civil or criminal,
738 concerning the same violation or violations except as provided in
739 this section.

740 (9) The board, for sufficient cause, may reissue a revoked
741 certificate of licensure or authority whenever a majority of the
742 board members vote to do so.

743 (10) Any person or firm aggrieved by an action of the board
744 denying or revoking his certificate of licensure or authority or
745 relicensure as a professional engineer or his certificate of
746 enrollment as an engineer intern, or who is aggrieved by the
747 action of the board as a result of disciplinary proceedings
748 conducted under this section may appeal therefrom to the chancery
749 court of either the county wherein the appellant resides or the
750 Chancery Court of the First Judicial District of Hinds County, at
751 the election of the appellant. If the appellant is a nonresident
752 of this state, the appeal shall be made to the Chancery Court of
753 the First Judicial District of Hinds County. Such appeal shall be
754 perfected before the board by the filing with the board of a
755 notice of appeal to the chancery court. The court shall require a
756 bond in an amount not to exceed One Thousand Dollars (\$1,000.00)
757 conditioned to pay all costs which may be adjudged against the
758 appellant. The notice of appeal shall be filed not later than
759 thirty (30) days after the decision of the board is forwarded to
760 the guilty party, as provided hereinabove.

761 All appeals perfected hereunder shall not act as a
762 supersedeas, and shall be made to the chancery court solely upon
763 the record made before the board during the disciplinary hearing.
764 When the appeal shall have been properly perfected as provided
765 herein, the board shall cause the record of the proceedings
766 conducted before it to be compiled, certified and filed with the
767 chancery court. The briefing schedule shall be the same as for
768 appeals to the Supreme Court. The chancery court shall be
769 required to rule on the case within sixty (60) days of the close
770 of briefing. All procedures and penalties provided for in this
771 section shall apply to nonlicensees as well as licensees.

772 (11) In addition to the reasons specified in subsection (1)
773 of this section, the board shall be authorized to suspend the
774 certificate of licensure of any person for being out of compliance
775 with an order for support, as defined in Section 93-11-153. The
776 procedure for suspension of a certificate for being out of
777 compliance with an order for support, and the procedure for the
778 reissuance or reinstatement of a certificate suspended for that
779 purpose, and the payment of any fees for the reissuance or
780 reinstatement of a certificate suspended for that purpose, shall
781 be governed by Section 93-11-157 or 93-11-163, as the case may be.
782 Actions taken by the board in suspending a certificate when
783 required by Section 93-11-157 or 93-11-163 are not actions from
784 which an appeal may be taken under this section. Any appeal of a
785 suspension of a certificate that is required by Section 93-11-157
786 or 93-11-163 shall be taken in accordance with the appeal
787 procedure specified in Section 93-11-157 or 93-11-163, as the case
788 may be, rather than the procedure specified in this section. If
789 there is any conflict between any provision of Section 93-11-157
790 or 93-11-163 and any provision of this chapter, the provisions of
791 Section 93-11-157 or 93-11-163, as the case may be, shall control.

792 (12) Any board member whose objectivity in a disciplinary
793 proceeding is impaired shall either recuse himself from sitting as
794 a member of the board in a formal disciplinary hearing in that
795 proceeding or be disqualified therefrom. In the event a
796 disciplinary proceeding is brought against a member or former
797 member of the board, no member of the board who has served
798 concurrently with the respondent in the disciplinary proceeding
799 shall sit as a member of the board in a formal disciplinary
800 hearing in that proceeding. If, after recusal or disqualification
801 of board members as provided herein, there does not remain a
802 quorum of the board to sit for a disciplinary hearing, the board
803 shall have the power to select, in accordance with duly
804 promulgated regulations of the board, substitute panel members

805 from slates of candidates established by the Mississippi
806 Engineering Society and the Mississippi Association of
807 Professional Surveyors to the extent necessary to achieve the
808 number of panel members equivalent to a quorum of the board.
809 Substitute panel members must meet the qualifications of board
810 members as provided in Section 73-13-7 and shall receive
811 compensation as provided for board members in Section 73-13-9.

812 **SECTION 20.** Section 73-13-39, Mississippi Code of 1972, is
813 reenacted and amended as follows:

814 73-13-39. Any person or firm who shall practice, or offer to
815 practice, engineering in this state without being licensed in
816 accordance with the provisions of Sections 73-13-1 through
817 73-13-45, or any person presenting or attempting to use as his own
818 the certificate of licensure or seal of another, or any person who
819 shall give any false or forged evidence of any kind to the board
820 or to any member thereof in obtaining a certificate of licensure,
821 or any person who shall falsely impersonate any other licensee of
822 like or different name, or any person or firm who shall attempt to
823 use an expired or revoked certificate of licensure, or any person
824 or firm who shall violate any of the provisions of Sections
825 73-13-1 through 73-13-45, shall be guilty of a misdemeanor, and
826 shall, upon conviction, be sentenced to pay a fine of not less
827 than One Hundred Dollars (\$100.00), nor more than Five Thousand
828 Dollars (\$5,000.00) in addition to reimbursement of investigative
829 expenses and court costs, or suffer imprisonment for a period not
830 exceeding three (3) months, or both. The criminal penalties
831 provided for in this section may be assessed in addition to those
832 civil penalties provided for in Section 73-13-37.

833 Unless licensed in accordance with the provisions of Sections
834 73-13-1 through 73-13-45, no person shall:

835 (a) Directly or indirectly employ, use, cause to be
836 used or make use of any of the following terms or any
837 combinations, variations or abbreviations thereof as a

838 professional, business or commercial identification, title, name,
839 representation, claim, asset or means of advantage or benefit:
840 "engineer," "professional engineer," "licensed engineer,"
841 "registered engineer," "registered professional engineer,"
842 "licensed professional engineer," "engineered," "engineering"; or

843 (b) Directly or indirectly employ, use, cause to be
844 used or make use of any letter, abbreviation, word, symbol,
845 slogan, sign or any combinations or variations thereof which in
846 any manner whatsoever tends or is likely to create any impression
847 with the public or any member thereof that any person is qualified
848 or authorized to practice engineering; or

849 (c) Receive any fee or compensation or the promise of
850 any fee or compensation for performing, offering or attempting to
851 perform any service, work, act or thing which is any part of the
852 practice of engineering.

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

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

864 **SECTION 21.** Section 73-13-41, Mississippi Code of 1972, is
865 reenacted and amended as follows:

866 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not
867 be construed to prevent or to affect:

868 (a) The practice of any other legally recognized
869 profession or trade, such as: (i) engineers employed by
870 contractors to supervise work on which a licensed engineer is

871 engaged; * * * (ii) architects who are registered under the
872 provisions of Chapter 1 of this title; and (iii) the practice of
873 geology as regulated pursuant to Title 73, Chapter 63;

874 (b) The work of an employee or a subordinate of a
875 person holding a certificate of licensure under this act, provided
876 such work does not include final designs or decisions and is done
877 under the responsibility, checking and supervision of a person
878 holding a certificate of licensure under Sections 73-13-1 through
879 73-13-45;

880 (c) The practice of officers and employees of the
881 government of the United States while engaged within this state in
882 the practice of engineering for said government; * * *

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

886 (i) Such services are rendered on or in connection
887 with existing fixed works, equipment, systems, processes or
888 facilities owned, operated, or leased by such corporation and/or
889 its affiliates;

890 (ii) Such services are not rendered to third
891 parties;

892 (iii) Such services do not consist of original
893 plant design, original system design, or original process design,
894 other than routine system extensions that do not compromise the
895 integrity of the original design;

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

898 (v) All fixed works, equipment, systems, processes
899 or facilities modified by such services undergo a safety review
900 that confirms: (A) the construction and equipment is in
901 accordance with design specifications; and (B) safety, operating,
902 maintenance and emergency procedures are in place to safeguard
903 life, health and property;

904 (vi) Such services are not required to be
905 performed, approved or certified by a professional engineer
906 pursuant to law or regulation, whether federal, state or local,
907 other than Section 73-13-1 through 73-13-45 hereof or any
908 applicable rules or regulations promulgated by the
909 Mississippi * * * Board of Licensure for Professional Engineers
910 and * * * Surveyors;

911 It is further stated that this subsection (d) is intended to
912 codify the policy and practices of the board at the time of
913 enactment of this Senate Bill No. 2380, 1999 Regular Session
914 [Laws, 1999, Chapter 534], and that any ambiguities in this
915 subsection should be construed in accordance with this intent;

916 (e) The performance of engineering services with
917 respect to utility facilities by any public utility subject to
918 regulation by the Mississippi Public Service Commission, the
919 Federal Communications Commission, the Federal Energy Regulatory
920 Commission, or the Nuclear Regulatory Commission, including its
921 parents, affiliates, subsidiaries; or by the officers and regular
922 full-time employees of any such public utility, including its
923 parents, affiliates or subsidiaries, provided that they are
924 engaged solely and exclusively in performing service for such
925 public utility and/or its parents, affiliates or subsidiaries, and
926 as long as such services comply with all standard operating
927 procedures and requirements specified by the employee's company or
928 corporation. This exemption shall not extend to: (i) the
929 practice of engineering performed by public utilities or their
930 officers or employees when such services are rendered to
931 nonaffiliated third parties in exchange for compensation other
932 than that received from their employer, or the use of any name,
933 title or words which tend to convey the impression that a
934 nonregistrant is offering engineering services to the public; and
935 (ii) services which are required to be performed, approved or
936 certified by a professional engineer pursuant to law or regulation

937 whether federal, state or local, other than Sections 73-13-1
938 through 73-13-45 hereof or any applicable rules or regulations
939 promulgated by the Mississippi * * * Board of Licensure for
940 Professional Engineers and * * * Surveyors;

941 It is further stated that this subsection (e) is intended to
942 codify the policy and practices of the board at the time of
943 enactment of * * * Senate Bill No. 2380, 1999 Regular Session
944 [Laws, 1999, Chapter 534], and that any ambiguities in this
945 subsection should be construed in accordance with this intent; or

946 (f) The practice of engineering shall not include the
947 work ordinarily performed by persons who operate or maintain
948 machinery, equipment, water plants, power generation, utility
949 transmission, utility distribution facilities, sewage plants and
950 solid waste disposal facilities.

951 (2) In addition to the exemptions provided in subsection
952 (1), there is hereby granted and reserved to the board the
953 authority to exempt from Sections 73-13-1 through 73-13-45 by
954 regulation specific engineering tasks or functions performed by
955 regular full-time employees of manufacturing, public utility,
956 research and development, railroad or other industrial
957 corporations rendered in the course and scope of their employment,
958 on a case by case basis, if, in the opinion of the board, the
959 public health and welfare is not endangered nor the engineering
960 profession diminished.

961 **SECTION 22.** Section 73-13-43, Mississippi Code of 1972, is
962 reenacted and amended as follows:

963 73-13-43. As of January 1, 2005, no corporation, firm or
964 partnership may engage in the practice of professional engineering
965 in this state unless it has been issued a certificate of authority
966 by the board. In order to qualify for a certificate of authority,
967 a corporation, firm or partnership must have at least one (1)
968 Mississippi-licensed professional engineer as a principal officer,
969 partner or designated principal engineer of the firm who has

970 management responsibility for such practice and who makes
971 significant technical and/or contractual judgments on behalf of
972 the firm which would affect the firm's professional reputation and
973 liability.

974 The board shall have the authority to promulgate rules and
975 regulations setting procedures, standards and other requirements
976 for issuing and maintaining a certificate of authority for
977 corporations, firms or partnerships practicing engineering in the
978 State of Mississippi.

979 Applications for a certificate of authority shall be on the
980 forms prescribed and furnished by the board, and provide all the
981 information required by said board. The board shall establish a
982 fee for the certificate of authority application, not to exceed
983 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
984 partnership having the necessary qualifications as prescribed
985 herein and the rules and regulations of the board shall be issued
986 a certificate of authority for said corporation, firm or
987 partnership to practice engineering and to contract and collect
988 fees for furnishing this service.

989 Each certificate of authorization will expire on December 31
990 of each year. It shall be the duty of the board to notify every
991 corporation, firm or partnership holding a certificate of
992 authority under Sections 73-13-1 through 73-13-45 of the date of
993 the expiration of the certificate and the amount of the fee that
994 shall be required for its renewal for one (1) year. The renewal
995 fee shall not exceed One Hundred Fifty Dollars (\$150.00);
996 penalties for late renewal shall be ten percent (10%) per month
997 that payment is delayed. Additionally, if any of the information
998 on the initial or any subsequent renewal application changes for
999 the corporation, firm or partnership, said corporation, firm or
1000 partnership shall notify the board in the form and manner
1001 prescribed by the board within thirty (30) days of the change.

1002 Effective January 1, 2005, the Secretary of State shall not
1003 issue a certificate of incorporation, licensure or authorization
1004 to an applicant or licensure as a foreign firm to a corporation,
1005 firm or partnership which includes in its name, or among the
1006 objectives for which it is established, any of the words,
1007 "engineer," "engineering," or any modification or derivation
1008 thereof, unless the board has issued for said applicant a
1009 certificate of authority or a letter indicating the eligibility of
1010 such applicant to receive such a certificate. The corporation,
1011 firm or partnership applying shall supply such certificate or
1012 letter from the board with its application for incorporation,
1013 licensure or authorization to the Secretary of State.

1014 An engineer who renders occasional, part-time or consulting
1015 engineering services to or for a corporation, firm or partnership
1016 may not, for the purposes of this section, be designated as being
1017 responsible for the professional activities of the firm.

1018 No such corporation, firm or partnership shall be relieved of
1019 responsibility for the conduct or acts of its agents, employees,
1020 officers, partners, members or managers by reason of its
1021 compliance with the provisions of this section. No individual
1022 practicing engineering under this chapter shall be relieved of
1023 responsibility for engineering services performed by reason of
1024 employment or other relationship with a firm holding an
1025 authorization certificate.

1026 **SECTION 23.** Section 73-13-45, Mississippi Code of 1972, is
1027 reenacted and amended as follows:

1028 73-13-45. (1) (a) Neither the state, nor any of its
1029 political subdivisions, such as a county, city or town, shall
1030 award construction contracts of any public work involving the
1031 practice of engineering or architecture unless the plans,
1032 specifications and estimates have been prepared and such work
1033 supervised by a registered professional engineer or architect;
1034 provided, that nothing in this subsection shall be held to apply

1035 to such public work wherein the expenditure does not exceed Fifty
1036 Thousand Dollars (\$50,000.00); and provided further, that nothing
1037 in this subsection shall apply to any municipality wherein such
1038 public work is not financed in whole or in part through the
1039 issuance of bonds and let to public contract.

1040 (b) The state and any of its political subdivisions,
1041 such as a county, city or town, may engage in construction of
1042 public buildings involving the practice of engineering or
1043 architecture and using political subdivision work forces without
1044 the supervision of a licensed professional engineer or architect,
1045 provided that the total cost of the public building does not
1046 exceed One Hundred Thousand Dollars (\$100,000.00). This paragraph
1047 (1)(b) shall not supersede any rules and regulations promulgated
1048 by the State Department of Health and the Department of
1049 Environmental Quality.

1050 (2) (a) In the awarding of public contracts for
1051 professional engineering services, preference shall be given to
1052 resident professional engineers over those nonresident
1053 professional engineers domiciled in a state having laws which
1054 grant a preference to the professional engineers who are residents
1055 of that state. Nonresident professional engineers shall be
1056 awarded Mississippi public contracts only on the same basis as the
1057 nonresident professional's state awards contracts to Mississippi
1058 professional engineers under similar circumstances. When a
1059 nonresident professional engineer submits a proposal for a public
1060 project, he shall attach thereto a copy of his resident state's
1061 current statute, resolution, policy, procedure or executive order
1062 pertaining to such state's treatment of nonresident professional
1063 engineers. Resident professional engineers actually domiciled in
1064 Mississippi, be they corporate, individuals or partnerships, shall
1065 be granted preference over nonresidents in the awarding of
1066 contracts in the same manner and to the same extent as provided by
1067 the laws of the state of domicile of the nonresident. As used in

1068 this section, the term "resident professional engineer" includes a
1069 nonresident person, firm or corporation that has been qualified to
1070 do business in this state and has maintained a permanent full-time
1071 office in the State of Mississippi for not less than two (2) years
1072 prior to submitting a proposal for a public project, and the
1073 subsidiaries and affiliates of such a person, firm or corporation.

1074 (b) The provisions of this subsection shall not apply
1075 to any contract for any project upon which federal funds would be
1076 withheld because of the preference requirements of this
1077 subsection.

1078 (c) Any contract, agreement or arrangement for
1079 professional engineering services negotiated, made or entered
1080 into, directly or indirectly, by the state, counties,
1081 municipalities or any political subdivision thereof, or by any
1082 special districts, which is in any way in violation of the
1083 provisions of this subsection is hereby declared to be void as
1084 contrary to the public policy of this state and shall not be given
1085 effect or enforced by any court of this state or by any of its
1086 officers or employees.

1087 (d) Nothing in this subsection shall affect the
1088 validity of any contract in existence prior to July 1, 1989.

1089 (e) For purposes of this section, the term
1090 "professional engineering services" means those within the scope
1091 of the practice of professional engineering as defined by Sections
1092 73-13-1 through 73-13-45, or those performed by any registered
1093 professional engineer in connection with professional employment
1094 or practice.

1095 **SECTION 24.** Section 73-13-71, Mississippi Code of 1972, is
1096 reenacted and amended as follows:

1097 73-13-71. (1) The term "board," as used in Sections
1098 73-13-71 through 73-13-105, shall mean the * * * Board of
1099 Licensure for Professional Engineers and * * * Surveyors as
1100 provided for in Section 73-13-5 of this chapter.

1101 (2) The term "professional * * * surveyor," as used in
1102 Sections 73-13-71 through 73-13-105, shall mean a person who
1103 engages in the practice of * * * surveying as hereinafter defined,
1104 whether in an individual capacity, or in behalf of or as an
1105 employee of any state, county or municipal authority of the State
1106 of Mississippi.

1107 (3) The term "* * * surveyor intern," as used in Sections
1108 73-13-71 through 73-13-105, shall mean a candidate for licensure
1109 as a professional * * * surveyor who has successfully passed the
1110 fundamentals of land surveying examination, has met the
1111 requirements of the board for enrollment, has received from the
1112 board a certificate stating that he has successfully passed this
1113 portion of the professional land surveying examinations and has
1114 been enrolled as a * * * surveyor intern.

1115 (4) The practice of "* * * surveying," within the meaning
1116 and intent of Sections 73-13-71 through 73-13-105, shall mean
1117 providing professional services such as consultation,
1118 investigation, testimony evaluation, expert technical testimony,
1119 planning, mapping, assembling and interpreting reliable scientific
1120 measurement and information relative to the location, size, shape
1121 or physical features of the earth, improvements on the earth, the
1122 space above the earth, or any part of the earth, utilization and
1123 development of these facts and interpretation into an orderly
1124 survey map, plan or report and in particular, the retracement of
1125 or the creating of land boundaries and descriptions of real
1126 property.

1127 The practice of surveying includes, but is not limited to,
1128 any one or more of the following:

1129 (a) Locating, relocating, establishing, reestablishing,
1130 laying out or retracing any property boundary or easement.

1131 (b) Making any survey for the subdivision of any tract
1132 of land, including rights-of-way and easements.

1133 (c) Determining, by the use of principles of surveying,
1134 the position for any survey monument or reference point; or
1135 setting, resetting or replacing any such monument or reference
1136 point, commonly known as control surveys.

1137 (d) Creating, preparing or modifying electronic or
1138 computerized data, including land information systems and
1139 geographic information systems, relative to the performance of the
1140 activities in the above-described paragraphs (a) through (c).

1141 **SECTION 25.** Section 73-13-73, Mississippi Code of 1972, is
1142 reenacted and amended as follows:

1143 73-13-73. No person shall practice * * * surveying without
1144 having first been duly and regularly licensed by the * * * Board
1145 of Licensure for Professional Engineers and * * * Surveyors as a
1146 professional * * * surveyor as required by Sections 73-13-71
1147 through 73-13-105, nor shall any person practice * * * surveying
1148 whose authority to practice is revoked by the said board.

1149 The duties of tax collectors and tax assessors shall be
1150 exempt from the requirements of this chapter.

1151 * * * The practice of * * * surveying, which must be
1152 performed by or under the direct supervision of a
1153 professional * * * surveyor and each map or drawing of which must
1154 be stamped with the seal of said licensee as provided in Section
1155 73-13-83, includes, but is not limited to, the following:
1156 property and boundary surveys; subdivision surveys and plats;
1157 public land surveys; easement surveys; right-of-way surveys; lease
1158 surveys; and all other surveys that require the establishment or
1159 reestablishment of property boundaries.

1160 Duties within both the practice of * * * surveying and the
1161 practice of engineering, which must be performed by or under the
1162 direct supervision of a professional * * * surveyor or a
1163 professional engineer and each map, drawing or report of which
1164 must be stamped with the seal of said licensee as provided in

1165 Sections 73-13-29 and 73-13-83, include, but are not limited to,
1166 the following:

1167 (a) Determining the configuration or contour of the
1168 earth's surface or the position of fixed objects thereon, commonly
1169 known as topographical surveys and as-built surveys (excluding the
1170 location of property boundaries);

1171 (b) Performing geodetic surveying which includes
1172 surveying for determination of the size and shape of the earth
1173 utilizing angular and linear measurements through spatially
1174 oriented spherical geometry;

1175 (c) Determining, by the use of principles of surveying,
1176 the position for any survey control (nonboundary) monument or
1177 reference point; or setting, resetting or placing any such
1178 monument or reference point; and

1179 (d) Creating, preparing or modifying electronic or
1180 computerized data, including land information systems, and
1181 geographic information systems, relative to the performance of the
1182 activities in the above-described paragraphs (a) through (c).

1183 **SECTION 26.** Section 73-13-75, Mississippi Code of 1972, is
1184 reenacted and amended as follows:

1185 73-13-75. The Mississippi * * * Board of Licensure for
1186 Professional Engineers and * * * Surveyors is hereby authorized
1187 and empowered to examine applicants for registration to
1188 practice * * * surveying; to license and issue certificates of
1189 licensure to all applicants whom it deems qualified to
1190 practice * * * surveying in accordance with Sections 73-13-71
1191 through 73-13-105; and to revoke certificates of licensure for
1192 just cause as provided for in Sections 73-13-71 through 73-13-105.

1193 **SECTION 27.** Section 73-13-77, Mississippi Code of 1972, is
1194 reenacted and amended as follows:

1195 73-13-77. (1) The following shall be considered as minimum
1196 evidence satisfactory to the board that the applicant is qualified
1197 for licensure as a professional * * * surveyor:

1198 (a) The successful completion of a curriculum of two
1199 (2) scholastic years or more from a school or college approved by
1200 the board as of satisfactory standing, including the completion of
1201 approved courses in surveying and related subjects; a specific
1202 record of three (3) years of qualifying * * * surveying experience
1203 indicating that the applicant is competent to practice * * *
1204 surveying; and successfully passing examinations in surveying
1205 prescribed by the board; or

1206 (b) A specific record of seven (7) years' or more
1207 experience in * * * surveying work of a character satisfactory to
1208 the board and indicating that the applicant is competent to
1209 practice * * * surveying; and successfully passing examinations in
1210 surveying prescribed by the board.

1211 * * *

1212 (2) The following shall be considered as minimum evidence
1213 satisfactory to the board that the applicant is qualified for
1214 certification as a * * * surveyor intern:

1215 (a) The successful completion of two (2) scholastic
1216 years or more from a school or college approved by the board as of
1217 satisfactory standing, including the completion of approved
1218 courses in * * * surveying and related subjects, and successfully
1219 passing an examination in the fundamentals of land surveying; or

1220 (b) A specific record of three (3) years or more of
1221 qualifying * * * surveying experience, and successfully passing an
1222 examination in the fundamentals of land surveying.

1223 (3) No person shall be eligible for licensure as a
1224 professional surveyor who is not of good character and reputation,
1225 as defined in the board's Code of Professional Conduct.

1226 **SECTION 28.** Section 73-13-79, Mississippi Code of 1972, is
1227 reenacted and amended as follows:

1228 73-13-79. Application for enrollment as a * * * surveyor
1229 intern or for licensure as a professional * * * surveyor shall be
1230 on forms prescribed and furnished by the board, shall contain

1231 statements made under oath showing the applicant's education and a
1232 detailed summary of the applicant's qualifying experience.
1233 Applications for licensure or relicensure as a professional * * *
1234 surveyor shall also contain not less than five (5) references, of
1235 whom three (3) or more shall be professional * * * surveyors
1236 having personal knowledge of the applicant's * * * surveying
1237 experience.

1238 The application fee for licensure as a professional * * *
1239 surveyor shall be determined by the board, but shall not exceed
1240 One Hundred Fifty Dollars (\$150.00), which fee shall accompany the
1241 application.

1242 The application fee for enrollment as a * * * surveyor intern
1243 shall be determined by the board, but shall not exceed Fifty
1244 Dollars (\$50.00), which fee shall accompany the application.

1245 Whenever an applicant is cited to an examination or
1246 reexamination, an additional fee equal to the actual cost of the
1247 examination shall be paid by the applicant.

1248 **SECTION 29.** Section 73-13-81, Mississippi Code of 1972, is
1249 reenacted and amended as follows:

1250 73-13-81. Examinations shall be required for enrollment as
1251 a * * * surveyor intern and licensure as a professional * * *
1252 surveyor. The examinations shall be held at such time and place
1253 as the board may determine.

1254 The scope of the examinations and the methods and procedures
1255 shall be prescribed by the board with special reference to the
1256 applicant's ability to exercise direct control and personal
1257 supervision of all * * * surveying functions.

1258 The board shall cite applicants to examinations in accordance
1259 with its rules and regulations.

1260 **SECTION 30.** Section 73-13-83, Mississippi Code of 1972, is
1261 reenacted and amended as follows:

1262 73-13-83. The board shall issue a certificate, upon payment
1263 of the required fee, to any applicant who, in the opinion of the

1264 board, has satisfactorily met all the requirements therefor. In
1265 the case of licensed professional * * * surveyors, the certificate
1266 shall authorize the "practice of * * * surveying." In the case of
1267 a * * * surveyor intern, the certificate shall state that the
1268 applicant has successfully passed the examination in fundamental
1269 land surveying subjects required by the board and has been
1270 enrolled as a "* * * surveyor intern." Certificates shall show
1271 the full name of the professional * * * surveyor or * * * surveyor
1272 intern, shall have a serial number and shall be signed by the
1273 president and the secretary of the board under seal of the board.

1274 The issuance of a certificate of licensure by this board
1275 shall be prima facie evidence that the person named therein is
1276 entitled to all the rights and privileges of a licensed
1277 professional * * * surveyor, while the said certificate remains
1278 unrevoked or unexpired.

1279 Each person licensed as a professional * * * surveyor after
1280 June 30, 1991, but prior to July 1, 2004, shall, upon licensure,
1281 obtain a seal of the design authorized by the board, bearing the
1282 licensee's name and the legend "Registered Professional Land
1283 Surveyor." Each person licensed as a professional land surveyor
1284 after June 30, 1991, but prior to July 1, 2004, who is also
1285 licensed as a professional engineer in accordance with Sections
1286 73-13-1 through 73-13-45 may also obtain one (1) seal bearing the
1287 licensee's name and the legend "Registered Professional Engineer
1288 and Professional Land Surveyor." Any person who, before July 1,
1289 1991, but prior to July 1, 2004, was licensed under this chapter
1290 as a land surveyor or as both a professional engineer and a land
1291 surveyor may continue to use the seal or seals that he obtained
1292 and that were authorized by the board to be used by such person
1293 before July 1, 1991. From and after July 1, 2004, each person
1294 licensed as a professional surveyor shall, upon licensure, obtain
1295 a seal of the design and authorized by the board, bearing the
1296 licensee's name and the legend "Professional Surveyor." From and

1297 after July 1, 2004, each person licensed as a professional
1298 surveyor, who is also licensed as a professional engineer, may
1299 also obtain a seal bearing the licensee's name and the legend
1300 "Professional Engineer and Professional Surveyor."

1301 Plats, maps and reports prepared by a licensee shall be
1302 stamped with the seal during the life of the licensee's
1303 certificate, but it shall be unlawful for anyone to stamp or seal
1304 any documents with the seal after the certificate of the licensee
1305 named thereon has expired or been revoked or suspended. It shall
1306 be unlawful for anyone other than the licensee to whom the seal
1307 has been issued to stamp or seal any documents utilizing such
1308 seal.

1309 **SECTION 31.** Section 73-13-85, Mississippi Code of 1972, is
1310 reenacted and amended as follows:

1311 73-13-85. Certificates of licensure shall expire on the last
1312 day of the month of December following their issuance or renewal
1313 and shall become invalid on that date unless renewed. It shall be
1314 the duty of the board to notify every person licensed under
1315 Sections 73-13-71 through 73-13-105 of the date of the expiration
1316 of his certificate and the amount of the fee that shall be
1317 required for its renewal for one (1) year; such notice shall be
1318 sent by first class mail to the last known address of the licensee
1319 at least one (1) month in advance of the date of the expiration of
1320 said certificate. Renewal may be effected at any time during the
1321 month of December by the payment of a fee not to exceed One
1322 Hundred Dollars (\$100.00). A person who is licensed as a
1323 professional * * * surveyor and as a professional engineer may
1324 effect both renewals by the payment of a single fee not to exceed
1325 Two Hundred Dollars (\$200.00). The failure on the part of any
1326 licensee to renew his certificate annually in the month of
1327 December as required above shall not deprive such person of the
1328 right of renewal, but the fee to be paid for the renewal of a
1329 certificate after the month of December shall be increased ten

1330 percent (10%) for each month that payment of renewal is delayed;
1331 however, the maximum fee for delayed renewal shall not exceed five
1332 (5) times the normal renewal fee.

1333 If a certificate has expired for six (6) months or more, the
1334 licensee shall be required to submit a new application, paying
1335 back fees and submitting proof of continuing professional
1336 competency compliance. If the certificate has expired for five
1337 (5) years or more, in addition to submitting a new application and
1338 proof of continuing professional competency compliance,
1339 reexamination in the principles and practice may be required. The
1340 reexamination may be waived by the board provided the applicant
1341 has continued to practice under another jurisdiction from the date
1342 of expiration of his certificate.

1343 **SECTION 32.** Section 73-13-87, Mississippi Code of 1972, is
1344 reenacted and amended as follows:

1345 73-13-87. The board may, upon application therefor and the
1346 payment of a fee to be determined by the board, * * * issue a
1347 certificate of licensure as a professional * * * surveyor to any
1348 person who holds a certificate of licensure issued to him by the
1349 proper authority of any state or territory or possession of the
1350 United States, or of any country, provided that the applicant's
1351 qualifications meet the requirements of Sections 73-13-71 through
1352 73-13-105 and the rules established by the board.

1353 **SECTION 33.** Section 73-13-89, Mississippi Code of 1972, is
1354 reenacted and amended as follows:

1355 73-13-89. The powers and duties of the board regarding
1356 disciplinary actions against any person, including nonlicensees
1357 accused of violating any of the laws of the State of Mississippi
1358 regarding the practice of * * * surveying or the rules,
1359 regulations, bylaws, or standards of conduct and ethics pertaining
1360 thereto as duly promulgated by the board, as well as the
1361 procedures for conducting said disciplinary proceedings, the penal
1362 sanctions available to the board in the event the charges are

1363 established, and the procedures for appeal from such actions of
1364 the board shall be the same as those set forth in Sections
1365 73-13-37 and 73-13-39 regarding actions against persons charged
1366 with similar violations related to the practice of engineering.

1367 **SECTION 34.** Section 73-13-93, Mississippi Code of 1972, is
1368 reenacted and amended as follows:

1369 73-13-93. Any person who may feel aggrieved by an action of
1370 the board denying or revoking his certificate of licensure or
1371 relicensure as a professional * * * surveyor or enrollment
1372 as * * * surveyor intern may appeal therefrom to the chancery
1373 court of the county of residence of such person and, after full
1374 hearing, the court shall make such order sustaining or reversing
1375 the action of the board as to it may seem just and proper.

1376 However, in case of a nonresident licensee or applicant, such
1377 appeal shall be taken or made to the Chancery Court of the First
1378 Judicial District of Hinds County, Mississippi.

1379 Actions taken by the board in suspending a certificate of
1380 licensure when required by Section 93-11-157 or 93-11-163 are not
1381 actions from which an appeal may be taken under this section. Any
1382 appeal of a suspension of a certificate that is required by
1383 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1384 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1385 as the case may be, rather than the procedure specified in this
1386 section.

1387 **SECTION 35.** Section 73-13-95, Mississippi Code of 1972, is
1388 reenacted and amended as follows:

1389 73-13-95. Any person who shall practice, or offer to
1390 practice, * * * surveying in this state without being licensed in
1391 accordance with the provisions of Sections 73-13-71 through
1392 73-13-105, or any person presenting or attempting to use as his
1393 own the certificate of licensure or the seal of another, or any
1394 person who shall give any false or forged evidence of any kind to
1395 the board or to any member thereof in obtaining a certificate of

1396 licensure, or any person who shall falsely impersonate any other
1397 licensee of like or different name, or any person who shall
1398 attempt to use an expired or revoked certificate of licensure, or
1399 any person who shall violate any of the provisions of Sections
1400 73-13-71 through 73-13-105, shall be guilty of a misdemeanor, and
1401 shall, upon conviction, be sentenced to pay a fine of not less
1402 than One Hundred Dollars (\$100.00), nor more than Five Thousand
1403 Dollars (\$5,000.00), in addition to reimbursement of investigative
1404 expenses and court costs, or suffer imprisonment for a period of
1405 not exceeding three (3) months, or both. The criminal penalties
1406 provided for in this section may be assessed in addition to those
1407 civil penalties provided for in Section 73-13-37.

1408 Unless licensed in accordance with the provisions of Sections
1409 73-13-71 through 73-13-105, no person shall:

1410 (a) Directly or indirectly employ, use, cause to be
1411 used or make use of any of the following terms or any combination,
1412 variations or abbreviations thereof as a professional, business or
1413 commercial identification, title, name, representation, claim,
1414 asset or means of advantage or benefit: "surveyor," "professional
1415 surveyor," "licensed surveyor," "registered surveyor," "registered
1416 professional surveyor," "licensed professional surveyor,"
1417 "surveyed," "surveying," "professional land surveyor," or
1418 "licensed professional land surveyor";

1419 (b) Directly or indirectly employ, use, cause to be
1420 used or make use of any letter, abbreviation, word, symbol,
1421 slogan, sign or any combinations or variations thereof, which in
1422 any manner whatsoever tends or is likely to create any impression
1423 with the public or any member thereof that any person is qualified
1424 or authorized to practice * * * surveying; or

1425 (c) Receive any fee or compensation or the promise of
1426 any fee or compensation for performing, offering or attempting to
1427 perform any service, work, act or thing which is any part of the
1428 practice of * * * surveying.

1429 Any person, firm, partnership, association or corporation
1430 which shall do, offer or attempt to do any one or more of the acts
1431 or things set forth in items (a) through (c) of the preceding
1432 paragraph shall be conclusively presumed and regarded as engaged
1433 in the practice of * * * surveying.

1434 It shall be the duty of all duly constituted officers of the
1435 law of this state, or any political subdivision thereof, to
1436 enforce the provisions of Sections 73-13-71 through 73-13-105 and
1437 to prosecute any persons violating same. The Attorney General of
1438 the state or his assistant shall act as legal adviser of the board
1439 and render such legal assistance as may be necessary in carrying
1440 out the provisions of Sections 73-13-71 through 73-13-105.

1441 **SECTION 36.** Section 73-13-97, Mississippi Code of 1972, is
1442 reenacted and amended as follows:

1443 73-13-97. Sections 73-13-71 through 73-13-105 shall not be
1444 construed to prevent or to affect:

1445 (a) Other professions or trades. The practice of any
1446 other legally recognized profession or trade, including the
1447 practice of geology as regulated pursuant to Title 73, Chapter 63;
1448 or

1449 (b) Employees and subordinates. The work of an
1450 employee or a subordinate of a person holding a certificate of
1451 registration under Sections 73-13-71 through 73-13-105; providing
1452 such work does not include final decisions and is done under the
1453 direct responsibility, checking and supervision of a person
1454 holding a certificate of licensure under Sections 73-13-71 through
1455 73-13-105; or

1456 (c) Government officers and employees. The practice of
1457 officers and employees of the government of the United States
1458 while engaged within this state in the practice of * * * surveying
1459 for said government; or

1460 (d) Certain elected or appointed county surveyors. A
1461 county surveyor as provided for in Section 135 of the Mississippi

1462 Constitution, and Sections 19-27-1 through 19-27-35 implementing
1463 the constitutional provision, who holds the office of county
1464 surveyor by either election or appointment, shall be exempt,
1465 through December 31, 1983, from the provisions of Sections
1466 73-13-71 through 73-13-105 insofar as his statutory duties within
1467 the boundaries of the county in which he is duly elected or
1468 appointed are concerned. From and after January 1, 1984, such
1469 surveyor shall not be exempt from the provisions of Sections
1470 73-13-71 through 73-13-105 unless he held the office of county
1471 surveyor by either election or appointment on December 31, 1983;
1472 or

1473 (e) Employees of railroad, public service and/or
1474 utility companies. The work or practice of a regular employee of
1475 a railroad, or a public service company or public utility, by
1476 rendering to such company * * * surveying service in connection
1477 with its facilities which are subject to regulation, supervision
1478 and control in order to safeguard life, health and property by the
1479 Public Service Commission or the Mississippi Department of
1480 Transportation of this state, shall be exempt so long as such
1481 person is thus actually and exclusively employed and no longer; or

1482 (f) The work of a regular employee of a railroad,
1483 rendering to the railroad * * * surveying services in connection
1484 with its facilities within the exclusive scope of his employment
1485 provided that:

1486 (i) Any new right-of-way acquisitions for
1487 construction of rail lines by class one railroads shall be
1488 surveyed and platted in compliance with the Mississippi Minimum
1489 Standards for Land Surveying by a Mississippi professional * * *
1490 surveyor; and

1491 (ii) Upon the removal of track and disposition of
1492 an abandoned rail line the railroad shall retain and make
1493 available upon reasonable request from Mississippi licensed

1494 surveyors the railroad's valuation surveys for any such abandoned
1495 rail line.

1496 (g) The practice of geologists performing geologic
1497 mapping insofar as such practice does not encompass tasks or
1498 projects included by statute in the scope of work comprising the
1499 practice of professional surveying as defined in Title 73, Chapter
1500 13.

1501 **SECTION 37.** Section 73-13-99, Mississippi Code of 1972, is
1502 reenacted and amended as follows:

1503 73-13-99. Sections 73-13-1 through 73-13-45 and 73-13-71
1504 through 73-13-103, Mississippi Code of 1972, which create
1505 the * * * Board of Licensure for Professional Engineers and * * *
1506 Surveyors and prescribe its duties and powers, shall stand
1507 repealed as of July 1, 2006.

1508 **SECTION 38.** Section 73-13-103, Mississippi Code of 1972, is
1509 reenacted and amended as follows:

1510 73-13-103. (1) For the purposes of this section, the term
1511 "surveyor" means a licensed professional * * * surveyor as defined
1512 in Section 73-13-71, and any person who is employed by or under
1513 the direct supervision of a professional * * * surveyor licensed
1514 under Sections 73-13-71 through 73-13-97.

1515 (2) A surveyor may enter in or upon public or private lands
1516 or waters, except buildings, while in the lawful performance of
1517 surveying duties without criminal liability for trespass; however,
1518 a surveyor shall make a good faith attempt to announce and
1519 identify himself and his intentions before entering upon private
1520 property and must present documentation sufficient to identify him
1521 as a surveyor to anyone requesting such identification.

1522 (3) The provisions of this section do not relieve a surveyor
1523 from any civil liability that otherwise is actionable at law or in
1524 equity, and do not relieve a surveyor from criminal liability for
1525 trespass if the entry in or upon the property extends beyond the

1526 property or area that is necessary to actually perform the
1527 surveying duties.

1528 (4) Surveyors shall be personally liable for any damage
1529 caused to private property when exercising entry under this
1530 section. No cause of action shall lie against a landowner for
1531 damages to a surveyor while on such lands unless the damage is
1532 caused by the intentional tortious conduct of landowner or his
1533 agent.

1534 **SECTION 39.** Section 73-13-105, Mississippi Code of 1972, is
1535 amended as follows:

1536 73-13-105. As of January 1, 2005, no corporation, firm or
1537 partnership may engage in the practice of professional surveying
1538 in this state unless it has been issued a certificate of authority
1539 by the board. In order to qualify for a certificate of authority,
1540 a corporation, firm or partnership must have at least one (1)
1541 Mississippi-licensed professional surveyor as a principal officer
1542 or partner of the firm who has management responsibility for such
1543 practice.

1544 The board shall have the authority to promulgate rules and
1545 regulations setting procedures, standards and other requirements
1546 for issuing and maintaining a certificate of authority for
1547 corporations, firms or partnerships practicing surveying in the
1548 State of Mississippi.

1549 Applications for a certificate of authority shall be on the
1550 forms prescribed and furnished by the board, and provide all the
1551 information required by said board. The board shall establish a
1552 fee for the certificate of authority application, not to exceed
1553 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
1554 partnership having the necessary qualifications as prescribed
1555 herein and the rules and regulations of the board shall be issued
1556 a certificate of authority for said corporation, firm or
1557 partnership to practice surveying and to contract and collect fees
1558 for furnishing this service.

1559 Each certificate of authorization will expire on December 31
1560 of each year. It shall be the duty of the board to notify every
1561 corporation, firm or partnership holding a certificate of
1562 authority under Sections 73-13-71 through 73-13-105 of the date of
1563 the expiration of the certificate and the amount of the fee that
1564 shall be required for its renewal for one (1) year. The renewal
1565 fee shall not exceed One Hundred Fifty Dollars (\$150.00);
1566 penalties for late renewal shall be ten percent (10%) per month
1567 that payment is delayed. Additionally, if any of the information
1568 on the initial or any subsequent renewal application changes for
1569 the corporation, firm or partnership, said corporation, firm or
1570 partnership shall notify the board in the form and manner
1571 prescribed by the board within thirty (30) days of the change.

1572 Effective January 1, 2005, the Secretary of State shall not
1573 issue a certificate of incorporation, licensure or authorization
1574 to an applicant or licensure as a foreign firm to a corporation,
1575 firm or partnership which includes in its name, or among the
1576 objectives for which it is established, any of the words,
1577 "surveyor," "surveying" or any modification or derivation thereof,
1578 unless the board has issued for said applicant a certificate of
1579 authority or a letter indicating the eligibility of such applicant
1580 to receive such a certificate. The corporation, firm or
1581 partnership applying shall supply such certificate or letter from
1582 the board with its application for incorporation, licensure or
1583 authorization to the Secretary of State.

1584 A surveyor who renders occasional, part-time or consulting
1585 surveying services to or for a corporation, firm or partnership
1586 may not, for the purposes of this section, be designated as being
1587 responsible for the professional activities of the firm.

1588 No such corporation, firm or partnership shall be relieved of
1589 responsibility for the conduct or acts of its agents, employees,
1590 officers, partners, members or managers by reason of its
1591 compliance with the provisions of this section. No individual

1592 practicing surveying under this chapter shall be relieved of
1593 responsibility for surveying services performed by reason of
1594 employment or other relationship with a firm holding an
1595 authorization certificate.

1596 **SECTION 40.** This act shall take effect and be in force from
1597 and after July 1, 2004.