

By: Representative Simpson

To: Judiciary A

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 RULE-
13 MAKING AUTHORITY; TO AMEND REENACTED SECTION 73-13-17, MISSISSIPPI
14 CODE OF 1972, TO PROVIDE FOR THE RETENTION OF A RESERVE IN THE
15 SPECIAL FUND; TO AMEND REENACTED SECTION 73-13-19, MISSISSIPPI
16 CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-21,
17 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT COPIES OF
18 THE ROSTER OF ENGINEERS BE MAILED TO ALL LICENSES; TO AMEND
19 REENACTED SECTION 73-13-23, MISSISSIPPI CODE OF 1972, TO REVISE
20 QUALIFICATIONS FOR LICENSURE; TO AMEND REENACTED SECTION 73-13-25,
21 MISSISSIPPI CODE OF 1972, TO REVISE APPLICATION FEES; TO AMEND
22 REENACTED SECTIONS 73-13-27 AND 73-13-29, MISSISSIPPI CODE OF
23 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-31,
24 MISSISSIPPI CODE OF 1972, TO REVISE REQUIREMENTS REGARDING EXPIRED
25 LICENSES; TO AMEND REENACTED SECTIONS 73-13-33 AND 73-13-35,
26 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
27 SECTION 73-13-37, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE
28 REGARDING DISCIPLINARY ACTIONS; TO AMEND REENACTED SECTION
29 73-13-39, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES; TO AMEND
30 REENACTED SECTION 73-13-41, MISSISSIPPI CODE OF 1972, IN
31 CONFORMITY; TO AMEND REENACTED SECTION 73-13-43, MISSISSIPPI CODE
32 OF 1972, TO PROVIDE FOR CERTIFICATES OF AUTHORITY FOR
33 CORPORATIONS, FIRMS AND PARTNERSHIPS; TO AMEND REENACTED SECTION
34 73-13-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
35 REENACTED SECTION 73-13-71, MISSISSIPPI CODE OF 1972, TO DEFINE
36 THE TERM SURVEYING; TO AMEND REENACTED SECTION 73-13-73,
37 MISSISSIPPI CODE OF 1972, TO CLARIFY DUTIES WITHIN THE PRACTICE OF
38 SURVEYING AND ENGINEERING; TO AMEND REENACTED SECTIONS 73-13-75
39 AND 73-13-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
40 REENACTED SECTION 73-13-79, MISSISSIPPI CODE OF 1972, TO REVISE
41 SURVEYOR APPLICATION FEES; TO AMEND REENACTED SECTION 73-13-81,
42 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
43 SECTION 73-13-83, MISSISSIPPI CODE OF 1972, TO REVISE SEAL
44 REQUIREMENTS; TO AMEND REENACTED SECTION 73-13-85, MISSISSIPPI
45 CODE OF 1972, TO REVISE RENEWAL OF EXPIRED LICENSE REQUIREMENTS;
46 TO AMEND REENACTED SECTIONS 73-13-87, 73-13-89 AND 73-13-93,
47 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
48 SECTION 73-13-95, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES;
49 TO AMEND REENACTED SECTION 73-13-97, MISSISSIPPI CODE OF 1972, IN
50 CONFORMITY; TO AMEND REENACTED SECTION 73-13-99, MISSISSIPPI CODE
51 OF 1972, TO EXTEND THE REPEALER ON THE BOARD OF LICENSURE FOR
52 PROFESSIONAL ENGINEERS AND SURVEYORS; TO AMEND REENACTED SECTION

53 73-13-103, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
54 SECTION 73-13-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
55 SURVEYING CERTIFICATES OF AUTHORITY FOR CORPORATIONS, FIRMS AND
56 PARTNERSHIPS; TO CREATE SECTION 73-13-106, MISSISSIPPI CODE OF
57 1972, TO RECONSTITUTE THE STATE BOARD OF LICENSURE FOR
58 PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; AND FOR
59 RELATED PURPOSES.

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

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

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

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

85 73-13-3. The term "engineer" as used in Sections 73-13-1
86 through 73-13-45 shall mean a professional engineer as hereinafter
87 defined.

88 The term "professional engineer" within the meaning and
89 intent of Sections 73-13-1 through 73-13-45 shall mean a person
90 who has met the qualifications as required under Section
91 73-13-23(1) and who has been issued a certificate of registration
92 as a professional engineer.

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

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

121 Design coordination includes the review and coordination of
122 those technical submissions prepared by others, including as
123 appropriate and without limitation, consulting engineers,
124 surveyors, landscape architects, geologist and other professionals
125 working under direction of the engineer.

126 The term "firm," as used in this act, shall mean a business
127 entity that offers the professional engineering or surveying
128 services to the public of its licensed personnel who are either
129 employees, officers, directors, partners, members or managers. A
130 business entity may be formed as either:

131 (a) A professional service corporation;

132 (b) A corporation;

133 (c) A partnership, including limited partnerships and
134 limited liability partnerships; or

135 (d) A limited liability company.

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

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

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

165 * * *

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

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

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

186 district, Post 1 and Post 2, and shall serve for four (4) years,
187 or until their successors are duly appointed and qualified.

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

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

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

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

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

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

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

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

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

238 (h) An appointment of a surveyor member shall be made
239 from the Second Supreme Court District; the appointment shall be
240 made on July 1, 2004, shall expire on July 1, 2005; from and after
241 July 1, 2004, this appointment shall be designated as Post 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 It shall not be considered the duty of the State of
248 Mississippi to provide office space and office equipment for the
249 board herein created.

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

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

259 73-13-7. Each member of the board shall be a citizen of the
260 United States and shall have been a resident of the state for at
261 least five (5) years prior to the appointment. He shall be at
262 least thirty-two (32) years of age, shall have been engaged in the
263 practice of engineering or * * * surveying, as the case may be,
264 for at least ten (10) years and shall have been in responsible
265 charge of important engineering or * * * surveying work, as the
266 case may be, for at least five (5) years. Each year of teaching
267 engineering or * * * surveying in a school or college shall be
268 equivalent to a year of responsible charge of engineering or * * *
269 surveying work. Not more than two (2) members of the board at any
270 time may be teachers of engineering in the universities or
271 colleges of the state. All members of the board shall be licensed
272 professional engineers or licensed professional * * * surveyors,
273 as the case may be.

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

276 73-13-9. Each member of the board shall receive per diem in
277 accordance with Section 25-3-69 when actually attending to the
278 work of the board or any of its committees, and shall be
279 reimbursed for traveling expenses in accordance with Section
280 25-3-41 in carrying out the provisions of Sections 73-13-1 through
281 73-13-105.

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

284 73-13-11. The Governor may remove any member of the board
285 for misconduct, incompetency, neglect of duty, or for any other
286 sufficient cause. Vacancies in the membership of the board shall
287 be filled for the unexpired term by appointment by the Governor as
288 provided in Section 73-13-5.

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

291 73-13-13. The board shall hold at least two (2) regular
292 meetings each year, in the first and third calendar quarters.
293 Special meetings shall be held at such time as the regulations of
294 the board may provide. Notice of all meetings shall be given in
295 such manner as the regulations of the board may provide. The
296 board shall elect annually, at a regular or special meeting, the
297 following officers: a president, a vice president, and a
298 secretary. A quorum of the board shall consist of not less than
299 five (5) members.

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

302 73-13-15. The board shall have the power to adopt and amend
303 all regulations and rules of procedure, not inconsistent with the
304 Constitution and laws of this state, which may be reasonably
305 necessary for the proper performance of its duties and the
306 regulations of the proceedings before it. The board shall adopt
307 and have an official seal. It shall not be required to post bond
308 on appeals. The board shall have the further power and authority
309 to:

- 310 (a) Establish standards of conduct and ethics;
311 (b) Institute proceedings in its own name;
312 (c) Promulgate rules restricting competitive bidding;
313 (d) Promulgate rules limiting or restricting
314 advertising;

315 (e) Promulgate rules requiring a demonstration of
316 continuing education;

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

320 (g) Provide for the enforcement of and to enforce the
321 laws of the State of Mississippi and, in particular, the
322 provisions of this chapter, and the bylaws, rules and regulations
323 of the board;

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

328 (i) Investigate, prosecute or initiate prosecution for
329 violation of the laws of this state pertaining to the practices of
330 engineering and * * * surveying, or matters affecting the rights
331 and duties or otherwise related thereto; and

332 (j) Adopt rules setting forth qualifications and
333 standards of practice for firms.

334 In carrying into effect the provisions of Sections 73-13-1
335 through 73-13-105, the board, under the hand of its president or
336 secretary and the seal of the board may subpoena witnesses and
337 compel their attendance, and also may require the production of
338 books, papers, documents, etc., in any case involving the
339 disciplinary actions provided for in Section 73-13-37 or 73-13-89
340 or practicing or offering to practice without licensure. Any
341 member of the board may administer oaths or affirmations to
342 witnesses appearing before the board. If any person shall refuse
343 to obey any subpoena so issued, or shall refuse to testify or
344 produce any books, papers, or documents, the board may present its
345 petition to such authority as may have jurisdiction, setting forth
346 the facts, and thereupon such authority shall, in a proper case,
347 issue its subpoena to such person, requiring his attendance before

348 such authority and there to testify or to produce such books,
349 papers, and documents, as may be deemed necessary and pertinent by
350 the board. Any person failing or refusing to obey the subpoena or
351 order of the said authority may be proceeded against in the same
352 manner as for refusal to obey any other subpoena or order of the
353 authority.

354 **SECTION 9.** Section 73-13-17, Mississippi Code of 1972, is
355 reenacted and amended as follows:

356 73-13-17. (1) The board shall keep an account of all monies
357 derived from the operation of Sections 73-13-1 through 73-13-105.
358 All fees and any other monies received by the board shall be
359 deposited in a special fund that is created in the State Treasury
360 and shall be used for the implementation and administration of
361 Sections 73-13-1 through 73-13-105 when appropriated by the
362 Legislature for such purpose. The monies in the special fund
363 shall be subject to all provisions of the state budget laws that
364 are applicable to special fund agencies, and disbursements from
365 the special fund shall be made by the State Treasurer only upon
366 warrants issued by the State Fiscal Officer upon requisitions
367 signed by the executive director of the board and countersigned by
368 the secretary of the board. Any interest earned on this special
369 fund shall be credited by the State Treasurer to the fund and
370 shall not be paid into the State General Fund. Any unexpended
371 monies remaining in the special fund at the end of a fiscal year
372 shall not lapse into the State General Fund. An amount not less
373 than the most recent fiscal year's appropriation shall be retained
374 as a reserve in this special fund and shall not be subject to
375 transfer to the general fund. The State Auditor shall audit the
376 financial affairs of the board and the transactions involving the
377 special fund at least once a year in the same manner as for other
378 special fund agencies.

379 (2) The executive director and the secretary of the board
380 shall give a surety bond satisfactory to the other members of the

381 board, conditioned upon the faithful performance of their duties.
382 The premium on said bond shall be regarded as a proper and
383 necessary expense of the board. When any member of the board or
384 any employee thereof is engaged on business of the board away from
385 the principal office of the board, he shall be entitled to receive
386 expenses as authorized in Section 25-3-41, and members of the
387 board shall be entitled to per diem in an amount not to exceed
388 that authorized in Section 25-3-69, all as approved by the board.

389 (3) The board shall employ an executive director and may
390 employ such clerical or other assistants as are necessary for the
391 proper performance of its work, and may make expenditures for any
392 purpose which in the opinion of the board are reasonably necessary
393 for the proper performance of its duties under Sections 73-13-1
394 through 73-13-105.

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

397 73-13-19. The board shall keep a record of its proceedings
398 and a register of all applications for licensure, which register
399 shall show (a) the name, age, and residence of such applicant, (b)
400 the date of the application, (c) the place of business of such
401 applicant, (d) his educational and other qualifications, (e)
402 whether or not an examination was required, (f) whether the
403 applicant was rejected, (g) whether a certificate of licensure was
404 granted, (h) the date of the action of the board, and (i) such
405 other information as may be deemed necessary by the board.

406 The records of the board shall be prima facie evidence of the
407 proceedings of the board set forth therein, and a transcript
408 thereof, duly certified by the executive director of the board
409 under seal, shall be admissible in evidence with the same force
410 and effect as if the original were produced.

411 Annually, on or before March 15, the board shall submit to
412 the Governor a report of its transactions of the preceding year,
413 and shall file with the Secretary of State a copy of such report

414 of the board, attested by affidavits of its president and its
415 secretary.

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

418 73-13-21. A roster showing the names and places of business
419 or residence of all licensed professional engineers and licensed
420 professional * * * surveyors and licensed firms shall be prepared
421 biennially by the board. * * *

422 * * *

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

425 73-13-23. (1) (a) The following shall be considered as
426 minimum evidence satisfactory to the board that the applicant is
427 qualified for licensure as a professional engineer:

428 * * * Graduation in an engineering curriculum of four (4)
429 years or more from a school or college approved by the board as of
430 satisfactory standing or graduation in an engineering, engineering
431 technology, or related science curriculum of four (4) scholastic
432 years from a school or college other than those approved by the
433 board plus a graduate degree in an engineering curriculum from a
434 school or college wherein the same engineering curriculum at the
435 undergraduate level is approved by the board as of satisfactory
436 standing; a specific record of four (4) years of qualifying
437 engineering experience indicating that the applicant is competent
438 to practice engineering (in counting years of experience, the
439 board at its discretion may give credit not in excess of three (3)
440 years for satisfactory graduate study in engineering), and the
441 successful passing of examinations in engineering as prescribed by
442 the board.

443 * * *

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

446 * * *

447 (c) The mere execution, as a contractor, of work
448 designed by a professional engineer, or the supervision of the
449 construction of such work as a foreman or superintendent shall not
450 be deemed to be the practice of engineering.

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

456 (e) No person shall be eligible for licensure as a
457 professional engineer who is not of good character and reputation
458 or who presents claims in support of his application which contain
459 major discrepancies.

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

463 (a) Graduation in an engineering curriculum of four (4)
464 scholastic years or more from a school or college approved by the
465 board as of satisfactory standing or graduation in an engineering,
466 engineering technology, or related science curriculum of four (4)
467 scholastic years from a school or college other than those
468 approved by the board plus a graduate degree in an engineering
469 curriculum from a school or college wherein that same engineering
470 curriculum at the undergraduate level is approved by the board as
471 of satisfactory standing; and

472 (b) Successfully passing a written examination in the
473 fundamental engineering subjects.

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

476 73-13-25. Applications for enrollment as an engineer intern
477 or for licensure as a professional engineer shall be on the forms
478 prescribed and furnished by the board, shall contain statements
479 made under oath, showing the applicant's education and detailed

480 summary of the applicant's qualifying experience. Applications
481 for licensure or relicensure as a professional engineer shall also
482 contain not less than five (5) references, of whom three (3) or
483 more shall be engineers having personal knowledge of the
484 applicant's engineering experience.

485 The application fee for licensure as a professional engineer
486 shall be determined by the board but shall not exceed One Hundred
487 Fifty Dollars (\$150.00), which fee shall accompany the
488 application.

489 The application fee for enrollment as an engineer intern
490 shall be determined by the board but shall not exceed Fifty
491 Dollars (\$50.00), which fee shall accompany the application.
492 Whenever an applicant is cited to an examination or reexamination,
493 an additional fee equal to the actual cost of the examination
494 shall be paid by the applicant.

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

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

500 73-13-27. Examinations shall be required for enrollment as
501 an engineer intern and for licensure as a professional engineer.
502 The examinations shall be held at such time and place as the board
503 may determine.

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

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

510 73-13-29. The board shall issue a certificate of licensure
511 upon payment of licensure fee as provided for in Sections 73-13-1
512 through 73-13-45, to any applicant who, in the opinion of the

513 board, has satisfactorily met all the requirements of said
514 sections. In the case of a licensed engineer, the certificate
515 shall authorize the "practice of engineering." In the case of an
516 engineer intern, the certificate shall state that the applicant
517 has successfully passed the examination in fundamental engineering
518 subjects required by the board and has been enrolled as an
519 "engineer intern." Certificates shall show the full name, shall
520 have a serial number, and shall be signed by the president and the
521 secretary of the board under seal of the board.

522 The issuance of a certificate of licensure by this board
523 shall be prima facie evidence that the person named therein is
524 entitled to all the rights and privileges of a registered
525 professional engineer while the said certificate remains unrevoked
526 or unexpired.

527 Before engaging in the practice of the profession, each
528 licensee hereunder shall upon licensure obtain a seal of the
529 design authorized by the board, bearing the licensee's name and
530 the legend, "licensed professional engineer." Plans,
531 specifications and reports prepared by a licensee shall be stamped
532 with the seal by the licensee during the life of the licensee's
533 certificate, but it shall be unlawful for anyone to stamp or seal
534 any documents with the seal after the certificate of the licensee
535 named thereon is expired or revoked, or while the certificate is
536 suspended. It shall be unlawful for anyone other than the
537 licensee to whom the seal has been issued to stamp or seal any
538 document utilizing such seal.

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

541 73-13-31. Certificates of licensure shall expire on the last
542 day of the month of December following their issuance or renewal
543 and shall become invalid on that date unless renewed. It shall be
544 the duty of the board to notify every person licensed under
545 Sections 73-13-1 through 73-13-105, of the date of the expiration

546 of his certificate and the amount of the fee that shall be
547 required for its renewal for one (1) year. Such notice shall be
548 sent by first class mail to the last known address of the licensee
549 at least one (1) month in advance of the date of the expiration of
550 said certificate. Renewal may be effected at any time during the
551 month of December by the payment of a fee, as determined by the
552 board, not to exceed One Hundred Dollars (\$100.00). A person who
553 is licensed as a professional engineer and as a professional land
554 surveyor may effect both renewals by the payment of a fee not to
555 exceed Two Hundred Dollars (\$200.00). The failure on the part of
556 any licensee to renew his certificate annually in the month of
557 December as required above, shall not deprive such person of the
558 right of renewal, but the fee to be paid for the renewal of a
559 certificate after the month of December shall be increased ten
560 percent (10%) for each month, or fraction of a month that payment
561 of renewal is delayed; provided, however, that the maximum fee for
562 delayed renewal shall not exceed five (5) times the normal renewal
563 fee. A state agency or any of the state's political subdivisions,
564 such as a county or municipality, may pay the renewal fee of any
565 licensee who is a full-time employee; provided, however, that any
566 licensee who permits his/her renewal fee to be paid from any
567 public funds shall not perform engineering or * * * surveying
568 services for a fee or other emoluments for the public or for any
569 other public entity. If a certificate has expired for six (6)
570 months or more, the licensee shall be required to submit a new
571 application, paying back fees and submitting proof of continuing
572 professional competency compliance. If the certificate has
573 expired for five (5) years or more, in addition to submitting a
574 new application and proof of continuing professional competency
575 compliance, reexamination in the principles and practice may be
576 required. The reexamination requirement may be waived by the
577 board provided the applicant has continued to practice in another
578 jurisdiction from the date of expiration of his certificate.

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

581 73-13-33. All professional engineers, licensed in accordance
582 with the provisions of Chapter 56 of the Laws of Mississippi of
583 1928, Extraordinary Session, and as amended under Senate Bill No.
584 383, Chapter 131, Laws of 1940, and whose certificates of
585 licensure are in effect at the time of passage of Sections 73-13-1
586 through 73-13-45, shall be entitled to all the rights and
587 privileges of a licensed professional engineer as provided for in
588 those sections, while the said certificate remains unrevoked or
589 unexpired.

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

592 73-13-35. The board may, upon application therefor and the
593 payment of a fee in accordance with Section 73-13-25, issue a
594 certificate of licensure as a professional engineer to any person
595 who holds a certificate of qualification or licensure issued to
596 him by proper authority of any state or territory or possession of
597 the United States, or of any country, provided that the
598 applicant's qualifications meet the requirements of Sections
599 73-13-1 through 73-13-45 and the rules established by the board.

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

602 73-13-37. (1) The board, upon satisfactory proof and in
603 accordance with the provisions of this chapter and the
604 implementing regulations of the board pertaining thereto, is
605 authorized to take the disciplinary actions provided for
606 hereinafter against any person or firm practicing engineering or
607 surveying, including nonregistrants, for any of the following
608 reasons:

609 (a) Violating any of the provisions of Sections 73-13-1
610 through 73-13-45 or the implementing bylaws, rules, regulations,

611 or standards of ethics or conduct duly adopted and promulgated by
612 the board pertaining to the practice of engineering;

613 (b) Fraud, deceit or misrepresentation in obtaining a
614 certificate of licensure;

615 (c) Gross negligence, malpractice or incompetency;

616 (d) Any professional misconduct, as defined by the
617 board through bylaws, rules and regulations, and standards of
618 conduct and ethics;

619 (e) Practicing or offering to practice engineering on
620 an expired certificate or while under suspension or revocation of
621 certificate unless said suspension or revocation be abated through
622 probation, as provided for hereinafter; or

623 (f) Addiction to or dependence on alcohol or other
624 habit-forming drugs or being an habitual user of alcohol,
625 narcotics, barbiturates, amphetamines, hallucinogens, or other
626 drugs having similar effect.

627 (2) Any person may prefer charges against any other person
628 practicing engineering or surveying, including nonlicensees, for
629 committing any of the acts set forth in subsection (1). Such
630 charges shall be sworn to, either upon actual knowledge or upon
631 information and belief, and shall be filed with the board. In the
632 event any person certified under Sections 73-13-1 through 73-13-45
633 is expelled from membership in any Mississippi professional
634 engineering society or association, the board shall thereafter
635 cite said person to appear at a hearing before the board and to
636 show cause why disciplinary action should not be taken against
637 him.

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

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

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

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

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

670 Where in any proceeding before the board any witness shall
671 fail or refuse to attend upon subpoena issued by the board, shall
672 refuse to testify or shall refuse to produce any books and papers,
673 the production of which is called for by the subpoena, the
674 attendance of such witness and the giving of his testimony and the
675 production of the books and papers shall be enforced by any court
676 of competent jurisdiction of this state in the manner provided for

677 the enforcement of attendance and testimony of witnesses in civil
678 cases in the courts of this state.

679 The accused shall have the right to be present at the hearing
680 in person, by counsel or other representative, or both. The board
681 is authorized to continue or recess the hearing as may be
682 necessary.

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

690 If a majority of the board finds the accused guilty of the
691 charges filed, the board may: (a) issue a public or private
692 reprimand; (b) require the guilty party to complete a course or
693 courses, approved by the board, in ethics or other appropriate
694 subjects; (c) suspend or revoke the certificate of the accused, if
695 the accused is a licensee; and/or (d) in lieu of or in addition to
696 such reprimand, course completion, suspension or revocation,
697 assess and levy upon the guilty party a monetary penalty of not
698 less than One Hundred Dollars (\$100.00) nor more than Five
699 Thousand Dollars (\$5,000.00) for each violation.

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

706 When payment of a monetary penalty assessed and levied by the
707 board in accordance with this section is not paid when due, the
708 board shall have the power to institute and maintain proceedings
709 in its name for enforcement of payment in the chancery court of

710 the county and judicial district of residence of the guilty party
711 and if the guilty party be a nonresident of the State of
712 Mississippi, such proceedings shall be in the Chancery Court of
713 the First Judicial District of Hinds County, Mississippi.

714 (6) When the board has taken a disciplinary action under
715 this section, the board may, in its discretion, stay such action
716 and place the guilty party on probation for a period not to exceed
717 one (1) year upon the condition that the guilty party shall not
718 further violate either the laws of the State of Mississippi
719 pertaining to the practice of engineering or the bylaws, rules and
720 regulations, or standards of conduct and ethics promulgated by the
721 board.

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

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

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

734 (10) Any person or firm aggrieved by an action of the board
735 denying or revoking his certificate of licensure or authority or
736 relicensure as a professional engineer or his certificate of
737 enrollment as an engineer intern, or who is aggrieved by the
738 action of the board as a result of disciplinary proceedings
739 conducted under this section may appeal therefrom to the chancery
740 court of either the county wherein the appellant resides or the
741 Chancery Court of the First Judicial District of Hinds County, at
742 the election of the appellant. If the appellant is a nonresident

743 of this state, the appeal shall be made to the Chancery Court of
744 the First Judicial District of Hinds County. Such appeal shall be
745 perfected before the board by the filing with the board of a
746 notice of appeal to the chancery court. The court shall require a
747 bond in an amount not to exceed One Thousand Dollars (\$1,000.00)
748 conditioned to pay all costs which may be adjudged against the
749 appellant. The notice of appeal shall be filed not later than
750 thirty (30) days after the decision of the board is forwarded to
751 the guilty party, as provided hereinabove.

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

763 (11) In addition to the reasons specified in subsection (1)
764 of this section, the board shall be authorized to suspend the
765 certificate of licensure of any person for being out of compliance
766 with an order for support, as defined in Section 93-11-153. The
767 procedure for suspension of a certificate for being out of
768 compliance with an order for support, and the procedure for the
769 reissuance or reinstatement of a certificate suspended for that
770 purpose, and the payment of any fees for the reissuance or
771 reinstatement of a certificate suspended for that purpose, shall
772 be governed by Section 93-11-157 or 93-11-163, as the case may be.
773 Actions taken by the board in suspending a certificate when
774 required by Section 93-11-157 or 93-11-163 are not actions from
775 which an appeal may be taken under this section. Any appeal of a

776 suspension of a certificate that is required by Section 93-11-157
777 or 93-11-163 shall be taken in accordance with the appeal
778 procedure specified in Section 93-11-157 or 93-11-163, as the case
779 may be, rather than the procedure specified in this section. If
780 there is any conflict between any provision of Section 93-11-157
781 or 93-11-163 and any provision of this chapter, the provisions of
782 Section 93-11-157 or 93-11-163, as the case may be, shall control.

783 (12) Any board member whose objectivity in a disciplinary
784 proceeding is impaired shall either recuse himself from sitting as
785 a member of the board in a formal disciplinary hearing in that
786 proceeding or be disqualified therefrom. In the event a
787 disciplinary proceeding is brought against a member or former
788 member of the board, no member of the board who has served
789 concurrently with the respondent in the disciplinary proceeding
790 shall sit as a member of the board in a formal disciplinary
791 hearing in that proceeding. If, after recusal or disqualification
792 of board members as provided herein, there does not remain a
793 quorum of the board to sit for a disciplinary hearing, the board
794 shall have the power to select, in accordance with duly
795 promulgated regulations of the board, substitute panel members
796 from slates of candidates established by the Mississippi
797 Engineering Society and the Mississippi Association of
798 Professional Surveyors to the extent necessary to achieve the
799 number of panel members equivalent to a quorum of the board.
800 Substitute panel members must meet the qualifications of board
801 members as provided in Section 73-13-7 and shall receive
802 compensation as provided for board members in Section 73-13-9.

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

805 73-13-39. Any person or firm who shall practice, or offer to
806 practice, engineering in this state without being licensed in
807 accordance with the provisions of Sections 73-13-1 through
808 73-13-45, or any person presenting or attempting to use as his own

809 the certificate of licensure or seal of another, or any person who
810 shall give any false or forged evidence of any kind to the board
811 or to any member thereof in obtaining a certificate of licensure,
812 or any person who shall falsely impersonate any other registrant
813 of like or different name, or any person or firm who shall attempt
814 to use an expired or revoked certificate of licensure, or any
815 person or firm who shall violate any of the provisions of Sections
816 73-13-1 through 73-13-45, shall be guilty of a misdemeanor, and
817 shall, upon conviction, be sentenced to pay a fine of not less
818 than One Hundred Dollars (\$100.00), nor more than Five Thousand
819 Dollars (\$5,000.00) in addition to reimbursement of investigative
820 expenses and court costs, or suffer imprisonment for a period not
821 exceeding three (3) months, or both. The criminal penalties
822 provided for in this section may be assessed in addition to those
823 civil penalties provided for in Section 73-13-37.

824 Unless licensed in accordance with the provisions of Sections
825 73-13-1 through 73-13-45, no person shall:

826 (a) Directly or indirectly employ, use, cause to be
827 used or make use of any of the following terms or any
828 combinations, variations or abbreviations thereof as a
829 professional, business or commercial identification, title, name,
830 representation, claim, asset or means of advantage or benefit:

831 "engineer," "professional engineer," "licensed engineer,"
832 "registered engineer," "registered professional engineer,"
833 "licensed professional engineer," "engineered," "engineering"; or

834 (b) Directly or indirectly employ, use, cause to be
835 used or make use of any letter, abbreviation, word, symbol,
836 slogan, sign or any combinations or variations thereof which in
837 any manner whatsoever tends or is likely to create any impression
838 with the public or any member thereof that any person is qualified
839 or authorized to practice engineering; or

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

842 perform any service, work, act or thing which is any part of the
843 practice of engineering.

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

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

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

857 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not
858 be construed to prevent or to affect:

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

864 (b) The work of an employee or a subordinate of a
865 person holding a certificate of licensure under this act, provided
866 such work does not include final designs or decisions and is done
867 under the responsibility, checking and supervision of a person
868 holding a certificate of licensure under Sections 73-13-1 through
869 73-13-45;

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

873 (d) The performance of engineering services by any
874 regular full-time employee of a manufacturing, research and
875 development, railroad or other industrial corporation, provided:
876 (i) Such services are rendered on or in connection
877 with existing fixed works, equipment, systems, processes or
878 facilities owned, operated, or leased by such corporation and/or
879 its affiliates;
880 (ii) Such services are not rendered to third
881 parties;
882 (iii) Such services do not consist of original
883 plant design, original system design, or original process design,
884 other than routine system extensions that do not compromise the
885 integrity of the original design;
886 (iv) Such services comply with all requirements
887 specified by the employee's company or corporation;
888 (v) All fixed works, equipment, systems, processes
889 or facilities modified by such services undergo a safety review
890 that confirms: (A) the construction and equipment is in
891 accordance with design specifications; and (B) safety, operating,
892 maintenance and emergency procedures are in place to safeguard
893 life, health and property;
894 (vi) Such services are not required to be
895 performed, approved, or certified by a professional engineer
896 pursuant to law or regulation, whether federal, state, or local,
897 other than Section 73-13-1 through 73-13-45 hereof or any
898 applicable rules or regulations promulgated by the
899 Mississippi * * * Board of Licensure for Professional Engineers
900 and * * * Surveyors.

901 It is further stated that this subsection (d) is intended to
902 codify the policy and practices of the board at the time of
903 enactment of this Senate Bill No. 2380, 1999 Regular Session, and
904 that any ambiguities in this subsection should be construed in
905 accordance with this intent.

906 (e) The performance of engineering services with
907 respect to utility facilities by any public utility subject to
908 regulation by the Mississippi Public Service Commission, the
909 Federal Communications Commission, the Federal Energy Regulatory
910 Commission, or the Nuclear Regulatory Commission, including its
911 parents, affiliates, subsidiaries; or by the officers and regular
912 full-time employees of any such public utility, including its
913 parents, affiliates or subsidiaries, provided that they are
914 engaged solely and exclusively in performing service for such
915 public utility and/or its parents, affiliates or subsidiaries, and
916 as long as such services comply with all standard operating
917 procedures and requirements specified by the employee's company or
918 corporation. This exemption shall not extend to: (i) the
919 practice of engineering performed by public utilities or their
920 officers or employees when such services are rendered to
921 non-affiliated third parties in exchange for compensation other
922 than that received from their employer, or the use of any name,
923 title or words which tend to convey the impression that a
924 nonregistrant is offering engineering services to the public; and
925 (ii) services which are required to be performed, approved or
926 certified by a professional engineer pursuant to law or regulation
927 whether federal, state or local, other than Sections 73-13-1
928 through 73-13-45 hereof or any applicable rules or regulations
929 promulgated by the Mississippi * * * Board of Licensure for
930 Professional Engineers and * * * Surveyors.

931 It is further stated that this subsection (e) is intended to
932 codify the policy and practices of the board at the time of
933 enactment of this Senate Bill No. 2380, 1999 Regular Session, and
934 that any ambiguities in this subsection should be construed in
935 accordance with this intent.

936 (f) The practice of engineering shall not include the
937 work ordinarily performed by persons who operate or maintain

938 machinery, equipment, water plants, light plants, sewage plants
939 and solid waste disposal facilities.

940 (2) In addition to the exemptions provided in subsection
941 (1), there is hereby granted and reserved to the board the
942 authority to exempt from Sections 73-13-1 through 73-13-45 by
943 regulation specific engineering tasks or functions performed by
944 regular full-time employees of manufacturing, public utility,
945 research and development, railroad or other industrial
946 corporations rendered in the course and scope of their employment,
947 on a case by case basis, if, in the opinion of the board, the
948 public health and welfare is not endangered nor the engineering
949 profession diminished.

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

952 73-13-43. As of January 1, 2005, no corporation, firm or
953 partnership may engage in the practice of professional engineering
954 in this state unless it has been issued a certificate of authority
955 by the board. In order to qualify for a certificate of authority,
956 a corporation, firm or partnership must have at least one (1)
957 Mississippi-licensed professional engineer as a principal officer
958 or partner of the firm who has management responsibility for such
959 practice.

960 The board shall have the authority to promulgate rules and
961 regulations setting procedures, standards and other requirements
962 for issuing and maintaining a certificate of authority for
963 corporations, firms or partnerships practicing engineering in the
964 State of Mississippi.

965 Applications for a certificate of authority shall be on the
966 forms prescribed and furnished by the board, and provide all the
967 information required by said board. The board shall establish a
968 fee for the certificate of authority application, not to exceed
969 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
970 partnership having the necessary qualifications as prescribed

971 herein and the rules and regulations of the board shall be issued
972 a certificate of authority for said corporation, firm or
973 partnership to practice engineering and to contract and collect
974 fees for furnishing this service.

975 Each certificate of authorization will expire on December 31
976 of each year. It shall be the duty of the board to notify every
977 corporation, firm or partnership holding a certificate of
978 authority under this act of the date of the expiration of the
979 certificate and the amount of the fee that shall be required for
980 its renewal for one (1) year. The renewal fee shall not exceed
981 One Hundred Fifty Dollars (\$150.00); penalties for late renewal
982 shall be ten percent (10%) per month that payment is delayed.
983 Additionally, if any of the information on the initial or any
984 subsequent renewal application changes for the corporation, firm
985 or partnership, said corporation, firm or partnership shall notify
986 the board in the form and manner prescribed by the board within
987 thirty (30) days of the change.

988 Effective January 1, 2005, the Secretary of State shall not
989 issue a certificate of incorporation, licensure or authorization
990 to an applicant or licensure as a foreign firm to a corporation,
991 firm or partnership which includes in its name, or among the
992 objectives for which it is established, any of the words,
993 "engineer," "engineering," or any modification or derivation
994 thereof, unless the board has issued for said applicant a
995 certificate of authority or a letter indicating the eligibility of
996 such applicant to receive such a certificate. The corporation,
997 firm or partnership applying shall supply such certificate or
998 letter from the board with its application for incorporation,
999 licensure or authorization to the Secretary of State.

1000 An engineer who renders occasional, part-time or consulting
1001 engineering services to or for a corporation, firm or partnership
1002 may not, for the purposes of this section, be designated as being
1003 responsible for the professional activities of the firm.

1004 No such corporation, firm or partnership shall be relieved of
1005 responsibility for the conduct or acts of its agents, employees,
1006 officers, partners, members or managers by reason of its
1007 compliance with the provisions of this section. No individual
1008 practicing engineering under this chapter shall be relieved of
1009 responsibility for engineering services performed by reason of
1010 employment or other relationship with a firm holding an
1011 authorization certificate.

1012 **SECTION 23.** Section 73-13-45, Mississippi Code of 1972, is
1013 reenacted and amended as follows:

1014 73-13-45. (1) (a) Neither the state, nor any of its
1015 political subdivisions, such as a county, city or town, shall
1016 award construction contracts of any public work involving the
1017 practice of engineering or architecture unless the plans,
1018 specifications and estimates have been prepared and such work
1019 supervised by a registered professional engineer or architect;
1020 provided, that nothing in this subsection shall be held to apply
1021 to such public work wherein the expenditure does not exceed Fifty
1022 Thousand Dollars (\$50,000.00); and provided further, that nothing
1023 in this subsection shall apply to any municipality wherein such
1024 public work is not financed in whole or in part through the
1025 issuance of bonds and let to public contract.

1026 (b) The state and any of its political subdivisions,
1027 such as a county, city or town, may engage in construction of
1028 public buildings involving the practice of engineering or
1029 architecture and using political subdivision work forces without
1030 the supervision of a licensed professional engineer or architect,
1031 provided that the total cost of the public building does not
1032 exceed One Hundred Thousand Dollars (\$100,000.00). This paragraph
1033 (1)(b) shall not supersede any rules and regulations promulgated
1034 by the State Department of Health and the Department of
1035 Environmental Quality.

1036 (2) (a) In the awarding of public contracts for
1037 professional engineering services, preference shall be given to
1038 resident professional engineers over those nonresident
1039 professional engineers domiciled in a state having laws which
1040 grant a preference to the professional engineers who are residents
1041 of that state. Nonresident professional engineers shall be
1042 awarded Mississippi public contracts only on the same basis as the
1043 nonresident professional's state awards contracts to Mississippi
1044 professional engineers under similar circumstances. When a
1045 nonresident professional engineer submits a proposal for a public
1046 project, he shall attach thereto a copy of his resident state's
1047 current statute, resolution, policy, procedure or executive order
1048 pertaining to such state's treatment of nonresident professional
1049 engineers. Resident professional engineers actually domiciled in
1050 Mississippi, be they corporate, individuals or partnerships, shall
1051 be granted preference over nonresidents in the awarding of
1052 contracts in the same manner and to the same extent as provided by
1053 the laws of the state of domicile of the nonresident. As used in
1054 this section, the term "resident professional engineer" includes a
1055 nonresident person, firm or corporation that has been qualified to
1056 do business in this state and has maintained a permanent full-time
1057 office in the State of Mississippi for not less than two (2) years
1058 prior to submitting a proposal for a public project, and the
1059 subsidiaries and affiliates of such a person, firm or corporation.

1060 (b) The provisions of this subsection shall not apply
1061 to any contract for any project upon which federal funds would be
1062 withheld because of the preference requirements of this
1063 subsection.

1064 (c) Any contract, agreement or arrangement for
1065 professional engineering services negotiated, made or entered
1066 into, directly or indirectly, by the state, counties,
1067 municipalities or any political subdivision thereof, or by any
1068 special districts, which is in any way in violation of the

1069 provisions of this subsection is hereby declared to be void as
1070 contrary to the public policy of this state and shall not be given
1071 effect or enforced by any court of this state or by any of its
1072 officers or employees.

1073 (d) Nothing in this subsection shall affect the
1074 validity of any contract in existence prior to July 1, 1989.

1075 (e) For purposes of this section, the term
1076 "professional engineering services" means those within the scope
1077 of the practice of professional engineering as defined by Sections
1078 73-13-1 through 73-13-45, or those performed by any registered
1079 professional engineer in connection with professional employment
1080 or practice.

1081 **SECTION 24.** Section 73-13-71, Mississippi Code of 1972, is
1082 reenacted and amended as follows:

1083 73-13-71. (a) The term "board," as used in Sections
1084 73-13-71 through 73-13-105, shall mean the * * * Board of
1085 Licensure for Professional Engineers and * * * Surveyors as
1086 provided for in Section 73-13-5 of this chapter.

1087 (b) The term "professional * * * surveyor," as used in
1088 Sections 73-13-71 through 73-13-105, shall mean a person who
1089 engages in the practice of * * * surveying as hereinafter defined,
1090 whether in an individual capacity, or in behalf of or as an
1091 employee of any state, county, or municipal authority of the State
1092 of Mississippi.

1093 (c) The term "* * * surveyor intern," as used in Sections
1094 73-13-71 through 73-13-105, shall mean a candidate for licensure
1095 as a professional * * * surveyor who has successfully passed the
1096 fundamentals of land surveying examination, has met the
1097 requirements of the board for enrollment, has received from the
1098 board a certificate stating that he has successfully passed this
1099 portion of the professional land surveying examinations and has
1100 been enrolled as a * * * surveyor intern.

1101 (d) The practice of " * * * surveying," within the meaning
1102 and intent of Sections 73-13-71 through 73-13-105, shall mean
1103 providing professional services such as consultation,
1104 investigation, testimony evaluation, expert technical testimony,
1105 planning, mapping, assembling and interpreting reliable scientific
1106 measurement and information relative to the location, size, shape
1107 or physical features of the earth, improvements on the earth, the
1108 space above the earth, or any part of the earth, utilization and
1109 development of these facts and interpretation into an orderly
1110 survey map, plan or report and in particular, the retracement of
1111 or the creating of land boundaries and descriptions of real
1112 property.

1113 The practice of surveying includes, but not limited to, any
1114 one or more of the following:

1115 (a) Locating, relocating, establishing, reestablishing,
1116 laying out or retracting any property boundary or easement.

1117 (b) Making any survey for the subdivision of any tract of
1118 land, including rights-of-way and easements.

1119 (c) Determining, by the use of principles of surveying, the
1120 position for any survey monument or reference point; or setting,
1121 resetting or replacing any such monument or reference point,
1122 commonly known as control surveys.

1123 (d) Creating, preparing or modifying electronic or
1124 computerized data, including land information systems and
1125 geographic information systems, relative to the performance of the
1126 activities in the above described paragraphs (a) through (c).

1127 **SECTION 25.** Section 73-13-73, Mississippi Code of 1972, is
1128 reenacted and amended as follows:

1129 73-13-73. No person shall practice * * * surveying without
1130 having first been duly and regularly licensed by the * * * Board
1131 of Registration for Professional Engineers and * * * Surveyors as
1132 a professional * * * surveyor as required by Sections 73-13-71

1133 through 73-13-105, nor shall any person practice * * * surveying
1134 whose authority to practice is revoked by the said board.

1135 * * * The practice of * * * surveying, which must be
1136 performed by or under the direct supervision of a
1137 professional * * * surveyor and each map or drawing of which must
1138 be stamped with the seal of said licensee as provided in Section
1139 73-13-83, includes, but not limited to, the following: property
1140 and boundary surveys; subdivision surveys and plats; public land
1141 surveys; easement surveys; right-of-way surveys; lease surveys;
1142 and all other surveys that require the establishment or
1143 reestablishment of property boundaries.

1144 Duties within both the practice of * * * surveying and the
1145 practice of engineering, which must be performed by or under the
1146 direct supervision of a professional * * * surveyor or a
1147 professional engineer and each map, drawing or report of which
1148 must be stamped with the seal of said licensee as provided in
1149 Sections 73-13-29 and 73-13-83, include, but are not limited to,
1150 the following:

1151 (a) Determining the configuration or contour of the
1152 earth's surface or the position of fixed objects thereon, commonly
1153 known as topographical surveys and as-built surveys (excluding the
1154 location of property boundaries);

1155 (b) Performing geodetic surveying which includes
1156 surveying for determination of the size and shape of the earth
1157 utilizing angular and linear measurements through spatially
1158 oriented spherical geometry;

1159 (c) Determining, by the use of principles of surveying,
1160 the position for any survey control (nonboundary) monument or
1161 reference point; or setting, resetting or placing any such
1162 monument or reference point; and

1163 (d) Creating, preparing or modifying electronic or
1164 computerized data, including land information systems, and

1165 geographic information systems, relative to the performance of the
1166 activities in the above described paragraphs (a) through (c).

1167 **SECTION 26.** Section 73-13-75, Mississippi Code of 1972, is
1168 reenacted and amended as follows:

1169 73-13-75. The Mississippi * * * Board of Licensure for
1170 Professional Engineers and * * * Surveyors is hereby authorized
1171 and empowered to examine applicants for registration to
1172 practice * * * surveying; to license and issue certificates of
1173 licensure to all applicants whom it deems qualified to
1174 practice * * * surveying in accordance with Sections 73-13-71
1175 through 73-13-105; and to revoke certificates of licensure for
1176 just cause as provided for in Sections 73-13-71 through 73-13-105.

1177 **SECTION 27.** Section 73-13-77, Mississippi Code of 1972, is
1178 reenacted and amended as follows:

1179 73-13-77. (1) The following shall be considered as minimum
1180 evidence satisfactory to the board that the applicant is qualified
1181 for licensure as a professional * * * surveyor:

1182 (a) The successful completion of a curriculum of two
1183 (2) scholastic years or more from a school or college approved by
1184 the board as of satisfactory standing, including the completion of
1185 approved courses in surveying and related subjects; a specific
1186 record of three (3) years of qualifying * * * surveying experience
1187 indicating that the applicant is competent to practice * * *
1188 surveying; and successfully passing examinations in surveying
1189 prescribed by the board; or

1190 (b) A specific record of seven (7) years' or more
1191 experience in * * * surveying work of a character satisfactory to
1192 the board and indicating that the applicant is competent to
1193 practice * * * surveying; and successfully passing examinations in
1194 surveying prescribed by the board.

1195 * * *

1196 (2) The following shall be considered as minimum evidence
1197 satisfactory to the board that the applicant is qualified for
1198 certification as a * * * surveyor intern:

1199 (a) The successful completion of two (2) scholastic
1200 years or more from a school or college approved by the board as of
1201 satisfactory standing, including the completion of approved
1202 courses in * * * surveying and related subjects, and successfully
1203 passing an examination in the fundamentals of land surveying; or

1204 (b) A specific record of three (3) years or more of
1205 qualifying * * * surveying experience, and successfully passing an
1206 examination in the fundamentals of land surveying.

1207 (3) No person shall be eligible for licensure as a
1208 professional surveyor who is not of good character and reputation.

1209 **SECTION 28.** Section 73-13-79, Mississippi Code of 1972, is
1210 reenacted and amended as follows:

1211 73-13-79. Application for enrollment as a * * * surveyor
1212 intern or for registration as a professional * * * surveyor shall
1213 be on forms prescribed and furnished by the board, shall contain
1214 statements made under oath showing the applicant's education and a
1215 detailed summary of the applicant's qualifying experience.

1216 Applications for licensure or relicensure as a professional * * *
1217 surveyor shall also contain not less than five (5) references, of
1218 whom three (3) or more shall be professional * * * surveyors
1219 having personal knowledge of the applicant's * * * surveying
1220 experience.

1221 The application fee for licensure as a professional land
1222 surveyor shall be determined by the board, but shall not exceed
1223 One Hundred Fifty (\$150.00), which fee shall accompany the
1224 application.

1225 The application fee for enrollment as a * * * surveyor intern
1226 shall be determined by the board, but shall not exceed Fifty
1227 Dollars (\$50.00), which fee shall accompany the application.

1228 Whenever an applicant is cited to an examination or
1229 reexamination, an additional fee equal to the actual cost of the
1230 examination shall be paid by the applicant.

1231 **SECTION 29.** Section 73-13-81, Mississippi Code of 1972, is
1232 reenacted and amended as follows:

1233 73-13-81. Examinations shall be required for enrollment as
1234 a * * * surveyor intern and licensure as a professional * * *
1235 surveyor. The examinations shall be held at such time and place
1236 as the board may determine.

1237 The scope of the examinations and the methods and procedures
1238 shall be prescribed by the board with special reference to the
1239 applicant's ability to exercise direct control and personal
1240 supervision of all * * * surveying functions.

1241 The board shall cite applicants to examinations in accordance
1242 with its rules and regulations.

1243 **SECTION 30.** Section 73-13-83, Mississippi Code of 1972, is
1244 reenacted and amended as follows:

1245 73-13-83. The board shall issue a certificate, upon payment
1246 of the required fee, to any applicant who, in the opinion of the
1247 board, has satisfactorily met all the requirements therefor. In
1248 the case of licensed professional * * * surveyors, the certificate
1249 shall authorize the "practice of * * * surveying." In the case of
1250 a * * * surveyor intern, the certificate shall state that the
1251 applicant has successfully passed the examination in fundamental
1252 land surveying subjects required by the board and has been
1253 enrolled as a "* * * surveyor intern." Certificates shall show
1254 the full name of the professional * * * surveyor or * * * surveyor
1255 intern, shall have a serial number and shall be signed by the
1256 president and the secretary of the board under seal of the board.

1257 The issuance of a certificate of licensure by this board
1258 shall be prima facie evidence that the person named therein is
1259 entitled to all the rights and privileges of a licensed

1260 professional * * * surveyor, while the said certificate remains
1261 unrevoked or unexpired.

1262 Each person licensed as a professional * * * surveyor after
1263 June 30, 1991, but prior to July 1, 2004, shall, upon licensure,
1264 obtain a seal of the design authorized by the board, bearing the
1265 licensee's name and the legend "Registered Professional Land
1266 Surveyor." Each person licensed as a professional land surveyor
1267 after June 30, 1991, but prior to July 1, 2004, who is also
1268 licensed as a professional engineer in accordance with Sections
1269 73-13-1 through 73-13-45 may also obtain one (1) seal bearing the
1270 licensee's name and the legend "Registered Professional Engineer
1271 and Professional Land Surveyor." Any person who, before July 1,
1272 1991, but prior to July 1, 2004, was licensed under this chapter
1273 as a land surveyor or as both a professional engineer and a land
1274 surveyor may continue to use the seal or seals that he obtained
1275 and that were authorized by the board to be used by such person
1276 before July 1, 1991. From and after July 1, 2004, each person
1277 licensed as a professional surveyor, shall, upon licensure, obtain
1278 a seal of the design and authorized by the board, bearing the
1279 licensee's name and the legend "Professional Surveyor." From and
1280 after July 1, 2004, each person licensed as a professional
1281 surveyor, who is also licensed as a professional engineer, may
1282 also obtain a seal bearing the licensee's name and the legend
1283 "Professional Engineer and Professional Surveyor."

1284 Plats, maps and reports prepared by a licensee shall be
1285 stamped with the seal during the life of the licensee's
1286 certificate, but it shall be unlawful for anyone to stamp or seal
1287 any documents with the seal after the certificate of the licensee
1288 named thereon has expired or been revoked or suspended. It shall
1289 be unlawful for anyone other than the licensee to whom the seal
1290 has been issued to stamp or seal any documents utilizing such
1291 seal.

1292 **SECTION 31.** Section 73-13-85, Mississippi Code of 1972, is
1293 reenacted and amended as follows:

1294 73-13-85. Certificates of licensure shall expire on the last
1295 day of the month of December following their issuance or renewal
1296 and shall become invalid on that date unless renewed. It shall be
1297 the duty of the board to notify every person licensed under
1298 Sections 73-13-71 through 73-13-105 of the date of the expiration
1299 of his certificate and the amount of the fee that shall be
1300 required for its renewal for one (1) year; such notice shall be
1301 sent by first class mail to the last known address of the licensee
1302 at least one (1) month in advance of the date of the expiration of
1303 said certificate. Renewal may be effected at any time during the
1304 month of December by the payment of a fee not to exceed One
1305 Hundred Dollars (\$100.00). A person who is licensed as a
1306 professional * * * surveyor and as a professional engineer may
1307 effect both renewals by the payment of a single fee not to exceed
1308 Two Hundred Dollars (\$200.00). The failure on the part of any
1309 licensee to renew his certificate annually in the month of
1310 December as required above shall not deprive such person of the
1311 right of renewal, but the fee to be paid for the renewal of a
1312 certificate after the month of December shall be increased ten
1313 percent (10%) for each month that payment of renewal is delayed;
1314 however, the maximum fee for delayed renewal shall not exceed five
1315 (5) times the normal renewal fee.

1316 If a certificate has expired for six (6) months or more, the
1317 licensee shall be required to submit a new application, paying
1318 back fees and submitting proof of continuing professional
1319 competency compliance. If the certificate has expired for five
1320 (5) years or more, in addition to submitting a new application and
1321 proof of continuing professional competency compliance,
1322 reexamination in the principles and practice may be required. The
1323 reexamination may be waived by the board provided the applicant

1324 has continued to practice under another jurisdiction from the date
1325 of expiration of his certificate.

1326 **SECTION 32.** Section 73-13-87, Mississippi Code of 1972, is
1327 reenacted and amended as follows:

1328 73-13-87. The board may, upon application therefor and the
1329 payment of a fee to be determined by the board, * * * issue a
1330 certificate of licensure as a professional * * * surveyor to any
1331 person who holds a certificate of licensure issued to him by the
1332 proper authority of any state or territory or possession of the
1333 United States, or of any country, provided that the applicant's
1334 qualifications meet the requirements of Sections 73-13-71 through
1335 73-13-105 and the rules established by the board.

1336 **SECTION 33.** Section 73-13-89, Mississippi Code of 1972, is
1337 reenacted and amended as follows:

1338 73-13-89. The powers and duties of the board regarding
1339 disciplinary actions against any person, including nonlicensees
1340 accused of violating any of the laws of the State of Mississippi
1341 regarding the practice of * * * surveying or the rules,
1342 regulations, bylaws, or standards of conduct and ethics pertaining
1343 thereto as duly promulgated by the board, as well as the
1344 procedures for conducting said disciplinary proceedings, the penal
1345 sanctions available to the board in the event the charges are
1346 established, and the procedures for appeal from such actions of
1347 the board shall be the same as those set forth in Sections
1348 73-13-37 and 73-13-39 regarding actions against persons charged
1349 with similar violations related to the practice of engineering.

1350 **SECTION 34.** Section 73-13-93, Mississippi Code of 1972, is
1351 reenacted and amended as follows:

1352 73-13-93. Any person who may feel aggrieved by an action of
1353 the board denying or revoking his certificate of licensure or
1354 relicensure as a professional * * * surveyor or enrollment
1355 as * * * surveyor intern may appeal therefrom to the chancery
1356 court of the county of residence of such person and, after full

1357 hearing, the court shall make such order sustaining or reversing
1358 the action of the board as to it may seem just and proper.
1359 However, in case of a nonresident licensee or applicant, such
1360 appeal shall be taken or made to the Chancery Court of the First
1361 Judicial District of Hinds County, Mississippi.

1362 Actions taken by the board in suspending a certificate of
1363 licensure when required by Section 93-11-157 or 93-11-163 are not
1364 actions from which an appeal may be taken under this section. Any
1365 appeal of a suspension of a certificate that is required by
1366 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1367 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1368 as the case may be, rather than the procedure specified in this
1369 section.

1370 **SECTION 35.** Section 73-13-95, Mississippi Code of 1972, is
1371 reenacted and amended as follows:

1372 73-13-95. Any person who shall practice, or offer to
1373 practice, * * * surveying in this state without being licensed in
1374 accordance with the provisions of Sections 73-13-71 through
1375 73-13-105, or any person presenting or attempting to use as his
1376 own the certificate of licensure or the seal of another, or any
1377 person who shall give any false or forged evidence of any kind to
1378 the board or to any member thereof in obtaining a certificate of
1379 licensure, or any person who shall falsely impersonate any other
1380 licensee of like or different name, or any person who shall
1381 attempt to use an expired or revoked certificate of licensure, or
1382 any person who shall violate any of the provisions of Sections
1383 73-13-71 through 73-13-105, shall be guilty of a misdemeanor, and
1384 shall, upon conviction, be sentenced to pay a fine of not less
1385 than One Hundred Dollars (\$100.00), nor more than Five Thousand
1386 Dollars (\$5,000.00), in addition to reimbursement of investigative
1387 expenses and court costs, or suffer imprisonment for a period of
1388 not exceeding three (3) months, or both. The criminal penalties

1389 provided for in this section may be assessed in addition to those
1390 civil penalties provided for in Section 73-13-37.

1391 Unless licensed in accordance with the provisions of Sections
1392 73-13-71 through 73-13-105, no person shall:

1393 (a) Directly or indirectly employ, use, cause to be
1394 used or make use of any of the following terms or any combination,
1395 variations or abbreviations thereof as a professional, business or
1396 commercial identification, title, name, representation, claim,
1397 asset or means of advantage or benefit: "surveyor," "professional
1398 surveyor," "licensed surveyor," "registered surveyor," "registered
1399 professional surveyor," "licensed professional surveyor,"
1400 "surveyed," "surveying," "professional land surveyor," or
1401 "licensed professional land surveyor";

1402 (b) Directly or indirectly employ, use, cause to be
1403 used or make use of any letter, abbreviation, word, symbol,
1404 slogan, sign or any combinations or variations thereof, which in
1405 any manner whatsoever tends or is likely to create any impression
1406 with the public or any member thereof that any person is qualified
1407 or authorized to practice * * * surveying; or

1408 (c) Receive any fee or compensation or the promise of
1409 any fee or compensation for performing, offering or attempting to
1410 perform any service, work, act or thing which is any part of the
1411 practice of * * * surveying.

1412 Any person, firm, partnership, association or corporation
1413 which shall do, offer or attempt to do any one or more of the acts
1414 or things set forth in items (a) through (c) of the preceding
1415 paragraph shall be conclusively presumed and regarded as engaged
1416 in the practice of * * * surveying.

1417 It shall be the duty of all duly constituted officers of the
1418 law of this state, or any political subdivision thereof, to
1419 enforce the provisions of Sections 73-13-71 through 73-13-105 and
1420 to prosecute any persons violating same. The Attorney General of
1421 the state or his assistant shall act as legal adviser of the board

1422 and render such legal assistance as may be necessary in carrying
1423 out the provisions of Sections 73-13-71 through 73-13-105.

1424 **SECTION 36.** Section 73-13-97, Mississippi Code of 1972, is
1425 reenacted and amended as follows:

1426 73-13-97. Sections 73-13-71 through 73-13-105 shall not be
1427 construed to prevent or to affect:

1428 (a) Other professions or trades. The practice of any
1429 other legally recognized profession or trade; or

1430 (b) Employees and subordinates. The work of an
1431 employee or a subordinate of a person holding a certificate of
1432 registration under Sections 73-13-71 through 73-13-105; providing
1433 such work does not include final decisions and is done under the
1434 direct responsibility, checking and supervision of a person
1435 holding a certificate of licensure under Sections 73-13-71 through
1436 73-13-105; or

1437 (c) Government officers and employees. The practice of
1438 officers and employees of the government of the United States
1439 while engaged within this state in the practice of * * * surveying
1440 for said government; or

1441 (d) Certain elected or appointed county surveyors. A
1442 county surveyor as provided for in Section 135 of the Mississippi
1443 Constitution, and Sections 19-27-1 through 19-27-35 implementing
1444 the constitutional provision, who holds the office of county
1445 surveyor by either election or appointment, shall be exempt,
1446 through December 31, 1983, from the provisions of Sections
1447 73-13-71 through 73-13-105 insofar as his statutory duties within
1448 the boundaries of the county in which he is duly elected or
1449 appointed are concerned. From and after January 1, 1984, such
1450 surveyor shall not be exempt from the provisions of Sections
1451 73-13-71 through 73-13-105 unless he held the office of county
1452 surveyor by either election or appointment on December 31, 1983;
1453 or

1454 (e) Employees of railroad, public service and/or
1455 utility companies. The work or practice of a regular employee of
1456 a railroad, or a public service company or public utility, by
1457 rendering to such company * * * surveying service in connection
1458 with its facilities which are subject to regulation, supervision
1459 and control in order to safeguard life, health and property by the
1460 Public Service Commission or the Mississippi Department of
1461 Transportation of this state, shall be exempt so long as such
1462 person is thus actually and exclusively employed and no longer; or

1463 (f) The work of a regular employee of a railroad,
1464 rendering to the railroad land surveying services in connection
1465 with its facilities within the exclusive scope of his employment
1466 provided that:

1467 (i) Any new right-of-way acquisitions for
1468 construction of rail lines by class one railroads shall be
1469 surveyed and platted in compliance with the Mississippi Minimum
1470 Standards for Land Surveying by a Mississippi professional * * *
1471 surveyor; and

1472 (ii) Upon the removal of track and disposition of
1473 an abandoned rail line the railroad shall retain and make
1474 available upon reasonable request from Mississippi licensed
1475 surveyors the railroad's valuation surveys for any such abandoned
1476 rail line.

1477 **SECTION 37.** Section 73-13-99, Mississippi Code of 1972, is
1478 reenacted and amended as follows:

1479 73-13-99. Sections 73-13-19 [73-13-1] through 73-13-45 and
1480 73-13-71 through 73-13-103, Mississippi Code of 1972, which create
1481 the * * * Board of Licensure for Professional Engineers and * * *
1482 Surveyors and prescribe its duties and powers, shall stand
1483 repealed as of December 31, 2014.

1484 **SECTION 38.** Section 73-13-103, Mississippi Code of 1972, is
1485 reenacted and amended as follows:

1486 73-13-103. (1) For the purposes of this section, the term
1487 "surveyor" means a licensed professional * * * surveyor as defined
1488 in Section 73-13-71, and any person who is employed by or under
1489 the direct supervision of a professional * * * surveyor licensed
1490 under Sections 73-13-71 through 73-13-97.

1491 (2) A surveyor may enter in or upon public or private lands
1492 or waters, except buildings, while in the lawful performance of
1493 surveying duties without criminal liability for trespass; however,
1494 a surveyor shall make a good faith attempt to announce and
1495 identify himself and his intentions before entering upon private
1496 property and must present documentation sufficient to identify him
1497 as a surveyor to anyone requesting such identification.

1498 (3) The provisions of this section do not relieve a surveyor
1499 from any civil liability that otherwise is actionable at law or in
1500 equity, and do not relieve a surveyor from criminal liability for
1501 trespass if the entry in or upon the property extends beyond the
1502 property or area that is necessary to actually perform the
1503 surveying duties.

1504 (4) Surveyors shall be personally liable for any damage
1505 caused to private property when exercising entry under this
1506 section. No cause of action shall lie against a landowner for
1507 damages to a surveyor while on such lands unless the damage is
1508 caused by the intentional tortious conduct of landowner or his
1509 agent.

1510 **SECTION 39.** Section 73-13-105, Mississippi Code of 1972, is
1511 amended as follows:

1512 73-13-105. As of January 1, 2005, no corporation, firm or
1513 partnership may engage in the practice of professional surveying
1514 in this state unless it has been issued a certificate of authority
1515 by the board. In order to qualify for a certificate of authority,
1516 a corporation, firm or partnership must have at least one (1)
1517 Mississippi-licensed professional surveyor as a principal officer

1518 or partner of the firm who has management responsibility for such
1519 practice.

1520 The board shall have the authority to promulgate rules and
1521 regulations setting procedures, standards and other requirements
1522 for issuing and maintaining a certificate of authority for
1523 corporations, firms or partnerships practicing surveying in the
1524 State of Mississippi.

1525 Applications for a certificate of authority shall be on the
1526 forms prescribed and furnished by the board, and provide all the
1527 information required by said board. The board shall establish a
1528 fee for the certificate of authority application, not to exceed
1529 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
1530 partnership having the necessary qualifications as prescribed
1531 herein and the rules and regulations of the board shall be issued
1532 a certificate of authority for said corporation, firm or
1533 partnership to practice surveying and to contract and collect fees
1534 for furnishing this service.

1535 Each certificate of authorization will expire on December 31
1536 of each year. It shall be the duty of the board to notify every
1537 corporation, firm or partnership holding a certificate of
1538 authority under this act of the date of the expiration of the
1539 certificate and the amount of the fee that shall be required for
1540 its renewal for one (1) year. The renewal fee shall not exceed
1541 One Hundred Fifty Dollars (\$150.00); penalties for late renewal
1542 shall be ten percent (10%) per month that payment is delayed.
1543 Additionally, if any of the information on the initial or any
1544 subsequent renewal application changes for the corporation, firm
1545 or partnership, said corporation, firm or partnership shall notify
1546 the board in the form and manner prescribed by the board within
1547 thirty (30) days of the change.

1548 Effective January 1, 2005, the Secretary of State shall not
1549 issue a certificate of incorporation, licensure or authorization
1550 to an applicant or licensure as a foreign firm to a corporation,

1551 firm or partnership which includes in its name, or among the
1552 objectives for which it is established, any of the words,
1553 "surveyor," "surveying" or any modification or derivation thereof,
1554 unless the board has issued for said applicant a certificate of
1555 authority or a letter indicating the eligibility of such applicant
1556 to receive such a certificate. The corporation, firm or
1557 partnership applying shall supply such certificate or letter from
1558 the board with its application for incorporation, licensure or
1559 authorization to the Secretary of State.

1560 A surveyor who renders occasional, part-time or consulting
1561 surveying services to or for a corporation, firm or partnership
1562 may not, for the purposes of this section, be designated as being
1563 responsible for the professional activities of the firm.

1564 No such corporation, firm or partnership shall be relieved of
1565 responsibility for the conduct or acts of its agents, employees,
1566 officers, partners, members or managers by reason of its
1567 compliance with the provisions of this section. No individual
1568 practicing surveying under this chapter shall be relieved of
1569 responsibility for surveying services performed by reason of
1570 employment or other relationship with a firm holding an
1571 authorization certificate.

1572 **SECTION 40.** The following shall be codified as Section
1573 73-13-106, Mississippi Code of 1972:

1574 73-13-106. (1) The State Board of Licensure for
1575 Professional Engineers and Professional Land Surveyors created by
1576 former Section 73-13-5 is hereby continued and reconstituted as
1577 follows:

1578 The board shall consist of six (6) licensed professional
1579 engineers, who shall be appointed by the Governor from eighteen
1580 (18) nominees recommended by the Mississippi Engineering Society,
1581 and shall have the qualifications required by Section 73-13-7, and
1582 three (3) licensed professional surveyors who are not licensed
1583 professional engineers, who shall be appointed by the Governor

1584 from nine (9) nominees recommended by the Mississippi Association
1585 of Professional Surveyors and who shall have the qualifications
1586 required by Section 73-13-77. The members of the board shall be
1587 appointed from the above nominees.

1588 (2) The board so appointed shall have one (1) engineer
1589 member and one (1) surveyor member from each of the three (3)
1590 state Supreme Court districts, and three (3) engineer members
1591 appointed from the state at large. The members shall serve four
1592 (4) years or until their successors are duly appointed and
1593 qualified. Each member of the board shall receive a certificate
1594 of appointment from the Governor, and before beginning his term of
1595 office he shall file with the Secretary of State the
1596 constitutional oath of office. On the expiration of the term of
1597 any member, the Governor shall in the manner hereinbefore provided
1598 appoint for a term of four (4) years a licensed professional
1599 engineer having the qualifications required by Section 73-13-7, or
1600 a licensed professional surveyor having the qualifications
1601 required by Section 73-13-77 to take the place of the member of
1602 the board whose term is about to expire. Each member shall hold
1603 office until the expiration of the term for which such member is
1604 appointed or until a successor shall have been duly appointed and
1605 shall have qualified.

1606 The initial members of the reconstituted board shall serve
1607 terms of office as follows:

1608 (a) The term of the engineer member presently serving
1609 at large, which term was set to expire on April 8, 2004, shall
1610 expire on July 1, 2004; and from and after July 1, 2004, this
1611 appointment shall be designated as Post 1.

1612 (b) The term of the engineer member presently serving
1613 at large, which term was set to expire on April 8, 2004, shall
1614 expire on July 1, 2005; and from and after July 1, 2004, this
1615 appointment shall be designated as Post 2.

1616 (c) An appointment of an engineer member serving at
1617 large, shall be made on July 1, 2004, and shall expire on July 1,
1618 2006; and from and after July 1, 2004, this appointment shall be
1619 designated as Post 3.

1620 (d) The term of the engineer member presently serving
1621 from the First Supreme Court District, which term was set to
1622 expire on April 8, 2006, shall expire on July 1, 2007; and from
1623 and after July 1, 2004, this appointment shall be designated as
1624 Post 4.

1625 (e) The term of the engineer member presently serving
1626 from the Second Supreme Court District, which term was set to
1627 expire on April 8, 2006, shall expire on July 1, 2008; and from
1628 and after July 1, 2004, this appointment shall be designated as
1629 Post 5.

1630 (f) The term of the engineer member presently serving
1631 from the Third Supreme Court District, which term was set to
1632 expire on April 8, 2006, shall expire on July 1, 2009; and from
1633 and after July 1, 2004, this appointment shall be designated as
1634 Post 6.

1635 (g) The term of the surveyor member presently serving
1636 at large, which term was set to expire on April 8, 2007, shall
1637 expire on July 1, 2004; subsequent appointments shall be made from
1638 the First Supreme Court District; from and after July 1, 2004,
1639 this appointment shall be designated as Post 7.

1640 (h) An appointment of a surveyor member shall be made
1641 from the Second Supreme Court District; the appointment shall be
1642 made on July 1, 2004, and shall expire on July 1, 2005; from and
1643 after July 1, 2004, this appointment shall be designated as Post
1644 8.

1645 (i) The term of the surveyor member presently serving
1646 at large, which term was set to expire on April 8, 2006, shall
1647 expire on July 1, 2006; subsequent appointments shall be made from

1648 the Third Supreme Court District; from and after July 1, 2004,
1649 this appointment shall be designated as Post 9.

1650 (3) At the expiration of a term, members of the board shall
1651 be appointed in the manner prescribed in subsection (1) of this
1652 section for terms of four (4) years from the expiration date of
1653 the previous terms. Any vacancy on the board prior to the
1654 expiration of a term for any reason, including resignation,
1655 removal, disqualification, death or disability, shall be filled by
1656 appointment of the Governor in the manner prescribed in subsection
1657 (1) of this section for the balance of the unexpired term. The
1658 Mississippi Engineering Society and/or the Mississippi Association
1659 of Professional Surveyors shall submit a list of nominees no more
1660 than ninety (90) days after a vacancy occurs, and the Governor
1661 shall fill such vacancies within ninety (90) days after each such
1662 vacancy occurs.

1663 **SECTION 41.** This act shall take effect and be in force from
1664 and after July 1, 2004.