

By: Representative Stevens

To: Judiciary A

HOUSE BILL NO. 312

1 AN ACT TO REENACT SECTIONS 73-2-1 THROUGH 73-2-23,  
 2 MISSISSIPPI CODE OF 1972, WHICH ARE THE LANDSCAPE ARCHITECTURAL  
 3 PRACTICE LAWS; TO AMEND SECTION 17, CHAPTER 371, LAWS OF 1999, AS  
 4 AMENDED BY SECTION 15, CHAPTER 406, LAWS OF 2001, WHICH PROVIDES  
 5 FOR THE REPEAL OF THE LANDSCAPE ARCHITECTURAL PRACTICE LAW; TO  
 6 CREATE A NEW SECTION 73-2-27, MISSISSIPPI CODE OF 1972, TO PROVIDE  
 7 FOR A REPEALER ON THE LANDSCAPE ARCHITECTURAL PRACTICE LAWS; AND  
 8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 73-2-1, Mississippi Code of 1972, is  
 11 reenacted as follows:

12 73-2-1. This chapter shall be known and may be cited as the  
 13 "Landscape Architectural Practice Law."

14 **SECTION 2.** Section 73-2-3, Mississippi Code of 1972, is  
 15 reenacted as follows:

16 73-2-3. As used in this chapter:

17 (a) "Landscape architect" means a person who is  
 18 licensed to practice landscape architecture in this state under  
 19 the authority of this chapter and is engaging in the practice of  
 20 landscape architecture within the meaning and intent of this  
 21 chapter when he performs or holds himself out as capable of  
 22 performing any of the services or creative works within the  
 23 definition of landscape architecture.

24 (b) "Landscape architecture" means any service or  
 25 creative work, the adequate performance of which requires  
 26 landscape architectural education, training and experience; the  
 27 performance of professional services such as consultation,  
 28 investigation, research, associated planning, design, preparation  
 29 of drawings, specifications and contract documents, and  
 30 responsible supervision or construction management in connection

31 with the development of land areas where, and to the extent that,  
32 dominant purpose of such services is the preservation, enhancement  
33 or determination of proper land uses, natural land features,  
34 ground cover and plantings, naturalistic and aesthetic values; the  
35 determination of settings, grounds and approaches for buildings  
36 and structures or other improvements; the determination of  
37 environmental problems of land relating to erosion, flooding,  
38 blight and other hazards; the shaping and contouring of land and  
39 water forms; the setting of grades, determination of drainage and  
40 providing for storm drainage systems where such systems do not  
41 require structural design of system components, and determination  
42 of landscape irrigation; the design of such tangible objects and  
43 features as are necessary to the purpose outlined herein, but  
44 shall not include the design of buildings or structures with  
45 separate and self-contained purposes such as are ordinarily  
46 included in the practice of architecture or engineering.

47 (c) "Board" means the Mississippi State Board of  
48 Architecture as established by Section 73-1-3 et seq.

49 (d) "License" means a certificate granted by the  
50 Mississippi State Board of Architecture authorizing its holder to  
51 practice landscape architecture.

52 (e) "Mississippi chapter" means the Mississippi Chapter  
53 of the American Society of Landscape Architects.

54 **SECTION 3.** Section 73-2-5, Mississippi Code of 1972, is  
55 reenacted as follows:

56 73-2-5. No person shall practice landscape architecture in  
57 this state or use the title "landscape architect" on any sign,  
58 title, card or device to indicate that such person is practicing  
59 landscape architecture or is a landscape architect, unless such  
60 person shall have secured from the board a license as landscape  
61 architect in the manner hereinafter provided, and shall thereafter  
62 comply with the provisions of this chapter. Every holder of a

63 current license shall display it in a conspicuous place in his  
64 principal office or place of employment.

65 **SECTION 4.** Section 73-2-7, Mississippi Code of 1972, is  
66 reenacted as follows:

67 73-2-7. In order to qualify for a license as a landscape  
68 architect, an applicant must:

69 (a) Submit evidence of his good moral character and  
70 integrity to the examining board.

71 (b) Have received a degree in landscape architecture  
72 from a college or university having a minimum four-year curriculum  
73 in landscape architecture approved by the board or have completed  
74 seven (7) years of work in the practice of landscape architecture  
75 of a grade and character suitable to the board. Graduation in a  
76 curriculum other than landscape architecture from a college or  
77 university shall be equivalent to two (2) years' experience of the  
78 seven (7) specified above in this section, except that no  
79 applicant shall receive credit for more than two (2) years'  
80 experience for any scholastic training.

81 (c) Pass such written examination as required in  
82 Section 73-2-9.

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

86 **SECTION 5.** Section 73-2-9, Mississippi Code of 1972, is  
87 reenacted as follows:

88 73-2-9. Examinations for the license shall be held by the  
89 board annually. The board shall adopt rules and regulations  
90 covering the subjects and scope of the examinations, publish  
91 appropriate announcements, and conduct the examinations at the  
92 times designated. Except as otherwise provided in this chapter,  
93 every applicant shall be required, in addition to all other  
94 requirements, to take and pass a written examination. Each

95 written examination may be supplemented by such oral examinations  
96 as the board shall determine.

97       **SECTION 6.** Section 73-2-11, Mississippi Code of 1972, is  
98 reenacted as follows:

99       73-2-11. The board may exempt from examination any applicant  
100 who holds a license or certificate to practice landscape  
101 architecture issued to him upon examination by a legally  
102 constituted board of examiners of any other state or Washington,  
103 D.C., or any other territory or possession under the control of  
104 the United States, provided that such requirements of the state in  
105 which the applicant is registered are equivalent to those of this  
106 state.

107       Each nonresident applicant shall submit, as part of the  
108 application, a sworn affidavit stating that neither such applicant  
109 nor any person in or agent of the applicant's firm has practiced  
110 or is practicing landscape architectural work in this state prior  
111 to the applicant having been licensed by the board unless such  
112 person or agent holds a license to practice landscape architecture  
113 in this state. Failure to submit this affidavit or submitting an  
114 affidavit which is false in any respect shall constitute just  
115 cause for denial of the application.

116       An applicant who is a licensed landscape architect but who  
117 was admitted in a jurisdiction which did not offer a written  
118 examination acceptable to the board or was admitted without the  
119 requirement of passing a written examination may be issued a  
120 license to practice landscape architecture in this state upon the  
121 taking and passing of any examination or procedure as may be  
122 adopted by the board, provided that such applicant meets all other  
123 requirements for issuance of a license to practice landscape  
124 architecture in this state.

125       **SECTION 7.** Section 73-2-13, Mississippi Code of 1972, is  
126 reenacted as follows:

127           73-2-13. There shall be an advisory committee to the board  
128 to consist of five (5) members appointed by the Governor from a  
129 list of names supplied by Mississippi Chapter of the American  
130 Society of Landscape Architects, giving the names of no fewer than  
131 three (3) times the number of persons to be appointed. Each  
132 member of the initially appointed committee shall be qualified as  
133 described by Section 73-2-7. Appointments shall be licensed  
134 landscape architects only and shall be for five-year terms. Each  
135 member shall hold office until the appointment and qualification  
136 of his successor. Vacancies occurring prior to the expiration of  
137 the term shall be filled by appointment in like manner for the  
138 unexpired term.

139           The committee shall review, approve or disapprove, and make  
140 recommendations on all applications for landscape architect's  
141 license. At the direction of the board, the committee shall also  
142 review and investigate any charges brought against any landscape  
143 architect as provided for in Section 73-2-16 and make findings of  
144 fact and recommendations to the board concerning any disciplinary  
145 action which the committee deems necessary and proper pursuant to  
146 Section 73-2-16.

147           Each member of the committee shall be entitled to receive a  
148 per diem in such amounts as shall be set by the board, but not to  
149 exceed the amount provided for in Section 25-3-69, and shall be  
150 reimbursed for expenses that are incurred in the actual  
151 performance of his duties under the provisions of Section 25-3-41.

152           Before entering upon the discharge of his duties, each member  
153 of the committee shall take and subscribe to the oath of office  
154 and file it with the Secretary of State. The committee shall  
155 elect at the first meeting of every calendar year from among its  
156 members, a chairman and a secretary to hold office for one (1)  
157 year.

158           **SECTION 8.** Section 73-2-15, Mississippi Code of 1972, is  
159 reenacted as follows:

160           73-2-15. The board shall require that every landscape  
161 architect shall pay a biennial license renewal fee set by the  
162 board not in excess of Two Hundred Dollars (\$200.00). The renewal  
163 fee shall be due and payable on the first day of January of each  
164 year in which the fee is required to be paid and shall become  
165 delinquent after the thirty-first day of January of such year, and  
166 if the renewal fee is not paid before it becomes delinquent, a  
167 penalty fee of Five Dollars (\$5.00) shall be added to the amount  
168 thereof per month. If the renewal fee and penalty are not paid  
169 before the first day of June in the year in which they become due,  
170 the landscape architect's certificate shall be suspended. The  
171 certificate may be reinstated upon the payment of the renewal fee,  
172 the penalty fees and a reinstatement fee of Fifty Dollars  
173 (\$50.00), and provision of such proof of the landscape architect's  
174 qualifications as may be required in the sound discretion of the  
175 board.

176           The board shall send a receipt to each landscape architect  
177 promptly upon payment of the renewal fee.

178           The board may recognize, prepare or administer continuing  
179 education programs for landscape architects as a basis for license  
180 renewal.

181           The board shall adopt an appropriate seal for use by licensed  
182 landscape architects.

183           **SECTION 9.** Section 73-2-16, Mississippi Code of 1972, is  
184 reenacted as follows:

185           73-2-16. (1) The board shall also have the power to revoke,  
186 suspend or annul the certificate or registration of a landscape  
187 architect or reprimand, censure or otherwise discipline a  
188 landscape architect.

189           (2) The board, upon satisfactory proof and in accordance  
190 with the provisions of this chapter, may take the disciplinary  
191 actions against any registered landscape architect for any of the  
192 following reasons:

193           (a) Violating any of the provisions of Sections 73-2-1  
194 through 73-2-21 or the implementing bylaws, rules, regulations or  
195 standards of ethics or conduct duly adopted and promulgated by the  
196 board pertaining to the practice of landscape architecture;

197           (b) Fraud, deceit or misrepresentation in obtaining a  
198 certificate of registration;

199           (c) Gross negligence, malpractice, incompetency or  
200 misconduct in the practice of landscape architecture;

201           (d) Any professional misconduct, as defined by the  
202 board through bylaws, rules and regulations and standards of  
203 conduct and ethics (professional misconduct shall not be defined  
204 to include bidding on contracts for a price);

205           (e) Practicing or offering to practice landscape  
206 architecture on an expired license or while under suspension or  
207 revocation of a license unless said suspension or revocation be  
208 abated through probation;

209           (f) Practicing landscape architecture under an assumed  
210 or fictitious name;

211           (g) Being convicted by any court of a felony, except  
212 conviction of culpable negligent manslaughter, in which case the  
213 record of conviction shall be conclusive evidence;

214           (h) Willfully misleading or defrauding any person  
215 employing him as a landscape architect by any artifice or false  
216 statement;

217           (i) Having undisclosed financial or personal interest  
218 which compromises his obligation to his client;

219           (j) Obtaining a certificate by fraud or deceit; or

220           (k) Violating any of the provisions of this chapter.

221           (3) Any person may prefer charges against any other person  
222 for committing any of the acts set forth in subsection (2). Such  
223 charges need not be sworn to, may be made upon actual knowledge,  
224 or upon information and belief, and shall be filed with the board.  
225 In the event any person licensed under Sections 73-2-1 through

226 73-2-21 is expelled from membership in any Mississippi or national  
227 professional landscape architectural society or association, the  
228 board shall thereafter cite said person to appear at a hearing  
229 before the board and to show cause why disciplinary action should  
230 not be taken against that person.

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

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

244 (4) At any hearing held under the provisions of this  
245 section, the board shall have the power to subpoena witnesses and  
246 compel their attendance and require the production of any books,  
247 papers or documents. The hearing shall be conducted before the  
248 full board with the president of the board serving as the  
249 presiding judge. Counsel for the board shall present all evidence  
250 relating to the charges. All evidence shall be presented under  
251 oath, which may be administered by any member of the board, and  
252 thereafter the proceedings may, if necessary, be transcribed in  
253 full by the court reporter and filed as part of the record in the  
254 case. Copies of such transcription may be provided to any party  
255 to the proceedings at a cost to be fixed by the board.

256 All witnesses who shall be subpoenaed and who shall appear in  
257 any proceedings before the board shall receive the same fees and



258 mileage as allowed by law in judicial civil proceedings, and all  
259 such fees shall be taxed as part of the costs of the case.

260 Where in any proceedings before the board any witness shall  
261 fail or refuse to attend upon subpoena issued by the board, shall  
262 refuse to testify or shall refuse to produce any books and papers,  
263 the production of which is called for by the subpoena, the  
264 attendance of such witness and the giving of his testimony and the  
265 production of the books and papers shall be enforced by any court  
266 of competent jurisdiction of this state in the manner provided for  
267 the enforcement of attendance and testimony of witnesses in civil  
268 cases in the courts of this state.

269 The accused shall have the right to be present at the hearing  
270 in person, by counsel or other representative, or both. The  
271 accused shall have the right to present evidence and to examine  
272 and cross-examine all witnesses. The board is authorized to  
273 continue or recess the hearing as may be necessary.

274 (5) At the conclusion of the hearing, the board may either  
275 decide the issue at that time or take the case under advisement  
276 for further deliberation. The board shall render its decision not  
277 more than forty-five (45) days after the close of the hearing, and  
278 shall forward to the last known business or residence address of  
279 the accused by certified or registered mail, return receipt  
280 requested, a written statement of the decision of the board.

281 If a majority of the board finds the accused guilty of the  
282 charges filed, the board may: (a) issue a public or private  
283 reprimand; (b) suspend or revoke the license of the accused, if  
284 the accused is a registrant; or (c) in lieu of or in addition to  
285 such reprimand, suspension or revocation, assess and levy upon the  
286 guilty party a monetary penalty of not less than One Hundred  
287 Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)  
288 for each violation.

289 (6) A monetary penalty assessed and levied under this  
290 section shall be paid to the board upon the expiration of the

291 period allowed for appeal of such penalties under this section, or  
292 may be paid sooner if the guilty party elects. Money collected by  
293 the board under this section shall be deposited to the credit of  
294 the board's general operating fund.

295 When payment of a monetary penalty assessed and levied by the  
296 board in accordance with this section is not paid when due, the  
297 board shall have the power to institute and maintain proceedings  
298 in its name for enforcement of payment in the chancery court of  
299 the county and judicial district of the residence of the guilty  
300 party and if the guilty party be a nonresident of the State of  
301 Mississippi, such proceedings shall be in the Chancery Court of  
302 the First Judicial District of Hinds County, Mississippi.

303 (7) When the board has taken a disciplinary action under  
304 this section, the board may, in its discretion, stay such action  
305 and place the guilty party on probation for a period not to exceed  
306 one (1) year upon the condition that the guilty party shall not  
307 further violate either the law of the State of Mississippi  
308 pertaining to the practice of landscape architecture or the  
309 bylaws, rules and regulations, or standards of conduct and ethics  
310 promulgated by the board.

311 (8) The board, in its discretion, may assess and tax any  
312 part or all of the costs of any disciplinary proceedings conducted  
313 under this section against the accused, if the accused is found  
314 guilty of the charges.

315 (9) The power and authority of the board to assess and levy  
316 the monetary penalties provided for in this section shall not be  
317 affected or diminished by any other proceeding, civil or criminal,  
318 concerning the same violation or violations except as provided in  
319 this section.

320 (10) The board, for sufficient cause, may reissue a revoked  
321 license of registration whenever a majority of the board members  
322 vote to do so but in no event shall a revoked license be issued  
323 within two (2) years of the revocation. A new license of

324 registration required to replace a revoked, lost, mutilated or  
325 destroyed license may be issued, subject to the rules of the  
326 board, for a charge not to exceed Twenty-five Dollars (\$25.00).

327 (11) The board may direct the advisory committee to review  
328 and investigate any charges brought against any landscape  
329 architect under this chapter and to hold the hearings provided for  
330 in this section and to make findings of fact and recommendations  
331 to the board concerning the disposition of such charges.

332 (12) Nothing herein contained shall preclude the board or  
333 advisory committee from initiating proceedings in any case. The  
334 advisory committee shall furnish legal advice and assistance to  
335 the board whenever such service is requested.

336 (13) In addition to the reasons specified in subsection (2)  
337 of this section, the board shall be authorized to suspend the  
338 license of any licensee for being out of compliance with an order  
339 for support, as defined in Section 93-11-153. The procedure for  
340 suspension of a license for being out of compliance with an order  
341 for support, and the procedure for the reissuance or reinstatement  
342 of a license suspended for that purpose, and the payment of any  
343 fees for the reissuance or reinstatement of a license suspended  
344 for that purpose, shall be governed by Section 93-11-157 or  
345 93-11-163, as the case may be. If there is any conflict between  
346 any provision of Section 93-11-157 or 93-11-163 and any provision  
347 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
348 as the case may be, shall control.

349 **SECTION 10.** Section 73-2-17, Mississippi Code of 1972, is  
350 reenacted as follows:

351 73-2-17. Each applicant for examination as a landscape  
352 architect shall pay to the board for the purposes of procuring,  
353 administering and grading the examination, an administration fee  
354 not to exceed One Hundred Dollars (\$100.00) together with an  
355 application fee in such amount as the board may set, but in no  
356 event to exceed the actual cost to the board of purchasing,

357 preparing and evaluating the examination. Upon passing the  
358 examination and meeting the requirements of this chapter and upon  
359 paying an initial registration fee in an amount set by the board,  
360 an applicant shall be issued an original certificate as a licensed  
361 landscape architect and a rubber stamp bearing the seal adopted by  
362 the board for use by landscape architects. Each holder of a  
363 certificate as provided herein shall be entitled to practice as a  
364 licensed landscape architect without additional fee or charge  
365 until the next biennial renewal period, and thereafter upon  
366 payment of the biennial license fee as provided by Section  
367 73-2-15.

368 A fee of Twenty-five Dollars (\$25.00) shall be charged for  
369 each duplicate certificate issued by the board.

370 All checks or money orders submitted to the board shall be  
371 made payable to the board.

372 **SECTION 11.** Section 73-2-19, Mississippi Code of 1972, is  
373 reenacted as follows:

374 73-2-19. This chapter shall not require licensing in the  
375 following cases:

376 (a) The practice of landscape architecture by any  
377 person who acts under the supervision of a registered landscape  
378 architect or by an employee of a person lawfully engaged in the  
379 practice of landscape architecture and who, in either event, does  
380 not assume responsible charge of design or supervision.

381 (b) The practice of landscape architecture by employees  
382 of the United States government while engaged within this state in  
383 the practice of landscape architecture for said government.

384 (c) The practice of planning as customarily done by  
385 regional and urban planners.

386 (d) The practice of arborists, foresters, gardeners,  
387 home builders, floriculturists and ornamental horticulturists  
388 performing their respective trades or professions.

389 (e) The practice of any nurseryman or landscape  
390 contractor to practice planting design, planting, and location and  
391 arrangement of plant materials.

392 (f) The practice of architecture or engineering as  
393 defined by the laws of the State of Mississippi including, but not  
394 limited to, such planting as might be incidental to such practice.

395 (g) The work or practice of a regular employee of a  
396 public service company or public utility, by rendering to such  
397 company landscape architectural service in connection with its  
398 facilities which are subject to regulation, supervision and  
399 control in order to safeguard life, health and property by the  
400 Public Service Commission of this state shall be exempt so long as  
401 such person is thus actually and exclusively employed.

402 (h) Any person, firm or corporation performing  
403 landscape architecture and working on his own land or property.

404 (i) Golf course architects engaged in the preparation of  
405 drawings and specifications for a golf course, in accordance with  
406 accepted professional standards of public health and safety.

407 **SECTION 12.** Section 73-2-21, Mississippi Code of 1972, is  
408 reenacted as follows:

409 73-2-21. It shall be a misdemeanor for any person to:

410 (a) Offer to practice or hold himself out as entitled  
411 to practice landscape architecture, unless duly certified and  
412 registered under this chapter.

413 (b) Present as his own the certificate of another.

414 (c) Give false or forged evidence to the board or any  
415 member thereof in obtaining a certificate.

416 (d) Falsely impersonate any other practitioner of like  
417 or different name.

418 (e) Use or attempt to use a certificate that has been  
419 revoked.

420 (f) Otherwise violate any of the provisions of this  
421 chapter.

422           Such misdemeanor shall be punishable by a fine of not less  
423 than Five Hundred Dollars (\$500.00) and not more than One Thousand  
424 Dollars (\$1,000.00), or imprisonment for not more than one (1)  
425 year in the county jail, or both.

426           If any person, firm or corporation violates any of the  
427 provisions of this chapter, the secretary of the board shall, upon  
428 direction of a majority of the board, in the name of the State of  
429 Mississippi, acting through an attorney employed by the board,  
430 apply in any chancery court of competent jurisdiction for an  
431 injunction or temporary restraining order pursuant to the  
432 Mississippi Rules of Civil Procedure enjoining such violation or  
433 for an order enforcing compliance with the provisions of this  
434 chapter. If at such hearing it is established that such person  
435 has violated or is violating this chapter, the court may, in  
436 addition to enjoining such violation or enforcing compliance with  
437 this chapter, award all cost and expenses, including reasonable  
438 attorney's fees, to the board. In case of violation of any decree  
439 issued in compliance with this paragraph, the court may try and  
440 punish the offender for contempt of court and shall fine such  
441 offender a sum of not less than Two Hundred Fifty Dollars  
442 (\$250.00) per offense. Each day of such violation shall  
443 constitute a distinct and separate offense.

444           **SECTION 13.** Section 73-2-23, Mississippi Code of 1972, is  
445 reenacted as follows:

446           73-2-23. All courts of competent jurisdiction within their  
447 respective territorial jurisdiction are hereby empowered to hear,  
448 try and determine such crimes without indictment and to impose in  
449 full the punishments of fines and imprisonments herein prescribed.  
450 All violations of this chapter, when reported to the board and  
451 duly substantiated by affidavits or other satisfactory evidence,  
452 shall be investigated by it, and if the report is found to be true  
453 and the evidence substantiated, the board shall report such  
454 violations to the Attorney General and request prompt prosecution.

455           **SECTION 14.** Section 17, Chapter 371, Laws of 1999, as  
456 amended by Section 15, Chapter 406, Laws of 2001, is amended as  
457 follows:

458           Section 17. This act shall take effect and be in force from  
459 and after July 1, 1999.

460           **SECTION 15.** The following shall be codified as Section  
461 73-2-27, Mississippi Code of 1972:

462           73-2-27. Sections 73-2-1 through 73-2-23 shall stand  
463 repealed on July 1, 2015.

464           **SECTION 16.** This act shall take effect and be in force from  
465 and after July 1, 2005.