

By: Representative Holland

To: Conservation and Water Resources; Public Health and Human Services

HOUSE BILL NO. 554

1 AN ACT TO BRING FORWARD SECTIONS 41-67-1 THROUGH 41-67-29,  
2 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI INDIVIDUAL  
3 ON-SITE WASTEWATER SYSTEM LAW; TO REPEAL SECTION 41-67-31,  
4 MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC REPEALER ON THE  
5 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER SYSTEM LAW; AND FOR  
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-67-1, Mississippi Code of 1972, is  
9 brought forward as follows:

10 41-67-1. This chapter shall be known and may be cited as the  
11 "Mississippi Individual On-Site Wastewater Disposal System Law."

12 **SECTION 2.** Section 41-67-2, Mississippi Code of 1972, is  
13 brought forward as follows:

14 41-67-2. For purposes of this chapter, the following words  
15 shall have the meanings ascribed herein unless the context clearly  
16 indicates otherwise:

17 (a) "Board" means the Mississippi State Board of  
18 Health.

19 (b) "Department" means the Mississippi State Department  
20 of Health.

21 (c) "Generator" means any person whose act or process  
22 produces sewage or other material suitable for disposal in an  
23 individual on-site wastewater disposal system.

24 (d) "Individual on-site wastewater disposal system"  
25 means a sewage treatment and effluent disposal system that does  
26 not discharge into waters of the state, that serves only one (1)  
27 legal tract, that accepts only human sanitary waste and similar  
28 waste streams maintained on the property of the generator, and

29 that is designed and installed in accordance with this law and  
30 regulations of the board.

31 (e) "Person" means any individual, trust, firm,  
32 joint-stock company, public or private corporation (including a  
33 government corporation), partnership, association, state, or any  
34 agency or institution thereof, municipality, commission, political  
35 subdivision of a state or any interstate body, and includes any  
36 officer or governing or managing body of any municipality,  
37 political subdivision, or the United States or any officer or  
38 employee thereof.

39 (f) "Professional engineer" means any person who has  
40 met the qualifications required under Section 73-13-23(1) and who  
41 has been issued a certificate of registration as a professional  
42 engineer.

43 (g) "Property of the generator" means land owned by or  
44 under permanent legal easement or lease to the generator.

45 (h) "Subdivision" means any land that is divided into  
46 ten (10) or more lots, tracts, sites or parcels for the purpose of  
47 residential development.

48 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is  
49 brought forward as follows:

50 41-67-3. (1) The State Board of Health shall have the  
51 following duties and responsibilities:

52 (a) To exercise general supervision over the design,  
53 construction, operation and maintenance of individual on-site  
54 wastewater disposal systems;

55 (b) To adopt, modify, repeal and promulgate rules and  
56 regulations, after due notice and hearing, and where not otherwise  
57 prohibited by federal or state law, to make exceptions to, to  
58 grant exemptions from and to enforce rules and regulations  
59 implementing or effectuating the duties of the board under this  
60 chapter to protect the public health. The board may grant  
61 variances from rules and regulations adopted under this chapter,

62 including requirements for buffer zones, or from setbacks required  
63 under Section 41-67-7 where the granting of a variance shall not  
64 subject the public to unreasonable health risks or jeopardize  
65 environmental resources;

66 (c) To provide or deny certification for persons  
67 engaging in the business of the design, construction or  
68 installation of individual on-site wastewater disposal systems and  
69 persons engaging in the removal and disposal of the sludge and  
70 liquid waste from those systems;

71 (d) To suspend or revoke certifications issued to  
72 persons engaging in the business of the design, construction or  
73 installation of individual on-site wastewater disposal systems or  
74 persons engaging in the removal and disposal of the sludge and  
75 liquid waste from those systems, when it is determined the person  
76 has violated this chapter or applicable rules and regulations; and

77 (e) To require the submission of information deemed  
78 necessary by the department to determine the suitability of  
79 individual lots for individual on-site wastewater disposal  
80 systems.

81 (2) Nothing in this chapter shall preclude a professional  
82 engineer from providing services relating to the design,  
83 construction or installation of an individual on-site wastewater  
84 disposal system to comply with this chapter. Except as otherwise  
85 required by subsection (4) of this section, a professional  
86 engineer shall notify the department in writing of those services  
87 being provided. If a professional engineer designs, constructs or  
88 installs or directly supervises the construction or installation  
89 of a design-based individual on-site wastewater disposal system  
90 consistent with this chapter and stamps the appropriate  
91 documentation with that professional engineer's seal, the  
92 department shall approve the design, construction or installation  
93 of the system, if requested. Professional engineers engaging in  
94 the design, construction or installation of individual on-site

95 wastewater disposal systems shall not require certification under  
96 this chapter.

97 (3) To assure the effective and efficient administration of  
98 this chapter, the board shall adopt rules governing the design,  
99 construction or installation, operation and maintenance of  
100 individual on-site wastewater disposal systems, including rules  
101 concerning the:

102 (a) Review and approval of individual on-site  
103 wastewater disposal systems in accordance with Section 41-67-6;

104 (b) Certification of installers of individual on-site  
105 wastewater disposal systems and persons engaging in the removal  
106 and disposal of the sludge and liquid waste from those systems;  
107 and

108 (c) Registration and requirements for testing and  
109 listing of manufacturers of aerobic treatment systems.

110 (4) In addition, the board shall adopt rules establishing  
111 performance standards for individual on-site wastewater disposal  
112 systems for single family residential generators and rules  
113 concerning the operation and maintenance of individual on-site  
114 wastewater disposal systems designed to meet those standards. The  
115 performance standards shall be consistent with the federal Clean  
116 Water Act, maintaining the wastes on the property of the generator  
117 and protection of the public health. Rules for the operation and  
118 maintenance of individual on-site wastewater disposal systems  
119 designed to meet performance standards shall include rules  
120 concerning the following:

121 (a) A standard application form and requirements for  
122 supporting documentation;

123 (b) Application review;

124 (c) Approval or denial of authorization for proposed  
125 systems;

126 (d) Requirements, as deemed appropriate by the board,  
127 for annual renewal of authorization;

128 (e) Enforcement of the requirements and conditions of  
129 authorization; and

130 (f) Inspection, monitoring, sampling and reporting on  
131 the performance of the system.

132 Any system proposed for authorization in accordance with  
133 performance standards must be designed and certified by a  
134 professional engineer and must be authorized by the board before  
135 installation. Appeals from a final decision of the board  
136 regarding the authorization of an individual on-site wastewater  
137 disposal system based upon performance standards shall be taken  
138 using a procedure substantially equivalent to the procedure  
139 specified for hospital licenses in Chapter 9 of Title 41.

140 (5) To the extent practicable, all rules and regulations  
141 adopted under this chapter shall give maximum flexibility to  
142 persons installing individual on-site wastewater disposal systems  
143 and a maximum number of options consistent with the federal Clean  
144 Water Act, consistent with maintaining the wastes on the property  
145 of the generator and consistent with protection of the public  
146 health. In addition, all rules and regulations, to the extent  
147 practicable, shall encourage the use of economically feasible  
148 systems, including alternative techniques and technologies for  
149 individual on-site wastewater disposal.

150 (6) All regulations shall be applied uniformly in all areas  
151 of the state and shall take into consideration and make provision  
152 for different types of soil in the state when performing soil and  
153 site evaluations.

154 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is  
155 brought forward as follows:

156 41-67-4. (1) The board shall determine the feasibility of  
157 establishing community sewerage systems upon the submission by the  
158 developer of a preliminary design and feasibility study prepared  
159 by a professional engineer. The developer may request and obtain  
160 a hearing before the board if the developer is dissatisfied with

161 the board's determination of feasibility. The determination that  
162 a sewerage system must be established shall be made without regard  
163 to whether the establishment of a sewerage system is authorized by  
164 law or is subject to approval by one or more state or local  
165 government or public bodies. Whenever a developer requests a  
166 determination of feasibility, the board must make the  
167 determination within forty-five (45) days after receipt of the  
168 preliminary design and feasibility study from the developer. The  
169 board shall state in writing the reasons for its determination.  
170 If the board does not make a determination within forty-five (45)  
171 days, all sites within the subdivision shall be approved, if a  
172 certified installer attests that each site can be adequately  
173 served by an individual on-site wastewater disposal system.

174 (2) Where residential subdivisions are proposed which are  
175 composed of fewer than thirty-five (35) building sites, and no  
176 system of sanitary sewers is available to which collection sewers  
177 may be feasibly connected, the board may waive the requirement for  
178 a feasibility study. If the feasibility study is waived, all  
179 sites within the subdivision shall be approved, if a certified  
180 installer attests that each site can be adequately served by an  
181 individual on-site wastewater disposal system.

182 (3) No feasibility study or community sewerage system shall  
183 be required for subdivisions designed, laid out, platted or  
184 partially constructed before July 1, 1988, or for any subdivision  
185 that was platted and recorded during the period from July 1, 1995,  
186 through June 30, 1996.

187 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is  
188 brought forward as follows:

189 41-67-5. (1) No owner, lessee or developer shall construct  
190 or place any mobile, modular or permanently constructed residence,  
191 building or facility, which may require the installation of an  
192 individual on-site wastewater disposal system, without having  
193 first submitted a notice of intent to the department. Upon

194 receipt of a notice of intent, the department shall provide the  
195 owner, lessee or developer with complete information on individual  
196 on-site wastewater disposal systems, including, but not limited  
197 to, applicable rules and regulations regarding the design,  
198 construction, installation, operation and maintenance of  
199 individual on-site wastewater disposal systems and known  
200 requirements of lending institutions for approval of the systems.

201 (2) No new permanent water service connection shall be  
202 provided to any mobile, modular or permanently constructed  
203 residence, building or facility unless the owner, lessee or  
204 developer shows proof of the submission of the notice of intent  
205 required by this section.

206 (3) The department shall furnish to the county tax assessor  
207 or collector, upon request, the name and address of the person  
208 submitting a notice of intent and the section, township and range  
209 of the lot or tract of land on which the individual on-site  
210 wastewater disposal system will be installed.

211 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is  
212 brought forward as follows:

213 41-67-6. (1) Within five (5) working days following receipt  
214 of the notice of intent and plot plan by an owner, lessee or  
215 developer of any lot or tract of land, the department shall  
216 conduct a soil and site evaluation, except in cases where a  
217 professional engineer provides services relating to the design,  
218 construction or installation of an individual on-site wastewater  
219 disposal system to comply with this chapter. Within ten (10)  
220 additional working days, the department shall make recommendations  
221 to the owner, lessee or developer of the type or types of  
222 individual on-site wastewater disposal systems suitable for  
223 installation on the lot or tract, unless there are conditions  
224 requiring further investigation that are revealed in the initial  
225 evaluation. In making recommendations on the type or types of  
226 individual on-site wastewater disposal systems suitable for

227 installation on a lot or tract, personnel of the department shall  
228 use best professional judgment based on rules and regulations  
229 adopted by the board, considering the type or types of systems  
230 which are installed and functioning on lots or tracts near the  
231 subject lot or tract. If existing systems in the surrounding area  
232 function properly, systems of that same type shall be approved.  
233 To the extent practicable, the recommendations shall give the  
234 owner, lessee or developer maximum flexibility and a maximum  
235 number of options consistent with the federal Clean Water Act,  
236 consistent with maintaining the wastes on the property of the  
237 generator and consistent with protection of the public health.  
238 The system or systems recommended shall be environmentally sound  
239 and cost-effective. The department or a professional engineer  
240 shall provide complete information, including all applicable  
241 requirements and regulations on all systems recommended. The  
242 owner, lessee or developer shall have the right to choose among  
243 systems. The department shall provide the owner, lessee or  
244 developer with a form that specifies all types of individual  
245 on-site wastewater disposal systems that are suitable for  
246 installation on the lot or tract and lists all installers of those  
247 systems that are certified by the department. Approval of the  
248 design, construction or installation of an individual on-site  
249 wastewater disposal system by the department is not required. If  
250 any property owner, lessee or the owner's or lessee's lending  
251 institution requests the department to approve the design,  
252 construction or installation of any system on the owner's or  
253 lessee's property, the department shall approve the design,  
254 construction or installation of that system, as requested, if the  
255 system is designed, constructed and installed, as the case may be,  
256 in accordance with the rules and regulations of the board. The  
257 department shall not approve any individual on-site wastewater  
258 disposal system that has a direct or point source discharge.  
259 Whenever a person requests approval of an individual on-site



260 wastewater disposal system, the department must approve or  
261 disapprove the request within fifteen (15) working days. If the  
262 department disapproves the request, the department shall state in  
263 writing the reasons for the disapproval. If the department does  
264 not respond to the request within fifteen (15) working days, the  
265 request for approval of the individual on-site wastewater disposal  
266 system shall be deemed approved.

267 (2) Evaluations and recommendations for a subdivision shall  
268 not be subject to the time constraints in this section.

269 (3) If the department has been requested to approve the  
270 design, construction or installation of an individual on-site  
271 wastewater disposal system, an installer may not begin the design,  
272 construction or installation of the individual on-site wastewater  
273 disposal system, unless the installer notifies the department of  
274 the date on which the installer plans to begin work on the system.

275 (4) A person may not design, construct or install, or cause  
276 to be designed, constructed or installed an individual on-site  
277 wastewater disposal system that does not comply with this chapter  
278 and rules and regulations of the board.

279 (5) Any person who installs an individual on-site wastewater  
280 disposal system shall sign and file with the department an  
281 affidavit that the system was installed in compliance with all  
282 requirements and regulations applicable to that type of system.  
283 If any person or contractor fails to comply with all requirements  
284 and regulations in the installation of the system, the board,  
285 after due notice and hearing, may levy an administrative fine not  
286 to exceed One Thousand Dollars (\$1,000.00).

287 (6) Any provisions of this chapter regarding the  
288 department's approval of the design, construction and installation  
289 of an individual on-site wastewater disposal system shall not  
290 apply to a residence, building or facility that is located on a  
291 land tract that is two (2) acres or larger.

292           **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is  
293 brought forward as follows:

294           41-67-7. Individual on-site wastewater disposal systems  
295 shall be considered acceptable on lots in areas or subdivisions  
296 where prior to the sale of the lots, the following requirements  
297 are met:

298           (1) Individual on-site wastewater disposal systems with  
299 underground absorption fields shall be considered acceptable,  
300 provided the following requirements are met:

301                   (a) Sewers are not available or feasible;

302                   (b) The existing disposal systems in the area are  
303 functioning satisfactorily;

304                   (c) Soil types, soil texture, seasonal water tables and  
305 other limiting factors are satisfactory for underground  
306 absorption; and

307                   (d) Any private water supply is located at a higher  
308 elevation and at least fifty (50) feet from the individual on-site  
309 wastewater disposal system and at least one hundred (100) feet  
310 from the disposal field of the system.

311           (2) Except for systems utilizing underground absorption,  
312 alternative individual on-site wastewater disposal systems shall  
313 be considered acceptable, provided the following requirements are  
314 met:

315                   (a) Sewers are not available or feasible;

316                   (b) The systems meet applicable water quality  
317 requirements of the federal Clean Water Act and also requirements  
318 of the board and department; and

319                   (c) Any discharge is confined within the boundaries of  
320 the property of the generator.

321           **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is  
322 brought forward as follows:

323 41-67-9. (1) Existing individual on-site wastewater  
324 disposal systems shall be considered acceptable, provided the  
325 following requirements are met:

326 (a) The lot is located in an area or subdivision where  
327 individual on-site wastewater disposal systems are considered  
328 acceptable under this chapter;

329 (b) The residence, building or facility has previously  
330 been occupied for a period of time deemed by the department  
331 necessary to determine the functioning capability of the  
332 individual on-site wastewater disposal system;

333 (c) The system is functioning properly with no evidence  
334 that any insufficiently treated effluent is or has been seeping to  
335 the surface of the ground and any discharge of treated effluent is  
336 confined within the boundaries of the property of the generator;  
337 and

338 (d) If a private water supply well is present, the well  
339 is located at a higher elevation than the disposal system and is  
340 protected from surface contamination by a concrete slab of a  
341 thickness of at least four (4) inches extending at least two (2)  
342 feet in all directions from the well casing.

343 (2) If an existing residential individual on-site wastewater  
344 disposal system is malfunctioning, the system should be replaced,  
345 where possible, with a system meeting all requirements of this  
346 chapter and rules and regulations of the board. If replacement of  
347 the existing system is not possible, the existing system shall be  
348 repaired to reduce the volume of effluent, to adequately treat the  
349 effluent and to the greatest extent possible, to confine the  
350 discharge to the property of the generator. If repairs are made  
351 to significantly upgrade the existing individual on-site  
352 wastewater disposal system, the department shall approve the  
353 system, if requested.

354 **SECTION 9.** Section 41-67-10, Mississippi Code of 1972, is  
355 brought forward as follows:

356 41-67-10. Aerobic treatment systems may be installed only if  
357 they have been tested and listed by a third-party certifying  
358 program. Aerobic treatment systems shall be in compliance with  
359 standards for a Class I system as defined by the most current  
360 revision of American National Standards Institute/National  
361 Sanitation Foundation (ANSI/NSF) International Standard Number 40,  
362 hereby incorporated by reference. Beginning on October 1, 1996,  
363 an approved third-party certifying program shall comply with the  
364 following provisions for systems which it has certified to be  
365 installed in Mississippi:

366 (a) Be accredited by the American National Standards  
367 Institute;

368 (b) Have established procedures which send  
369 representatives to distributors in Mississippi on a recurring  
370 basis to conduct evaluations to assure that distributors of  
371 certified aerobic treatment systems are providing proper  
372 maintenance, have sufficient replacement parts available and are  
373 maintaining service records;

374 (c) Notify the department of the results of monitoring  
375 visits to manufacturers and distributors within sixty (60) days of  
376 the conclusion of the monitoring; and

377 (d) Submit completion reports on testing and any other  
378 information as the department may require for its review.

379 **SECTION 10.** Section 41-67-11, Mississippi Code of 1972, is  
380 brought forward as follows:

381 41-67-11. (1) Temporary individual on-site wastewater  
382 disposal systems may be approved in otherwise unapprovable areas  
383 only after a contract has been awarded for the construction of  
384 municipal or community sewers that upon completion will adequately  
385 serve the property. Temporary individual on-site wastewater  
386 disposal systems shall only be approved under the following  
387 conditions:

388           (a) When the municipal or community sewers shall not be  
389 completed and available for use within six (6) months, a complete  
390 individual on-site wastewater disposal system complying with all  
391 requirements of the board may be installed. Upon completion of  
392 the sewer construction all systems shall be abandoned and all  
393 residences, buildings or facilities connected to the sewer.

394           (b) When the public sewers shall be available and ready  
395 for use within a period not to exceed six (6) months, or where a  
396 minor extension is to be made to a municipal system by the  
397 municipality and no contract is to be awarded, an individual  
398 on-site wastewater disposal system with a minimum capacity of  
399 three hundred (300) gallons and at least sixty percent (60%) of  
400 the required disposal field may be installed. The board shall not  
401 approve a temporary system under this subsection unless the  
402 professional engineer designing the sewer system has certified to  
403 the board in writing that the public sewer or extension shall be  
404 completed within six (6) months, and the owner of the temporary  
405 system has certified in writing that connection to the public  
406 sewer shall be made as soon as it becomes available.

407           (2) The board may approve the installation of sewage holding  
408 tanks in districts created under Sections 19-5-151 through  
409 19-5-207 for the purpose of providing sewage services. The  
410 district shall be required to maintain or provide for the  
411 maintenance of those holding tanks. The board shall require that  
412 residences be connected to a municipal or community sewage system  
413 when that system is available and ready to use.

414           **SECTION 11.** Section 41-67-12, Mississippi Code of 1972, is  
415 brought forward as follows:

416           41-67-12. (1) The department shall assess fees in the  
417 following amounts for the following purposes:

418           (a) A fee of Fifty Dollars (\$50.00) shall be levied for  
419 soil and site evaluation and recommendation of individual on-site  
420 wastewater disposal systems.

421 (b) A fee of Fifty Dollars (\$50.00) shall be levied  
422 annually for the certification of installers and persons engaging  
423 in the removal and disposal of the sludge and liquid wastes from  
424 individual on-site wastewater disposal systems.

425 (c) A fee of One Hundred Dollars (\$100.00) shall be  
426 levied annually for the registration of manufacturers.

427 (2) In the discretion of the board, a person shall be liable  
428 for a penalty equal to one and one-half (1-1/2) times the amount  
429 of the fee due and payable for failure to pay the fee on or before  
430 the date due, plus any amount necessary to reimburse the cost of  
431 collection.

432 (3) The fee authorized under this section shall not be  
433 assessed for any system operated by state agencies or  
434 institutions, including, without limitation, foster homes licensed  
435 by the State Department of Human Services. The fee authorized  
436 under this section shall not be charged again after payment of the  
437 initial fee for any system that has been installed in accordance  
438 with this chapter, within a period of twenty-four (24) months  
439 following the date that the system was originally installed.

440 **SECTION 12.** Section 41-67-15, Mississippi Code of 1972, is  
441 brought forward as follows:

442 41-67-15. Nothing in this chapter shall limit the authority  
443 of a municipality or board of supervisors to adopt similar  
444 ordinances which may be, in whole or in part, more restrictive  
445 than this chapter, and in those cases the more restrictive  
446 ordinances will govern.

447 **SECTION 13.** Section 41-67-16, Mississippi Code of 1972, is  
448 brought forward as follows:

449 41-67-16. (1) Before January 1, 1997, the department shall  
450 conduct a study of all individual on-site wastewater disposal  
451 systems currently being recommended for use in the state to  
452 determine the suitability of using those systems on lots or tracts  
453 in areas of the state given the various soil types and

454 classifications. In conducting the study, the department shall  
455 consider the type of system, lot size, effluent quality and other  
456 recommended limitations which should be placed on the use of each  
457 system.

458 (2) The department shall prepare and submit a report to the  
459 Governor and the Legislature describing the results of its study.

460 **SECTION 14.** Section 41-67-19, Mississippi Code of 1972, is  
461 brought forward as follows:

462 41-67-19. Each authorized agent of the department  
463 implementing this chapter shall demonstrate to the department's  
464 satisfaction that the person:

465 (a) Is competent to review and provide any requested  
466 approval of design, construction and installation of individual  
467 on-site wastewater disposal systems, as well as the operation,  
468 repair or maintenance of those systems, to make soil permeability  
469 tests or soil and site evaluations, and to conduct inspections of  
470 individual on-site wastewater disposal systems in accordance with  
471 this chapter and rules and regulations adopted under this chapter;  
472 and

473 (b) Has successfully completed the installer  
474 certification training program provided by the department.

475 **SECTION 15.** Section 41-67-21, Mississippi Code of 1972, is  
476 brought forward as follows:

477 41-67-21. (1) The board or the department may require a  
478 property owner or lessee to repair a malfunctioning individual  
479 on-site wastewater disposal system on the owner's or lessee's  
480 property before the thirtieth day after the date on which the  
481 owner or lessee is notified by the department of the  
482 malfunctioning system.

483 (2) The property owner or lessee shall take adequate  
484 measures as soon as practicable to abate an immediate health  
485 hazard.

486 (3) The property owner or lessee may be assessed a civil  
487 penalty not to exceed Five Dollars (\$5.00) for each day the  
488 individual on-site wastewater disposal system remains unrepaired  
489 after the thirty-day period specified in subsection (1) of this  
490 section.

491 (4) The board may assess the property owner or lessee of an  
492 individual on-site wastewater disposal system authorized pursuant  
493 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars  
494 (\$50.00) for each day the system fails to meet the performance  
495 standards of that system after the thirty-day period specified in  
496 subsection (1) of this section.

497 (5) All penalties collected by the board under this section  
498 shall be deposited in the State General Fund.

499 (6) Appeals from the imposition of civil penalty under this  
500 section may be taken as provided in Section 41-67-29.

501 **SECTION 16.** Section 41-67-23, Mississippi Code of 1972, is  
502 brought forward as follows:

503 41-67-23. The department or its authorized representative  
504 may enter onto property and make inspections of any individual  
505 on-site wastewater disposal system as necessary to ensure that the  
506 system is in compliance with this chapter and the rules adopted  
507 under this chapter. The department shall give reasonable notice  
508 to any property owner, lessee or occupant prior to entry onto the  
509 property. The owner, lessee, owner's representative, or occupant  
510 of the property on which the system is located shall give the  
511 department or its authorized representative reasonable access to  
512 the property at reasonable times to make necessary inspections.

513 **SECTION 17.** Section 41-67-25, Mississippi Code of 1972, is  
514 brought forward as follows:

515 41-67-25. (1) A person may not operate as an installer in  
516 this state unless that person is certified by the board except any  
517 individual who installs an individual on-site wastewater disposal  
518 system on his own property or a professional engineer.



519           (2) An installer of aerobic treatment plants or subsurface  
520 drip disposal systems must be a factory-trained and authorized  
521 representative. The manufacturer must furnish documentation to  
522 the department certifying the satisfactory completion of factory  
523 training and the establishment of the installer as an authorized  
524 manufacturer's representative.

525           (3) The board shall issue a certification to an installer if  
526 the installer:

527                 (a) Completes an application form that complies with  
528 this chapter and rules adopted under this chapter;

529                 (b) Satisfactorily completes the training program  
530 provided by the department;

531                 (c) Pays the annual certification fee; and

532                 (d) Provides proof of having a valid public liability  
533 insurance policy in effect with liability limits of at least Fifty  
534 Thousand Dollars (\$50,000.00) per occurrence and at least One  
535 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

536           (4) Each installer shall furnish proof of certification to a  
537 property owner, lessee, the owner's representative or occupant of  
538 the property on which an individual on-site wastewater disposal  
539 system is to be designed, constructed, repaired or installed by  
540 that installer and to the department or its authorized  
541 representative, if requested.

542           (5) The department shall provide for annual renewal of  
543 certifications.

544           (6) (a) An installer's certification may be suspended or  
545 revoked by the board after notice and hearing if the installer  
546 violates this chapter or any rule or regulation adopted under this  
547 chapter.

548                 (b) The installer may appeal a suspension or revocation  
549 under this section as provided by law.

550 (7) The department semiannually shall disseminate to the  
551 public an official list of certified installers and provide to  
552 county health departments a monthly update of the list.

553 **SECTION 18.** Section 41-67-27, Mississippi Code of 1972, is  
554 brought forward as follows:

555 41-67-27. It is unlawful for a manufacturer of an individual  
556 on-site wastewater disposal system to operate a business in or to  
557 do business in the State of Mississippi without holding a valid  
558 registration issued by the department.

559 **SECTION 19.** Section 41-67-28, Mississippi Code of 1972, is  
560 brought forward as follows:

561 41-67-28. (1) Except as otherwise provided in this chapter,  
562 any person who shall knowingly violate this chapter or any rule or  
563 regulation or written order of the board in pursuance thereof is,  
564 upon conviction, guilty of a misdemeanor and shall be punished as  
565 provided in Section 41-3-59.

566 (2) Each day of a continuing violation is a separate  
567 violation.

568 (3) (a) In addition to all other statutory and common law  
569 rights, remedies and defenses, any person who purchases an  
570 individual on-site wastewater disposal system and suffers any  
571 ascertainable loss of money or property, real or personal, may  
572 bring an action at law in the court having jurisdiction in the  
573 county in which the installer or manufacturer has the principal  
574 place of business, where the act allegedly occurred, to recover  
575 any loss of money or damages for the loss of any property  
576 resulting from any of the following:

577 (i) Improper installation of an individual on-site  
578 wastewater disposal system due to faulty workmanship;

579 (ii) Failure of an individual on-site wastewater  
580 disposal system to operate properly due to failure to install the  
581 system in accordance with any requirements of the manufacturer or  
582 in compliance with any rules and regulations of the board; or

583 (iii) Failure of an individual on-site wastewater  
584 disposal system to operate properly due to defective design or  
585 construction.

586 (b) Nothing in this chapter shall be construed to  
587 permit any class action or suit, but every private action must be  
588 maintained in the name of and for the sole use and benefit of the  
589 individual person.

590 (4) A person who violates this chapter thereby causing a  
591 discharge off the property of the generator shall be liable to the  
592 party aggrieved or damaged by that violation for the actual  
593 damages and additional punitive damages equal to a maximum of  
594 twenty-five percent (25%) of the actual damages proven by the  
595 aggrieved party, to be taxed by the court where the suit is heard  
596 on an original action, by appeal or otherwise and recovered by a  
597 suit at law in any court of competent jurisdiction. In addition,  
598 the court may award the prevailing party reasonable attorney's  
599 fees and court costs. Before filing suit, the party aggrieved or  
600 damaged must give thirty (30) days' written notice of its intent  
601 to file suit to the alleged violator.

602 **SECTION 20.** Section 41-67-29, Mississippi Code of 1972, is  
603 brought forward as follows:

604 41-67-29. Any person who is aggrieved by any final decision  
605 of the board may appeal that final decision to the chancery court  
606 of the county of the situs in whole or in part of the subject  
607 matter. The appellant shall give a cost bond with sufficient  
608 sureties, payable to the state in a sum to be fixed by the board  
609 or the court and to be filed with and approved by the clerk of the  
610 court. The aggrieved party may, within thirty (30) days following  
611 a final decision of the board, petition the chancery court for an  
612 appeal with supersedeas and the chancellor shall grant a hearing  
613 on the petition. Upon good cause shown the chancellor may grant  
614 the appeal with supersedeas. The appellant shall be required to  
615 post a bond with sufficient sureties according to law in an amount

616 to be determined by the chancellor. The chancery court shall  
617 always be deemed open for hearing of appeals and the chancellor  
618 may hear the appeal in termtime or in vacation at any place in his  
619 district. The appeal shall have precedence over all civil cases,  
620 except election contests. The chancery court shall review all  
621 questions of law and of fact and may enter a final order or remand  
622 the matter to the board for appropriate action as may be indicated  
623 or necessary under the circumstances. Appeals may be taken from  
624 the chancery court to the Supreme Court in the manner as now  
625 required by law, but if a supersedeas is desired by the party  
626 appealing to the chancery court, that party may apply therefor to  
627 the chancellor, who shall award a writ of supersedeas, without  
628 additional bond, if in the chancellor's judgment material damage  
629 is not likely to result. If material damage is likely to result,  
630 the chancellor shall require a supersedeas bond as deemed proper,  
631 which shall be liable to the state for any damage.

632       **SECTION 21.** Section 41-67-31, Mississippi Code of 1972,  
633 which is the automatic repealer on the Mississippi Individual  
634 On-Site Wastewater System Law, is repealed.

635       **SECTION 22.** This act shall take effect and be in force from  
636 and after June 30, 2006.