

Senate Amendments to House Bill No. 787

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** Section 73-36-33, Mississippi Code of 1972, is
15 amended as follows:

16 73-36-33. (1) The board shall have the power, after notice
17 and hearing, to suspend or revoke the license of any registrant
18 who (a) is found guilty by the board of fraud or gross negligence
19 in the practice of professional forestry; (b) fails to comply with
20 board rules and regulations; (c) is found guilty by the board of
21 unprofessional or unethical conduct; or (d) has had his license
22 suspended or revoked for cause in another jurisdiction.

23 (2) Any person may prefer charges of fraud or gross
24 negligence in connection with any forestry practice against any
25 registrant. Such charges shall be in writing, shall be sworn to
26 by the person making them, and shall be filed with the secretary
27 of the board. All charges shall be heard by the board pursuant to
28 its rules and regulations without undue delay.

29 (3) Any applicant whose license is suspended or revoked by
30 the board may apply for a review of the proceedings with reference

31 to such suspension or revocation by appealing to the Chancery
32 Court of the First Judicial District of Hinds County, Mississippi,
33 provided a notice of appeal is filed by such applicant with the
34 clerk of said court within sixty (60) days from entry of an order
35 by the board suspending or revoking his license, provided said
36 applicant files with said notice of appeal a bond to be approved
37 by the court assuring the prompt payment of any and all costs of
38 said appeal, said amount to be fixed by the court. Upon the
39 filing of such notice of appeal and posting of such bond, the
40 clerk of the said court shall notify the secretary of the board
41 thereof and the record of the proceedings involved shall be
42 prepared by the secretary and forwarded to the court within a
43 period of sixty (60) days from such notice by the clerk. The
44 court shall thereupon review the proceedings on the record
45 presented and may hear such additional testimony as to the court
46 may appear material and dispose of the appeal in termtime or in
47 vacation, and the court may sustain or dismiss the appeal, or
48 modify or vacate the order complained of, but in case the order is
49 modified or vacated, the court may also, in its discretion, remand
50 the matter to the board for such further proceedings not
51 inconsistent with the court's order as, in the opinion of the
52 court, justice may require. The decision of the chancery court
53 may be appealed as other cases to the Supreme Court.

54 (4) The board is authorized to secure, by contract, the
55 services of an investigator when deemed necessary by the board to

properly consider any charge then before it. The board may, at its discretion, establish a program of routine inspections.

(5) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153, or for failure of the licensee to satisfy a judgment against such licensee, and/or the company or business for which the licensee provided services, provided that such judgement was rendered in connection to the practice of forestry. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 2. Section 73-36-1, Mississippi Code of 1972, is brought forward as follows:

73-36-1. This chapter may be cited as the "Foresters Registration Law of 1977."

SECTION 3. Section 73-36-3, Mississippi Code of 1972, is brought forward as follows:

73-36-3. As used in this chapter the following words and phrases shall include the meanings ascribed in this section unless the context clearly requires a different meaning:

(a) The term "person" means a natural person.

(b) The term "forester" means a person who, by reason of his knowledge of the natural sciences, mathematics, economics and the principles of forestry, and by his demonstrated skills acquired through professional forestry education as set forth in Section 73-36-21, is qualified to engage in the practice of forestry and who also has been duly registered and holds a current valid license issued by the board.

(c) The term "registered forester" means a person who has been registered and licensed pursuant to this chapter.

(d) The term "practice of forestry" means any professional forestry service including, but not limited to, consultation, investigation, evaluation, valuation, planning, recommending silvicultural or harvesting practices or responsible supervision of any forestry activities in connection with any public or private lands wherein the public welfare and property

are concerned or involved when such professional services require the application of forestry principles, knowledge and data.

(e) The term "board" means the State Board of Registration for Foresters.

SECTION 4. Section 73-36-5, Mississippi Code of 1972, is brought forward as follows:

73-36-5. In order to benefit and protect the public and the forest resources, no person in either public or private capacity shall practice or offer to practice forestry, unless he shall first have submitted evidence that he is qualified so to practice and shall be registered by the board or unless he is specifically exempted from registration under this chapter. It is unlawful for any person to practice or offer to practice forestry in this state, as defined by this chapter, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a forester, unless the person has been duly registered or is exempt from registration under this chapter.

This chapter shall not be construed to prevent or to affect:

(a) The conduct of business and support services including: tree planting, timber stand improvement, pesticide application, pest control, site preparation, heavy equipment operation, prescribed fire application, timber buying, logging contracting, timber cruising, timber marking and the application of best management practices.

(b) The application of forestry principles and procedures on any timberlands, woodlands or forest in which the person, firm, partnership or corporation owns the timberlands, woodlands or forest; or persons, firms, partnerships and corporations having the right to manage and administer forestlands in any legal manner.

(c) The work of an employee or a subordinate of any forester holding a license under this chapter; if that work is done under the direction, supervision and responsibility of a person holding a license under this chapter.

(d) The practice of forestry by officers and employees of the United States government on federally-owned lands.

(e) The practice of forestry by officers and employees of the State of Mississippi on state-owned lands.

(f) Employees of the federal government, state government and educational institutions of the State of Mississippi who, in the exercise of their assigned duties, conduct forestry education programs.

(g) Persons who hold valid licenses prior to July 1, 1989.

SECTION 5. Section 73-36-7, Mississippi Code of 1972, is brought forward as follows:

73-36-7. Nothing contained in this chapter shall be construed as preventing any person, firm, partnership or corporation from practicing forestry or managing woodlands, forests or trees on any land, provided such acts are not performed

or offered to the public for compensation, unless otherwise
exempted in Section 73-36-5.

SECTION 6. Section 73-36-9, Mississippi Code of 1972, is
brought forward as follows:

73-36-9. There is hereby created the State Board of
Registration for Foresters of the State of Mississippi for the
purposes of safeguarding forests by regulating the practice of
forestry and requiring that persons practicing or offering to
practice forestry to be registered. The board shall be composed
of seven (7) members appointed by the Governor with the advice and
consent of the Senate. One (1) member shall be appointed from
each of the six (6) forestry commission districts as constituted
on January 1, 1999, and one (1) member shall be appointed at
large. The State Forester of Mississippi shall serve as an ex
officio member of the board. Each of the members shall be a
forester within the meaning of this chapter with at least three
(3) years' experience in such field, and a resident and citizen of
the State of Mississippi at the time of his appointment. Within
thirty (30) days after July 1, 1977, the Governor shall appoint
the members, designating a term of office of one (1), two (2),
three (3), four (4) or five (5) years for each of the members as
appointed; provided, however, two (2) members shall serve a term
of one (1) year and two (2) shall serve a term of four (4) years.
As the terms of office of the members so appointed expire,
successors shall be appointed for terms of five (5) years. Any
vacancy occurring in the membership of the board shall be filled

by the Governor for the unexpired term. The Governor shall have the right, upon the approval of a majority of the board, to remove any members of the board for inefficiency, neglect of duty or dishonorable conduct.

SECTION 7. Section 73-36-11, Mississippi Code of 1972, is brought forward as follows:

73-36-11. No person shall be appointed a member of the board unless the person at the time appointed has held a license as a registered forester for at least five (5) years.

SECTION 8. Section 73-36-13, Mississippi Code of 1972, is brought forward as follows:

73-36-13. Each year the board shall elect one (1) of its members as chairman, one (1) as vice chairman, and one (1) as secretary, and each shall perform the usual duties of such offices. The board may adopt an official seal. Four (4) members of the board shall constitute a quorum, and a majority vote of those present at any meeting shall be necessary for the adoption of any order proposed or the disposition of other business coming before the board.

SECTION 9. Section 73-36-15, Mississippi Code of 1972, is brought forward as follows:

73-36-15. The board shall hold at least two (2) regular meetings during each year and such other meetings as the chairman may find necessary. Notice of the time and place of the meetings of the board shall be mailed to each of the members of the board at least five (5) days before the meeting and, in addition, shall

be posted as provided by the rules and regulations of the board at least five (5) days prior to the meeting.

SECTION 10. Section 73-36-17, Mississippi Code of 1972, is brought forward as follows:

73-36-17. Each member of the board shall receive per diem compensation as authorized by Section 25-3-69, and shall be reimbursed for such other expenses at the same rate and under the same conditions as provided for public officers and employees in Section 25-3-41. The board shall pay for all expenses incurred by the board, including clerical help as may be needed, if itemized statements of the expenses are first approved by order of the board entered on its minutes. The board shall not expend in any fiscal year more monies than the amount of fees collected. All fees shall be paid to the secretary of the board and the secretary shall deposit all monies received under this chapter in the State Treasury. All such monies shall be kept in a special fund in the State Treasury known as the "State Board of Registered Foresters Fund" and shall be used for the administration of this chapter. The funds shall not lapse at the end of each year. All expenditures from the fund shall be by requisition to the Executive Director of the Department of Finance and Administration and signed by the board chairman. The secretary of the board shall be under a surety bond in the penal sum of Five Thousand Dollars (\$5,000.00) with a surety company authorized to do business in this state, the bond to be conditioned for the

faithful performance of his duties, and the fee shall be paid by the board.

SECTION 11. Section 73-36-19, Mississippi Code of 1972, is brought forward as follows:

73-36-19. (1) The State Board of Registration for Foresters shall have the following powers and duties:

(a) To adopt rules and regulations governing the holding of its meetings, hearings, applications for licenses and any and all other duties provided by this chapter.

(b) To establish and promulgate standards of practice and a code of ethics for registered foresters and provide for the enforcement thereof.

(c) To establish minimum requirements for professional continuing education.

(d) To prepare a biennial roster showing the names, business addresses and such other information as the board may deem necessary of all foresters registered under this chapter, and to provide copies to the registered foresters and the public. A copy of the roster shall be filed with the Secretary of State of the State of Mississippi on or before April 1 in the year such roster is prepared.

(e) To issue, suspend or revoke licenses and to take all actions necessary.

(2) At any hearing before the board, any member may administer oaths to witnesses appearing before the board. If any person shall refuse to testify or to produce any books, papers or

documents, the board may present its petition to any court of competent jurisdiction within the state setting forth the facts, and then the court, in a proper case, may issue its subpoena to the person requiring his attendance before the court and to testify or to produce such books, papers and documents as may be deemed necessary and pertinent thereto. Any person failing or refusing to obey the subpoena of the court may be proceeded against in the same manner as for refusal to obey any other subpoena of the court.

(3) The board shall keep a record of its proceedings and a register of all applications for registration. The register shall show the name, age and residence of each applicant, the date of the application and the board's action on the application and any other information as may be deemed necessary by the board. The board shall submit an annual report to the Governor and a report to the regular session of the Legislature. The report to the Legislature shall include a financial statement of the transactions of the board during the year.

SECTION 12. Section 73-36-21, Mississippi Code of 1972, is brought forward as follows:

73-36-21. (1) Any person who has graduated with a bachelor's degree or higher degree from a university or college of forestry in a curriculum in forestry acceptable to the board and found by the board to be substantially equivalent to curricula in schools of forestry accredited by the Society of American Foresters shall be eligible for registration as a registered

forester, and a license shall be issued upon application and payment of the required fee, if the person files an application for registration with the board and successfully passes a written and/or oral examination.

(2) The board may review and investigate the denial of any license, upon appeal by the denied applicant, and the board may issue a license to an applicant who met the requirements for such license at the time of application.

SECTION 13. Section 73-36-23, Mississippi Code of 1972, is brought forward as follows:

73-36-23. Applications for registration shall be made on forms prescribed and furnished by the board. The initial registration fee for a license as a registered forester shall be fixed by the board, but shall not exceed Fifty Dollars (\$50.00). If the board denies the issuance of a license to any applicant, the fee deposited shall be retained by the board as an application fee.

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

SECTION 14. Section 73-36-25, Mississippi Code of 1972, is brought forward as follows:

73-36-25. When written examinations are required, they shall be held at such time and place as the board shall determine. The methods of procedure shall be prescribed by the board. A candidate failing an examination may apply for reexamination at

the expiration of six (6) months and shall be entitled to one (1) reexamination without payment of an additional fee. Subsequent examinations may be granted upon payment of a fee to be determined by the board, but not in excess of Fifty Dollars (\$50.00).

SECTION 15. Section 73-36-27, Mississippi Code of 1972, is brought forward as follows:

73-36-27. The board shall issue a properly authenticated, serially numbered license upon payment of the registration fee to any applicant who in the opinion of the board has satisfactorily met all the requirements of this chapter and the rules and regulations of the board duly adopted under this chapter. The issuance of a license by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered forester while the license remains unrevoked or unexpired.

SECTION 16. Section 73-36-29, Mississippi Code of 1972, is brought forward as follows:

73-36-29. Except as provided in Section 33-1-39, all licenses issued under the provisions of this chapter shall expire after December 31 of odd numbered years and shall become invalid after that date unless renewed. The secretary of the board shall mail a notice to every person registered under this chapter notifying the person of the date of the expiration of his license and the amount of fee required for its renewal for two (2) years. The notice shall be mailed to the latest known address, according to the board's records, at least one (1) month in advance of the

date of the expiration of the license. The board shall from time to time fix the fee for renewal of licenses, provided the fee shall not exceed the amount of One Hundred Dollars (\$100.00) for two (2) years' renewal. Any registrant failing to renew his license and applying for a license shall be required to pay a fee as set by the board not to exceed twice the total amount of the license fees had his license been continued in effect, and also to comply with such other reasonable requirements as may be established by rules and regulations of the board.

SECTION 17. Section 73-36-31, Mississippi Code of 1972, is brought forward as follows:

73-36-31. A person not a resident of and having no established place of business in Mississippi, or who has recently become a resident, may use the title of registered forester in Mississippi, provided: (a) such person is legally licensed as a registered forester in his own state or county and has submitted evidence to the board that he is so licensed and that the requirements for registration are at least substantially equivalent to the requirements of this chapter; and (b) the state or county in which he is so licensed observes these same rules of reciprocity in regard to persons licensed under this chapter. Each person seeking the privileges of reciprocity granted under this chapter shall submit his application to the board and must receive a card or certificate from the board before exercising such privileges. The fee for obtaining a license through reciprocity shall be the same as charged a Mississippi licensee.

The issuance of a license by reciprocity to a military-trained applicant, military spouse or person who establishes residence in this state shall be subject to the provisions of Section 73-50-1 or 73-50-2, as applicable.

SECTION 18. Section 73-36-35, Mississippi Code of 1972, is brought forward as follows:

73-36-35. Any person who practices or offers to practice the profession of forestry in this state without being registered in accordance with this chapter, or any person who uses in connection with his name, or otherwise assumes, uses or advertises any title or description tending to convey the impression that he is a registered forester without being registered in accordance with this chapter, or any person who presents or attempts to use as his own the license of another, or any person who gives any false or forged evidence of any kind to the board or any member in obtaining a license, or any person who attempts to use an expired or revoked license, or any person, firm, partnership or corporation who violates any of the provisions of this chapter and has not been issued an administrative fine by the board for the violation is guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Thousand Dollars (\$5,000.00) for each violation. The board, or any person or persons as may be designated by the board to act in its stead, is empowered to prefer charges for any violations of this chapter in any court of competent jurisdiction. It shall be the duty of all duly constituted officers of the law of this state to enforce the

provisions of this chapter and to prosecute any persons, firms, partnerships or corporations violating same. Except as otherwise authorized in Section 7-5-39, the Attorney General of the state or his designated assistant shall act as legal advisor of the board and render such assistance as may be necessary in carrying out the provisions of this chapter.

SECTION 19. Section 73-36-36, Mississippi Code of 1972, is brought forward as follows:

73-36-36. In addition to the penalties provided under Section 73-36-33 and Section 73-36-35, any person, found by the board to be in violation of this chapter or any rule or regulation of the board, shall be subject to an administrative fine of not more than One Thousand Dollars (\$1,000.00) for each violation. The person shall be given at least ten (10) days' written notice and an opportunity for a hearing before the board. If the administrative fine is not paid within ninety (90) days after the date of the board's order, the order shall become a judgment and may be filed and executed. Any person aggrieved of the board's order may appeal the order to the Circuit Court of Hinds County within thirty (30) days after the date of the order of the board is issued. Appeal shall be on the record made before the board.

SECTION 20. This act shall take effect and be in force from and after July 1, 2023.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

1 AN ACT TO AMEND SECTION 73-36-33, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE STATE BOARD OF REGISTRATION FOR FORESTERS TO
3 SUSPEND THE LICENSE OF A LICENSEE FOR FAILURE OF THE LICENSEE TO
4 SATISFY A JUDGEMENT AGAINST SUCH LICENSEE, AND/OR THE COMPANY OR
5 BUSINESS FOR WHICH THE LICENSEE PROVIDED SERVICES, WHICH WAS
6 RENDERED IN CONNECTION TO THE PRACTICE OF FORESTRY; TO BRING
7 FORWARD SECTIONS 73-36-1, 73-36-3, 73-36-5, 73-36-7, 73-36-9,
8 73-36-11, 73-36-13, 73-36-15, 73-36-17, 73-36-19, 73-36-21,
9 73-36-23, 73-36-25, 73-36-27, 73-36-29, 73-36-31, 73-36-35 AND
10 73-36-36, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE FORESTERS
11 REGISTRATION LAW, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR
12 RELATED PURPOSES.

SS26\HB787A.J

Eugene S. Clarke
Secretary of the Senate