

By: Representative Franks

To: Public Health and
Welfare

HOUSE BILL NO. 1458

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND REENACTED SECTION
4 41-67-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTHING IN THIS
5 LAW WILL PREVENT PROPERTY OWNERS FROM INSTALLING SEPTIC TANK
6 DISPOSAL SYSTEMS WITH SUBSURFACE DISPOSAL ON THEIR OWN PROPERTY;
7 TO AMEND REENACTED SECTION 41-67-5, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT NO PERMANENT UTILITY CONNECTION SHALL BE PROVIDED TO
9 ANY RESIDENCE, BUILDING OR FACILITY UNLESS ITS INDIVIDUAL ON-SITE
10 WASTEWATER DISPOSAL SYSTEM, IF ANY, HAS BEEN APPROVED BY THE STATE
11 DEPARTMENT OF HEALTH; TO REQUIRE PUBLIC UTILITY SYSTEMS TO NOTIFY
12 INDIVIDUALS OF THAT REQUIREMENT AT THE TIME THAT UTILITY SERVICE
13 IS REQUESTED; TO AMEND REENACTED SECTION 41-67-6, MISSISSIPPI CODE
14 OF 1972, TO REQUIRE APPROVAL OF THE INSTALLATION OF INDIVIDUAL
15 ON-SITE WASTEWATER DISPOSAL SYSTEMS BY THE DEPARTMENT UNLESS
16 OTHERWISE PROVIDED IN THIS LAW; TO PROVIDE THAT THE DEPARTMENT
17 SHALL APPROVE THE INSTALLATION OF AN INDIVIDUAL ON-SITE WASTEWATER
18 DISPOSAL SYSTEM IF THE SYSTEM IS INSTALLED IN ACCORDANCE WITH THIS
19 LAW AND THE RULES AND REGULATIONS OF THE STATE BOARD OF HEALTH; TO
20 AUTHORIZE THE INSTALLER OF AN INDIVIDUAL ON-SITE WASTEWATER
21 DISPOSAL SYSTEM TO FILE AN AFFIDAVIT OF SYSTEM INSTALLATION WITH
22 THE DEPARTMENT IF THE DEPARTMENT INSPECTOR DOES NOT KEEP THE
23 APPOINTMENT WITH THE INSTALLER FOR FINAL INSPECTION OF THE SYSTEM;
24 TO PROVIDE THAT IN SUCH CASE THE DEPARTMENT SHALL ISSUE ITS FINAL
25 APPROVAL BASED ON THE INFORMATION CONTAINED IN THE AFFIDAVIT; TO
26 PROVIDE THAT IF ANY CERTIFIED INSTALLER FILES AN AFFIDAVIT
27 CONTAINING FALSE OR INCORRECT INFORMATION, THE INSTALLER SHALL BE
28 FINED AND HIS LICENSE SHALL BE SUSPENDED FOR ONE YEAR; TO AMEND
29 REENACTED SECTION 41-67-12, MISSISSIPPI CODE OF 1972, TO PROVIDE
30 FOR A FEE TO BE CHARGED BY THE DEPARTMENT FOR APPROVAL OF
31 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO AMEND REENACTED
32 SECTION 41-67-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
33 DEPARTMENT SHALL REQUIRE PROPERTY OWNERS TO REPAIR MALFUNCTIONING
34 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS ON THE OWNERS'
35 PROPERTY WITHIN A SPECIFIED TIME; TO AMEND REENACTED SECTION
36 41-67-25, MISSISSIPPI CODE OF 1972, TO REQUIRE WASTEWATER DISPOSAL
37 SYSTEM INSTALLERS TO POST A PERFORMANCE BOND, AND TO REQUIRE
38 INSTALLERS TO COMPLETE SIX HOURS OF CONTINUING EDUCATION UNITS
39 ANNUALLY TO RENEW THEIR CERTIFICATIONS; TO AMEND REENACTED
40 SECTIONS 41-67-7, 41-67-9, 41-67-19, MISSISSIPPI CODE OF 1972, IN
41 CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND SECTION 41-67-31,
42 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
43 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL LAW; AND FOR
44 RELATED PURPOSES.

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

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46 SECTION 1. Section 41-67-1, Mississippi Code of 1972, is
47 reenacted as follows:

48 41-67-1. This chapter shall be known and may be cited as the
49 "Mississippi Individual On-Site Wastewater Disposal System Law."

50 SECTION 2. Section 41-67-2, Mississippi Code of 1972, is
51 reenacted as follows:

52 41-67-2. For purposes of this chapter, the following words
53 shall have the meanings ascribed herein unless the context clearly
54 indicates otherwise:

55 (a) "Board" means the Mississippi State Board of
56 Health.

57 (b) "Commission" means the Commission on Environmental
58 Quality.

59 (c) "Department" means the Mississippi State Department
60 of Health.

61 (d) "Generator" means any person whose act or process
62 produces sewage or other material suitable for disposal in an
63 individual on-site wastewater disposal system.

64 (e) "Individual on-site wastewater disposal system"
65 means an approved method of sewage disposal designed and installed
66 in accordance with this law, and regulations of the board and the
67 commission.

68 (f) "Person" means any individual, trust, firm,
69 joint-stock company, public or private corporation (including a
70 government corporation), partnership, association, state, or any
71 agency or institution thereof, municipality, commission, political
72 subdivision of a state or any interstate body, and includes any
73 officer or governing or managing body of any municipality,
74 political subdivision, or the United States or any officer or
75 employee thereof.

76 (g) "Professional engineer" means any person who has
77 met the qualifications required under Section 73-13-23(1) and who

78 has been issued a certificate of registration as a professional
79 engineer.

80 (h) "Property of the generator" means land owned by or
81 under permanent legal easement or lease to the generator.

82 (i) "Subdivision" means any land that is divided into
83 ten (10) or more lots, tracts, sites or parcels for the purpose of
84 residential development.

85 SECTION 3. Section 41-67-3, Mississippi Code of 1972, is
86 reenacted and amended as follows:

87 41-67-3. (1) The State Board of Health shall have the
88 following duties and responsibilities:

89 (a) To exercise general supervision over the design,
90 construction, operation and maintenance of individual on-site
91 wastewater disposal systems with flows substantially equivalent to
92 a single family residential generator, except when the property
93 owner or lessee chooses to employ a professional engineer to
94 comply with this chapter. To effectively administer this law, the
95 department and the Department of Environmental Quality shall enter
96 into a memorandum of understanding, which at a minimum shall
97 clearly define the jurisdiction of each department with regard to
98 wastewater disposal and procedures for interdepartmental
99 interaction and cooperation;

100 (b) To adopt, modify, repeal and promulgate rules and
101 regulations, after due notice and hearing, and where not otherwise
102 prohibited by federal or state law, to make exceptions to, to
103 grant exemptions from and to enforce rules and regulations
104 implementing or effectuating the duties of the board under this
105 chapter to protect the public health. The board may grant
106 variances from rules and regulations adopted under this chapter,
107 including requirements for buffer zones, or from setbacks required
108 under Section 41-67-7 where the granting of a variance shall not
109 subject the public to unreasonable health risks or jeopardize
110 environmental resources;

111 (c) To provide or deny certification for persons
112 engaging in the business of the design, construction or
113 installation of individual on-site wastewater disposal systems and
114 persons engaging in the removal and disposal of the sludge and
115 liquid waste from those systems;

116 (d) To suspend or revoke certifications issued to
117 persons engaging in the business of the design, construction or
118 installation of individual on-site wastewater disposal systems or
119 persons engaging in the removal and disposal of the sludge and
120 liquid waste from those systems, when it is determined the person
121 has violated this chapter or applicable rules and regulations; and

122 (e) To require the submission of information deemed
123 necessary by the department to determine the suitability of
124 individual lots for individual on-site wastewater disposal
125 systems.

126 (2) Nothing in this chapter shall preclude a professional
127 engineer from providing services relating to the design,
128 construction or installation of an individual on-site wastewater
129 disposal system to comply with this chapter. Except as otherwise
130 required by subsection (4) of this section or Section 41-67-8, a
131 professional engineer shall notify the department in writing of
132 those services being provided. If a professional engineer
133 designs, constructs or installs or directly supervises the
134 construction or installation of a design-based individual on-site
135 wastewater disposal system consistent with this chapter and stamps
136 the appropriate documentation with that professional engineer's
137 seal, the department shall approve the design, construction or
138 installation of the system * * *. Professional engineers engaging
139 in the design, construction or installation of individual on-site
140 wastewater disposal systems shall not require certification under
141 this chapter.

142 (3) Nothing in this chapter will prevent any individual from
143 installing a conventional individual on-site wastewater disposal

144 system on his or her own property, and any such installation shall
145 require the approval of the department under Section 41-67-6. For
146 the purposes of this subsection, a conventional individual on-site
147 wastewater disposal system means a septic tank disposal system
148 with subsurface disposal.

149 (4) To assure the effective and efficient administration of
150 this chapter, the board shall adopt rules governing the design,
151 construction or installation, operation and maintenance of
152 individual on-site wastewater disposal systems, including rules
153 concerning the:

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

156 (b) Certification of installers of individual on-site
157 wastewater disposal systems and persons engaging in the removal
158 and disposal of the sludge and liquid waste from those systems;
159 and

160 (c) Registration and requirements for testing and
161 listing of manufacturers of aerobic treatment systems.

162 (5) In addition, the board shall adopt rules establishing
163 performance standards for individual on-site wastewater disposal
164 systems for single family residential generators and rules
165 concerning the operation and maintenance of individual on-site
166 wastewater disposal systems designed to meet those standards. The
167 performance standards shall be consistent with the federal Clean
168 Water Act, maintaining the wastes on the property of the generator
169 except as authorized under Section 41-67-8, and protection of the
170 public health. Rules for the operation and maintenance of
171 individual on-site wastewater disposal systems designed to meet
172 performance standards shall include rules concerning the
173 following:

174 (a) A standard application form and requirements for
175 supporting documentation;

176 (b) Application review;

- 177 (c) Approval or denial of authorization for proposed
178 systems;
- 179 (d) Requirements, as deemed appropriate by the board,
180 for annual renewal of authorization;
- 181 (e) Enforcement of the requirements and conditions of
182 authorization; and
- 183 (f) Inspection, monitoring, sampling and reporting on
184 the performance of the system.

185 Any system proposed for authorization in accordance with
186 performance standards must be designed and certified by a
187 professional engineer and must be authorized by the board before
188 installation. Appeals from a final decision of the board
189 regarding the authorization of an individual on-site wastewater
190 disposal system based upon performance standards shall be taken
191 using a procedure substantially equivalent to the procedure
192 specified for hospital licenses in Chapter 9 of Title 41.

193 (6) To the extent practicable, all rules and regulations
194 adopted under this chapter shall give maximum flexibility to
195 persons installing individual on-site wastewater disposal systems
196 and a maximum number of options consistent with the federal Clean
197 Water Act, consistent with maintaining the wastes on the property
198 of the generator except as authorized under Section 41-67-8, and
199 consistent with protection of the public health. In addition, all
200 rules and regulations, to the extent practicable, shall encourage
201 the use of economically feasible systems, including alternative
202 techniques and technologies for individual on-site wastewater
203 disposal.

204 (7) All regulations shall be applied uniformly in all areas
205 of the state and shall take into consideration and make provision
206 for different types of soil in the state when performing soil and
207 site evaluations.

208 SECTION 4. Section 41-67-4, Mississippi Code of 1972, is
209 reenacted as follows:

210 41-67-4. (1) The Commission on Environmental Quality shall
211 determine the feasibility of establishing community sewerage
212 systems upon the submission by the developer of a preliminary
213 design and feasibility study prepared by a professional engineer.
214 The developer may request and obtain a hearing before the
215 commission if the developer is dissatisfied with the commission's
216 determination of feasibility. The determination that a sewerage
217 system must be established shall be made without regard to whether
218 the establishment of a sewerage system is authorized by law or is
219 subject to approval by one or more state or local government or
220 public bodies.

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

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

234 SECTION 5. Section 41-67-5, Mississippi Code of 1972, is
235 reenacted and amended as follows:

236 41-67-5. (1) No owner, lessee or developer shall construct
237 or place any mobile, modular or permanently constructed residence,
238 building or facility, which may require the installation of an
239 individual on-site wastewater disposal system, without having
240 first submitted a notice of intent to the department. Upon
241 receipt of a notice of intent, the department shall provide the
242 owner, lessee or developer with complete information on individual

243 on-site wastewater disposal systems, including but not limited to
244 applicable rules and regulations regarding the design,
245 construction, installation, operation and maintenance of
246 individual on-site wastewater disposal systems and known
247 requirements of lending institutions for approval of the systems.

248 (2) No new permanent utility service connection shall be
249 provided to any mobile, modular or permanently constructed
250 residence, building or facility unless its individual on-site
251 wastewater disposal system, if any, has been approved by the
252 department. Public utility systems shall notify individuals of
253 the requirements of this section at the time that utility service
254 is requested.

255 SECTION 6. Section 41-67-6, Mississippi Code of 1972, is
256 reenacted and amended as follows:

257 41-67-6. (1) Within five (5) working days following receipt
258 of the notice of intent and plot plan by an owner, lessee or
259 developer of any lot or tract of land, the department shall
260 conduct a soil and site evaluation, except in cases where a
261 professional engineer provides services relating to the design,
262 construction or installation of an individual on-site wastewater
263 disposal system to comply with this chapter. Within ten (10)
264 additional working days, the department shall make recommendations
265 to the owner, lessee or developer of the type or types of
266 individual on-site wastewater disposal systems acceptable for
267 installation on the lot or tract, unless there are conditions
268 requiring further investigation that are revealed in the initial
269 evaluation. In making recommendations on the type or types of
270 individual on-site wastewater disposal systems acceptable for
271 installation on a lot or tract, personnel of the department shall
272 use best professional judgment based on rules and regulations
273 adopted by the board, considering the type or types of systems
274 which are installed and functioning on lots or tracts near the
275 subject lot or tract. If existing systems in the surrounding area

276 function properly, systems of that same type shall be acceptable.
277 To the extent practicable, the recommendations shall give the
278 owner, lessee or developer maximum flexibility and a maximum
279 number of options consistent with the federal Clean Water Act,
280 consistent with maintaining the wastes on the property of the
281 generator except as authorized under Section 41-67-8, and
282 consistent with protection of the public health. The system or
283 systems recommended shall be environmentally sound and
284 cost-effective. The department or a professional engineer shall
285 provide complete information, including all applicable
286 requirements and regulations on all systems recommended. The
287 owner, lessee or developer shall have the right to choose among
288 acceptable systems. The department shall provide the owner,
289 lessee or developer with a form that specifies all types of
290 individual on-site wastewater disposal systems that are acceptable
291 for installation on the lot or tract and lists all installers of
292 those systems that are certified by the department.

293 The installation of an individual on-site wastewater disposal
294 system must be approved by the department unless otherwise
295 provided in this chapter. The department shall approve the * * *
296 installation of an individual on-site wastewater disposal
297 system * * * if the system is * * * installed * * * in accordance
298 with this chapter and the rules and regulations of the board. The
299 department shall not perform any final inspection or approval of
300 an individual on-site wastewater disposal system that was
301 installed by a certified installer unless the installer holds a
302 valid performance bond as required by Section 41-67-25(3).

303 The department shall not approve any individual on-site wastewater
304 disposal system that has a direct or point source discharge,
305 unless the Permit Board has issued a permit for that system under
306 Section 41-67-8.

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

309 (3) * * * An installer may not begin the design,
310 construction or installation of any individual on-site wastewater
311 disposal system unless the installer notifies the department of
312 the date on which the installer plans to begin work on the system.
313 After the installer has installed an individual on-site wastewater
314 disposal system and is ready for final inspection and approval by
315 the department, the installer shall schedule a time for the
316 inspection with the appropriate county department of health not
317 less than forty-eight (48) hours before the anticipated time of
318 the inspection. If the county department of health inspector is
319 late or is unable to keep the appointment and the installer is not
320 notified, the installer shall wait thirty (30) minutes past the
321 scheduled appointment time before covering his or her work. The
322 installer then shall complete an affidavit of system installation
323 for the individual on-site wastewater disposal system and file the
324 affidavit with the county department of health. The department
325 then shall issue its final approval based on the information
326 contained in the affidavit.

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

331 (5) Any person who installs an individual on-site wastewater
332 disposal system shall sign and file with the department an
333 affidavit that the system was installed in compliance with all
334 requirements and regulations applicable to that type of system.
335 If any person or contractor fails to comply with all requirements
336 and regulations in the installation of the system, the board,
337 after due notice and hearing, may levy an administrative fine not
338 to exceed One Thousand Dollars (\$1,000.00). If any certified
339 installer files an affidavit with the department containing false
340 or incorrect information that the installer knows to be false or
341 incorrect, the board, after due notice and hearing, shall levy an

342 administrative fine of Two Thousand Dollars (\$2,000.00) and
343 suspend the installer's certification under Section 41-67-25(6)
344 for a period of one (1) year.

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

350 SECTION 7. Section 41-67-7, Mississippi Code of 1972, is
351 reenacted and amended as follows:

352 41-67-7. Individual on-site wastewater disposal systems may
353 be approved on lots in areas or subdivisions where prior to the
354 sale of the lots, the following requirements are met:

355 (1) Individual on-site wastewater disposal systems with
356 underground absorption fields may be approved, provided the
357 following requirements are met:

358 (a) Sewers are not available or feasible;

359 (b) The existing disposal systems in the area are
360 functioning satisfactorily;

361 (c) Soil types, soil texture, seasonal water tables and
362 other limiting factors are satisfactory for underground
363 absorption; and

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

368 (2) Except for systems utilizing underground absorption,
369 alternative individual on-site wastewater disposal systems may be
370 approved, provided the following requirements are met:

371 (a) Sewers are not available or feasible;

372 (b) The systems meet applicable water quality
373 requirements of the federal Clean Water Act and also requirements
374 of the board and department; and

375 (c) Any discharge is confined within the boundaries of
376 the property of the generator except as authorized under Section
377 41-67-8.

378 SECTION 8. Section 41-67-8, Mississippi Code of 1972, is
379 reenacted as follows:

380 41-67-8. (1) This section shall be applicable only after
381 the department has determined that there is no type of individual
382 on-site wastewater disposal system authorized under subsection (3)
383 or (4) of Section 41-67-3 or rules or regulations of the board
384 that can maintain the wastes on the property of the generator.

385 (2) The owner of any individual on-site wastewater disposal
386 system from which effluent is discharged off the property of the
387 generator shall obtain a permit for that discharge, if required
388 under Section 49-17-29, from the Permit Board created under
389 Section 49-17-28.

390 (3) The Permit Board may issue general permits for
391 individual on-site wastewater disposal systems as provided in
392 Section 49-17-29.

393 (4) Any violation of this section shall be punished as
394 provided in Section 49-17-43.

395 SECTION 9. Section 41-67-9, Mississippi Code of 1972, is
396 reenacted and amended as follows:

397 41-67-9. (1) Existing individual on-site wastewater
398 disposal systems may be approved, provided the following
399 requirements are met:

400 (a) The lot is located in an area or subdivision where
401 individual on-site wastewater disposal systems may be considered
402 for approval under this chapter;

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

407 (c) The system is functioning properly with no evidence
408 that any insufficiently treated effluent is or has been seeping to
409 the surface of the ground and any discharge of treated effluent is
410 confined within the boundaries of the property of the generator
411 except as authorized under Section 41-67-8; and

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

417 (2) If an existing residential individual on-site wastewater
418 disposal system is malfunctioning, the system should be replaced,
419 where possible, with a system meeting all requirements of this
420 chapter and rules and regulations of the board. If replacement of
421 the existing system is not possible, the existing system shall be
422 repaired to reduce the volume of effluent, to adequately treat the
423 effluent and * * * to confine the discharge to the property of
424 the generator except as authorized under Section 41-67-8. If
425 repairs are made to significantly upgrade the existing individual
426 on-site wastewater disposal system, * * * the system, must be
427 approved by the department.

428 SECTION 10. Section 41-67-10, Mississippi Code of 1972, is
429 reenacted as follows:

430 41-67-10. Aerobic treatment systems may be installed only
431 if they have been tested and listed by a third party certifying
432 program. Aerobic treatment systems shall be in compliance with
433 standards for a Class I system as defined by the most current
434 revision of American National Standards Institute/National
435 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
436 hereby incorporated by reference. Beginning on October 1, 1996,
437 an approved third party certifying program shall comply with the
438 following provisions for systems which it has certified to be
439 installed in Mississippi:

440 (a) Be accredited by the American National Standards
441 Institute;

442 (b) Have established procedures which send
443 representatives to distributors in Mississippi on a recurring
444 basis to conduct evaluations to assure that distributors of
445 certified aerobic treatment systems are providing proper
446 maintenance, have sufficient replacement parts available and are
447 maintaining service records;

448 (c) Notify the department of the results of monitoring
449 visits to manufacturers and distributors within sixty (60) days of
450 the conclusion of the monitoring; and

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

453 SECTION 11. Section 41-67-11, Mississippi Code of 1972, is
454 reenacted as follows:

455 41-67-11. (1) Temporary individual on-site wastewater
456 disposal systems may be approved in otherwise unapprovable areas
457 only after a contract has been awarded for the construction of
458 municipal or community sewers that upon completion will adequately
459 serve the property. Temporary individual on-site wastewater
460 disposal systems shall only be approved under the following
461 conditions:

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

468 (b) When the public sewers shall be available and ready
469 for use within a period not to exceed six (6) months, or where a
470 minor extension is to be made to a municipal system by the
471 municipality and no contract is to be awarded, an individual
472 on-site wastewater disposal system with a minimum capacity of

473 three hundred (300) gallons and at least sixty percent (60%) of
474 the required disposal field may be installed. The board shall not
475 approve a temporary system under this subsection unless the
476 professional engineer designing the sewer system has certified to
477 the board in writing that the public sewer or extension shall be
478 completed within six (6) months, and the owner of the temporary
479 system has certified in writing that connection to the public
480 sewer shall be made as soon as it becomes available.

481 (2) The board may approve the installation of sewage holding
482 tanks in districts created under Sections 19-5-151 through
483 19-5-207 for the purpose of providing sewage services. The
484 district shall be required to maintain or provide for the
485 maintenance of those holding tanks. The board shall require that
486 residences be connected to a municipal or community sewage system
487 when that system is available and ready to use.

488 SECTION 12. Section 41-67-12, Mississippi Code of 1972, is
489 reenacted and amended as follows:

490 41-67-12. (1) The department shall assess fees in the
491 following amounts for the following purposes:

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

495 (b) A fee of Fifty Dollars (\$50.00) shall be levied for
496 approval of individual on-site wastewater disposal systems.

497 (c) A fee of Fifty Dollars (\$50.00) shall be levied
498 annually for the certification of installers and persons engaging
499 in the removal and disposal of the sludge and liquid wastes from
500 individual on-site wastewater disposal systems.

501 (d) A fee of One Hundred Dollars (\$100.00) shall be
502 levied annually for the registration of manufacturers.

503 (2) In the discretion of the board, a person shall be liable
504 for a penalty equal to one and one-half (1-1/2) times the amount
505 of the fee due and payable for failure to pay the fee on or before

506 the date due, plus any amount necessary to reimburse the cost of
507 collection.

508 (3) The fee authorized under this section shall not be
509 assessed for any system operated by state agencies or
510 institutions, including without limitation, foster homes licensed
511 by the State Department of Human Services. The fee authorized
512 under this section shall not be charged again after payment of the
513 initial fee for any system that has been installed in accordance
514 with this chapter, within a period of twenty-four (24) months
515 following the date that the system was originally installed.

516 SECTION 13. Section 41-67-15, Mississippi Code of 1972, is
517 reenacted as follows:

518 41-67-15. Nothing in this chapter shall limit the authority
519 of a municipality or board of supervisors to adopt similar
520 ordinances which may be, in whole or in part, more restrictive
521 than this chapter, and in those cases the more restrictive
522 ordinances will govern.

523 SECTION 14. Section 41-67-16, Mississippi Code of 1972, is
524 reenacted as follows:

525 41-67-16. (1) Before January 1, 1997, the department shall
526 conduct a study of all individual on-site wastewater disposal
527 systems currently being recommended for use in the state to
528 determine the suitability of using those systems on lots or tracts
529 in areas of the state given the various soil types and
530 classifications. In conducting the study, the department shall
531 consider the type of system, lot size, effluent quality and other
532 recommended limitations which should be placed on the use of each
533 system.

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

536 SECTION 15. Section 41-67-19, Mississippi Code of 1972, is
537 reenacted and amended as follows:

538 41-67-19. Each authorized agent of the department
539 implementing this chapter shall demonstrate to the department's
540 satisfaction that the person:

541 (a) Is competent to review and provide * * * approval
542 of design, construction and installation of individual on-site
543 wastewater disposal systems, as well as the operation, repair or
544 maintenance of those systems, to make soil permeability tests or
545 soil and site evaluations, and to conduct inspections of
546 individual on-site wastewater disposal systems in accordance with
547 this chapter and rules and regulations adopted under this chapter;
548 and

549 (b) Has successfully completed the installer
550 certification training program provided by the department.

551 SECTION 16. Section 41-67-21, Mississippi Code of 1972, is
552 reenacted and amended as follows:

553 41-67-21. (1) The board or the department shall require a
554 property owner or lessee to repair a malfunctioning individual
555 on-site wastewater disposal system on the owner's or lessee's
556 property before the thirtieth day after the date on which the
557 owner or lessee is notified by the department of the
558 malfunctioning system.

559 (2) The property owner or lessee shall take adequate
560 measures as soon as practicable to abate an immediate health
561 hazard.

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

567 (4) The board may assess the property owner or lessee of an
568 individual on-site wastewater disposal system authorized pursuant
569 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
570 (\$50.00) for each day the system fails to meet the performance

571 standards of that system after the thirty-day period specified in
572 subsection (1) of this section.

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

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

577 SECTION 17. Section 41-67-23, Mississippi Code of 1972, is
578 reenacted as follows:

579 41-67-23. The department or its authorized representative
580 may enter onto property and make inspections of any individual
581 on-site wastewater disposal system as necessary to ensure that the
582 system is in compliance with this chapter and the rules adopted
583 under this chapter. The department shall give reasonable notice
584 to any property owner, lessee or occupant prior to entry onto the
585 property. The owner, lessee, owner's representative, or occupant
586 of the property on which the system is located shall give the
587 department or its authorized representative reasonable access to
588 the property at reasonable times to make necessary inspections.

589 SECTION 18. Section 41-67-25, Mississippi Code of 1972, is
590 reenacted and amended as follows:

591 41-67-25. (1) A person may not operate as an installer in
592 this state unless that person is certified by the board except any
593 individual who installs an individual on-site wastewater disposal
594 system on his own property or a professional engineer.

595 (2) An installer of aerobic treatment plants or subsurface
596 drip disposal systems must be a factory-trained and authorized
597 representative. The manufacturer must furnish documentation to
598 the department certifying the satisfactory completion of factory
599 training and the establishment of the installer as an authorized
600 manufacturer's representative.

601 (3) The board shall issue a certification to an installer if
602 the installer:

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

605 (b) Satisfactorily completes the training program
606 provided by the department; * * *

607 (c) Pays the annual certification fee; and

608 (d) Provides proof of holding a valid performance bond.

609 (4) Each installer shall furnish proof of certification to a
610 property owner, lessee, the owner's representative or occupant of
611 the property on which an individual on-site wastewater disposal
612 system is to be designed, constructed, repaired or installed by
613 that installer and to the department or its authorized
614 representative, if requested.

615 (5) The department shall provide for annual renewal of
616 certifications. In addition to any other requirements imposed by
617 the department for renewal of certifications, an installer must
618 complete not less than six (6) hours of continuing education units
619 annually for renewal of his or her certification.

620 (6) (a) An installer's certification may be suspended or
621 revoked by the board after notice and hearing if the installer
622 violates this chapter or any rule or regulation adopted under this
623 chapter.

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

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

629 SECTION 19. Section 41-67-27, Mississippi Code of 1972, is
630 reenacted as follows:

631 41-67-27. It is unlawful for a manufacturer of an individual
632 on-site wastewater disposal system to operate a business in or to
633 do business in the State of Mississippi without holding a valid
634 registration issued by the department.

635 SECTION 20. Section 41-67-28, Mississippi Code of 1972, is
636 reenacted as follows:

637 41-67-28. (1) Except as otherwise provided in this chapter,
638 any person who shall knowingly violate this chapter or any rule or
639 regulation or written order of the board in pursuance thereof is,
640 upon conviction, guilty of a misdemeanor and shall be punished as
641 provided in Section 41-3-59.

642 (2) Each day of a continuing violation is a separate
643 violation.

644 (3) (a) In addition to all other statutory and common law
645 rights, remedies and defenses, any person who purchases an
646 individual on-site wastewater disposal system and suffers any
647 ascertainable loss of money or property, real or personal, may
648 bring an action at law in the court having jurisdiction in the
649 county in which the installer or manufacturer has the principal
650 place of business, where the act allegedly occurred, to recover
651 any loss of money or damages for the loss of any property
652 resulting from any of the following:

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

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

659 (iii) Failure of an individual on-site wastewater
660 disposal system to operate properly due to defective design or
661 construction.

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

666 (4) A person who violates this chapter thereby causing a
667 discharge off the property of the generator shall be liable to the

668 party aggrieved or damaged by that violation for the actual
669 damages and additional punitive damages equal to a maximum of
670 twenty-five percent (25%) of the actual damages proven by the
671 aggrieved party, to be taxed by the court where the suit is heard
672 on an original action, by appeal or otherwise and recovered by a
673 suit at law in any court of competent jurisdiction. In addition,
674 the court may award the prevailing party reasonable attorneys fees
675 and court costs. Before filing suit, the party aggrieved or
676 damaged must give thirty (30) days' written notice of its intent
677 to file suit to the alleged violator.

678 SECTION 21. Section 41-67-29, Mississippi Code of 1972, is
679 reenacted as follows:

680 41-67-29. Any person who is aggrieved by any final decision
681 of the board may appeal that final decision to the chancery court
682 of the county of the situs in whole or in part of the subject
683 matter. The appellant shall give a cost bond with sufficient
684 sureties, payable to the state in a sum to be fixed by the board
685 or the court and to be filed with and approved by the clerk of the
686 court. The aggrieved party may, within thirty (30) days following
687 a final decision of the board, petition the chancery court for an
688 appeal with supersedeas and the chancellor shall grant a hearing
689 on the petition. Upon good cause shown the chancellor may grant
690 the appeal with supersedeas. The appellant shall be required to
691 post a bond with sufficient sureties according to law in an amount
692 to be determined by the chancellor. The chancery court shall
693 always be deemed open for hearing of appeals and the chancellor
694 may hear the appeal in termtime or in vacation at any place in his
695 district. The appeal shall have precedence over all civil cases,
696 except election contests. The chancery court shall review all
697 questions of law and of fact and may enter a final order or remand
698 the matter to the board for appropriate action as may be indicated
699 or necessary under the circumstances. Appeals may be taken from
700 the chancery court to the Supreme Court in the manner as now

701 required by law, but if a supersedeas is desired by the party
702 appealing to the chancery court, that party may apply therefor to
703 the chancellor, who shall award a writ of supersedeas, without
704 additional bond, if in the chancellor's judgment material damage
705 is not likely to result. If material damage is likely to result,
706 the chancellor shall require a supersedeas bond as deemed proper,
707 which shall be liable to the state for any damage.

708 SECTION 22. Section 41-67-31, Mississippi Code of 1972, is
709 amended as follows:

710 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
711 repealed on July 1, 2005.

712 SECTION 23. This act shall take effect and be in force from
713 and after June 30, 2001.