

By: Representative Simpson

To: Judiciary A

HOUSE BILL NO. 792
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 73-13-1 THROUGH 73-13-103,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE REGULATION OF
3 ENGINEERS AND LAND SURVEYORS; TO AMEND REENACTED SECTION 73-13-1,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ENGINEERS SHALL BE
5 LICENSED; TO AMEND REENACTED SECTION 73-13-3, MISSISSIPPI CODE OF
6 1972, TO REVISE DEFINITIONS; TO AMEND REENACTED SECTION 73-13-5,
7 MISSISSIPPI CODE OF 1972, TO REVISE THE BOARD OF LICENSURE FOR
8 PROFESSIONAL ENGINEERS AND SURVEYORS; TO AMEND REENACTED SECTION
9 73-13-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
10 REENACTED SECTION 73-13-13, MISSISSIPPI CODE OF 1972, TO REVISE
11 BOARD MEETING TIMES AND THE QUORUM; TO AMEND REENACTED SECTION
12 73-13-15, MISSISSIPPI CODE OF 1972, TO REVISE THE BOARD
13 RULE-MAKING AUTHORITY; TO AMEND REENACTED SECTION 73-13-19,
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
15 SECTION 73-13-21, MISSISSIPPI CODE OF 1972, TO DELETE THE
16 REQUIREMENT THAT COPIES OF THE ROSTER OF ENGINEERS BE MAILED TO
17 ALL LICENSEES; TO AMEND REENACTED SECTION 73-13-23, MISSISSIPPI
18 CODE OF 1972, TO REVISE QUALIFICATIONS FOR LICENSURE; TO AMEND
19 REENACTED SECTIONS 73-13-25, 73-13-27 AND 73-13-29, MISSISSIPPI
20 CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-31,
21 MISSISSIPPI CODE OF 1972, TO REVISE REQUIREMENTS REGARDING EXPIRED
22 LICENSES; TO AMEND REENACTED SECTIONS 73-13-33 AND 73-13-35,
23 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
24 SECTION 73-13-37, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE
25 REGARDING DISCIPLINARY ACTIONS; TO AMEND REENACTED SECTION
26 73-13-39, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES; TO AMEND
27 REENACTED SECTION 73-13-41, MISSISSIPPI CODE OF 1972, IN
28 CONFORMITY; TO AMEND REENACTED SECTION 73-13-43, MISSISSIPPI CODE
29 OF 1972, TO PROVIDE FOR CERTIFICATES OF AUTHORITY FOR
30 CORPORATIONS, FIRMS AND PARTNERSHIPS; TO AMEND REENACTED SECTION
31 73-13-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
32 REENACTED SECTION 73-13-71, MISSISSIPPI CODE OF 1972, TO DEFINE
33 THE TERM "SURVEYING"; TO AMEND REENACTED SECTION 73-13-73,
34 MISSISSIPPI CODE OF 1972, TO CLARIFY DUTIES WITHIN THE PRACTICE OF
35 SURVEYING AND ENGINEERING; TO AMEND REENACTED SECTIONS 73-13-75
36 AND 73-13-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
37 REENACTED SECTIONS 73-13-79 AND 73-13-81, MISSISSIPPI CODE OF
38 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-83,
39 MISSISSIPPI CODE OF 1972, TO REVISE SEAL REQUIREMENTS; TO AMEND
40 REENACTED SECTION 73-13-85, MISSISSIPPI CODE OF 1972, TO REVISE
41 RENEWAL OF EXPIRED LICENSE REQUIREMENTS; TO AMEND REENACTED
42 SECTIONS 73-13-87, 73-13-89 AND 73-13-93, MISSISSIPPI CODE OF
43 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-95,
44 MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES; TO AMEND REENACTED
45 SECTION 73-13-97, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
46 AMEND REENACTED SECTION 73-13-99, MISSISSIPPI CODE OF 1972, TO
47 EXTEND THE REPEALER ON THE BOARD OF LICENSURE FOR PROFESSIONAL
48 ENGINEERS AND SURVEYORS; TO AMEND REENACTED SECTION 73-13-103,
49 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION
50 73-13-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SURVEYING
51 CERTIFICATES OF AUTHORITY FOR CORPORATIONS, FIRMS AND
52 PARTNERSHIPS; AND FOR RELATED PURPOSES.

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

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

56 73-13-1. In order to safeguard life, health, and property,
57 and to promote the public welfare, any person or firm in either
58 public or private capacity practicing or offering to practice
59 engineering shall hereafter be required to submit evidence that
60 the person or firm is qualified so to practice engineering and
61 shall be licensed as hereinafter provided; and it shall be
62 unlawful for any person or firm to practice or to offer to
63 practice in this state, engineering, as defined in the provisions
64 of Sections 73-13-1 through 73-13-45, or to use in connection with
65 his name or otherwise assume, use, or advertise any title or
66 description tending to convey the impression that he is a
67 professional engineer, unless such person has been duly licensed
68 under the provisions of Sections 73-13-1 through 73-13-45. There
69 is specifically reserved to engineering graduates of all
70 universities and colleges accredited by a regional accrediting
71 body that is recognized by the United States Department of
72 Education, the right to disclose any college degrees received by
73 such individuals and use the words "graduate engineer" on his
74 stationery, business cards and personal communications of any
75 character.

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

78 73-13-3. The term "engineer" as used in Sections 73-13-1
79 through 73-13-45 shall mean a professional engineer as hereinafter
80 defined.

81 The term "professional engineer" within the meaning and
82 intent of Sections 73-13-1 through 73-13-45 shall mean a person
83 who has met the qualifications as required under Section
84 73-13-23(1) and who has been issued a certificate of registration
85 as a professional engineer.

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

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

115 Design coordination includes the review and coordination of
116 those technical submissions prepared by others, including as
117 appropriate and without limitation, consulting engineers,

118 surveyors, architects, landscape architects and other
119 professionals working under direction of the engineer.

120 The term "firm," as used in Sections 73-13-1 through
121 73-13-45, shall mean a business entity that offers the
122 professional engineering or surveying services to the public of
123 its licensed personnel who are either employees, officers,
124 directors, partners, members or managers. A business entity may
125 be formed as either:

126 (a) A professional service corporation;

127 (b) A corporation;

128 (c) A partnership, including limited partnerships and
129 limited liability partnerships; or

130 (d) A limited liability company.

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

145 Engineering surveys include all survey activities required to
146 support the sound conception, planning, design, construction,
147 maintenance and operation of engineered projects but exclude the
148 practice of * * * surveying as defined in Section 73-13-71(d).

149 A person or firm shall be construed to practice or offer to
150 practice engineering within the meaning and intent of Sections

151 73-13-1 through 73-13-45, who practices any branch of the
152 profession of engineering; or provides, by verbal claim, sign,
153 advertisement, letterhead, card, or in any other way represents
154 himself to be a professional engineer, or through the use of some
155 other title implies that he is a professional engineer; or who
156 holds himself out as able to perform or provide, or who does
157 perform any engineering service or work or any other professional
158 service designated by the practitioner or recognized by
159 educational authorities as engineering.

160 * * *

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

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

166 73-13-5. A * * * Board of Licensure for Professional
167 Engineers and * * * Surveyors is hereby created whose duty it
168 shall be to administer the provisions of Sections 73-13-1 through
169 73-13-105. The board shall consist of six (6) licensed
170 professional engineers, who shall be appointed by the Governor
171 from eighteen (18) nominees recommended by the Mississippi
172 Engineering Society, and shall have the qualifications required by
173 Section 73-13-7, and three (3) licensed professional * * *
174 surveyors who are not licensed professional engineers, who shall
175 be appointed by the Governor from nine (9) nominees recommended by
176 the Mississippi Association of Professional Surveyors and who
177 shall have the qualifications required by Section 73-13-77. The
178 members of the board shall be appointed from the above nominees.
179 The board so appointed shall have two (2) engineer members from
180 each of the three (3) state Supreme Court districts, * * *
181 designated by district, Post 1 and Post 2, and shall serve for
182 four (4) years, or until their successors are duly appointed and
183 qualified.

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

201 The initial members of the reconstituted board shall serve
202 terms of office as follows:

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

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

211 (c) An appointment of an engineer member serving at
212 large shall be made on July 1, 2004, and shall expire on July 1,
213 2006; and from and after July 1, 2004, this appointment shall be
214 designated as Post 3.

215 (d) The term of the engineer member presently serving
216 from the First Supreme Court District, which term was set to

217 expire on April 8, 2006, shall expire on July 1, 2007; and from
218 and after July 1, 2004, this appointment shall be designated as
219 Post 4.

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

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

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

235 (h) An appointment of a surveyor member shall be made
236 from the Second Supreme Court District; the appointment shall be
237 made on July 1, 2004, and shall expire on July 1, 2005; from and
238 after July 1, 2004, this appointment shall be designated as Post
239 8.

240 (i) The term of the surveyor member presently serving
241 at large, which term was set to expire on April 8, 2006, shall
242 expire on July 1, 2006; subsequent appointments shall be made from
243 the Third Supreme Court District; from and after July 1, 2004,
244 this appointment shall be designated as Post 9.

245 At the expiration of a term, members of the board shall be
246 appointed in the manner prescribed in this section for terms of
247 four (4) years from the expiration date of the previous terms.
248 Any vacancy on the board prior to the expiration of a term for any
249 reason, including resignation, removal, disqualification, death or

250 disability, shall be filled by appointment of the Governor in the
251 manner prescribed in this section for the balance of the unexpired
252 term. The Mississippi Engineering Society and/or the Mississippi
253 Association of Professional Surveyors shall submit a list of
254 nominees no more than ninety (90) days after a vacancy occurs, and
255 the Governor shall fill such vacancies within ninety (90) days
256 after each such vacancy occurs.

257 It shall not be considered the duty of the State of
258 Mississippi to provide office space and office equipment for the
259 board herein created.

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

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

269 73-13-7. Each member of the board shall be a citizen of the
270 United States and shall have been a resident of the state for at
271 least five (5) years prior to the appointment. He shall be at
272 least thirty-two (32) years of age, shall have been engaged in the
273 practice of engineering or * * * surveying, as the case may be,
274 for at least ten (10) years and shall have been in responsible
275 charge of important engineering or * * * surveying work, as the
276 case may be, for at least five (5) years. Each year of teaching
277 engineering or * * * surveying in a school or college shall be
278 equivalent to a year of responsible charge of engineering or * * *
279 surveying work. Not more than two (2) members of the board at any
280 time may be teachers of engineering in the universities or
281 colleges of the state. All members of the board shall be licensed

282 professional engineers or licensed professional * * * surveyors,
283 as the case may be.

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

286 73-13-9. Each member of the board shall receive per diem in
287 accordance with Section 25-3-69 when actually attending to the
288 work of the board or any of its committees, and shall be
289 reimbursed for traveling expenses in accordance with Section
290 25-3-41 in carrying out the provisions of Sections 73-13-1 through
291 73-13-105.

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

294 73-13-11. The Governor may remove any member of the board
295 for misconduct, incompetency, neglect of duty, or for any other
296 sufficient cause. Vacancies in the membership of the board shall
297 be filled for the unexpired term by appointment by the Governor as
298 provided in Section 73-13-5.

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

301 73-13-13. The board shall hold at least two (2) regular
302 meetings each year, in the first and third calendar quarters.
303 Special meetings shall be held at such time as the regulations of
304 the board may provide. Notice of all meetings shall be given in
305 such manner as the regulations of the board may provide. The
306 board shall elect annually, at a regular or special meeting, the
307 following officers: a president, a vice president, and a
308 secretary. A quorum of the board shall consist of not less than
309 five (5) members.

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

312 73-13-15. The board shall have the power to adopt and amend
313 all regulations and rules of procedure, not inconsistent with the
314 Constitution and laws of this state, which may be reasonably

315 necessary for the proper performance of its duties and the
316 regulations of the proceedings before it. The board shall adopt
317 and have an official seal. It shall not be required to post bond
318 on appeals. The board shall have the further power and authority
319 to:

320 (a) Establish standards of conduct and ethics;

321 (b) Institute proceedings in its own name;

322 (c) Promulgate rules restricting competitive bidding;

323 (d) Promulgate rules limiting or restricting
324 advertising;

325 (e) Promulgate rules requiring a demonstration of
326 continuing education;

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

330 (g) Provide for the enforcement of and to enforce the
331 laws of the State of Mississippi and, in particular, the
332 provisions of this chapter, and the bylaws, rules and regulations
333 of the board;

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

338 (i) Investigate, prosecute or initiate prosecution for
339 violation of the laws of this state pertaining to the practices of
340 engineering and * * * surveying, or matters affecting the rights
341 and duties or otherwise related thereto; and

342 (j) Adopt rules setting forth qualifications and
343 standards of practice for firms.

344 In carrying into effect the provisions of Sections 73-13-1
345 through 73-13-105, the board, under the hand of its president or
346 secretary and the seal of the board may subpoena witnesses and
347 compel their attendance, and also may require the production of

348 books, papers, documents, etc., in any case involving the
349 disciplinary actions provided for in Section 73-13-37 or 73-13-89
350 or practicing or offering to practice without licensure. Any
351 member of the board may administer oaths or affirmations to
352 witnesses appearing before the board. If any person shall refuse
353 to obey any subpoena so issued, or shall refuse to testify or
354 produce any books, papers or documents, the board may present its
355 petition to such authority as may have jurisdiction, setting forth
356 the facts, and thereupon such authority shall, in a proper case,
357 issue its subpoena to such person, requiring his attendance before
358 such authority and there to testify or to produce such books,
359 papers, and documents, as may be deemed necessary and pertinent by
360 the board. Any person failing or refusing to obey the subpoena or
361 order of the said authority may be proceeded against in the same
362 manner as for refusal to obey any other subpoena or order of the
363 authority.

364 **SECTION 9.** Section 73-13-17, Mississippi Code of 1972, is
365 reenacted as follows:

366 73-13-17. (1) The board shall keep an account of all monies
367 derived from the operation of Sections 73-13-1 through 73-13-105.
368 All fees and any other monies received by the board shall be
369 deposited in a special fund that is created in the State Treasury
370 and shall be used for the implementation and administration of
371 Sections 73-13-1 through 73-13-105 when appropriated by the
372 Legislature for such purpose. The monies in the special fund
373 shall be subject to all provisions of the state budget laws that
374 are applicable to special fund agencies, and disbursements from
375 the special fund shall be made by the State Treasurer only upon
376 warrants issued by the State Fiscal Officer upon requisitions
377 signed by the executive director of the board and countersigned by
378 the secretary of the board. Any interest earned on this special
379 fund shall be credited by the State Treasurer to the fund and
380 shall not be paid into the State General Fund. Any unexpended

381 monies remaining in the special fund at the end of a fiscal year
382 shall not lapse into the State General Fund. The State Auditor
383 shall audit the financial affairs of the board and the
384 transactions involving the special fund at least once a year in
385 the same manner as for other special fund agencies.

386 (2) The executive director and the secretary of the board
387 shall give a surety bond satisfactory to the other members of the
388 board, conditioned upon the faithful performance of their duties.
389 The premium on said bond shall be regarded as a proper and
390 necessary expense of the board. When any member of the board or
391 any employee thereof is engaged on business of the board away from
392 the principal office of the board, he shall be entitled to receive
393 expenses as authorized in Section 25-3-41, and members of the
394 board shall be entitled to per diem in an amount not to exceed
395 that authorized in Section 25-3-69, all as approved by the board.

396 (3) The board shall employ an executive director and may
397 employ such clerical or other assistants as are necessary for the
398 proper performance of its work, and may make expenditures for any
399 purpose which in the opinion of the board are reasonably necessary
400 for the proper performance of its duties under this chapter.

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

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

412 The records of the board shall be prima facie evidence of the
413 proceedings of the board set forth therein, and a transcript

414 thereof, duly certified by the executive director of the board
415 under seal, shall be admissible in evidence with the same force
416 and effect as if the original were produced.

417 Annually, on or before March 15, the board shall submit to
418 the Governor a report of its transactions of the preceding year,
419 and shall file with the Secretary of State a copy of such report
420 of the board, attested by affidavits of its president and its
421 secretary.

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

424 73-13-21. A roster showing the names and places of business
425 or residence of all licensed professional engineers and licensed
426 professional * * * surveyors and licensed firms shall be prepared
427 biennially by the board. * * *

428 * * *

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

431 73-13-23. (1) (a) The following shall be considered as
432 minimum evidence satisfactory to the board that the applicant is
433 qualified for licensure as a professional engineer:

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

447 successful passing of examinations in engineering as prescribed by
448 the board.

449 * * *

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

452 * * *

453 (c) The mere execution, as a contractor, of work
454 designed by a professional engineer, or the supervision of the
455 construction of such work as a foreman or superintendent shall not
456 be deemed to be the practice of engineering.

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

462 (e) No person shall be eligible for licensure as a
463 professional engineer who is not of good character and reputation,
464 as defined in the board's Code of Professional Conduct, or who
465 presents claims in support of his application which contain major
466 discrepancies.

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

470 (a) Graduation in an engineering curriculum of four (4)
471 scholastic years or more from a school or college approved by the
472 board as of satisfactory standing or graduation in an engineering,
473 engineering technology, or related science curriculum of four (4)
474 scholastic years from a school or college other than those
475 approved by the board plus a graduate degree in an engineering
476 curriculum from a school or college wherein that same engineering
477 curriculum at the undergraduate level is approved by the board as
478 of satisfactory standing; and

479 (b) Successfully passing a written examination in the
480 fundamental engineering subjects.

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

483 73-13-25. Applications for enrollment as an engineer intern
484 or for licensure as a professional engineer shall be on the forms
485 prescribed and furnished by the board, shall contain statements
486 made under oath, showing the applicant's education and detailed
487 summary of the applicant's qualifying experience. Applications
488 for licensure or relicensure as a professional engineer shall also
489 contain not less than five (5) references, of whom three (3) or
490 more shall be engineers having personal knowledge of the
491 applicant's engineering experience.

492 The application fee for licensure as a professional engineer
493 shall be determined by the board but shall not exceed Seventy-five
494 Dollars (\$75.00), which fee shall accompany the application.

495 The application fee for enrollment as an engineer intern
496 shall be determined by the board but shall not exceed Twenty-five
497 Dollars (\$25.00), which fee shall accompany the application.
498 Whenever an applicant is cited to an examination or reexamination,
499 an additional fee equal to the actual cost of the examination
500 shall be paid by the applicant.

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

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

506 73-13-27. Examinations shall be required for enrollment as
507 an engineer intern and for licensure as a professional engineer.
508 The examinations shall be held at such time and place as the board
509 may determine.

510 The scope of the examinations and the methods and procedure
511 shall be prescribed by the board with special reference to the

512 applicant's ability to design and supervise engineering works so
513 as to insure the safety of life, health and property.

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

516 73-13-29. The board shall issue a certificate of licensure
517 upon payment of licensure fee as provided for in Sections 73-13-1
518 through 73-13-45, to any applicant who, in the opinion of the
519 board, has satisfactorily met all the requirements of said
520 sections. In the case of a licensed engineer, the certificate
521 shall authorize the "practice of engineering." In the case of an
522 engineer intern, the certificate shall state that the applicant
523 has successfully passed the examination in fundamental engineering
524 subjects required by the board and has been enrolled as an
525 "engineer intern." Certificates shall show the full name, shall
526 have a serial number, and shall be signed by the president and the
527 secretary of the board under seal of the board.

528 The issuance of a certificate of licensure by this board
529 shall be prima facie evidence that the person named therein is
530 entitled to all the rights and privileges of a registered
531 professional engineer while the said certificate remains unrevoked
532 or unexpired.

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

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

547 73-13-31. Certificates of licensure shall expire on the last
548 day of the month of December following their issuance or renewal
549 and shall become invalid on that date unless renewed. It shall be
550 the duty of the board to notify every person licensed under this
551 chapter of the date of the expiration of his certificate and the
552 amount of the fee that shall be required for its renewal for one
553 (1) year. Such notice shall be sent by first-class mail to the
554 last known address of the licensee at least one (1) month in
555 advance of the date of the expiration of said certificate.
556 Renewal may be effected at any time during the month of December
557 by the payment of a fee, as determined by the board, not to exceed
558 Fifty Dollars (\$50.00). A person who is licensed as a
559 professional engineer and as a professional * * * surveyor may
560 effect both renewals by the payment of a fee not to exceed
561 Seventy-five Dollars (\$75.00). The failure on the part of any
562 licensee to renew his certificate annually in the month of
563 December as required above, shall not deprive such person of the
564 right of renewal, but the fee to be paid for the renewal of a
565 certificate after the month of December shall be increased ten
566 percent (10%) for each month, or fraction of a month that payment
567 of renewal is delayed; provided, however, that the maximum fee for
568 delayed renewal shall not exceed five (5) times the normal renewal
569 fee. A state agency or any of the state's political subdivisions,
570 such as a county or municipality, may pay the renewal fee of any
571 licensee who is a full-time employee; provided, however, that any
572 licensee who permits his/her renewal fee to be paid from any
573 public funds shall not perform engineering or * * * surveying
574 services for a fee or other emoluments for the public or for any
575 other public entity. If a certificate has expired for six (6)
576 months or more, the licensee shall be required to submit a new
577 application, paying back fees and submitting proof of continuing

578 professional competency compliance. If the certificate has
579 expired for five (5) years or more, in addition to submitting a
580 new application and proof of continuing professional competency
581 compliance, reexamination in the principles and practice may be
582 required. The reexamination requirement may be waived by the
583 board provided the applicant has continued to practice in another
584 jurisdiction from the date of expiration of his certificate.

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

587 73-13-33. All professional engineers, licensed in accordance
588 with the provisions of Chapter 56 of the Laws of Mississippi of
589 1928, Extraordinary Session, and as amended under Senate Bill No.
590 383, Chapter 131, Laws of 1940, and whose certificates of
591 licensure are in effect at the time of passage of Sections 73-13-1
592 through 73-13-45, shall be entitled to all the rights and
593 privileges of a licensed professional engineer as provided for in
594 those sections, while the said certificate remains unrevoked or
595 unexpired.

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

598 73-13-35. The board may, upon application therefor and the
599 payment of a fee in accordance with Section 73-13-25, issue a
600 certificate of licensure as a professional engineer to any person
601 who holds a certificate of qualification or licensure issued to
602 him by proper authority of any state or territory or possession of
603 the United States, or of any country, provided that the
604 applicant's qualifications meet the requirements of Sections
605 73-13-1 through 73-13-45 and the rules established by the board.

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

608 73-13-37. (1) The board, upon satisfactory proof and in
609 accordance with the provisions of this chapter and the
610 implementing regulations of the board pertaining thereto, is

611 authorized to take the disciplinary actions provided for
612 hereinafter against any person or firm practicing engineering or
613 surveying, including nonregistrants, for any of the following
614 reasons:

615 (a) Violating any of the provisions of Sections 73-13-1
616 through 73-13-45 or the implementing bylaws, rules, regulations,
617 or standards of ethics or conduct duly adopted and promulgated by
618 the board pertaining to the practice of engineering;

619 (b) Fraud, deceit or misrepresentation in obtaining a
620 certificate of licensure;

621 (c) Gross negligence, malpractice or incompetency;

622 (d) Any professional misconduct, as defined by the
623 board through bylaws, rules and regulations, and standards of
624 conduct and ethics;

625 (e) Practicing or offering to practice engineering on
626 an expired certificate or while under suspension or revocation of
627 certificate unless said suspension or revocation be abated through
628 probation, as provided for hereinafter; or

629 (f) Addiction to or dependence on alcohol or other
630 habit-forming drugs or being an habitual user of alcohol,
631 narcotics, barbiturates, amphetamines, hallucinogens, or other
632 drugs having similar effect.

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

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

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

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

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

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

676 Where in any proceeding before the board any witness shall
677 fail or refuse to attend upon subpoena issued by the board, shall
678 refuse to testify or shall refuse to produce any books and papers,
679 the production of which is called for by the subpoena, the
680 attendance of such witness and the giving of his testimony and the
681 production of the books and papers shall be enforced by any court
682 of competent jurisdiction of this state in the manner provided for
683 the enforcement of attendance and testimony of witnesses in civil
684 cases in the courts of this state.

685 The accused shall have the right to be present at the hearing
686 in person, by counsel or other representative, or both. The board
687 is authorized to continue or recess the hearing as may be
688 necessary.

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

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

706 (5) A monetary penalty assessed and levied under this
707 section shall be paid to the board upon the expiration of the
708 period allowed for appeal of such penalties under this section, or

709 may be paid sooner if the guilty party elects. Money collected by
710 the board under this section shall be deposited to the credit of
711 the board's special fund in the State Treasury.

712 When payment of a monetary penalty assessed and levied by the
713 board in accordance with this section is not paid when due, the
714 board shall have the power to institute and maintain proceedings
715 in its name for enforcement of payment in the chancery court of
716 the county and judicial district of residence of the guilty party
717 and if the guilty party be a nonresident of the State of
718 Mississippi, such proceedings shall be in the Chancery Court of
719 the First Judicial District of Hinds County, Mississippi.

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

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

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

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

740 (10) Any person or firm aggrieved by an action of the board
741 denying or revoking his certificate of licensure or authority or

742 relicensure as a professional engineer or his certificate of
743 enrollment as an engineer intern, or who is aggrieved by the
744 action of the board as a result of disciplinary proceedings
745 conducted under this section may appeal therefrom to the chancery
746 court of either the county wherein the appellant resides or the
747 Chancery Court of the First Judicial District of Hinds County, at
748 the election of the appellant. If the appellant is a nonresident
749 of this state, the appeal shall be made to the Chancery Court of
750 the First Judicial District of Hinds County. Such appeal shall be
751 perfected before the board by the filing with the board of a
752 notice of appeal to the chancery court. The court shall require a
753 bond in an amount not to exceed One Thousand Dollars (\$1,000.00)
754 conditioned to pay all costs which may be adjudged against the
755 appellant. The notice of appeal shall be filed not later than
756 thirty (30) days after the decision of the board is forwarded to
757 the guilty party, as provided hereinabove.

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

769 (11) In addition to the reasons specified in subsection (1)
770 of this section, the board shall be authorized to suspend the
771 certificate of licensure of any person for being out of compliance
772 with an order for support, as defined in Section 93-11-153. The
773 procedure for suspension of a certificate for being out of
774 compliance with an order for support, and the procedure for the

775 reissuance or reinstatement of a certificate suspended for that
776 purpose, and the payment of any fees for the reissuance or
777 reinstatement of a certificate suspended for that purpose, shall
778 be governed by Section 93-11-157 or 93-11-163, as the case may be.
779 Actions taken by the board in suspending a certificate when
780 required by Section 93-11-157 or 93-11-163 are not actions from
781 which an appeal may be taken under this section. Any appeal of a
782 suspension of a certificate that is required by Section 93-11-157
783 or 93-11-163 shall be taken in accordance with the appeal
784 procedure specified in Section 93-11-157 or 93-11-163, as the case
785 may be, rather than the procedure specified in this section. If
786 there is any conflict between any provision of Section 93-11-157
787 or 93-11-163 and any provision of this chapter, the provisions of
788 Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

807 members as provided in Section 73-13-7 and shall receive
808 compensation as provided for board members in Section 73-13-9.

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

811 73-13-39. Any person or firm who shall practice, or offer to
812 practice, engineering in this state without being licensed in
813 accordance with the provisions of Sections 73-13-1 through
814 73-13-45, or any person presenting or attempting to use as his own
815 the certificate of licensure or seal of another, or any person who
816 shall give any false or forged evidence of any kind to the board
817 or to any member thereof in obtaining a certificate of licensure,
818 or any person who shall falsely impersonate any other licensee of
819 like or different name, or any person or firm who shall attempt to
820 use an expired or revoked certificate of licensure, or any person
821 or firm who shall violate any of the provisions of Sections
822 73-13-1 through 73-13-45, shall be guilty of a misdemeanor, and
823 shall, upon conviction, be sentenced to pay a fine of not less
824 than One Hundred Dollars (\$100.00), nor more than Five Thousand
825 Dollars (\$5,000.00) in addition to reimbursement of investigative
826 expenses and court costs, or suffer imprisonment for a period not
827 exceeding three (3) months, or both. The criminal penalties
828 provided for in this section may be assessed in addition to those
829 civil penalties provided for in Section 73-13-37.

830 Unless licensed in accordance with the provisions of Sections
831 73-13-1 through 73-13-45, no person shall:

832 (a) Directly or indirectly employ, use, cause to be
833 used or make use of any of the following terms or any
834 combinations, variations or abbreviations thereof as a
835 professional, business or commercial identification, title, name,
836 representation, claim, asset or means of advantage or benefit:
837 "engineer," "professional engineer," "licensed engineer,"
838 "registered engineer," "registered professional engineer,"
839 "licensed professional engineer," "engineered," "engineering"; or

840 (b) Directly or indirectly employ, use, cause to be
841 used or make use of any letter, abbreviation, word, symbol,
842 slogan, sign or any combinations or variations thereof which in
843 any manner whatsoever tends or is likely to create any impression
844 with the public or any member thereof that any person is qualified
845 or authorized to practice engineering; or

846 (c) Receive any fee or compensation or the promise of
847 any fee or compensation for performing, offering or attempting to
848 perform any service, work, act or thing which is any part of the
849 practice of engineering.

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

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

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

863 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not
864 be construed to prevent or to affect:

865 (a) The practice of any other legally recognized
866 profession or trade, such as: (i) engineers employed by
867 contractors to supervise work on which a licensed engineer is
868 engaged; * * * (ii) architects who are registered under the
869 provisions of Chapter 1 of this title; and (iii) the practice of
870 geology as regulated pursuant to Title 73, Chapter 63;

871 (b) The work of an employee or a subordinate of a
872 person holding a certificate of licensure under this act, provided

873 such work does not include final designs or decisions and is done
874 under the responsibility, checking and supervision of a person
875 holding a certificate of licensure under Sections 73-13-1 through
876 73-13-45;

877 (c) The practice of officers and employees of the
878 government of the United States while engaged within this state in
879 the practice of engineering for said government; * * *

880 (d) The performance of engineering services by any
881 regular full-time employee of a manufacturing, research and
882 development, railroad or other industrial corporation, provided:

883 (i) Such services are rendered on or in connection
884 with existing fixed works, equipment, systems, processes or
885 facilities owned, operated, or leased by such corporation and/or
886 its affiliates;

887 (ii) Such services are not rendered to third
888 parties;

889 (iii) Such services do not consist of original
890 plant design, original system design, or original process design,
891 other than routine system extensions that do not compromise the
892 integrity of the original design;

893 (iv) Such services comply with all requirements
894 specified by the employee's company or corporation;

895 (v) All fixed works, equipment, systems, processes
896 or facilities modified by such services undergo a safety review
897 that confirms: (A) the construction and equipment is in
898 accordance with design specifications; and (B) safety, operating,
899 maintenance and emergency procedures are in place to safeguard
900 life, health and property;

901 (vi) Such services are not required to be
902 performed, approved or certified by a professional engineer
903 pursuant to law or regulation, whether federal, state or local,
904 other than Sections 73-13-1 through 73-13-45 hereof or any
905 applicable rules or regulations promulgated by the

906 Mississippi * * * Board of Licensure for Professional Engineers
907 and * * * Surveyors;

908 It is further stated that this subsection (d) is intended to
909 codify the policy and practices of the board at the time of
910 enactment of this Senate Bill No. 2380, 1999 Regular Session
911 [Laws, 1999, Chapter 534], and that any ambiguities in this
912 subsection should be construed in accordance with this intent;

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

938 It is further stated that this subsection (e) is intended to
939 codify the policy and practices of the board at the time of
940 enactment of * * * Senate Bill No. 2380, 1999 Regular Session
941 [Laws, 1999, Chapter 534], and that any ambiguities in this
942 subsection should be construed in accordance with this intent; or

943 (f) The practice of engineering shall not include the
944 work ordinarily performed by persons who operate or maintain
945 machinery, equipment, water plants, power generation, utility
946 transmission, utility distribution facilities, sewage plants and
947 solid waste disposal facilities.

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

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

960 73-13-43. As of January 1, 2005, no corporation, firm or
961 partnership may engage in the practice of professional engineering
962 in this state unless it has been issued a certificate of authority
963 by the board. In order to qualify for a certificate of authority,
964 a corporation, firm or partnership must have at least one (1)
965 Mississippi-licensed professional engineer as a principal officer,
966 partner or designated principal engineer of the firm who has
967 management responsibility for such practice and who makes
968 significant technical and/or contractual judgments on behalf of
969 the firm which would affect the firm's professional reputation and
970 liability.

971 The board shall have the authority to promulgate rules and
972 regulations setting procedures, standards and other requirements
973 for issuing and maintaining a certificate of authority for
974 corporations, firms or partnerships practicing engineering in the
975 State of Mississippi.

976 Applications for a certificate of authority shall be on the
977 forms prescribed and furnished by the board, and provide all the
978 information required by said board. The board shall establish a
979 fee for the certificate of authority application, not to exceed
980 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
981 partnership having the necessary qualifications as prescribed
982 herein and the rules and regulations of the board shall be issued
983 a certificate of authority for said corporation, firm or
984 partnership to practice engineering and to contract and collect
985 fees for furnishing this service.

986 Each certificate of authorization will expire on December 31
987 of each year. It shall be the duty of the board to notify every
988 corporation, firm or partnership holding a certificate of
989 authority under Sections 73-13-1 through 73-13-45 of the date of
990 the expiration of the certificate and the amount of the fee that
991 shall be required for its renewal for one (1) year. The renewal
992 fee shall not exceed One Hundred Fifty Dollars (\$150.00);
993 penalties for late renewal shall be ten percent (10%) per month
994 that payment is delayed. Additionally, if any of the information
995 on the initial or any subsequent renewal application changes for
996 the corporation, firm or partnership, said corporation, firm or
997 partnership shall notify the board in the form and manner
998 prescribed by the board within thirty (30) days of the change.

999 Effective January 1, 2005, the Secretary of State shall not
1000 issue a certificate of incorporation, licensure or authorization
1001 to an applicant or licensure as a foreign firm to a corporation,
1002 firm or partnership which includes in its name, or among the
1003 objectives for which it is established, any of the words,

1004 "engineer," "engineering," or any modification or derivation
1005 thereof, unless the board has issued for said applicant a
1006 certificate of authority or a letter indicating the eligibility of
1007 such applicant to receive such a certificate. The corporation,
1008 firm or partnership applying shall supply such certificate or
1009 letter from the board with its application for incorporation,
1010 licensure or authorization to the Secretary of State.

1011 An engineer who renders occasional, part-time or consulting
1012 engineering services to or for a corporation, firm or partnership
1013 may not, for the purposes of this section, be designated as being
1014 responsible for the professional activities of the firm.

1015 No such corporation, firm or partnership shall be relieved of
1016 responsibility for the conduct or acts of its agents, employees,
1017 officers, partners, members or managers by reason of its
1018 compliance with the provisions of this section. No individual
1019 practicing engineering under this chapter shall be relieved of
1020 responsibility for engineering services performed by reason of
1021 employment or other relationship with a firm holding an
1022 authorization certificate.

1023 **SECTION 23.** Section 73-13-45, Mississippi Code of 1972, is
1024 reenacted and amended as follows:

1025 73-13-45. (1) (a) Neither the state, nor any of its
1026 political subdivisions, such as a county, city or town, shall
1027 award construction contracts of any public work involving the
1028 practice of engineering or architecture unless the plans,
1029 specifications and estimates have been prepared and such work
1030 supervised by a registered professional engineer or architect;
1031 provided, that nothing in this subsection shall be held to apply
1032 to such public work wherein the expenditure does not exceed Fifty
1033 Thousand Dollars (\$50,000.00); and provided further, that nothing
1034 in this subsection shall apply to any municipality wherein such
1035 public work is not financed in whole or in part through the
1036 issuance of bonds and let to public contract.

1037 (b) The state and any of its political subdivisions,
1038 such as a county, city or town, may engage in construction of
1039 public buildings involving the practice of engineering or
1040 architecture and using political subdivision work forces without
1041 the supervision of a licensed professional engineer or architect,
1042 provided that the total cost of the public building does not
1043 exceed One Hundred Thousand Dollars (\$100,000.00). This paragraph
1044 (1)(b) shall not supersede any rules and regulations promulgated
1045 by the State Department of Health and the Department of
1046 Environmental Quality.

1047 (2) (a) In the awarding of public contracts for
1048 professional engineering services, preference shall be given to
1049 resident professional engineers over those nonresident
1050 professional engineers domiciled in a state having laws which
1051 grant a preference to the professional engineers who are residents
1052 of that state. Nonresident professional engineers shall be
1053 awarded Mississippi public contracts only on the same basis as the
1054 nonresident professional's state awards contracts to Mississippi
1055 professional engineers under similar circumstances. When a
1056 nonresident professional engineer submits a proposal for a public
1057 project, he shall attach thereto a copy of his resident state's
1058 current statute, resolution, policy, procedure or executive order
1059 pertaining to such state's treatment of nonresident professional
1060 engineers. Resident professional engineers actually domiciled in
1061 Mississippi, be they corporate, individuals or partnerships, shall
1062 be granted preference over nonresidents in the awarding of
1063 contracts in the same manner and to the same extent as provided by
1064 the laws of the state of domicile of the nonresident. As used in
1065 this section, the term "resident professional engineer" includes a
1066 nonresident person, firm or corporation that has been qualified to
1067 do business in this state and has maintained a permanent full-time
1068 office in the State of Mississippi for not less than two (2) years

1069 prior to submitting a proposal for a public project, and the
1070 subsidiaries and affiliates of such a person, firm or corporation.

1071 (b) The provisions of this subsection shall not apply
1072 to any contract for any project upon which federal funds would be
1073 withheld because of the preference requirements of this
1074 subsection.

1075 (c) Any contract, agreement or arrangement for
1076 professional engineering services negotiated, made or entered
1077 into, directly or indirectly, by the state, counties,
1078 municipalities or any political subdivision thereof, or by any
1079 special districts, which is in any way in violation of the
1080 provisions of this subsection is hereby declared to be void as
1081 contrary to the public policy of this state and shall not be given
1082 effect or enforced by any court of this state or by any of its
1083 officers or employees.

1084 (d) Nothing in this subsection shall affect the
1085 validity of any contract in existence prior to July 1, 1989.

1086 (e) For purposes of this section, the term
1087 "professional engineering services" means those within the scope
1088 of the practice of professional engineering as defined by Sections
1089 73-13-1 through 73-13-45, or those performed by any registered
1090 professional engineer in connection with professional employment
1091 or practice.

1092 **SECTION 24.** Section 73-13-71, Mississippi Code of 1972, is
1093 reenacted and amended as follows:

1094 73-13-71. (1) The term "board," as used in Sections
1095 73-13-71 through 73-13-105, shall mean the * * * Board of
1096 Licensure for Professional Engineers and * * * Surveyors as
1097 provided for in Section 73-13-5 of this chapter.

1098 (2) The term "professional * * * surveyor," as used in
1099 Sections 73-13-71 through 73-13-105, shall mean a person who
1100 engages in the practice of * * * surveying as hereinafter defined,
1101 whether in an individual capacity, or in behalf of or as an

1102 employee of any state, county or municipal authority of the State
1103 of Mississippi.

1104 (3) The term "* * * surveyor intern," as used in Sections
1105 73-13-71 through 73-13-105, shall mean a candidate for licensure
1106 as a professional * * * surveyor who has successfully passed the
1107 fundamentals of land surveying examination, has met the
1108 requirements of the board for enrollment, has received from the
1109 board a certificate stating that he has successfully passed this
1110 portion of the professional land surveying examinations and has
1111 been enrolled as a * * * surveyor intern.

1112 (4) The practice of "* * * surveying," within the meaning
1113 and intent of Sections 73-13-71 through 73-13-105, shall mean
1114 providing professional services such as consultation,
1115 investigation, testimony evaluation, expert technical testimony,
1116 planning, mapping, assembling and interpreting reliable scientific
1117 measurement and information relative to the location, size, shape
1118 or physical features of the earth, improvements on the earth, the
1119 space above the earth, or any part of the earth, utilization and
1120 development of these facts and interpretation into an orderly
1121 survey map, plan or report and in particular, the retracement of
1122 or the creating of land boundaries and descriptions of real
1123 property.

1124 The practice of surveying includes, but is not limited to,
1125 any one or more of the following:

1126 (a) Locating, relocating, establishing, reestablishing,
1127 laying out or retracing any property boundary or easement.

1128 (b) Making any survey for the subdivision of any tract
1129 of land, including rights-of-way and easements.

1130 (c) Determining, by the use of principles of surveying,
1131 the position for any survey monument or reference point; or
1132 setting, resetting or replacing any such monument or reference
1133 point, commonly known as control surveys.

1134 (d) Creating, preparing or modifying electronic or
1135 computerized data, including land information systems and
1136 geographic information systems, relative to the performance of the
1137 activities in the above-described paragraphs (a) through (c).

1138 **SECTION 25.** Section 73-13-73, Mississippi Code of 1972, is
1139 reenacted and amended as follows:

1140 73-13-73. No person shall practice * * * surveying without
1141 having first been duly and regularly licensed by the * * * Board
1142 of Licensure for Professional Engineers and * * * Surveyors as a
1143 professional * * * surveyor as required by Sections 73-13-71
1144 through 73-13-105, nor shall any person practice * * * surveying
1145 whose authority to practice is revoked by the said board.

1146 * * * The practice of * * * surveying, which must be
1147 performed by or under the direct supervision of a
1148 professional * * * surveyor and each map or drawing of which must
1149 be stamped with the seal of said licensee as provided in Section
1150 73-13-83, includes, but is not limited to, the following:
1151 property and boundary surveys; subdivision surveys and plats;
1152 public land surveys; easement surveys; right-of-way surveys; lease
1153 surveys; and all other surveys that require the establishment or
1154 reestablishment of property boundaries.

1155 Duties within both the practice of * * * surveying and the
1156 practice of engineering, which must be performed by or under the
1157 direct supervision of a professional * * * surveyor or a
1158 professional engineer and each map, drawing or report of which
1159 must be stamped with the seal of said licensee as provided in
1160 Sections 73-13-29 and 73-13-83, include, but are not limited to,
1161 the following:

1162 (a) Determining the configuration or contour of the
1163 earth's surface or the position of fixed objects thereon, commonly
1164 known as topographical surveys and as-built surveys (excluding the
1165 location of property boundaries);

1166 (b) Performing geodetic surveying which includes
1167 surveying for determination of the size and shape of the earth
1168 utilizing angular and linear measurements through spatially
1169 oriented spherical geometry;

1170 (c) Determining, by the use of principles of surveying,
1171 the position for any survey control (nonboundary) monument or
1172 reference point; or setting, resetting or placing any such
1173 monument or reference point; and

1174 (d) Creating, preparing or modifying electronic or
1175 computerized data, including land information systems, and
1176 geographic information systems, relative to the performance of the
1177 activities in the above-described paragraphs (a) through (c).

1178 **SECTION 26.** Section 73-13-75, Mississippi Code of 1972, is
1179 reenacted and amended as follows:

1180 73-13-75. The Mississippi * * * Board of Licensure for
1181 Professional Engineers and * * * Surveyors is hereby authorized
1182 and empowered to examine applicants for registration to
1183 practice * * * surveying; to license and issue certificates of
1184 licensure to all applicants whom it deems qualified to
1185 practice * * * surveying in accordance with Sections 73-13-71
1186 through 73-13-105; and to revoke certificates of licensure for
1187 just cause as provided for in Sections 73-13-71 through 73-13-105.

1188 **SECTION 27.** Section 73-13-77, Mississippi Code of 1972, is
1189 reenacted and amended as follows:

1190 73-13-77. (1) The following shall be considered as minimum
1191 evidence satisfactory to the board that the applicant is qualified
1192 for licensure as a professional * * * surveyor:

1193 (a) The successful completion of a curriculum of two
1194 (2) scholastic years or more from a school or college approved by
1195 the board as of satisfactory standing, including the completion of
1196 approved courses in surveying and related subjects; a specific
1197 record of three (3) years of qualifying * * * surveying experience
1198 indicating that the applicant is competent to practice * * *

1199 surveying; and successfully passing examinations in surveying
1200 prescribed by the board; or

1201 (b) A specific record of seven (7) years' or more
1202 experience in * * * surveying work of a character satisfactory to
1203 the board and indicating that the applicant is competent to
1204 practice * * * surveying; and successfully passing examinations in
1205 surveying prescribed by the board.

1206 * * *

1207 (2) The following shall be considered as minimum evidence
1208 satisfactory to the board that the applicant is qualified for
1209 certification as a * * * surveyor intern:

1210 (a) The successful completion of two (2) scholastic
1211 years or more from a school or college approved by the board as of
1212 satisfactory standing, including the completion of approved
1213 courses in * * * surveying and related subjects, and successfully
1214 passing an examination in the fundamentals of land surveying; or

1215 (b) A specific record of three (3) years or more of
1216 qualifying * * * surveying experience, and successfully passing an
1217 examination in the fundamentals of land surveying.

1218 (3) No person shall be eligible for licensure as a
1219 professional surveyor who is not of good character and reputation,
1220 as defined in the board's Code of Professional Conduct.

1221 **SECTION 28.** Section 73-13-79, Mississippi Code of 1972, is
1222 reenacted and amended as follows:

1223 73-13-79. Application for enrollment as a * * * surveyor
1224 intern or for licensure as a professional * * * surveyor shall be
1225 on forms prescribed and furnished by the board, shall contain
1226 statements made under oath showing the applicant's education and a
1227 detailed summary of the applicant's qualifying experience.

1228 Applications for licensure or relicensure as a professional * * *
1229 surveyor shall also contain not less than five (5) references, of
1230 whom three (3) or more shall be professional * * * surveyors

1231 having personal knowledge of the applicant's * * * surveying
1232 experience.

1233 The application fee for licensure as a professional * * *
1234 surveyor shall be determined by the board, but shall not exceed
1235 Seventy-five Dollars (\$75.00), which fee shall accompany the
1236 application.

1237 The application fee for enrollment as a * * * surveyor intern
1238 shall be determined by the board, but shall not exceed Twenty-five
1239 Dollars (\$25.00), which fee shall accompany the application.

1240 Whenever an applicant is cited to an examination or
1241 reexamination, an additional fee equal to the actual cost of the
1242 examination shall be paid by the applicant.

1243 **SECTION 29.** Section 73-13-81, Mississippi Code of 1972, is
1244 reenacted and amended as follows:

1245 73-13-81. Examinations shall be required for enrollment as
1246 a * * * surveyor intern and licensure as a professional * * *
1247 surveyor. The examinations shall be held at such time and place
1248 as the board may determine.

1249 The scope of the examinations and the methods and procedures
1250 shall be prescribed by the board with special reference to the
1251 applicant's ability to exercise direct control and personal
1252 supervision of all * * * surveying functions.

1253 The board shall cite applicants to examinations in accordance
1254 with its rules and regulations.

1255 **SECTION 30.** Section 73-13-83, Mississippi Code of 1972, is
1256 reenacted and amended as follows:

1257 73-13-83. The board shall issue a certificate, upon payment
1258 of the required fee, to any applicant who, in the opinion of the
1259 board, has satisfactorily met all the requirements therefor. In
1260 the case of licensed professional * * * surveyors, the certificate
1261 shall authorize the "practice of * * * surveying." In the case of
1262 a * * * surveyor intern, the certificate shall state that the
1263 applicant has successfully passed the examination in fundamental

1264 land surveying subjects required by the board and has been
1265 enrolled as a "* * * surveyor intern." Certificates shall show
1266 the full name of the professional * * * surveyor or * * * surveyor
1267 intern, shall have a serial number and shall be signed by the
1268 president and the secretary of the board under seal of the board.

1269 The issuance of a certificate of licensure by this board
1270 shall be prima facie evidence that the person named therein is
1271 entitled to all the rights and privileges of a licensed
1272 professional * * * surveyor, while the said certificate remains
1273 unrevoked or unexpired.

1274 Each person licensed as a professional * * * surveyor after
1275 June 30, 1991, but prior to July 1, 2004, shall, upon licensure,
1276 obtain a seal of the design authorized by the board, bearing the
1277 licensee's name and the legend "Registered Professional Land
1278 Surveyor." Each person licensed as a professional land surveyor
1279 after June 30, 1991, but prior to July 1, 2004, who is also
1280 licensed as a professional engineer in accordance with Sections
1281 73-13-1 through 73-13-45 may also obtain one (1) seal bearing the
1282 licensee's name and the legend "Registered Professional Engineer
1283 and Professional Land Surveyor." Any person who, before July 1,
1284 1991, but prior to July 1, 2004, was licensed under this chapter
1285 as a land surveyor or as both a professional engineer and a land
1286 surveyor may continue to use the seal or seals that he obtained
1287 and that were authorized by the board to be used by such person
1288 before July 1, 1991. From and after July 1, 2004, each person
1289 licensed as a professional surveyor shall, upon licensure, obtain
1290 a seal of the design and authorized by the board, bearing the
1291 licensee's name and the legend "Professional Surveyor." From and
1292 after July 1, 2004, each person licensed as a professional
1293 surveyor, who is also licensed as a professional engineer, may
1294 also obtain a seal bearing the licensee's name and the legend
1295 "Professional Engineer and Professional Surveyor."

1296 Plats, maps and reports prepared by a licensee shall be
1297 stamped with the seal during the life of the licensee's
1298 certificate, but it shall be unlawful for anyone to stamp or seal
1299 any documents with the seal after the certificate of the licensee
1300 named thereon has expired or been revoked or suspended. It shall
1301 be unlawful for anyone other than the licensee to whom the seal
1302 has been issued to stamp or seal any documents utilizing such
1303 seal.

1304 **SECTION 31.** Section 73-13-85, Mississippi Code of 1972, is
1305 reenacted and amended as follows:

1306 73-13-85. Certificates of licensure shall expire on the last
1307 day of the month of December following their issuance or renewal
1308 and shall become invalid on that date unless renewed. It shall be
1309 the duty of the board to notify every person licensed under
1310 Sections 73-13-71 through 73-13-105 of the date of the expiration
1311 of his certificate and the amount of the fee that shall be
1312 required for its renewal for one (1) year; such notice shall be
1313 sent by first-class mail to the last known address of the licensee
1314 at least one (1) month in advance of the date of the expiration of
1315 said certificate. Renewal may be effected at any time during the
1316 month of December by the payment of a fee not to exceed Fifty
1317 Dollars (\$50.00). A person who is licensed as a
1318 professional * * * surveyor and as a professional engineer may
1319 effect both renewals by the payment of a single fee not to exceed
1320 Seventy-five Dollars (\$75.00). The failure on the part of any
1321 licensee to renew his certificate annually in the month of
1322 December as required above shall not deprive such person of the
1323 right of renewal, but the fee to be paid for the renewal of a
1324 certificate after the month of December shall be increased ten
1325 percent (10%) for each month that payment of renewal is delayed;
1326 however, the maximum fee for delayed renewal shall not exceed five
1327 (5) times the normal renewal fee.

1328 If a certificate has expired for six (6) months or more, the
1329 licensee shall be required to submit a new application, paying
1330 back fees and submitting proof of continuing professional
1331 competency compliance. If the certificate has expired for five
1332 (5) years or more, in addition to submitting a new application and
1333 proof of continuing professional competency compliance,
1334 reexamination in the principles and practice may be required. The
1335 reexamination may be waived by the board provided the applicant
1336 has continued to practice under another jurisdiction from the date
1337 of expiration of his certificate.

1338 **SECTION 32.** Section 73-13-87, Mississippi Code of 1972, is
1339 reenacted and amended as follows:

1340 73-13-87. The board may, upon application therefor and the
1341 payment of a fee to be determined by the board, * * * issue a
1342 certificate of licensure as a professional * * * surveyor to any
1343 person who holds a certificate of licensure issued to him by the
1344 proper authority of any state or territory or possession of the
1345 United States, or of any country, provided that the applicant's
1346 qualifications meet the requirements of Sections 73-13-71 through
1347 73-13-105 and the rules established by the board.

1348 **SECTION 33.** Section 73-13-89, Mississippi Code of 1972, is
1349 reenacted and amended as follows:

1350 73-13-89. The powers and duties of the board regarding
1351 disciplinary actions against any person, including nonlicensees
1352 accused of violating any of the laws of the State of Mississippi
1353 regarding the practice of * * * surveying or the rules,
1354 regulations, bylaws, or standards of conduct and ethics pertaining
1355 thereto as duly promulgated by the board, as well as the
1356 procedures for conducting said disciplinary proceedings, the penal
1357 sanctions available to the board in the event the charges are
1358 established, and the procedures for appeal from such actions of
1359 the board shall be the same as those set forth in Sections

1360 73-13-37 and 73-13-39 regarding actions against persons charged
1361 with similar violations related to the practice of engineering.

1362 **SECTION 34.** Section 73-13-93, Mississippi Code of 1972, is
1363 reenacted and amended as follows:

1364 73-13-93. Any person who may feel aggrieved by an action of
1365 the board denying or revoking his certificate of licensure or
1366 relicensure as a professional * * * surveyor or enrollment
1367 as * * * surveyor intern may appeal therefrom to the chancery
1368 court of the county of residence of such person and, after full
1369 hearing, the court shall make such order sustaining or reversing
1370 the action of the board as to it may seem just and proper.

1371 However, in case of a nonresident licensee or applicant, such
1372 appeal shall be taken or made to the Chancery Court of the First
1373 Judicial District of Hinds County, Mississippi.

1374 Actions taken by the board in suspending a certificate of
1375 licensure when required by Section 93-11-157 or 93-11-163 are not
1376 actions from which an appeal may be taken under this section. Any
1377 appeal of a suspension of a certificate that is required by
1378 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1379 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1380 as the case may be, rather than the procedure specified in this
1381 section.

1382 **SECTION 35.** Section 73-13-95, Mississippi Code of 1972, is
1383 reenacted and amended as follows:

1384 73-13-95. Any person who shall practice, or offer to
1385 practice, * * * surveying in this state without being licensed in
1386 accordance with the provisions of Sections 73-13-71 through
1387 73-13-105, or any person presenting or attempting to use as his
1388 own the certificate of licensure or the seal of another, or any
1389 person who shall give any false or forged evidence of any kind to
1390 the board or to any member thereof in obtaining a certificate of
1391 licensure, or any person who shall falsely impersonate any other
1392 licensee of like or different name, or any person who shall

1393 attempt to use an expired or revoked certificate of licensure, or
1394 any person who shall violate any of the provisions of Sections
1395 73-13-71 through 73-13-105, shall be guilty of a misdemeanor, and
1396 shall, upon conviction, be sentenced to pay a fine of not less
1397 than One Hundred Dollars (\$100.00), nor more than Five Thousand
1398 Dollars (\$5,000.00), in addition to reimbursement of investigative
1399 expenses and court costs, or suffer imprisonment for a period of
1400 not exceeding three (3) months, or both. The criminal penalties
1401 provided for in this section may be assessed in addition to those
1402 civil penalties provided for in Section 73-13-37.

1403 Unless licensed in accordance with the provisions of Sections
1404 73-13-71 through 73-13-105, no person shall:

1405 (a) Directly or indirectly employ, use, cause to be
1406 used or make use of any of the following terms or any combination,
1407 variations or abbreviations thereof as a professional, business or
1408 commercial identification, title, name, representation, claim,
1409 asset or means of advantage or benefit: "surveyor," "professional
1410 surveyor," "licensed surveyor," "registered surveyor," "registered
1411 professional surveyor," "licensed professional surveyor,"
1412 "surveyed," "surveying," "professional land surveyor," or
1413 "licensed professional land surveyor";

1414 (b) Directly or indirectly employ, use, cause to be
1415 used or make use of any letter, abbreviation, word, symbol,
1416 slogan, sign or any combinations or variations thereof, which in
1417 any manner whatsoever tends or is likely to create any impression
1418 with the public or any member thereof that any person is qualified
1419 or authorized to practice * * * surveying; or

1420 (c) Receive any fee or compensation or the promise of
1421 any fee or compensation for performing, offering or attempting to
1422 perform any service, work, act or thing which is any part of the
1423 practice of * * * surveying.

1424 Any person, firm, partnership, association or corporation
1425 which shall do, offer or attempt to do any one or more of the acts

1426 or things set forth in items (a) through (c) of the preceding
1427 paragraph shall be conclusively presumed and regarded as engaged
1428 in the practice of * * * surveying.

1429 It shall be the duty of all duly constituted officers of the
1430 law of this state, or any political subdivision thereof, to
1431 enforce the provisions of Sections 73-13-71 through 73-13-105 and
1432 to prosecute any persons violating same. The Attorney General of
1433 the state or his assistant shall act as legal adviser of the board
1434 and render such legal assistance as may be necessary in carrying
1435 out the provisions of Sections 73-13-71 through 73-13-105.

1436 **SECTION 36.** Section 73-13-97, Mississippi Code of 1972, is
1437 reenacted and amended as follows:

1438 73-13-97. Sections 73-13-71 through 73-13-105 shall not be
1439 construed to prevent or to affect:

1440 (a) Other professions or trades. The practice of any
1441 other legally recognized profession or trade, including the
1442 practice of geology as regulated pursuant to Title 73, Chapter 63;
1443 or

1444 (b) Employees and subordinates. The work of an
1445 employee or a subordinate of a person holding a certificate of
1446 registration under Sections 73-13-71 through 73-13-105; providing
1447 such work does not include final decisions and is done under the
1448 direct responsibility, checking and supervision of a person
1449 holding a certificate of licensure under Sections 73-13-71 through
1450 73-13-105; or

1451 (c) Government officers and employees. The practice of
1452 officers and employees of the government of the United States
1453 while engaged within this state in the practice of * * * surveying
1454 for said government; or

1455 (d) Certain elected or appointed county surveyors. A
1456 county surveyor as provided for in Section 135 of the Mississippi
1457 Constitution, and Sections 19-27-1 through 19-27-35 implementing
1458 the constitutional provision, who holds the office of county

1459 surveyor by either election or appointment, shall be exempt,
1460 through December 31, 1983, from the provisions of Sections
1461 73-13-71 through 73-13-105 insofar as his statutory duties within
1462 the boundaries of the county in which he is duly elected or
1463 appointed are concerned. From and after January 1, 1984, such
1464 surveyor shall not be exempt from the provisions of Sections
1465 73-13-71 through 73-13-105 unless he held the office of county
1466 surveyor by either election or appointment on December 31, 1983;
1467 or

1468 (e) Employees of railroad, public service and/or
1469 utility companies. The work or practice of a regular employee of
1470 a railroad, or a public service company or public utility, by
1471 rendering to such company * * * surveying service in connection
1472 with its facilities which are subject to regulation, supervision
1473 and control in order to safeguard life, health and property by the
1474 Public Service Commission or the Mississippi Department of
1475 Transportation of this state, shall be exempt so long as such
1476 person is thus actually and exclusively employed and no longer; or

1477 (f) The work of a regular employee of a railroad,
1478 rendering to the railroad * * * surveying services in connection
1479 with its facilities within the exclusive scope of his employment
1480 provided that:

1481 (i) Any new right-of-way acquisitions for
1482 construction of rail lines by class one railroads shall be
1483 surveyed and platted in compliance with the Mississippi Minimum
1484 Standards for Land Surveying by a Mississippi professional * * *
1485 surveyor; and

1486 (ii) Upon the removal of track and disposition of
1487 an abandoned rail line the railroad shall retain and make
1488 available upon reasonable request from Mississippi licensed
1489 surveyors the railroad's valuation surveys for any such abandoned
1490 rail line.

1491 (g) The practice of geologists performing geologic
1492 mapping insofar as such practice does not encompass tasks or
1493 projects included by statute in the scope of work comprising the
1494 practice of professional surveying as defined in Title 73, Chapter
1495 13.

1496 (h) Nothing in this chapter prohibits any municipality
1497 or county from creating maps for use in planning, zoning, taxing,
1498 elections, police or fire, E-911, public works, transportation or
1499 related activities. However, if any such document does not bear
1500 the seal and signature of a professional surveyor, the document
1501 shall not be considered to be certifiably accurate as to position
1502 or location, nor shall the document be considered to be an
1503 official survey.

1504 **SECTION 37.** Section 73-13-99, Mississippi Code of 1972, is
1505 reenacted and amended as follows:

1506 73-13-99. Sections 73-13-1 through 73-13-45 and 73-13-71
1507 through 73-13-103, Mississippi Code of 1972, which create
1508 the * * * Board of Licensure for Professional Engineers and * * *
1509 Surveyors and prescribe its duties and powers, shall stand
1510 repealed as of July 1, 2009.

1511 **SECTION 38.** Section 73-13-103, Mississippi Code of 1972, is
1512 reenacted and amended as follows:

1513 73-13-103. (1) For the purposes of this section, the term
1514 "surveyor" means a licensed professional * * * surveyor as defined
1515 in Section 73-13-71, and any person who is employed by or under
1516 the direct supervision of a professional * * * surveyor licensed
1517 under Sections 73-13-71 through 73-13-97.

1518 (2) A surveyor may enter in or upon public or private lands
1519 or waters, except buildings, while in the lawful performance of
1520 surveying duties without criminal liability for trespass; however,
1521 a surveyor shall make a good faith attempt to announce and
1522 identify himself and his intentions before entering upon private

1523 property and must present documentation sufficient to identify him
1524 as a surveyor to anyone requesting such identification.

1525 (3) The provisions of this section do not relieve a surveyor
1526 from any civil liability that otherwise is actionable at law or in
1527 equity, and do not relieve a surveyor from criminal liability for
1528 trespass if the entry in or upon the property extends beyond the
1529 property or area that is necessary to actually perform the
1530 surveying duties.

1531 (4) Surveyors shall be personally liable for any damage
1532 caused to private property when exercising entry under this
1533 section. No cause of action shall lie against a landowner for
1534 damages to a surveyor while on such lands unless the damage is
1535 caused by the intentional tortious conduct of landowner or his
1536 agent.

1537 **SECTION 39.** Section 73-13-105, Mississippi Code of 1972, is
1538 amended as follows:

1539 73-13-105. As of January 1, 2005, no corporation, firm or
1540 partnership may engage in the practice of professional surveying
1541 in this state unless it has been issued a certificate of authority
1542 by the board. In order to qualify for a certificate of authority,
1543 a corporation, firm or partnership must have at least one (1)
1544 Mississippi-licensed professional surveyor as a principal officer
1545 or partner of the firm who has management responsibility for such
1546 practice.

1547 The board shall have the authority to promulgate rules and
1548 regulations setting procedures, standards and other requirements
1549 for issuing and maintaining a certificate of authority for
1550 corporations, firms or partnerships practicing surveying in the
1551 State of Mississippi.

1552 Applications for a certificate of authority shall be on the
1553 forms prescribed and furnished by the board, and provide all the
1554 information required by said board. The board shall establish a
1555 fee for the certificate of authority application, not to exceed

1556 Two Hundred Fifty Dollars (\$250.00). Any corporation, firm or
1557 partnership having the necessary qualifications as prescribed
1558 herein and the rules and regulations of the board shall be issued
1559 a certificate of authority for said corporation, firm or
1560 partnership to practice surveying and to contract and collect fees
1561 for furnishing this service.

1562 Each certificate of authorization will expire on December 31
1563 of each year. It shall be the duty of the board to notify every
1564 corporation, firm or partnership holding a certificate of
1565 authority under Sections 73-13-71 through 73-13-105 of the date of
1566 the expiration of the certificate and the amount of the fee that
1567 shall be required for its renewal for one (1) year. The renewal
1568 fee shall not exceed One Hundred Fifty Dollars (\$150.00);
1569 penalties for late renewal shall be ten percent (10%) per month
1570 that payment is delayed. Additionally, if any of the information
1571 on the initial or any subsequent renewal application changes for
1572 the corporation, firm or partnership, said corporation, firm or
1573 partnership shall notify the board in the form and manner
1574 prescribed by the board within thirty (30) days of the change.

1575 Effective January 1, 2005, the Secretary of State shall not
1576 issue a certificate of incorporation, licensure or authorization
1577 to an applicant or licensure as a foreign firm to a corporation,
1578 firm or partnership which includes in its name, or among the
1579 objectives for which it is established, any of the words,
1580 "surveyor," "surveying" or any modification or derivation thereof,
1581 unless the board has issued for said applicant a certificate of
1582 authority or a letter indicating the eligibility of such applicant
1583 to receive such a certificate. The corporation, firm or
1584 partnership applying shall supply such certificate or letter from
1585 the board with its application for incorporation, licensure or
1586 authorization to the Secretary of State.

1587 A surveyor who renders occasional, part-time or consulting
1588 surveying services to or for a corporation, firm or partnership

1589 may not, for the purposes of this section, be designated as being
1590 responsible for the professional activities of the firm.

1591 No such corporation, firm or partnership shall be relieved of
1592 responsibility for the conduct or acts of its agents, employees,
1593 officers, partners, members or managers by reason of its
1594 compliance with the provisions of this section. No individual
1595 practicing surveying under this chapter shall be relieved of
1596 responsibility for surveying services performed by reason of
1597 employment or other relationship with a firm holding an
1598 authorization certificate.

1599 **SECTION 40.** This act shall take effect and be in force from
1600 and after July 1, 2004.