

By: Representative Warren

To: Judiciary A

HOUSE BILL NO. 311  
(As Passed the House)

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

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

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

10 73-2-1. This chapter shall be known and may be cited as the  
11 "Landscape Architectural Practice Law."

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

14 73-2-3. As used in this chapter:

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

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

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

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

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

50 (e) "Mississippi chapter" means the Mississippi Chapter  
51 of the American Society of Landscape Architects.

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

54 73-2-5. No person shall practice landscape architecture in  
55 this state or use the title "landscape architect" on any sign,  
56 title, card or device to indicate that such person is practicing  
57 landscape architecture or is a landscape architect, unless such  
58 person shall have secured from the board a license as landscape  
59 architect in the manner hereinafter provided, and shall thereafter  
60 comply with the provisions of this chapter. Every holder of a  
61 current license shall display it in a conspicuous place in his  
62 principal office or place of employment.

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

65           73-2-7. In order to qualify for a license as a landscape  
66 architect, an applicant must:

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

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

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

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

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

86           73-2-9. Examinations for the license shall be held by the  
87 board annually. The board shall adopt rules and regulations  
88 covering the subjects and scope of the examinations, publish  
89 appropriate announcements, and conduct the examinations at the  
90 times designated. Except as otherwise provided in this chapter,  
91 every applicant shall be required, in addition to all other  
92 requirements, to take and pass a written examination. Each  
93 written examination may be supplemented by such oral examinations  
94 as the board shall determine.

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

97           73-2-11. The board may exempt from examination any applicant  
98 who holds a license or certificate to practice landscape  
99 architecture issued to him upon examination by a legally  
100 constituted board of examiners of any other state or Washington,  
101 D.C., or any other territory or possession under the control of  
102 the United States, provided that such requirements of the state in  
103 which the applicant is registered are equivalent to those of this  
104 state.

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

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

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

125           73-2-13. There shall be an advisory committee to the board  
126 to consist of five (5) members appointed by the Governor from a  
127 list of names supplied by Mississippi Chapter of the American

128 Society of Landscape Architects, giving the names of no fewer than  
129 three (3) times the number of persons to be appointed. Each  
130 member of the initially appointed committee shall be qualified as  
131 described by Section 73-2-7. Appointments shall be licensed  
132 landscape architects only and shall be for five-year terms. Each  
133 member shall hold office until the appointment and qualification  
134 of his successor. Vacancies occurring prior to the expiration of  
135 the term shall be filled by appointment in like manner for the  
136 unexpired term.

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

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

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

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

158 73-2-15. The board shall require that every landscape  
159 architect shall pay a biennial license renewal fee set by the  
160 board not in excess of Two Hundred Dollars (\$200.00). The renewal

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

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

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

179 The board shall adopt an appropriate seal for use by licensed  
180 landscape architects.

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

183 73-2-16. (1) The board shall also have the power to revoke,  
184 suspend or annul the certificate or registration of a landscape  
185 architect or reprimand, censure or otherwise discipline a  
186 landscape architect.

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

191 (a) Violating any of the provisions of Sections 73-2-1  
192 through 73-2-21 or the implementing bylaws, rules, regulations or

193 standards of ethics or conduct duly adopted and promulgated by the  
194 board pertaining to the practice of landscape architecture;

195 (b) Fraud, deceit or misrepresentation in obtaining a  
196 certificate of registration;

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

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

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

207 (f) Practicing landscape architecture under an assumed  
208 or fictitious name;

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

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

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

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

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

219 (3) Any person may prefer charges against any other person  
220 for committing any of the acts set forth in subsection (2). Such  
221 charges need not be sworn to, may be made upon actual knowledge,  
222 or upon information and belief, and shall be filed with the board.  
223 In the event any person licensed under Sections 73-2-1 through  
224 73-2-21 is expelled from membership in any Mississippi or national  
225 professional landscape architectural society or association, the

226 board shall thereafter cite said person to appear at a hearing  
227 before the board and to show cause why disciplinary action should  
228 not be taken against that person.

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

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

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

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



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

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

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

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

287           (6) A monetary penalty assessed and levied under this  
288 section shall be paid to the board upon the expiration of the  
289 period allowed for appeal of such penalties under this section, or  
290 may be paid sooner if the guilty party elects. Money collected by

291 the board under this section shall be deposited to the credit of  
292 the board's general operating fund.

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

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

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

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

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

323 destroyed license may be issued, subject to the rules of the  
324 board, for a charge not to exceed Twenty-five Dollars (\$25.00).

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

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

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

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

349 73-2-17. Each applicant for examination as a landscape  
350 architect shall pay to the board for the purposes of procuring,  
351 administering and grading the examination, an administration fee  
352 not to exceed One Hundred Dollars (\$100.00) together with an  
353 application fee in such amount as the board may set, but in no  
354 event to exceed the actual cost to the board of purchasing,  
355 preparing and evaluating the examination. Upon passing the

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

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

368 All checks or money orders submitted to the board shall be  
369 made payable to the board.

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

372 73-2-19. This chapter shall not require licensing in the  
373 following cases:

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

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

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

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

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

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

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

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

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

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

407 73-2-21. It shall be a misdemeanor for any person to:

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

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

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

414 (d) Falsely impersonate any other practitioner of like  
415 or different name.

416 (e) Use or attempt to use a certificate that has been  
417 revoked.

418 (f) Otherwise violate any of the provisions of this  
419 chapter.

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

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

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

444           73-2-23. All courts of competent jurisdiction within their  
445 respective territorial jurisdiction are hereby empowered to hear,  
446 try and determine such crimes without indictment and to impose in  
447 full the punishments of fines and imprisonments herein prescribed.  
448 All violations of this chapter, when reported to the board and  
449 duly substantiated by affidavits or other satisfactory evidence,  
450 shall be investigated by it, and if the report is found to be true  
451 and the evidence substantiated, the board shall report such  
452 violations to the Attorney General and request prompt prosecution.

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

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

458           **SECTION 15.** This act shall take effect and be in force from  
459 and after July 1, 2005.