

Mississippi Code of 1972, Annotated
Title 73, Chapter 13
Professional Engineers and Surveyors
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Section

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

§73-13-1. Engineers must be licensed; use of words "graduate engineer".

In order to safeguard life, health, and property, and to promote the public welfare, any person or firm in either public or private capacity practicing or offering to practice engineering shall hereafter be required to submit evidence that the person or firm is qualified so to practice engineering

and shall be licensed as hereinafter provided; and it shall be unlawful for any person or firm to practice or to offer to practice in this state, engineering, as defined in the provisions of Sections 73-13-1 through 73-13-45, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly licensed under the provisions of Sections 73-13-1 through 73-13-45. There is specifically reserved to engineering graduates of all universities and colleges accredited by a regional accrediting body that is recognized by the United States Department of Education, the right to disclose any college degrees received by such individuals and use the words "graduate engineer" on his stationery, business cards, and personal communications of any character.

§73-13-3. Definitions.

The term "engineer" as used in sections 73-13-1 through 73-13-45 shall mean a professional engineer as hereinafter defined.

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

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

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

Design coordination includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, surveyors, architects, landscape architects, and other professionals working under direction of the engineer.

The term "firm" as used in Sections 73-13-1 through 73-13-45, shall mean a business entity that offers the professional engineering or surveying

services to the public of its licensed personnel who are either employees, officers, directors, partners, members or managers. A business entity may be formed as either:

- (a) A professional service corporation;
- (b) A corporation;
- (c) A partnership, including limited partnerships and limited liability partnerships; or
- (d) A limited liability company.

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

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

A person or firm shall be construed to practice or offer to practice engineering within the meaning and intent of Sections 73-13-1 through 73-13-45, who practices any branch of the profession of engineering; or provides, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer; or who holds himself out as able to perform or provide, or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

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

§73-13-5. Appointment of board members.

A Board of Licensure for Professional Engineers and Surveyors is hereby created whose duty it shall be to administer the provisions of Sections 73-13-1 through 73-13-105. The board shall consist of six (6) licensed professional engineers, who shall be appointed by the Governor from eighteen (18) nominees recommended by the Mississippi Engineering Society, and shall have the qualifications required by Section 73-13-7, and three (3) licensed professional surveyors who are not licensed professional engineers, who shall be appointed by the Governor from nine (9) nominees recommended by the Mississippi Association of Professional Surveyors and who shall have the qualifications required by Section 73-13-77. The members of the board shall be appointed from

the above nominees. The board so appointed shall have two (2) engineer members from each of the three (3) State Supreme Court districts, designated by district, Post 1 and Post 2, and shall serve for four (4) years, or until their successors are duly appointed and qualified.

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

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

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

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

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

(d) The term of the engineer member presently serving from the First Supreme Court District, which term was set to expire on April 8, 2006, shall expire on July 1, 2007; and from and after July 1, 2004, this appointment shall be designated as Post 4.

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

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

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

(h) An appointment of a surveyor member shall be made from the Second

Supreme Court District; the appointment shall be made on July 1, 2004, and shall expire on July 1, 2005; from and after July 1, 2004, this appointment shall be designated as Post 8.

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

At the expiration of a term, members of the board shall be appointed in the manner prescribed in this section for terms of four (4) years from the expiration date of the previous terms. Any vacancy on the board prior to the expiration of a term for any reason, including resignation, removal, disqualification, death or disability, shall be filled by appointment of the Governor in the manner prescribed in this section for the balance of the unexpired term. The Mississippi Engineering Society and/or the Mississippi Association of Professional Surveyors shall submit a list of nominees no more than ninety (90) days after a vacancy occurs, and the Governor shall fill such vacancies within ninety (90) days after each such vacancy occurs.

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

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

§73-13-7. Qualifications of board members.

Each member of the board shall be a citizen of the United States and shall have been a resident of the state for at least five (5) years prior to the appointment. He shall be at least thirty-two (32) years of age, shall have been engaged in the practice of engineering or surveying, as the case may be, for at least ten (10) years and shall have been in responsible charge of important engineering or surveying work, as the case may be, for at least five (5) years. Each year of teaching engineering or surveying in a school or college shall be equivalent to a year of responsible charge of engineering or surveying work. Not more than two (2) members of the board at any time may be teachers of engineering in the universities or colleges of the state. All members of the board shall be licensed professional engineers or licensed professional surveyors, as the case may be.

§73-13-9. Compensation of the board members.

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

§73-13-11. Removal of board members; vacancies.

The Governor may remove any member of the board for misconduct,

incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in Section 73-13-5.

§73-13-13. Meetings of board; election of officers; quorum.

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

§73-13-15. Rules and regulations; seal; powers.

The board shall have the power to adopt and amend all regulations and rules of procedure, not inconsistent with the Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal. It shall not be required to post bond on appeals. The board shall have the further power and authority to:

- (a) Establish standards of conduct and ethics;
- (b) Institute proceedings in its own name;
- (c) Promulgate rules restricting competitive bidding;
- (d) Promulgate rules limiting or restricting advertising;
- (e) Promulgate rules requiring a demonstration of continuing education;
- (f) Adopt and promulgate reasonable bylaws and rules and regulations necessary or appropriate for the proper fulfillment of its duties under state laws pertaining thereto;
- (g) Provide for the enforcement of and to enforce the laws of the State of Mississippi and, in particular, the provisions of this chapter, and the bylaws, rules and regulations of the board;
- (h) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for taking the disciplinary actions provided for in Section 73-13-37, including the imposition of fines as provided therein;
- (i) Investigate, prosecute or initiate prosecution for violation of the laws of this state pertaining to the practices of engineering and surveying, or matters affecting the rights and duties or otherwise related thereto; and
- (j) Adopt rules setting forth qualifications and standards of practice for firms; and
- (k) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for the annual and/or biennial renewal of

certificates of licensure.

In carrying into effect the provisions of Sections 73-13-1 through 73-13-105, the board, under the hand of its president or secretary and the seal of the board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in any case involving the disciplinary actions provided for in Section 73-13-37 or 73-13-89 or practicing or offering to practice without licensure. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to such authority as may have jurisdiction, setting forth the facts, and thereupon such authority shall, in a proper case, issue its subpoena to such person, requiring his attendance before such authority and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said authority may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the authority.

§73-13-17. Receipts and disbursements.

(1) The board shall keep an account of all monies derived from the operation of Sections 73-13-1 through 73-13-105. All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of Sections 73-13-1 through 73-13-105 when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and disbursements from the special fund shall be made by the State Treasurer only upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the board and countersigned by the secretary of the board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of the fiscal year shall not lapse into the State General Fund. The State Auditor shall audit the financial affairs of the board and the transactions involving the special fund at least once a year in the same manner as for other special fund agencies.

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

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

§73-13-19. Records and reports.

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

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the executive director of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

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

§73-13-21. Roster to be prepared.

A roster showing the names and places of business or residence of all licensed professional engineers and licensed professional surveyors and licensed firms shall be prepared biennially by the board.

§73-13-23. Qualifications for licensure.

(1) (a) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

Graduation in an engineering curriculum of four (4) years or more from a school or college approved by the board as of satisfactory standing or graduation in an engineering, engineering technology, or related science curriculum of four (4) scholastic years from a school or college other than those approved by the board plus a graduate degree in an engineering curriculum from a school or college wherein the same engineering curriculum at the undergraduate level is approved by the board as of satisfactory standing; a specific record of four (4) years of qualifying engineering experience indicating that the applicant is competent to practice engineering (in counting years of experience, the board at its discretion may give credit not in excess of three (3) years of satisfactory graduate study in engineering), and the successful passing of examinations in engineering as prescribed by the board; or

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

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

(d) Any person having the necessary qualifications prescribed in Sections 73-13-1 through 73-13-45 to entitle him to licensure shall be eligible

for such licensure although he may not be practicing his profession at the time of making his application.

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

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

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

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

§73-13-25. Application for licensure; fees.

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

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

The application fee for enrollment as an engineer intern shall be determined by the board but shall not exceed Twenty-five Dollars (\$25.00), which fee shall accompany the application.

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

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

§73-13-27. Examinations.

Examinations shall be required for enrollment as an engineer intern and for licensure as a professional engineer. The examinations shall be held at such time and place as the board may determine.

The scope of the examinations and the methods and procedure shall be

prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property.

§73-13-29. Certificate of Licensure.

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

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

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

§73-13-31. Expiration of Certificate of Licensure.

(1) Except as provided in Section 33-1-39 and subsection (2) of this section, certificates of licensure shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under Sections 73-13-1 through 73-13-105, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. Such notice shall occur at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee, as determined by the board, not to exceed Fifty Dollars (\$50.00) or One Hundred Dollars (\$100.00) if renewals are for two (2) years. A person who is licensed as a professional engineer and as a professional surveyor may affect both renewals by the payment of a fee not to exceed Seventy-five Dollars (\$75.00), or One Hundred Fifty Dollars (\$150.00) if renewals are for two (2) years. The failure on the part of any licensee to renew his certificate annually, or biennially, in the month of December as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month, or fraction of a month that payment of renewal is delayed; provided, however, that the maximum for delayed renewal shall not exceed five (5) times the normal renewal fee. A

state agency or any of the state's political subdivisions, such as a county or municipality, may pay the renewal fee of any licensee who is a full-time employee; provided, however, that any licensee who permits his/her renewal fee to be paid from any public funds shall not perform engineering or surveying services for a fee or other emoluments for the public or for any other public entity. If a certificate has expired for six (6) months or more, the licensee shall be required to submit a new application, paying back fees and submitting proof of continuing professional competency compliance. If the certificate has expired for five (5) years or more, in addition to submitting a new application and proof of continuing professional competency compliance, reexamination in the principles and practice may be required. The reexamination requirement may be waived by the board provided the applicant has continued to practice in another jurisdiction from the date of expiration of his certificate.

§73-13-33. Rights and privileges.

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

§73-13-35. Persons holding certificates from a national body or other state.

The board may, upon application therefor and the payment of a fee in accordance with Section 73-13-25, issue a certificate of licensure as a professional engineer to any person who holds a certificate of qualification or licensure issued to him by proper authority of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of Sections 73-13-1 through 73-13-45 and the rules established by the board. The issuance of a certificate of licensure by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act. *(The last sentence of this section was enacted by the 2013 state legislature; "this act" refers to Senate Bill 2419, 2013 session, which can be found on the Board's website.)*

§73-13-37. Disciplinary actions; hearings; subpoenas; statement of charges; transcripts; witnesses; right to counsel; penalties; probation; reissuance of certificate of licensure; appeals.

(1) The board, upon satisfactory proof and in accordance with the provisions of this chapter and the implementing regulations of the board pertaining thereto, is authorized to take the disciplinary actions provided for hereinafter against any person or firm practicing engineering or surveying, including nonregistrants, for any of the following reasons:

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

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

(c) Gross negligence, malpractice or incompetency;

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

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

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

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

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

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

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

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

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

Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify or shall refuse to produce any books and papers, the production of which is called for

by the subpoena, the attendance of such witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

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

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

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

(5) A monetary penalty assessed and levied under this section shall be paid to the board upon the expiration of the period allowed for appeal of such penalties under this section, or may be paid sooner if the guilty party elects. Money collected by the board under this section shall be deposited to the credit of the board's special fund in the State Treasury.

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

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

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

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

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

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

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

(11) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the certificate of licensure of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a certificate for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a certificate suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a certificate suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a certificate when required by Section 93-11-157 or 93-11-163, are not actions from which an appeal may be taken under this section. Any appeal of a suspension of a certificate that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(12) Any board member whose objectivity in a disciplinary proceeding is impaired shall either recuse himself from sitting as a member of the board in a formal disciplinary hearing in that proceeding or be disqualified therefrom. In the event a disciplinary proceeding is brought against a member or former member of the board, no member of the board who has served concurrently with the respondent in the disciplinary proceeding shall sit as a member of the board in a formal disciplinary hearing in that proceeding. If, after recusal or disqualification of board members as provided herein, there does not remain a quorum of the board to sit for a disciplinary hearing, the board shall have

the power to select, in accordance with duly promulgated regulations of the board, substitute panel members from slates of candidates established by the Mississippi Engineering Society and the Mississippi Association of Professional Surveyors to the extent necessary to achieve the number of panel members must meet the qualifications of board members as provided in Section 73-13-7 and shall receive compensation as provided for board members in Section 73-13-9.

§73-13-39. Violations and penalties.

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

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

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

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

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

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

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

of the board in carrying out the provisions of Sections 73-13-1 through 73-13-45.

§73-13-41. Applicability.

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

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

(b) The work of an employee or a subordinate of a person holding a certificate of licensure under this act, provided such work does not include final designs or decisions and is done under the responsibility, checking and supervision of a person holding a certificate of licensure under Sections 73-13-1 through 73-13-45;

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

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

- (i) Such services are rendered on or in connection with existing fixed works, equipment, systems, processes or facilities owned, operated, or leased by such corporation and/or its affiliates;
- (ii) Such services are not rendered to third parties;
- (iii) Such services do not consist of original plant design, original system design, or original process design, other than routine system extensions that do not compromise the integrity of the original design;
- (iv) Such services comply with all requirements specified by the employee's company or corporation;
- (v) All fixed works, equipment, systems, processes or facilities modified by such services undergo a safety review that confirms; 1. the construction and equipment is in accordance with design specifications; and 2. safety, operating, maintenance and emergency procedures are in place to safeguard life, health and property.
- (vi) Such services are not required to be performed, approved, or certified by a professional engineer pursuant to law or regulation, whether federal, state, or local, other than Section 73-13-1 through 73-13-45 hereof or any applicable rules or regulations promulgated by the Mississippi Board of Licensure for Professional Engineers and Surveyors.

It is further stated that this subsection (d) is intended to codify the policy and practices of the board at the time of enactment of this Senate Bill No. 2380, 1999 Regular Session, and that any ambiguities in this subsection should be construed in accordance with this intent.

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

It is further stated that this subsection (e) is intended to codify the policy and practices of the board at the time of enactment of Senate Bill No. 2380, 1999 Regular Session, and that any ambiguities in this subsection should be construed in accordance with this intent; or

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

(g) Activities conducted during the course of, or in anticipation of, litigation including, but not exclusively: analyzing, evaluating, consulting, reconstructing, testing, responding to the opinions and testing conducted by others, and offering expert testimony. However, this exemption shall not apply in legal proceedings where the subject matter of the litigation or claim is nonforensic engineering activity legally required to be performed under a Mississippi engineer's license.

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

§73-13-43. Certificate of Authority; corporations, firms, partnerships.

As of January 1, 2005, no corporation, firm or partnership may engage in the practice of professional engineering in this state unless it has been issued a certificate of authority by the board. In order to qualify for a certificate of authority, a corporation, firm or partnership must have at least one (1) Mississippi-licensed professional engineer as a principal officer, partner or designated principal engineer of the firm who has management

responsibility for such practice and who makes significant technical and/or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability.

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

Applications for a certificate of authority shall be on the forms prescribed and furnished by the board, and provide all the information required by said board. The board shall establish a fee for the certificate of authority application, not to exceed Two Hundred Fifty Dollars (\$250.00) for a one-year certificate or Four Hundred Dollars (\$400.00) for a two-year certificate. Any corporation, firm or partnership having the necessary qualifications as prescribed herein and the rules and regulations of the board shall be issued a certificate of authority for said corporation, firm or partnership to practice engineering and to contract and collect fees for furnishing this service.

Each certificate of authorization will expire on December 31 of the end of the renewal period year. It shall be the duty of the board to notify every corporation, firm or partnership holding a certificate of authority under Sections 73-13-1 through 73-13-45 of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. The renewal fee shall not exceed One Hundred Fifty Dollars (\$150.00) for one (1) year or Three Hundred Dollars (\$300.00) or two (2) years; penalties for late renewal shall be ten percent (10%) per month that payment is delayed. Additionally, if any of the information on the initial or any subsequent renewal application changes for the corporation, firm or partnership, said corporation, firm or partnership shall notify the board in the form and manner prescribed by the board within thirty (30) days of the change.

Effective January 1, 2005, the Secretary of State shall not issue a certificate of incorporation, licensure or authorization to an applicant or licensure as a foreign firm to a corporation, firm or partnership which includes in its name, or among the objectives for which it is established, any of the words, "engineer," "engineering," or any modification or derivation thereof, unless the board has issued for said applicant a certificate of authority or a letter indicating the eligibility of such applicant to receive such a certificate. The corporation, firm or partnership applying shall supply such certificate or letter from the board with its application for incorporation, licensure or authorization to the Secretary of State.

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

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

certificate.

§73-13-45. Public Works.

(1)(a) Neither the state, nor any of its political subdivisions, such as a county, city or town, shall award construction contracts of any public work involving the practice of engineering or architecture unless the plans, specifications and estimates have been prepared and such work supervised by a registered professional engineer or architect; however, nothing in this subsection shall be held to apply to such public work in which the expenditure does not exceed One Hundred Thousand Dollars (\$100,000.00).

(b) The state and any of its political subdivisions, such as a county, city or town, may engage in construction of public buildings involving the practice of engineering or architecture and using political subdivision work forces without the supervision of a licensed professional engineer or architect, provided that the total cost of the public building does not exceed One Hundred Fifty Thousand Dollars (\$150,000.00). This paragraph (1)(b) shall not supersede any rules and regulations promulgated by the State Department of Health and the Department of Environmental Quality.

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

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

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

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

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

§73-13-71. Definitions.

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

(2) The term "professional surveyor," as used in Sections 73-13-71 through 73-13-105, shall mean a person who engages in the practice of surveying as hereinafter defined, whether in an individual capacity, or in behalf of or as an employee of any state, county, or municipal authority of the State of Mississippi.

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

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

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

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

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

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

(d) Creating, preparing or modifying electronic or computerized data,

including land information systems and geographic information systems, relative to the performance of the activities in the above-described paragraphs (a) through (c).

§73-13-73. Persons practicing surveying required to be licensed.

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

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

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

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

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

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

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

§73-13-75. Granting further powers to State Board of Licensure for Professional Engineers and Surveyors.

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

§73-13-77. Qualifications of applicant as professional surveyor or surveyor intern.

(Through June 30, 2012, this section shall read as follows:)

(1) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional surveyor:

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

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

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

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

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

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

(From and after July 1, 2012, through June 30, 2016, this section shall read as follows:)

(1) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional surveyor:

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

(b) A specific record of seven (7) years' or more experience in surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice surveying; and successfully passing examinations in

surveying prescribed by the board.

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

(a) (i) A Bachelor's degree in geomatics, surveying or surveying technology approved by the board consisting of a minimum of one hundred twenty (120) semester hours, or the equivalent, in surveying curriculum subjects; or

(ii) A Bachelor's degree in a related science curriculum defined by board rule consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule; or

(iii) A Bachelor's degree in a related science curriculum defined by board rule; or

(iv) An associate degree, or its equivalent, in a curriculum approved by the board consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule; or

(v) A high school diploma, or its equivalent, and a specific record of eight (8) years or more of qualifying surveying experience; and

(b) Successfully passing examinations in surveying fundamentals prescribed by the board.

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

(From and after July 1, 2016, this section shall read as follows:)

(1) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional surveyor:

(a) (i) A bachelor's degree in geomatics, surveying or surveying technology approved by the board consisting of a minimum of one hundred twenty (120) semester hours, or the equivalent, in surveying curriculum subjects and a specific record of four (4) years of qualifying surveying experience; or

(ii) A bachelor's degree in a related science curriculum defined by board rule, consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule, and a specific record of five (5) years of qualifying surveying experience; or

(iii) A bachelor's degree in a related science curriculum defined by board rule, and a specific record of six (6) years of qualifying surveying experience; or

(iv) An associate degree, or its equivalent, in a curriculum approved by the board consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule, and a specific record of seven (7) years or more of qualifying surveying experience; or

(v) A high school diploma, or its equivalent, and a specific record of twelve (12) years or more of qualifying surveying experience; and

(b) successfully passing examinations in surveying prescribed by the board.

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

(a) (i) A bachelor's degree in geomatics, surveying or surveying technology approved by the board consisting of a minimum of one hundred twenty (120) semester hours, or the equivalent, in surveying curriculum subjects; or

(ii) A bachelor's degree in a related science curriculum defined by board rule consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule; or

(iii) A bachelor's degree in a related science curriculum defined by board rule; or

(iv) An associate degree, or its equivalent, in a curriculum approved by the board consisting of sixty-two (62) semester hours in surveying curriculum subjects as defined by board rule; or

(v) A high school diploma, or its equivalent, and a specific record of eight (8) years or more of qualifying surveying experience; and

(b) Successfully passing examinations in surveying fundamentals prescribed by the board.

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

§73-13-79. Application and licensure fees.

Application for enrollment as a surveyor intern or for licensure as a professional surveyor shall be on forms prescribed and furnished by the board, shall contain statements made under oath showing the applicant's education and a detailed summary of the applicant's qualifying experience. Applications for licensure or relicensure as a professional surveyor shall also contain not less than five (5) references, of whom three (3) or more shall be professional surveyors having personal knowledge of the applicant's surveying experience.

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

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

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

§73-13-81. Examinations.

Examinations shall be required for enrollment as a surveyor intern and licensure as a professional surveyor. The examinations shall be held at such time and place as the board may determine.

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

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

§73-13-83. Certificates; seals.

The board shall issue a certificate, upon payment of the required fee, to any applicant who, in the opinion of the board, has satisfactorily met all requirements therefor. In the case of licensed professional surveyors, the certificate shall authorize the "practice of surveying." In the case of a surveyor intern, the certificate shall state that the applicant has successfully passed the examination in fundamental land surveying subjects required by the board and has been enrolled as a "surveyor intern." Certificates shall show the full name of the professional surveyor or surveyor intern, shall have a serial number and shall be signed by the president and the secretary of the board under seal of the board.

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

Each person licensed as a professional surveyor after June 30, 1991, but prior to July 1, 2004, shall, upon licensure, obtain a seal of the design authorized by the board, bearing the licensee's name and the legend "Registered Professional Land Surveyor." Each person licensed as a professional surveyor after June 30, 1991, but prior to July 1, 2004, who is also licensed as a professional engineer in accordance with Sections 73-13-1 through 73-13-45 may also obtain one (1) seal bearing the licensee's name and the legend "Registered Professional Engineer and Professional Land Surveyor." Any person who, before July 1, 1991, but prior to July 1, 2004, was licensed under this chapter as a land surveyor or as both a professional engineer and a land surveyor may continue to use the seal or seals that he obtained and that were authorized by the board to be used by such person before July 1, 1991. From and after July 1, 2004, each person licensed as a professional surveyor shall, upon licensure, obtain a seal of the design and authorized by the board, bearing the licensee's name and the legend "Professional Surveyor." From and after July 1, 2004, each person licensed as a professional surveyor, who is also licensed as a professional engineer, may also obtain a seal bearing the licensee's name and the legend "Professional Engineer and Professional Surveyor."

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

issued to stamp or seal any documents utilizing such seal.

§73-13-85. Expiration and renewals.

Certificates of licensure shall expire on the last day of the month of December at the end of the renewal period following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under Sections 73-13-71 through 73-13-105 of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years; such notice shall occur at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be affected at any time during the month of December by the payment of a fee not to exceed Fifty Dollars (\$50.00) or One Hundred Dollars (\$100.00) if renewals are for two (2) years. A person who is licensed as a professional surveyor and as a professional engineer may effect both renewals by the payment of a single fee not to exceed Seventy-five Dollars (\$75.00), or One Hundred Fifty Dollars (\$150.00) if renewals are for two (2) years. The failure on the part of any licensee to renew his certificate annually or biennially in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month that payment of renewal is delayed; however, the maximum fee for delayed renewal shall not exceed five (5) times the normal renewal fee.

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

§73-13-87. Acceptance of certificates from other states, territories, and countries.

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

§73-13-89. Disciplinary actions.

The powers and duties of the board regarding disciplinary actions against any person, including nonlicensees, accused of violating any of the laws of the State of Mississippi regarding the practice of surveying or the rules, regulations, bylaws, or standards of conduct and ethics pertaining thereto as duly promulgated by the board, as well as the procedures for conducting said disciplinary proceedings, the penal sanctions available to the board in the event the charges are established, and the procedures for appeal from such actions of the board shall be the same as those set forth in Section 73-13-37 and 73-13-39 regarding actions against persons charged with similar violations

related to the practice of engineering.

§73-13-93. Appeals.

Any person who may feel aggrieved by an action of the board denying or revoking his certificate of licensure or relicensure as a professional surveyor or enrollment as surveyor intern may appeal therefrom to the chancery court of the county of residence of such person and, after full hearing, the court shall make such order sustaining or reversing the action of the board as it may seem just and proper. However, in case of a nonresident licensee or applicant, such appeal shall be taken or made to the Chancery Court of the First Judicial District of Hinds County, Mississippi.

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

§73-13-95. Violations and penalties.

Any person who shall practice, or offer to practice, surveying in this state without being licensed in accordance with the provisions of Sections 73-13-71 through 73-13-105, or any person presenting or attempting to use as his own the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall knowingly attempt to use a license which has been expired for more than twelve (12) consecutive months or revoked certificate of licensure, or any person who shall violate any of the provisions of Sections 73-13-71 through 73-13-105, shall be guilty of a misdemeanor, and shall, upon conviction of a first offense of violating this section, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Thousand Dollars (\$5,000.00), and in addition thereto shall make restitution to the board for investigative expenses and court costs, or suffer imprisonment for a period of not exceeding three (3) months, or both. Upon any second and subsequent conviction of violating this section, such person shall be sentenced to pay a fine of not less than Five Thousand Dollars (\$5,000.00), nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county jail for not more than one (1) year, or both. The criminal penalties provided for in this section may be assessed in addition to those civil penalties provided for in Section 73-13-37.

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

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

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

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

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

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

§73-13-97. Application of §73-13-77 through 73-13-105.

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

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

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

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

(d) Certain elected or appointed county surveyors. A county surveyor as provided for in Section 135 of the Mississippi Constitution, and Sections 19-27-1 through 19-27-35 implementing the constitutional provision, who holds the office of county surveyor by either election or appointment, shall be exempt, through December 31, 1983, from the provisions of Sections 73-13-71 through 73-13-105 insofar as his statutory duties within the boundaries of the county in which he is duly elected or appointed are concerned. From and after January 1, 1984, such surveyor shall not be exempt from the provisions of Sections 73-13-71 through 73-13-105 unless he held the office of county surveyor by either election or appointment on December 31, 1983; or

(e) Employees of railroad, public service and/or utility companies. The work or practice of a regular employee of a railroad, or a public service company or public utility, by rendering to such company surveying service in connection with its facilities which are subject to regulation, supervision and

control in order to safeguard life, health and property by the Public Service Commission or the Mississippi Department of Transportation of this state, shall be exempt so long as such person is thus actually and exclusively employed and no longer; or

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

- (i) Any new right-of-way acquisitions for construction of rail lines by class one railroads shall be surveyed and platted in compliance with the Mississippi Minimum Standards for Land Surveying by a Mississippi professional surveyor; and
- (ii) Upon the removal of track and disposition of an abandoned rail line the railroad shall retain and make available upon reasonable request from Mississippi licensed surveyors the railroad's valuation surveys for any such abandoned rail line.

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

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

§73-13-103. Immunity of land surveyors from criminal liability for trespass.

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

(2) A surveyor may enter in or upon public or private lands or waters, except buildings, while in the lawful performance of surveying duties without criminal liability for trespass; however a surveyor shall make a good faith attempt to announce and identify himself and his intentions before entering upon private property and must present documentation sufficient to identify him as a surveyor to anyone requesting such identification.

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

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

§73-13-105. Certificate of Authority; corporations, firms, partnerships.

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

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

Applications for a certificate of authority shall be on the forms prescribed and furnished by the board, and provide all the information required by said board. The board shall establish a fee for the certificate of authority application, not to exceed Two Hundred Fifty Dollars (\$250.00) for a one-year certificate and Four Hundred Dollars (\$400.00) for a two-year certificate. Any corporation, firm or partnership having the necessary qualifications as prescribed herein and the rules and regulations of the board shall be issued a certificate of authority for said corporation, firm or partnership to practice surveying and to contract and collect fees for furnishing this service.

Each certificate of authorization will expire on December 31 of the end of the renewal period year. It shall be the duty of the board to notify every corporation, firm or partnership holding a certificate of authority under Sections 73-13-71 through 73-13-105 of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. The renewal fee shall not exceed One Hundred Fifty Dollars (\$150.00) for one (1) year or Three Hundred Dollars (\$300.00) for two (2) years; penalties for late renewal shall be ten percent (10%) per month that payment is delayed. Additionally, if any of the information on the initial or any subsequent renewal application changes for the corporation, firm or partnership, said corporation, firm or partnership shall notify the board in the form and manner prescribed by the board within thirty (30) days of the change.

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

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

No such corporation, firm or partnership shall be relieved of

responsibility for the conduct or acts of its agents, employees, officers, partners, members or managers by reason of its compliance with the provisions of this section. No individual practicing surveying under this chapter shall be relieved of responsibility for surveying services performed by reason of employment or other relationship with a firm holding an authorization certificate.