

CHAPTER 63
Registered Professional Geologists Practice Act

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AN ACT TO CREATE THE REGISTERED PROFESSIONAL GEOLOGISTS PRACTICE ACT OF 1997; TO DEFINE TERMS; TO REQUIRE INDIVIDUALS PRACTICING, ATTEMPTING TO PRACTICE OR OFFERING TO PRACTICE GEOLOGY TO BE REGISTERED UNDER THIS CHAPTER; TO PROHIBIT PERSONS OTHER THAN INDIVIDUALS FROM PRACTICING GEOLOGY UNLESS GEOLOGICAL WORK IS PERFORMED UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL GEOLOGIST; TO SPECIFY THOSE ACTS CONSTRUED AS THE PRACTICE OF GEOLOGY; TO REQUIRE GEOLOGIC REPORTS TO BE PREPARED UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL GEOLOGIST; TO SPECIFY THOSE ACTIVITIES WHICH SHALL NOT REQUIRE REGISTRATION UNDER THIS CHAPTER; TO CREATE THE BOARD OF REGISTERED PROFESSIONAL GEOLOGISTS AND PROVIDE FOR ITS MEMBERSHIP; TO SPECIFY THE QUALIFICATIONS OF BOARD MEMBERS; TO ESTABLISH A PROCESS FOR NOMINATIONS OF BOARD MEMBERS; TO PROVIDE FOR PER DIEM AND EXPENSES OF BOARD MEMBERS; TO AUTHORIZE THE REMOVAL OF BOARD MEMBERS UNDER CERTAIN CIRCUMSTANCES; TO ESTABLISH THE POWERS AND DUTIES OF THE BOARD; TO AUTHORIZE THE BOARD TO HIRE AN EXECUTIVE DIRECTOR AND TO SPECIFY THE POWERS AND DUTIES OF THAT EXECUTIVE DIRECTOR; TO CREATE THE REGISTERED PROFESSIONAL GEOLOGISTS FUND AND PROVIDE FOR USES OF THE FUND; TO REQUIRE THE BOARD TO MAINTAIN CERTAIN RECORDS; TO DESIGNATE THE ATTORNEY GENERAL AS LEGAL COUNSEL TO THE BOARD; TO SPECIFY THE MINIMUM QUALIFICATIONS FOR REGISTRATION AS A PROFESSIONAL GEOLOGIST AND FOR ENROLLMENT AS A GEOLOGIST-IN-TRAINING; TO PROVIDE CERTAIN EXCEPTIONS TO THOSE QUALIFICATIONS; TO SPECIFY THE MINIMUM CONTENT OF APPLICATIONS FOR REGISTRATION OR ENROLLMENT; TO AUTHORIZE THE BOARD TO ADOPT AND USE NATIONAL OR REGIONAL REGISTRATION EXAMINATIONS; TO PROVIDE FOR THE ISSUANCE OR DENIAL OF CERTIFICATES OF REGISTRATION AND ENROLLMENT AND TO REQUIRE THE BOARD TO PROVIDE A SEAL TO EACH REGISTERED PROFESSIONAL GEOLOGIST; TO PROVIDE FOR THE RENEWAL OF CERTIFICATES OF REGISTRATION AND ENROLLMENT; TO AUTHORIZE THE BOARD TO ASSESS AND COLLECT CERTAIN FEES; TO AUTHORIZE THE BOARD TO ENTER INTO RECIPROCAL REGISTRATION AGREEMENTS AND TO ISSUE RECIPROCAL REGISTRATIONS; TO REQUIRE THE BOARD TO AUTHORIZE AND RECOGNIZE OTHER PROFESSIONAL GEOLOGIST DESIGNATIONS; TO SPECIFY CIRCUMSTANCES UNDER WHICH THE BOARD MAY TAKE DISCIPLINARY ACTIONS AND TO PROVIDE FOR THOSE ACTIONS; TO PROVIDE FOR DISCIPLINARY HEARINGS AND APPEALS OF DISCIPLINARY ACTIONS OF THE BOARD; TO ALLOW THE BOARD TO IMMEDIATELY SUSPEND A CERTIFICATE UNDER CERTAIN CIRCUMSTANCES AND TO REISSUE REVOKED CERTIFICATES; TO AUTHORIZE THE BOARD TO SUSPEND CERTIFICATES FOR NONCOMPLIANCE WITH A CHILD SUPPORT ORDER; TO REQUIRE THE BOARD TO REPORT DISCIPLINARY ACTIONS; TO AUTHORIZE THE BOARD TO INSTITUTE AND MAINTAIN CIVIL PROCEEDINGS; TO SPECIFY UNLAWFUL ACTS AND TO PRESCRIBE PENALTIES FOR VIOLATIONS; TO REQUIRE THE BOARD TO SEEK TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS TO RESOLVE JURISDICTIONAL CONCERNS; TO PROVIDE A PREFERENCE UNDER CERTAIN CIRCUMSTANCES IN AWARDING CONTRACTS FOR PROFESSIONAL GEOLOGICAL SERVICES; TO ESTABLISH A REPEALER DATE OF DECEMBER 31, 2007, ON THIS ACT; AND FOR RELATED PURPOSES.

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

Note: Act was revised in 2006 (see following):

AN ACT TO AMEND SECTION 73-63-5, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 73-63-7, MISSISSIPPI CODE OF 1972, TO CLARIFY WORK NOT REQUIRING REGISTRATION UNDER THE CHAPTER; TO AMEND SECTION 73-63-9, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT MEMBERS OF THE BOARD POST A SURETY BOND AND REVISE THE PROCEDURE OF NOMINATING MEMBERS TO THE BOARD; TO AMEND SECTION 73-63-11, MISSISSIPPI CODE OF 1972, TO ALLOW THE BOARD TO ELECT TO WAIVE PER DIEM COMPENSATION; TO AMEND SECTION 73-63-37, MISSISSIPPI CODE OF 1972, TO REVISE THE REGISTRATION AND RE-REGISTRATION FEES FOR REGISTERED PROFESSIONAL GEOLOGISTS; TO AMEND SECTION 73-63-43, MISSISSIPPI CODE OF 1972, TO REVISE GROUNDS FOR DISCIPLINARY ACTIONS; TO REPEAL SECTION 73-63-57, MISSISSIPPI CODE OF 1972, WHICH REPEALS SECTIONS 73-63-1 THROUGH 73-63-55, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE REGISTERED PROFESSIONAL GEOLOGISTS PRACTICE ACT; TO REPEAL SECTION 73-13-99, MISSISSIPPI CODE OF 1972, WHICH REPEALS SECTIONS 73-13-1 THROUGH 73-13-45 AND 73-13-71 THROUGH 73-13-103, MISSISSIPPI CODE OF 1972, WHICH CREATE THE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND SURVEYORS AND PRESCRIBE ITS DUTIES AND POWERS, EFFECTIVE JULY 1, 2009; AND FOR RELATED PURPOSES.

§ 73-63-1. Title.

This chapter shall be known and may be cited as "The Registered Professional Geologists Practice Act of 1997."

§ 73-63-3. Purpose.

In order to safeguard life, health, and property, and to promote the public welfare, it is in the public interest to require any person in either public or private capacity practicing or offering to practice geology to be registered, unless otherwise authorized by this chapter.

§ 73-63-5. Definitions.

The following words shall have the meanings ascribed in this section, unless the context clearly indicates otherwise:

- (a) "Board" means the board of registered professional geologists created under this act.
- (b) "Certified geologist" means a geologist who has been certified by a professional geologic organization, society or association, including, but not limited to, the American Association of Petroleum Geologists and the American Institute of Professional Geologists, which has certification requirements recognized by the board.
- (c) "Fund" means the registered professional geologists fund created under Section 11 of this act.
- (d) "Geologist" means an individual who, by reason of knowledge of geology, mathematics and the supporting physical and life sciences acquired by education and practical experience, is qualified to engage in the practice of geology.
- (e) "Geologist-in-training" means an individual who has met the academic qualifications established by the board, who has successfully passed a written examination demonstrating a knowledge of the fundamentals of geology, and who has been enrolled as a geologist-in-training by the board.
- (f) "Geology" means the science which includes the study of the earth and its origin and history. Geology includes the investigation of the earth's constituent rocks, minerals, solids, and fluids, including surface and underground waters, gases and other materials and the study of the natural agents, forces, and processes which cause changes in the earth.
- (g) "Person" means any individual, trust, firm, joint stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.
- (h) "Practice of geology" means any professional service to determine and evaluate the geology of the earth requiring geological education, training, experience and the application of special knowledge of the mathematical, physical and geological sciences to those services, including, but not limited to, consultation, investigation, evaluation, planning, surveying (unless licensed under Sections 73-13-71 through 73-13-99), mapping, and inspection of geological work.
- (i) "Registered professional geologist" means a geologist who has met the academic and experience qualifications established by the board and has been issued a certificate of registration as a registered professional geologist by the board.
- (j) "Registrant" means any individual who holds a certificate of registration or certificate of enrollment issued under this chapter.
- (k) "Responsible charge" means the independent control and direction, by use of initiative, skill and independent judgment, of geological work or the supervision of that work.

(l) "Subordinate" means any individual who assists in the practice of geology by a registered professional geologist without assuming the responsible charge of the work.

(m) "Specialty" means any branch or discipline of geology that may be recognized under this chapter or regulations promulgated by the board for certifying specialization in a specific geologic field of study or related scientific field of study, or both.

(n) "Welfare" means physical and financial welfare.

§ 73-63-7. Activities requiring registration under chapter; exemptions.

(1) A person shall not use the term "Registered Professional Geologist" unless that person is registered under this chapter. Unless exempted under subsection (5) of this section, any individual practicing, offering or attempting to practice geology or claiming any specialty in geology, as a professional, business or commercial identification, title, name, representation or claim, or otherwise holding themselves out to the public, as being qualified to practice geology or any of its specialties shall be registered under this chapter.

(2) Unless exempted under subsection (5) of this section, no person other than an individual shall engage in the practice of geology unless the geologic work is performed by or under the supervision of one or more registered professional geologists, who is in responsible charge of the work and signs and seals all documents. If the principal business of the person, as determined by the board, is the practice of geology, then a principal, officer or director must be a registered professional geologist and have overall supervision and control of the geologic work performed in this state.

(3) Except as exempted under subsection (5) of this section, a person shall be construed to engage in the practice of geology or offer to practice geology under this chapter if that person:

(a) Practices any branch of geology;

(b) Represents by verbal claim, sign, advertisement, letterhead, card or any other way or implies through the use of the title "geologist" that the person is registered under this chapter;

(c) Holds himself or herself out as able to perform or does perform any geologic services or work recognized by the board as the practice of geology; or

(d) Makes geologic determinations and evaluations which may affect the public welfare including, but not limited to, the following activities: protection of groundwater to ensure adequate quality and quantity for present and future generations; prevention and remediation of contamination of the earth, earth materials and water from improper disposal or accidental spills; determination of the suitability and risks in containment and disposal of wastes and hazardous materials, including, but not limited to, landfills, storage tanks, and injection wells; siting of boreholes, depth of wells to be drilled, depth of casing and grouting requirements for the construction of monitoring wells or other borings into the earth that may affect one or more aquifers; the suitability for construction projects including excavations, buildings, dams, highways, and other structures which may be affected by floods, landslides, earthquakes, sinkholes, erosion, and expansive or contractive earth and earth materials, etc. These geologic determinations and evaluations do not include the design of structures as defined by Title 73, Chapter 13 and other engineering-related activities as clearly defined and mutually agreed upon between the Board of Registered Professional Geologists and the Board of Registration for Professional Engineers and Land Surveyors in the memorandum of understanding authorized under Section 27 of this act.

(4) Any geologic report or geologic portion of a report, which incorporates or is based on a geologic study or on geologic data and is required by or supporting compliance with any federal, state or local governmental law, ordinance, rule or regulation shall be prepared by or under the supervision of a registered professional geologist as evidenced by the geologist's signature and seal.

(5) The following activities shall not require registration under this chapter:

(a) Geologic work performed by an employee or a subordinate of a registered professional geologist, if that work does not include responsible charge of geologic work, provided that the work does not state, portray or infer by any manner or suggestion whatsoever that the employee or subordinate is in responsible charge of the geology or geologic work and that the work is performed under the direct supervision of a registered professional geologist, who is responsible for that work and whose signature and seal must be conspicuously affixed thereto;

(b) Geologic work performed exclusively in the exploration for and development or proving out of petroleum resources, including the giving of testimony, or preparation and presentation of exhibits or documents regarding petroleum resources for the sole purpose of consideration by, or being placed into evidence before, any administrative agency, judicial tribunal or public hearing, if the testimony, exhibits or documents do not imply that the person is registered under this chapter;

(c) The practice of engineering, including the acquisition of engineering data and the utilization of these data in analysis, design, and construction by professional engineers appropriately registered in this state;

(d) Work customarily performed by physical or natural scientists such as chemists, archaeologists, geographers, oceanographers, pedologists and soil scientists, if that work does not include the planning and execution of geologic investigations, being in responsible charge of geologic work or the drawing of geologic conclusions and making recommendations involving the practice of geology; and

(e) Geologic work which does not affect the public welfare as specified under subsection (3)(d) of this section.

(6) Nothing in this chapter shall be construed to permit the practice of engineering by a geologist.

§ 73-63-9. Creation of Board of Registered Professional Geologists; composition of board; appointment; vacancies; qualifications of board members.

(1) There is created the Board of Registered Professional Geologists to administer this act. The board shall consist of five (5) registered professional geologists appointed by the Governor from nominees recommended by the committee created in subsection (3) of this section, but geologists initially appointed to the board shall be qualified for registration under this chapter and shall register within the first year of their term. The Governor shall require adequate disclosure of potential conflicts of interest by appointees to the board. The board shall, to the extent practicable, consist of one (1) member appointed from the governmental sector, one (1) member appointed from academia, one (1) member appointed from the geotechnical/environmental industrial sector, one (1) member appointed from the mining/mineral extraction industrial sector, and one (1) member appointed at large. The initial term of the members shall be as follows: Two (2) members shall be appointed for terms of four (4) years, two (2) members shall be appointed for terms of three (3) years, and one (1) member shall be appointed for a term of two (2) years. Following appointment of the initial board, all terms shall be for four (4) years. The term of members shall begin and end on July 1 of the appropriate year regardless of the date of appointment. Upon expiration of a member's term, the Governor may appoint a new member or may reappoint the existing member to one (1) additional term. No member of the board shall serve more than two (2) consecutive terms. Members shall hold office until their successors have been appointed and qualified. Vacancies in the membership of the board shall be filled for the unexpired term by appointment in the same manner as the original appointments. Before assuming the duties of office, each member of the board shall take the oath prescribed in Section 268 of the Constitution. Each member shall receive a certificate of appointment from the Governor. Original appointments to the board shall be made before October 1, 1997.

(2) Each member of the board shall be a citizen of the United States, a resident of this state for at least five (5) years immediately preceding that person's appointment, and at least thirty (30) years of age.

(3) (a) Except as provided in paragraph (b) of this subsection, the board annually shall appoint a nominating committee. No board member shall participate on the nominating committee during the year in which that member's term expires. The nominating committee shall compile a list of nominees and submit that list to the registered professional geologists on the roster. Each geologist shall have one (1) vote and shall submit that vote in writing within fifteen (15) days following the mailing of the list of nominees. The executive director, or the president in the absence of an executive director, shall calculate the results and recommend to the Governor the three (3) nominees from the sector in which the vacancy occurs receiving the largest number of votes.

(b) The Task Force/Advisory Committee on Geologic Registration shall recommend fifteen (15) nominees to the Governor for appointment to the initial board.

§ 73-63-11. Compensation of board.

Each member of the board, except a state employee, shall receive per diem in accordance with Section 25-3-69 when actually attending meetings of the board or its committees. Board members shall be reimbursed for traveling expenses in accordance with Section 25-3-41. If the president of the board assumes the powers and duties under Section 10 of this act, the president shall receive per diem for each day spent executing those powers and duties. The board, by majority vote, may elect not to receive per diem compensation, which election shall be revocable.

§ 73-63-13. Removal or suspension of board members.

The Governor may remove or suspend any member of the board for any of the following causes:

- (a) A member is no longer qualified for appointment to the board;
- (b) Misconduct, incompetence, neglect of official duties, malfeasance or inability to perform official duties due to incapacitation;
- (c) Commission of a felony or violation of this chapter resulting in disciplinary action; or
- (d) Unexcused failure to attend at least one-half (1/2) of the regularly scheduled meetings held in a calendar year.

§ 73-63-15. Meetings of board; election of officers.

(1) The board shall meet within sixty (60) days after appointment of its members. The board shall hold at least two (2) regular meetings each year. Special meetings may be held at any time as provided in the rules and regulations of the board. The board shall provide notice of its meetings.

(2) The board shall elect annually from its membership a president and vice president. The president or vice president shall not hold that office for more than two (2) consecutive annual terms.

(3) A majority of the board shall constitute a quorum.

(4) The board shall keep a record of its proceedings.

§ 73-63-17. Powers and duties of board.

The board shall have the following powers and duties:

(a) To adopt, modify, repeal and promulgate, after due notice and hearing and in accordance with the Mississippi Administrative Procedures Law, and where not otherwise prohibited by federal or state law to make exceptions to and grant exemptions and variances from, and to enforce rules and regulations implementing the powers and duties of the board under this chapter, including rules governing the conduct of its business and meetings;

- (b) To adopt an official seal and alter that seal at the pleasure of the board;
- (c) To apply for, receive and expend any federal or state funds or contributions, gifts, devises, bequests or funds from any other source;
- (d) To enter into, and to authorize the executive director to execute contracts, grants and cooperative agreements with any federal or state agency, any public or private institution, or any other person to carry out this chapter. The board shall not provide any funds for special interest groups to lobby or otherwise promote the group's special interests;
- (e) To employ, in its discretion, an executive director and other qualified technical, professional and clerical personnel, including investigators and expert witnesses, as may be required for the operation of the board;
- (f) To establish, charge, collect and revise reasonable and necessary fees to applicants and registrants to support the administration and enforcement of this chapter;
- (g) To identify specialties and to establish qualifications, conduct examinations and issue certificates in those specialties to qualified applicants and to recognize and authorize the use of certain geologic designations;
- (h) To prepare, administer and grade oral and written examinations authorized under this chapter;
- (i) To issue, reissue, renew, suspend, revoke or deny the issuance, reissuance or renewal of certificates of registration or certificates of enrollment;
- (j) To authorize the preparation and conduct of continuing education programs with voluntary participation;
- (k) To establish standards of professional conduct;
- (l) To investigate complaints of violations of this chapter, any rule, regulation or written order of the board, any condition of registration, or standard of professional conduct by registrants or nonregistrants, as provided in this chapter and to impose sanctions and penalties for violations, including, but not limited to, restrictions on the practice of any registrant or any other person engaged in the practice of geology;
- (m) To administer oaths and affirmations, and to issue subpoenas to compel the attendance of witnesses and the production of evidence;
- (n) To begin and maintain legal actions to enforce this chapter and to seek injunctions;
- (o) To delegate powers, duties or responsibilities to the executive director as deemed necessary to efficiently administer this chapter; and
- (p) To discharge other powers, duties and responsibilities provided under this chapter or as necessary to implement this chapter.

§ 73-63-19. Powers and duties of executive director.

- (1) If the board employs an executive director, the executive director shall have the following powers and duties:
 - (a) To administer the policies of the board within the authority granted by the board;
 - (b) To supervise and direct all administrative, technical and investigative activities of the board;
 - (c) To organize the administrative units of the board in accordance with a plan adopted by the board and to alter that organizational plan and reassign responsibilities with approval of the board as deemed necessary to carry out the policies of the board;
 - (d) To recommend to the board appropriate studies and investigations and to carry out the approved recommendations;
 - (e) To issue, modify or revoke any orders under authority granted by the board;
 - (f) To enter into contracts, grants and cooperative agreements as approved by the board with any federal or state agency, any public or private institution or any other person to carry out this chapter;
 - (g) To receive, administer and account for any funds received by the board;
 - (h) To prepare and deliver to the Legislature and the Governor before January 1 of each year, and at any other times as may be required by the board, Legislature or Governor, a full report of the work of the board, including a detailed statement of revenues and expenditures of the board and any recommendations the board may have; and
 - (i) To discharge other powers, duties and responsibilities as directed or delegated by the board.
- (2) The executive director shall give a surety bond satisfactory to the board, conditioned upon the faithful performance of the executive director's duties. The premium on the bond shall be regarded as a proper and necessary expense of the board.
- (3) If the board does not employ an executive director, the president of the board shall have the powers and duties provided in subsection (1) of this section.

§ 73-63-21. Registered Professional Geologists Fund.

- (1) There is created in the State Treasury a fund to be designated as the "Registered Professional Geologists Fund," to be administered by the president or executive director of the board.
- (2) Monies in the fund shall be utilized to pay reasonable direct and indirect costs associated with the administration and enforcement of this chapter.
- (3) Expenditures from the fund may be made upon requisition by the president or executive director of the board.
- (4) The fund shall be treated as a special trust fund. Interest earned on the principal shall be credited to the fund by the Treasurer.
- (5) The fund may receive monies from any available public or private source, including, but not limited to, collection of fees, interest, grants, taxes, public and private donations, judicial actions and appropriated funds.

(6) Monies in the fund at the end of the fiscal year shall be retained in the fund for use in the next succeeding fiscal year.

§ 73-63-23. Maintenance of records by board.

(1) The board shall keep the minutes of the board, including all orders, rules and regulations adopted, in a record book or books maintained for that purpose. The book or books shall be a public record and open to inspection by the public during all reasonable hours. All minutes of board meetings and hearings, and all rules, regulations and orders made by the board shall be in writing. The board shall compile and publish as necessary the rules and regulations promulgated by the board in current consolidated version. The board shall provide the consolidated compilation of the rules and regulations to the public for a cost sufficient to cover printing, postage and administrative expenses, including the cost of any contractual services necessary to compile and publish those rules and regulations.

(2) The board shall also keep a register of all applications for registration or enrollment, which shall show:

- (a) The name, residence and date of birth of the applicant;
- (b) The date of the application;
- (c) The name, address and telephone number of the applicant's employer;
- (d) The applicant's educational and other qualifications;
- (e) The name of any other state in which or any other organization by which the applicant is registered, licensed or certified and date of that action;
- (f) The date of any action taken by the board regarding this applicant; and
- (g) Other information deemed necessary by the board.

(3) The board shall maintain a roster showing the names and place of business or residence of all registered professional geologists. The board shall upon request provide copies of the roster to state and local governmental entities. The board shall provide copies of the roster to any other person upon written request for a cost sufficient to cover printing, postage and administrative and other expenses. In addition, the board shall maintain a roster of all geologists-in-training.

(4) The board shall also maintain a list of each state, territory or possession of the United States, or foreign country in which the requirements and qualifications for registration are comparable to those established in this state and with which a reciprocity agreement or other form of mutual recognition exists.

(5) The records kept by the board shall be prima facie evidence of the proceedings of the board and a transcript, certified by the president and vice president, shall be admissible in evidence with the same force and effect as if the original was produced.

§ 73-63-25. Designation of Attorney General as counsel for board.

The Attorney General shall be counsel and attorney for the board and shall provide any legal services as may be requested by the board from time to time. The board, with the approval of the Attorney General, may retain outside counsel and investigators to provide any legal and investigative assistance as may be necessary in enforcing this chapter.

§ 73-63-27. Qualification of registered professional geologists; requirements of geologists-in-training.

(1)(a) Except as provided in subsections (2) and (3) of this section, the following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a registered professional geologist:

(i) Graduation from a course of study in geology satisfactory to the board from an accredited college or university, or from a program accredited by an organization recognized by the board, of four (4) or more years and which includes at least thirty (30) semester or forty-five (45) quarter hours of credit, with a major in geology or a geological specialty;

(ii) Demonstration through a specific record of a minimum of four (4) years of qualifying experience, after completion of the academic requirements, in geology or a specialty indicating that the applicant is competent to practice geology or a specialty. The board may require the experience be gained under the supervision of a geologist registered in this state or any other state with at least as stringent geologic registration requirements, or under the supervision of others who, in the opinion of the board, are qualified to have responsible charge of geological work;

(iii) Successful passage of at least one (1) examination in geology as determined and prescribed by the board; and

(iv) Other requirements as may be established in rules and regulations by the board.

(b) In addition to the qualifications named in paragraph (a) of this subsection, applicants for registration as a registered professional geologist shall include with their application at least three (3) letters of reference from geologists having personal knowledge of the applicant's geologic experience.

(c) The board may give credit for a master's degree in the geological sciences or in a specialty as one (1) year of professional experience and an earned doctorate degree in the geological sciences or in a specialty as two (2) years of professional experience. The board shall not give more than two (2) years of professional experience credit for the completion of all graduate degrees.

(d) The board may give credit for geological research or teaching of persons studying geology or a specialty at an accredited college or university level as qualifying experience, if the research or teaching, in the opinion of the board, is comparable to experience obtained in the practice of geology or a specialty.

(e) The board may adopt qualifications which, in its judgment, are equivalent to the educational and experience requirements in subsection (1)(a) of this section.

(f) No person shall be eligible for registration as a professional geologist who is not of good character and reputation.

(2) Before December 31, 1998, any applicant who applies for registration or enrollment shall be considered qualified, without written examination, if the applicant possesses the qualifications prescribed in subsection (1) or (3) of this section, as the case may be.

(3) An applicant who applies for registration before July 1, 1998, shall be qualified without written examination, if the applicant possesses the following qualifications:

(a) A bachelor's degree from an accredited college or university in civil engineering with a minimum of fifteen (15) semester hours or an equivalent number of quarter hours of credit in geology or a geologically-related course, as determined by the board;

(b) A certificate of registration as a professional engineer in the State of Mississippi; and

(c) A minimum of ten (10) years of qualifying experience in geotechnical or geological engineering work demonstrated by a specific record.

If the board determines after review of the academic and experience qualifications required by this subsection that the applicant is competent to practice geology, the board may issue a certificate of registration under this chapter.

(4) Applicants for enrollment as a geologist-in-training shall meet the qualifications for a registered professional geologist, except the requirement for four (4) years of experience.

(5) The board may adopt requirements for the issuance of temporary registrations. Qualifications for temporary registrations shall be consistent with those required under this chapter.

(6) Upon written request of an applicant, the board may waive, on a case-by-case basis, any requirement for registration or enrollment, except payment of the applicable fees. The request shall state the reasons a waiver should be granted. The requirements waived and the basis for that waiver shall be recorded in the applicant's record and in the proceedings of the board, and any waiver may be subject to repeal or suspension as determined by the board.

§ 73-63-29. Form of application.

(1) Applications for enrollment as a geologist-in-training or for registration as a professional geologist, in general or in any specialty, shall be on forms prescribed and furnished by the board. The application shall include information necessary for the roster under Section 12 of this act, the applicant's educational qualifications and a detailed summary of the applicant's qualifying experience. The board may require the applicant to have provided an original transcript or equivalent documentation of the applicant's educational qualifications. The applicant shall also submit a signed statement that the applicant has read and shall adhere to any code of professional conduct established by the board. The application shall be signed and sworn by the applicant before a notary public.

(2) An application for enrollment as a geologist-in-training or for registration or renewal of registration as a professional geologist, in general or in any specialty, shall be accompanied by the appropriate application fee.

§ 73-63-31. Examination.

The board may adopt, in part or in whole, examinations prepared, administered or graded by other organizations, on a regional or national basis, which the board determines are appropriate to measure the qualifications of an applicant for registration as a professional geologist, in general or in a specialty of geology, or enrollment as a geologist-in-training. In adopting any examination, the board shall require that the examination questions and correct answers and any individual applicant's completed examination, be available to the board. The board shall retain the authority to determine a passing grade for purposes of registration or enrollment in this state.

§ 73-63-33. Issuance of certificates; denial of certificates.

(1) The board shall issue a certificate of registration or certificate of enrollment as a geologist-in-training, upon payment of the applicable registration fee, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter.

In the case of a registered professional geologist, the certificate of registration shall authorize the "practice of geology."

In the case of a geologist-in-training, the certificate shall state that the applicant has successfully passed the examination required by the board and has been enrolled as a "geologist-in-training" for a period of ten (10) years or until registration as a professional geologist, whichever comes first.

Certificates shall show the full name, have a serial number, and be signed by the president and the vice president of the board under seal of the board.

(2) If the board denies the issuance of a certificate of registration or a certificate of enrollment, the board shall notify the applicant in writing within thirty (30) days following the board's decision and shall state the reasons for the denial. Within thirty (30) days following receipt of the notice, the applicant may make written request for a hearing,

which, if granted, shall be conducted as provided in this chapter. If no hearing is requested or is untimely requested, the board's action shall be final.

(3) The issuance of a certificate of registration by the board shall be prima facie evidence that the person named on the certificate is entitled to all the rights and privileges of a registered professional geologist and to practice geology as a firm or corporation, while the certificate remains unrevoked or unexpired.

(4) Each registered professional geologist shall be provided with a seal of a design established by the board, bearing the person's name, registration number, the legend "Registered Professional Geologist." This cost of providing the seal shall be borne by the registered professional geologist. Geologic reports, documents or other public records offered to or filed for the public and prepared or issued by a registered professional geologist, or by a subordinate under the supervision of a registered professional geologist, shall be stamped with the seal, signed and dated by the registered professional geologist.

§ 73-63-35. Expiration of certificates; renewal; lost or destroyed certificates.

(1) Certificates of registration shall be valid for a period of two (2) years, and shall expire on a date or dates established by the board. The board shall notify every registered professional geologist of the date of expiration of that person's certificate and the amount of the fee that shall be required for its renewal at least sixty (60) days before the expiration date. Upon expiration, a certificate shall be canceled and is invalid, and may not be renewed unless provided in this chapter.

(2) The board shall renew the certificate of registration or certificate of enrollment of any registrant who, within sixty (60) days following the expiration date:

(a) Submits a renewal application, the renewal fee and any penalty for late renewal; and

(b) Meets the requirements for renewal established by the board which may include requiring evidence of continued competence in the practice of geology through a review of qualifications and experience.

(3) The board shall establish requirements and conditions for the reissuance of certificates of registration and certificates of enrollment which have lapsed, expired, or have been suspended or revoked.

(4) The board shall issue a new certificate to replace any certificate of registration or certificate of enrollment which has been lost, destroyed, or mutilated. The holder of the certificate shall bear the cost of issuing a new certificate.

§ 73-63-37. Fees.

(1) The board shall establish, by rule, application fees which shall not exceed Two Hundred Dollars (\$200.00) for application for registration and One Hundred Dollars (\$100.00) for application for enrollment.

(2) In addition to the application fee required under subsection (1) of this section, an applicant shall pay an examination fee before taking the applicable examination. The board shall set a reasonable examination fee for each examination administered by the board to defer the actual cost of the examination.

(3) The board shall establish, by rule, registration fees which shall not exceed Two Hundred Dollars (\$200.00) annually for registration as a registered professional geologist and One Hundred Dollars (\$100.00) annually for enrollment as a geologist-in-training.

(4) The board shall establish, by rule, fees for the renewal and reissuance of a certificate of registration or certificate of enrollment.

§ 73-63-39. Recognition of out-of-state registration, licensure, or certification; reciprocal registration agreements.

(1) The board may sign agreements with boards of registration, licensure or certification in other states, and with other appropriate organizations and agencies, for the purposes of:

(a) Developing uniform standards for registration of professional geologists or enrollment of geologists-in-training;

(b) Accrediting educational programs;

(c) Establishing reciprocity, comity, temporary registration, or mutual recognition of registration or enrollment;

(d) Developing regional or national examinations;

(e) Evaluating applicants; or

(f) Other purposes consistent with this chapter.

(2) Any person holding a valid certificate of registration, licensure or certification for the practice of geology or a recognized specialty of geology, issued under the laws of any state or territory or possession of the United States, or any foreign country, shall be eligible for registration, without examination. The board may issue a certificate of registration to any person who has made application, provided proof of registration, licensure or certification under requirements which the board determines to be substantially similar to those established under this act and paid all applicable fees.

§ 73-63-41. Use of the designation "Certified Professional Geologist".

The board shall recognize and authorize the use of the designation "Certified Professional Geologist" or "C.P.G." as used by the American Institute of Professional Geologists, the designation "Certified Petroleum Geologist" or "C.P.G." as used by the American Association of Petroleum Geologists, and the use of the designation "Certified

Geologist" or any similar designation established by a professional geological organization, society or association recognized by the board, subject to the following conditions:

(a) The full name or recognized abbreviation of the organization granting the certification is stated following or in conjunction with the use of the designation or abbreviation; and

(b) The designation or abbreviation is not used in a manner that may mislead the public or create any impression that a person is registered to practice geology unless that person is registered under this chapter.

§ 73-63-43. Grounds for disciplinary actions; disciplinary proceedings; sanctions.

(1) The board, upon satisfactory proof and in accordance with this chapter and rules and regulations of the board, may take the disciplinary actions provided under this chapter against any person for the following reasons:

(a) Violation of this chapter, any rule or regulation or written order of the board, any condition of registration or standards of professional conduct;

(b) Fraud, deceit or misrepresentation in obtaining a certificate of registration as a registered professional geologist or certificate of enrollment as a geologist-in-training;

(c) Gross negligence, malpractice, incompetency, misconduct, or repeated incidents of simple negligence in or related to the practice of geology;

(d) Practicing or offering to practice geology, or holding oneself out as being registered or qualified to practice geology, by an individual who is not registered under this chapter, or by any other person not employing a registered professional geologist as required by this chapter;

(e) Using the seal of another, or using or allowing use of one's seal on geologic work not performed by or under the supervision of the registered professional geologist, or otherwise aiding or abetting any person in the violation of this chapter;

(f) Disciplinary action by any state agency, board of registration or similar licensing agency for geologists or any profession or occupation related to the practice of geology. The sanction imposed by the board shall not exceed in severity or duration the sanction upon which that action is based.

(g) Addiction to or chronic 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 resulting in the impairment of professional or ethical judgment; or

(h) Injuring or damaging, or attempting to injure or damage, the professional reputation of another by any means whatsoever; this provision shall not relieve a registered professional geologist from the obligation to expose unethical or illegal conduct to the proper authorities nor shall it preclude confidential appraisals of geologists or other persons or firms under consideration for employment.

(2) Any person may bring a complaint alleging a violation of this chapter, any rule or regulation or written order of the board, any condition of registration or standards of professional conduct. Complaints shall be made in writing, sworn to by the person filing the complaint, and filed with the board. The board shall investigate all complaints and upon finding a basis for that complaint, shall notify the accused in writing specifying the provisions of this chapter, rule, regulation or order of the board or the condition or standard alleged to be violated and the facts alleged to constitute the violation. The notice shall require the accused to appear before the board at a time and place to answer the charges. The time of appearance shall be at least thirty (30) days from the date of service of the notice. Notice shall be made by service on the person or by registered or certified mail, return receipt requested, to the last known business or residence address of the accused, as shown on the records of the board. Within fifteen (15) days following receipt of that notice, the accused shall file a written response, admitting, denying, or taking exception to the charges. In the absence of a response or if the charges are admitted or if no exception is taken, the board may take disciplinary action without holding a hearing. A disciplinary action may be settled by the board and the accused, either before or after a hearing has begun.

A person who reports or provides information to the board in good faith is not subject to an action for civil damages.

(3) Any hearing under this section may be conducted by the board itself at a regular or special meeting of the board or by a hearing officer designated by the board. The hearing officer may conduct the hearings in the name of the board at any time and place as conditions and circumstances may warrant. The hearing officer or any member of the board may administer oaths or affirmations to witnesses appearing before the hearing officer or the board.

If any witness fails or refuses to attend upon subpoena issued by the board, refuses to testify or refuses to produce books, papers, reports, documents and similar material, the production of which is called for by a subpoena, the attendance of any witness and the giving of that person's testimony and the production of books, papers, reports, documents and similar material shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of the attendance and testimony of witnesses in civil cases in the courts of this state.

All hearings before the board shall be recorded either by a court reporter or by tape or mechanical recorders and subject to transcription upon order of the board or any interested person. If the request for transcription originates with an interested person, that person shall pay the cost of transcription.

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

(4) If a hearing officer conducts the hearing on behalf of the board, the hearing officer shall upon completion have the record of that hearing prepared. The record shall be submitted to the board along with that hearing officer's

findings of fact and recommended decision. Upon receipt and review of the record of the hearing and the hearing officer's findings of fact and recommended decision, the board shall render its final decision as provided in subsection (5) of this section.

Any person ordered to appear for an alleged violation may request a hearing before a majority of the board. A verbatim record of any previous hearings on that matter shall be filed with the board, together with findings of fact and conclusions of law made by the board based on the record.

(5) 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 take any combination of the following actions:

- (a) Deny the renewal of a certificate of registration or certificate of enrollment;
- (b) Suspend the certificate of registration or certificate of enrollment of any registrant for a specified period of time, not to exceed three (3) years, or revoke the certificate of registration or certificate of enrollment of any registrant;
- (c) Censure, reprimand or issue a public or private admonishment to an applicant, a registrant or any other person engaged in the practice of geology under this chapter;
- (d) Impose limitations, conditions or restrictions upon the practice of an applicant, a registrant or upon any other person engaged in the practice of geology;
- (e) Require the guilty party to complete a course, approved by the board, in ethics;
- (f) Impose probation upon a registrant, requiring regular reporting to the board;
- (g) Require restitution, in whole or in part, of the compensation or fees earned by a registrant or by any other person engaging in the practice of geology; or
- (h) Assess and levy upon the guilty party a monetary penalty not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

(6) Any monetary penalty assessed and levied under this section shall be paid to the board upon the expiration of the period allowed for appeal of that penalty, 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 registered professional geologists fund.

When payment of a monetary penalty assessed and levied by the board in accordance with this section is not paid when due, the board may begin 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 is a nonresident of the State of Mississippi, the proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(7) The board may assess and impose 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 authority of the board to assess and levy the monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations, unless provided in this section.

(9) If the board determines there is an imminent danger to the public welfare, the board may issue an order for the immediate suspension of a certificate of registration or a certificate of enrollment. The registrant may request a hearing on the matter within fifteen (15) days after receipt of the order of suspension. The board shall file charges as provided in this section within thirty (30) days after the issuance of an order, or the suspension shall be of no further force and effect. If charges are filed, the order of suspension shall remain in effect until disposition of all charges.

(10) The board, for sufficient cause, may reissue a revoked certificate of registration or certificate of enrollment, upon written application to the board by the applicant. The application shall be made not less than three (3) years after the revocation. The board may impose reasonable conditions or limitations in connection with any reissuance.

(11) In addition to the reasons named in subsection (1) of this section, the board may suspend the certificate of registration or certificate of enrollment 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 Section 25 of this act. 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 Section 25 of this act. If there is any conflict between Section 93-11-157 or 93-11-163 and this chapter, Section 93-11-157 or 93-11-163, as the case may be, shall control.

§ 73-63-45. Report of disciplinary actions.

The board shall report disciplinary actions to appropriate state and federal agencies, any other registration, licensing or certification board or organization in this state or any other state, or any other person deemed necessary by the board.

§ 73-63-47. Proceedings of enforcement of chapter by board.

In lieu of, or in addition to, the penalty provided in Section 22 of this act, the board may begin and maintain in the name of the state any proceedings necessary or appropriate to enforce this chapter, any rule or regulation or written order of the board or any condition of registration. The proceedings may be filed and heard in the appropriate circuit, chancery, county or justice court of the county in which venue may lie. The board may obtain mandatory or prohibitory injunctive relief, either temporary or permanent, and in cases of imminent and substantial hazard or endangerment, it shall not be necessary that the state plead or prove: (i) that irreparable damage would result if the injunction did not issue; (ii) that there is no adequate remedy at law; or (iii) that a written complaint or board order has first been issued for the alleged violation.

§ 73-63-49. Appeal to chancery court by aggrieved persons.

Except as provided in Section 22(10) of this act, any person aggrieved by an action of the board revoking that person's certificate of registration or certificate of enrollment as a geologist-in-training or denying the renewal of registration as a professional geologist, or who is aggrieved by the action of the board as a result of disciplinary proceedings conducted under Section 22 of this act may appeal to the chancery court of the county in which 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. The appeal shall be perfected before the board by the filing with the board of a notice of appeal to the chancery court. 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.

All appeals perfected under this section shall act as a supersedeas, and shall be made to the chancery court solely upon the record made before the board during the disciplinary hearing. The appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. When the appeal is properly perfected, the board shall cause the record of the proceedings conducted before it to be compiled, certified and filed with the chancery court. The chancery court shall always be deemed open for hearing of appeals and the chancellor may hear the appeal in termtime or in vacation at any place in the chancellor's district. The appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact. If no prejudicial error is found, the matter shall be affirmed and remanded to the board for enforcement. If a prejudicial error is found, the matter shall be reversed and the chancery court shall remand the matter to the board for appropriate action as may be shown or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as required by law.

§ 73-63-51. Violations of this chapter.

(1) Any person committing the following acts shall be guilty of a violation under this chapter:

- (a) Practicing, offering or attempting to practice geology, unless registered as a registered professional geologist or otherwise expressly exempted by this chapter;
- (b) Using the terms "Registered Professional Geologist," "R.P.G.," or claiming any specialty in geology, as a professional, business or commercial identification, title, name, representation, claim or otherwise holding out to the public, as being registered to practice geology or any of its specialties unless registered under this chapter;
- (c) Altering or revising any document, map or work signed or sealed by a registered professional geologist unless that alteration or revision is signed and sealed by a registered professional geologist, changing or altering the name or seal of another registered professional geologist on any document, map or work, or otherwise impersonating another, or presenting or attempting to use the certificate of registration or the seal of another;
- (d) Fraud, deceit or misrepresentation in obtaining a certificate of registration as a registered professional geologist or certificate of enrollment as a geologist-in-training, including, but not limited to, knowingly giving any false or forged evidence of any kind to the board or to any board member in obtaining a certificate of registration or certificate of enrollment;
- (e) Using the seal or signing any document under a certificate of registration which has expired or has been suspended or revoked;
- (f) Managing, or conducting as manager, proprietor, or agent, any place of business from which geological work, not expressly exempted by this chapter, is offered, performed or practiced for others, unless that work is supervised or performed by a registered professional geologist;
- (g) Using geologic work for purposes in violation of this chapter; or
- (h) Violating this chapter, or any rule, regulation or written order of the board, or any condition or limitation of registration.

(2) Any person convicted of a violation of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not to exceed six (6) months, or both, for each violation. Each day of a continuing violation is a separate violation. In imposing any fine under this section, the court shall, to the extent practicable, recover any economic benefit received as a result of noncompliance.

§ 73-63-53. Memorandum of understanding.

Within one (1) year following its appointment, the board shall seek to enter into a memorandum of understanding with the Mississippi State Board of Registration for Professional Engineers and Land Surveyors and any other necessary agencies, containing guidelines for resolving jurisdictional concerns that may arise between registered

professional geologists and licensed professional engineers and other registered, licensed or certified professional personnel.

§ 73-63-55. Preference given to resident professional geologists.

(1) In awarding public contracts for professional geological services, preference shall be given to resident registered professional geologists over those nonresident professional geologists domiciled in a state having laws which grant a preference to the professional geologists who are residents of that state. Nonresident registered professional geologists shall be awarded Mississippi public contracts only on the same basis as the nonresident professional's state awards contracts to Mississippi registered professional geologists under similar circumstances. When a nonresident professional geologist submits a proposal for a public project, that person shall attach a copy of the resident state's current statute, resolution, policy, procedure or executive order pertaining to that state's treatment of nonresident professional geologists. Resident registered professional geologists 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 registered professional geologist" includes a nonresident person 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 that person.

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

(3) Any contract, agreement or arrangement for professional geological 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 this section, is 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.

(4) Nothing in this section shall affect the validity of any contract in existence before July 1, 1997.

(5) For purposes of this section, "professional geological services" means the practice of geology or those services performed by any registered professional geologist in connection with professional employment or practice.

§ 73-63-57. Repeal of Sections 73-63-1 through 73-63-55 (deleted in 2006)

SECTION 7. Section 73-63-57, Mississippi Code of 1972, which repeals Sections 73-63-1 through 73-63-55, Mississippi Code of 1972, which constitute the Registered Professional Geologists Practice Act, effective December 31, 2007, is repealed.

SECTION 8. Section 73-13-99, Mississippi Code of 1972, which repeals Sections 73-13-1 through 73-13-45 and 73-13-71 through 73-13-103, Mississippi Code of 1972, which create the Board of Licensure for Professional Engineers and Surveyors and prescribe its duties and powers, effective July 1, 2009, is repealed.

SECTION 9. This act shall take effect and be in force from and after July 1, 2006.