By: Representative Mims

To: Public Health and Human Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 719

AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29 AND 41-67-33 THROUGH 41-67-39, MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND REENACTED SECTION 41-67-2, MISSISSIPPI CODE OF 1972, TO REVISE 5 CERTAIN DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND REENACTED SECTION 41-67-3, MISSISSIPPI CODE OF 1972, TO REVISE THE GENERAL 7 POWERS AND DUTIES OF THE STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH REGARDING INDIVIDUAL ON-SITE WASTEWATER 8 9 DISPOSAL SYSTEMS: TO AMEND REENACTED SECTION 41-67-4, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE DEPARTMENT FOR 10 DETERMINING THE FEASIBILITY OF ESTABLISHING CENTRALIZED WASTEWATER 11 12 TREATMENT SYSTEMS; TO AMEND REENACTED SECTION 41-67-5, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT LANGUAGE PROHIBITING PUBLIC UTILITIES SUPPLYING WATER FROM MAKING CONNECTION TO ANY RESIDENCE 14 1.5 WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DEPARTMENT CERTIFYING 16 THAT THE PLAN FOR THE SEWAGE TREATMENT AND DISPOSAL SYSTEM AT THE 17 LOCATION OF THE PROPERTY COMPLIES WITH THIS LAW; TO AMEND 18 REENACTED SECTION 41-67-6, MISSISSIPPI CODE OF 1972, TO INCLUDE 19 THE CURRENT LANGUAGE THAT THIS LAW DOES NOT PRECLUDE A CERTIFIED 20 PROFESSIONAL EVALUATOR OR LICENSED PROFESSIONAL ENGINEER FROM 21 PROVIDING SERVICES RELATING TO THE DESIGN OF AN INDIVIDUAL ON-SITE 22 WASTEWATER DISPOSAL SYSTEM TO COMPLY WITH THIS LAW; TO INCLUDE THE CURRENT LANGUAGE REQUIRING THAT ALL REGULATIONS SHALL BE APPLIED 24 UNIFORMLY IN ALL AREAS OF THE STATE AND SHALL TAKE INTO 25 CONSIDERATION AND MAKE PROVISION FOR DIFFERENT TYPES OF SOIL IN 26 THE STATE WHEN PERFORMING SOIL AND SITE EVALUATIONS; TO AMEND 27 REENACTED SECTION 41-67-7, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT LANGUAGE THAT APPROVAL OF THE DESIGN, CONSTRUCTION OR 28 INSTALLATION OF AN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM 29 30 BY THE DEPARTMENT IS REQUIRED, AND THE CURRENT LANGUAGE SPECIFYING 31 THE PROCEDURE FOR OBTAINING DEPARTMENT APPROVAL; TO REVISE THE 32 REQUIREMENTS FOR WHEN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL 33 SYSTEMS WILL BE CONSIDERED ACCEPTABLE; TO INCLUDE THE CURRENT 34 LANGUAGE ON THE PROCEDURE FOR A FINAL APPROVAL REQUEST BY THE

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    THIRD-PARTY CERTIFYING PROGRAM AT THE TIME OF INSTALLATION; TO
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    REVISE THE PROVISIONS GOVERNING WHEN INDIVIDUAL ON-SITE WASTEWATER
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    41-67-21, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT
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    RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM THAT IS
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    REPLACEMENT OF THE SYSTEM; TO CONFORM THE MAXIMUM AMOUNT OF THE
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    41-67-33, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT
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    LANGUAGE REGARDING THE PROCEDURE BY WHICH HOMEOWNERS MAY OBTAIN A
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    VARIANCE FOR A PROPOSED WASTEWATER TREATMENT SYSTEM FROM THE
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    DEPARTMENT BY SHOWING THAT THE PROPOSED SYSTEM WILL PROPERLY TREAT
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    AND MAINTAIN WASTEWATER ON THE PROPERTY; TO REPEAL SECTION
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    41-67-35, MISSISSIPPI CODE OF 1972, WHICH PROHIBITS A PERSON FROM
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    OPERATING AS A MAINTENANCE PROVIDER UNLESS THE PERSON IS CERTIFIED
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    AS ONE BY THE DEPARTMENT OR IS A CERTIFIED INSTALLER; TO AMEND
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    REENACTED SECTION 41-67-39, MISSISSIPPI CODE OF 1972, TO REVISE
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    THE REQUIREMENTS FOR CERTIFICATION AS A PUMPER; TO CREATE NEW
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    SECTION 41-67-41, MISSISSIPPI CODE OF 1972, TO CREATE THE
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    WASTEWATER ADVISORY COUNCIL FOR THE PURPOSE OF ADVISING THE
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    DEPARTMENT REGARDING INDIVIDUAL ON-SITE WASTEWATER DISPOSAL
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    SYSTEMS; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO
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- 86 EXTEND THE DATE OF THE REPEALER ON THE MISSISSIPPI INDIVIDUAL
- 87 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND REENACTED SECTIONS
- 88 41-67-1, 41-67-19, 41-67-23, 41-67-25, 41-67-28 AND 41-67-37,
- 89 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
- 90 AND FOR RELATED PURPOSES.
- 91 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
- 92 **SECTION 1.** Section 41-67-1, Mississippi Code of 1972, is
- 93 reenacted and amended as follows:
- 94 41-67-1. (1) This chapter shall be known and may be cited
- 95 as the "Mississippi Individual On-Site Wastewater Disposal System
- 96 Law."
- 97 (2) It is the purpose of the Legislature through this
- 98 chapter to protect human health and the environment while
- 99 providing for reasonable use of individual on-site wastewater
- 100 disposal systems. The Legislature finds that continued
- 101 installation and operation of individual on-site wastewater
- 102 disposal systems in a faulty or improper manner, in a manner that
- 103 lacks essential maintenance for the system, or in areas where
- 104 unsuitable soil and population density adversely affect the
- 105 efficiency and functioning of these systems, has a detrimental
- 106 effect on the public health and welfare and the environment
- 107 through contamination of land, groundwater and surface waters.
- 108 The Legislature, therefore, expresses a general preference for the
- 109 installation and operation of centralized * * * wastewater
- 110 treatment systems in Mississippi, where feasible. The Legislature
- 111 recognizes, however, that individual on-site wastewater treatment
- 112 and disposal systems help meet the needs of the state's citizens,

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113 especially in rural locations, and can be rendered ecologically

- 114 safe and protective of the public health if the systems are
- 115 designed, installed, constructed, maintained and operated
- 116 properly. It is the intent of the Legislature to allow the
- 117 continued installation, use and maintenance of individual on-site
- 118 wastewater disposal systems in a manner that will not jeopardize
- 119 public health and welfare or the environment.
- 120 **SECTION 2.** Section 41-67-2, Mississippi Code of 1972, is
- 121 reenacted and amended as follows:
- 122 41-67-2. For purposes of this chapter, the following words
- 123 shall have the meanings ascribed herein unless the context clearly
- 124 indicates otherwise:
- 125 (a) "Advanced treatment * * * system" means an
- 126 individual on-site wastewater treatment * * * system that * * *
- 127 complies with Section 47-67-10.
- 128 (b) * * * "Board" means the Mississippi State Board of
- 129 Health.
- 130 (* * *c) "Centralized * * * wastewater treatment
- 131 system" means * * * a wastewater collection and treatment system
- 132 that consists of collection sewers and a centralized treatment
- 133 facility other than an individual on-site wastewater disposal
- 134 system.
- 135 (* * *d) "Certified installer" means any person who
- 136 has met the requirements of Section 41-67-25.
- 137 (* * *e) "Certified manufacturer" means any person

138 registered with the department who holds a written certification

139	issued by t	the department	allowing the	manufacturer	to sell	on-site
140	wastewater	nroducts in th	ne state			

- 141 (* * * \underline{f}) "Certified professional evaluator" means any 142 person who has met the requirements of Section 41-67-37 or a * * * 143 licensed professional engineer.
- (* * *g) "Certified pumper" means any person
 registered with the department who holds a written certification
 issued by the department allowing the person to engage in the
 removal and disposal of sludge, grease and waste and who has met
 the requirements of Section 41-67-39.
- (h) "Cluster system" means a wastewater collection and
 treatment system under some form of common or private ownership
 and management that provides treatment and dispersal/discharge of
 wastewater from two (2) or more homes or buildings but less than a
 subdivision.
- 154 (i) "Conventional system" means an individual on-site
 155 wastewater disposal system consisting of a septic tank and
 156 subsurface disposal field.
- 157 (j) "Department" means the Mississippi State Department
 158 of Health.
- 159 (k) "Decentralized wastewater treatment system" means

 160 any commercial wastewater treatment for fewer than ten (10) lots.
- 161 (1) "Effluent" means sewage, water, or other liquid,
 162 partially or completely treated or in its natural state, flowing

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     out of a septic tank, advanced treatment system, or other
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     treatment system or system component by the department.
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                ( * * *m) "Final approval" means an issuance of a
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     document from the department stating that a determination has been
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     made by the department that the individual on-site wastewater
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     disposal system * * * recommended/designed has been installed and
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     fulfills all requirements under this chapter or any variance that
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     has been granted by the department.
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                ( * * *n) "Generator" means any person whose act or
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     process produces sewage or other material suitable for disposal in
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     an individual on-site wastewater disposal system.
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                ( * * *o) "Individual on-site wastewater disposal
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     system" means a sewage treatment and effluent disposal system that
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     does not discharge into waters of the state, that serves only one
     (1) legal tract, that accepts only residential waste and similar
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     waste streams maintained on the property of the generator, and
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     that is designed and installed in accordance with this law and
     regulations of the board.
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                ( * * *p) "Notice of intent" means notification by an
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     applicant to the department prior to construction and submission
     of all required information, which is used by the department
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     to * * * initiate the process to evaluate the property for the
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suitability of an individual on-site wastewater disposal system.

individual on-site wastewater disposal system designed to meet

(* * *q) "Performance-based system" means an

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standards established to designate a level of treatment of
wastewater that an individual on-site wastewater disposal system
must meet, including, but not limited to, biochemical oxygen
demand, total suspended solids, nutrient reduction and fecal
coliform.

(r) "Permit/recommendation" means that a person has
filed a notice of intent with the department and the department

filed a notice of intent with the department and the department

has made a determination of the suitability of the property for

the use of an individual on-site wastewater disposal system.

(***<u>s</u>) "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.

(t) "Plot plan" means a property drawing reflecting property lines, site features (such as ponds, wells, etc.), dwellings and any other intended uses of the property therein including encumbrances.

209 (* * * \underline{u}) "Property of the generator" means land owned 210 by or under permanent legal easement or lease to the generator.

211 (***<u>v</u>) "Qualified homeowner * * * <u>maintenance</u>

212 <u>provider"</u> means the current owner of a specific residence where

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- 213 that homeowner resides and where the homeowner has met the
- 214 requirements of the rules and regulations of the department * * *
- 215 to provide maintenance for his or her system.
- 216 (* * *w) " * * *Licensed professional engineer" means
- 217 any person who has met the requirements under Section 73-13-23(1)
- 218 and who has been issued a certificate of registration as a
- 219 professional engineer.
- 220 (x) "Septage" means the liquid, solid, and semisolid
- 221 material that results from wastewater pretreatment in a septic
- 222 tank, portable toilet, or grease trap, which must be pumped,
- 223 hauled, treated and disposed of properly.
- 224 (***y) "Subdivision" means any tract or combination
- 225 of adjacent tracts of land that is subdivided into ten (10) or
- 226 more tracts, sites or parcels for the purpose of commercial or
- 227 residential development.
- SECTION 3. Section 41-67-3, Mississippi Code of 1972, is
- 229 reenacted and amended as follows:
- 230 41-67-3. (1) The * * * board * * * and/or the department
- 231 shall have the following duties and responsibilities:
- 232 (a) To exercise general supervision over the
- 233 design, \star \star installation, operation and maintenance of

- 234 individual on-site wastewater disposal systems, decentralized
- 235 wastewater treatment systems and cluster systems;
- 236 (b) To adopt, modify, repeal and promulgate rules and
- 237 regulations, after due notice and hearing, and where not otherwise

238 prohibited by federal or state law, to make exceptions to, to 239 grant exemptions from and to enforce rules and regulations 240 implementing or effectuating the duties of the board under this chapter to protect the public health. The board may grant 241 242 variances from rules and regulations adopted under this chapter, 243 including requirements for buffer zones, or from setbacks required 244 under Section 41-67-7 where the granting of a variance shall not 245 subject the public to unreasonable health risks or jeopardize 246 environmental resources;

- (c) To provide or deny certification for persons engaging in the business <u>for hire</u> of the * * * installation, operation or maintenance of individual on-site wastewater disposal systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems;
- 252 (d) To suspend or revoke certifications issued to
 253 persons engaging in the business <u>for hire</u> of the * * *
 254 installation, <u>operation or maintenance</u> of individual on-site
 255 wastewater disposal systems or persons engaging in the removal and
 256 disposal of the sludge and liquid waste from those systems, when
 257 it is determined the person has violated this chapter or
 258 applicable rules and regulations;
- 260 (e) To require the submission of information deemed 260 necessary by the department to determine the suitability of 261 individual lots for individual on-site wastewater disposal systems 262 for the purpose of commercial or residential development; and

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263	(f) To adopt, modify, repeal and promulgate rules and
264	regulations, after due notice and hearing, and where not otherwise
265	prohibited by federal or state law, as necessary to determine the
266	suitability of individual on-site wastewater disposal systems in
267	subdivisions.
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269	(* * \star 2) To assure the effective and efficient
270	administration of this chapter, the board shall adopt rules
271	governing the design, construction or installation, operation and
272	maintenance of individual on-site wastewater disposal systems,
273	including rules concerning the:
274	(a) Review and approval of individual on-site
275	wastewater disposal systems in accordance with Section 41-67-6;
276	(b) Certification of installers * * *;
277	(c) * * * Certification of pumpers;
278	(d) <u>Certification of manufacturers;</u>
279	(* * $\star\underline{e}$) Certification of * * * professional
280	evaluators; and
281	(* * $\star\underline{f}$) Creation of regulations that authorize the
282	original and any subsequent homeowner to be trained by * * *
283	certified installers as defined in Section 41-67-25(2) or other
284	factory representatives in order to educate the homeowner with the
285	necessary knowledge to provide maintenance to the homeowner's
286	system; no fees shall be charged to the homeowner for such

- training, thus allowing the homeowner to meet the requirements of Section \star * \star 41-67-7(5).
- 289 (* * *3) In addition, the board shall adopt rules
- 290 establishing performance standards for individual on-site
- 291 wastewater disposal systems for single family residential
- 292 generators and rules concerning the operation and maintenance of
- 293 individual on-site wastewater disposal systems designed to meet
- 294 those standards. The performance standards shall be consistent
- 295 with the federal Clean Water Act, maintaining the wastes on the
- 296 property of the generator and protection of the public health.
- 297 Rules for the operation and maintenance of individual on-site
- 298 wastewater disposal systems designed to meet performance standards
- 299 shall include rules concerning the following:
- 300 (a) A standard application form and requirements for
- 301 supporting documentation;
- 302 (b) Application review;
- 303 (c) Approval or denial of authorization for proposed
- 304 systems;
- 305 (d) Requirements, as deemed appropriate by the board,
- 306 for annual renewal of authorization;
- 307 (e) Enforcement of the requirements and conditions of
- 308 authorization; and
- 309 (f) Inspection, monitoring, sampling and reporting on
- 310 the performance of the system.

Any system proposed for authorization in accordance with
performance standards must be designed and certified by a <u>licensed</u>
professional engineer * * * in the State of Mississippi and must
be authorized by the * * * <u>department</u> before installation.

315 (\star \star \star 4) To the extent practicable, all rules and 316 regulations adopted under this chapter shall give maximum 317 flexibility to persons installing individual on-site wastewater 318 disposal systems and * * * all options consistent with the federal 319 Clean Water Act, consistent with maintaining the wastes on the 320 property of the generator and consistent with protection of the public health. In addition, all rules and regulations, to the 321 322 extent practicable, shall encourage the use of economically 323 feasible systems, including * * * all techniques and technologies 324 for individual on-site wastewater disposal.

(***<u>5</u>) All regulations shall be applied uniformly in all areas of the state and shall take into consideration and make provision for different types of soil in the state when performing soil and site evaluations.

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330 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is 331 reenacted and amended as follows:

332 41-67-4. (1) The * * * department shall determine the

333 feasibility of establishing * * * centralized wastewater treatment

334 systems upon the submission by the developer of a preliminary

335 design and feasibility study prepared by a licensed professional

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337 the board if the developer is dissatisfied with the board's determination of feasibility. The determination that a * * * 338 339 centralized wastewater treatment system must be established shall 340 be made without regard to whether the establishment of a * * * 341 centralized wastewater treatment system is authorized by law or is 342 subject to approval by one or more state or local government or 343 public bodies. Whenever a developer requests a determination of 344 feasibility, the * * * department must make the determination within * * * thirty (30) days after receipt of the preliminary 345 346 design and feasibility study from the developer. The * * * 347 department shall state in writing the reasons for its 348 determination. If the * * * department does not make a determination within * * * thirty (30) days, all sites within the 349 subdivision shall be approved, if a certified installer attests or 350 351 a department environmentalist determines that each site can be 352 adequately served by an individual on-site wastewater disposal 353 system. 354 (2) Where * * * subdivisions are proposed * * * that are 355 composed of fewer than thirty-five (35) building sites, and no 356 centralized wastewater treatment system * * * is available * * *, 357 the * * * department may waive the requirement for a feasibility 358 study. If the feasibility study is waived, all sites within the 359 subdivision shall be approved, if a certified installer attests or

a department environmentalist determines that each site can be

engineer. The developer may request and obtain a hearing before

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- adequately served by an individual on-site wastewater disposal system.
- 363 (3) No feasibility study or * * * centralized wastewater

 364 treatment system shall be required for subdivisions designed, laid

 365 out, platted or partially constructed before July 1, 1988, or for

 366 any subdivision that was platted and recorded during the period

 367 from July 1, 1995, through June 30, 1996.
- 368 (4) "Feasibility study" means a written evaluation and
 369 analysis of the potential of a proposed project that is based on
 370 investigation and research by a licensed professional engineer to
 371 give cost comparison between centralized or decentralized
 372 treatment and disposal and individual on-site wastewater disposal
 373 systems.
- 374 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is reenacted and amended as follows:
- 376 41-67-5. (1) No owner, lessee or developer shall construct 377 or place any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an 378 379 individual on-site wastewater disposal system, without having 380 first submitted a notice of intent to the department. Upon 381 receipt of a notice of intent, the department shall provide the 382 owner, lessee or developer with complete information on individual 383 on-site wastewater disposal systems, including, but not limited 384 to, applicable rules and regulations regarding the design, * * * installation, operation and maintenance of individual on-site 385

386	wastewater	disposal	systems	and	known	requirements	of	lending
387	institution	ns for app	oroval of	f the	syste	ems.		

- 388 (2) * * * No public utility supplying water shall make 389 connection to any dwelling, house, mobile home or residence 390 without the prior written approval of the department certifying 391 that the plan for the sewage treatment and disposal system at the 392 location of the property complies with this chapter. Connections 393 of water utilities may be made during construction if the 394 department has approved a plan for a sewage treatment and disposal 395 system and the owner of the property has agreed to have the system 396 inspected and approved by the department before the use or 397 occupancy of the property.
- 398 (3) The department shall furnish to the county tax assessor 399 or collector, upon request, the name and address of the person 400 submitting a notice of intent and the section, township and range 401 of the lot or tract of land on which the individual on-site 402 wastewater disposal system will be installed.
- SECTION 6. Section 41-67-6, Mississippi Code of 1972, is reenacted and amended as follows:
- 405 41-67-6. (1) Nothing in this chapter shall preclude a

 406 certified professional evaluator or licensed professional engineer

 407 from providing services relating to the design of an individual

 408 on-site wastewater disposal system to comply with this chapter,

 409 except for performance-based systems as specified in Section

 410 41-67-3(3). A certified professional evaluator or licensed

111	professional engineer shall notify the department in writing of
112	those services being provided, including the type of treatment,
113	the type of disposal, and the property address for the treatment
114	and disposal system. Construction or installation shall not begin
115	before authorization by the department. The department shall
116	respond within ten (10) business days with authorization that the
117	certified professional evaluator or licensed professional engineer
118	fulfills the requirements of the law.
119	(* * \star \star 2) Within five (5) working days following receipt of
120	the notice of intent and plot plan by an owner, lessee or
121	developer of any lot or tract of land, the department shall
122	conduct a soil and site evaluation, except in cases where a
123	certified professional evaluator or * * * licensed professional
124	engineer provides services relating to the design, construction or
125	installation of an individual on-site wastewater disposal system
126	to comply with this chapter. All regulations shall be applied
127	uniformly in all areas of the state and shall take into
128	consideration and make provision for different types of soil in
129	the state when performing soil and site evaluations. Within ten
130	(10) additional working days, the department shall make
131	recommendations to the owner, lessee or developer of the type or
132	types of individual on-site wastewater disposal systems suitable
133	for installation on the lot or tract, unless there are conditions
134	requiring further investigation that are revealed in the initial
135	evaluation. In making recommendations on the type or types of

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436 individual on-site wastewater disposal systems suitable for 437 installation on a lot or tract, personnel of the department shall 438 use best professional judgment based on rules and regulations 439 adopted by the board, considering the type or types of systems 440 which are installed and functioning on lots or tracts near the 441 subject lot or tract. To the extent practicable, the 442 recommendations shall give the owner, lessee or developer maximum 443 flexibility and * * * all options consistent with the federal 444 Clean Water Act, consistent with maintaining the wastes on the 445 property of the generator and consistent with protection of the 446 public health. The system or systems recommended shall be 447 environmentally sound and cost-effective. The department, a 448 licensed professional engineer or a certified professional 449 evaluator shall provide complete information, including all 450 applicable requirements and regulations on all systems 451 recommended. The owner, lessee or developer shall have the right 452 to choose among systems. The department shall provide the owner, 453 lessee or developer with a * * * permit/recommendation that 454 specifies all types of individual on-site wastewater disposal 455 systems that are suitable for installation on the lot or 456 tract * * *. * * 457 (* * *3) Within thirty (30) days of receipt of a request 458 for determination of suitability of individual on-site wastewater 459 disposal systems in a subdivision, the department shall advise the developer in writing either that all necessary information needed 460

for determination of suitability has been received or state the additional information needed by the department for determination of suitability.

(* * *4) Whenever a developer requests a determination of

- suitability of individual on-site wastewater disposal systems in a subdivision, the department must make the determination within * * * thirty (30) days after receipt of all necessary information needed for the determination of suitability from the developer. The department shall state in writing the reasons for
- (***<u>5</u>) (a) The <u>certified</u> installer * * * shall notify
 the department at least twenty-four (24) hours before
 beginning * * * <u>installation</u> of an individual on-site wastewater
 disposal system and, at that time, schedule a time for inspection
 of the system with the appropriate county department of health.
- 476 (b) * * * A certified installer, or designated agent 477 thereof, shall not cover his work with soil or other surface 478 material unless the installer has received authorization to cover 479 the system after an inspection by a * * * department * * * 480 environmentalist, or unless a * * * department environmentalist does not arrive for inspection * * * within thirty (30) minutes of 481 482 the designated and agreed upon time, in which case * * * a 483 certified installer, or designated agent thereof, may submit an 484 affidavit of proper installation to the department for final

approval.

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its determination.

- (* * * 6) A person may not design, construct or install, or cause to be designed, constructed or installed an individual on-site wastewater disposal system that does not comply with this chapter and rules and regulations of the board.
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- 491 (* * *7) Any lot or tract that is two (2) acres or larger
- 492 shall be exempt from the requirements of this chapter and
- 493 regulations of the department relating to approval of individual
- 494 on-site wastewater disposal systems by the department, and shall
- 495 be exempt from the provisions of Section 41-67-5(2), provided
- 496 that:
- 497 (a) All wastewater is contained on the lot or tract;
- 498 (b) No * * * watercourse, as defined in Section
- 499 51-3-3(h), of Mississippi or the United States is impacted; and
- 500 (c) * * * The person who installed the individual
- 501 on-site wastewater disposal system provides the department with a
- 502 signed affidavit attesting that the requirements of paragraphs (a)
- 503 and (b) are met.
- SECTION 7. Section 41-67-7, Mississippi Code of 1972, is
- 505 reenacted and amended as follows:
- 506 41-67-7. (1) Approval of the design, construction or
- 507 installation of an individual on-site wastewater disposal system
- 508 by the department is required, except as otherwise provided in
- Section 41-67-6(7). Upon completion of installation of the

510 system, the department shall approve the design, construction or

- 511 installation of that system, as requested, if the system is
- 512 designed, constructed and installed, as the case may be, in
- 513 accordance with the rules and regulations of the board. Whenever
- 514 a person requests approval of an individual on-site wastewater
- 515 disposal system and has met the requirements in subsection (3) of
- 516 this section, the department must approve or disapprove the
- 517 request within five (5) working days. If the department
- 518 disapproves the request, the department shall state in writing the
- 519 reasons for the disapproval. If the department does not respond
- 520 to the request within ten (10) calendar days, the request for
- 521 approval of the individual on-site wastewater disposal system
- 522 shall be deemed approved.
- 523 * * *
- 524 (* * *2) Individual on-site wastewater disposal
- 525 systems * * * shall be considered acceptable, provided the
- 526 following requirements are met:
- 527 (a) * * * Centralized wastewater treatment systems are
- 528 not available or feasible;
- 529 (b) The existing disposal systems in the area are
- 530 functioning satisfactorily;
- 531 (c) Soil types, soil texture, seasonal water tables and
- 532 other limiting factors are satisfactory for underground

- 533 absorption; * * *
- (d) Any private water supply is located at a higher
- 535 elevation or it must be properly protected and at least fifty (50)

537 least one hundred (100) feet from the disposal field of the 538 system * * *; and 539 540 (* * *e) The systems meet applicable water quality 541 requirements of * * * Section 41-67-10. 542 (3) After construction or installation of the individual 543 on-site wastewater disposal system, the property owner or his 544 agent shall provide a final approval request containing the 545 following to the department: 546 (a) A signed affidavit from the installer that the system was installed in compliance with all requirements, 547 548 regulations and permit conditions applicable to the system 549 installed; and 550 (b) For any advanced treatment system, an affidavit 551 from the property owner agreeing to a continuing maintenance 552 agreement on the installed system at the end of the required 553 manufacturer's maintenance agreement. 554 (4) If any person or certified installer fails to obtain 555 final approval or submit an affidavit of proper installation to 556 the department in the installation of the system, the board, after

due notice and hearing, may levy an administrative fine not to

exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system

installed not in compliance with this chapter or applicable rules

and regulations of the board may be considered a separate offense.

feet from the individual on-site wastewater disposal system and at

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561	(5) The property owner, if not a qualified homeowner
562	maintenance provider, shall keep a continuing maintenance
563	agreement with a certified installer on all advanced treatment
564	systems in perpetuity. Any person violating this subsection shall
565	be subject to the penalties and damages as provided in Section
566	41-67-28(5).
567	SECTION 8. Section 41-67-9, Mississippi Code of 1972, is
568	reenacted and amended as follows:
569	41-67-9. (1) * * * $\frac{1}{2}$ All existing individual on-site
570	wastewater disposal systems on July 1, 2014, shall be
571	grandfathered in until a valid complaint is registered with a
572	county department of health or until a property owner requests an
573	inspection by the department.
574	* * *
575	(2) * * * All existing individual on-site wastewater disposal
576	systems shall be considered acceptable provided the following
577	requirements are met:
578	(a) The existing individual on-site wastewater disposal
579	system and all treated effluent is contained on the property of
580	the generator;
581	(b) No evidence that any insufficiently treated
582	effluent is leaving the property of the generator or has been
583	seeping to the surface of the ground;
584	(c) Centralized wastewater treatment systems are not
585	available;

086	(d) If a private water supply well is present, the well
587	should be located at a higher elevation than the disposal system
588	and is protected from surface contamination by a concrete slab of
589	a thickness of at least four (4) inches extending at least two (2)
590	feet in all directions from the well casing * * *; and
591	(e) If an advanced treatment system is used, the
592	property owner shall be required to contact an authorized
593	representative of a certified manufacturer of the specific
594	advanced treatment system to provide a continuous maintenance
595	agreement or provide the property owner training to become a
596	qualified homeowner maintenance provider.
597	(3) Owners of property on which an existing individual
598	on-site wastewater disposal system does not meet the requirements
599	of subsection (2) of this section shall be required by the
600	department to meet Section 41-67-6 or Section 41-67-21.
501	SECTION 9. Section 41-67-10, Mississippi Code of 1972, is
502	reenacted and amended as follows:
603	41-67-10. (1) Advanced * * * treatment systems may be
604	installed only if they have been tested and are listed by * * *
605	an American National Standards Institute (ANSI) third-party
606	certifying program at the time of installation. Advanced * * *
507	treatment systems shall be in compliance with standards for a
608	Class I system as defined by the most current revision of American
608 609	Class I system as defined by the most current revision of American National Standards Institute/National Sanitation Foundation

611	incorporated	bv	reference.	An	approved	ANSI	third-	partv

- 612 certifying program shall comply with the following provisions for
- 613 systems which it has certified to be installed in Mississippi:
- 614 (a) Be accredited by the American National Standards
- 615 Institute;
- 616 (b) Have established procedures which send
- 617 representatives to distributors in Mississippi on a recurring
- 618 basis to conduct evaluations to assure that distributors of
- 619 certified advanced treatment systems are providing proper
- 620 maintenance, have sufficient replacement parts available and are
- 621 maintaining service records;
- 622 (c) Notify the department of the results of monitoring
- 623 visits to manufacturers and distributors within sixty (60) days of
- 624 the conclusion of the monitoring; and
- 625 (d) Submit completion reports on testing and any other
- 626 information as the department may require for its review.
- 627 (2) All manufacturers of advanced treatment systems
- 628 certified in Mississippi shall provide technical training staff to
- 629 the department as needed.
- SECTION 10. Section 41-67-11, Mississippi Code of 1972, is
- 631 reenacted and amended as follows:
- 632 41-67-11. (1) * * * Individual on-site wastewater disposal
- 633 systems may be approved in an area where individual on-site
- 634 wastewater disposal systems otherwise would not be approved
- 635 because of the availability or feasibility of connection to a

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centralized \star \star wastewater treatment system only after a
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637
     contract has been awarded or other definite commitments as are
638
     deemed sufficient to the department are formalized for the
639
     construction of \star \star a centralized wastewater treatment system
640
     that upon completion will adequately serve the property. * * *
641
     Individual on-site wastewater disposal systems shall only be
642
     approved when the * * * centralized wastewater treatment system
643
     will be completed and available for use within thirty-six (36)
644
              The department may approve the installation of a * * *
     months.
     system under these circumstances only if the system will comply
645
646
     with the requirements of Section 41-67-5(1) and comply with all
647
     construction requirements of the * * * department. The * * *
648
     system may be installed only after the developer has signed a
649
     written agreement with the centralized * * * wastewater treatment
650
     provider stating that the developer will connect to the
651
     centralized * * * wastewater treatment system when it becomes
652
     available, and the provider of the centralized * * * wastewater
653
     treatment system being constructed certifies that the
654
     centralized * * * wastewater treatment system will have adequate
     capacity to accept the sewage to be produced by the * * \star
655
656
     individual on-site wastewater disposal systems.
                                                       The developer
657
     shall install an internal sewage collection system from each lot
658
     to the connection point to the * * * centralized wastewater
659
     treatment system as he develops the streets of the subdivision.
660
     Upon completion of the * * * construction of the centralized
```

- 661 wastewater treatment system, all individual on-site wastewater
- disposal systems shall be abandoned and all residences, buildings
- or facilities connected to the \star \star centralized wastewater
- 664 treatment system.
- 665 (2) The * * * department may approve the * * * use of a
- sewage holding * * * tank for the purpose of providing sewage
- 667 services. * * * The * * * department shall require * * * the
- 668 proper abandonment and removal of the sewage holding tank and
- 669 connection to a centralized wastewater treatment system when that
- 670 system is available, or the usage is no longer needed.
- 671 **SECTION 11.** Section 41-67-12, Mississippi Code of 1972, is
- 672 reenacted and amended as follows:
- 41-67-12. (1) The department shall assess fees in the
- 674 following amounts for the following purposes:
- 675 (a) A fee of Fifty Dollars (\$50.00) shall be levied for
- 676 soil and site evaluation and recommendation of individual on-site
- 677 wastewater disposal systems.
- (b) A fee of Fifty Dollars (\$50.00) shall be levied
- 679 annually for the certification of installers and * * * pumpers.
- 680 (c) A fee of One Hundred Dollars (\$100.00) shall be
- 681 levied annually for the registration of manufacturers.
- (2) In the discretion of the board, a person shall be liable
- for a penalty equal to one and one-half (1-1/2) times the amount
- of the fee due and payable for failure to pay the fee on or before

- the date due, plus any amount necessary to reimburse the cost of collection.
- 687 (3) * * * No fee authorized under this section shall * * *
- 688 be assessed by the department for * * * state agencies or
- 689 institutions, including, without limitation, foster homes licensed
- 690 by the * * * Mississippi Department of Human Services. * * *
- 691 **SECTION 12.** Section 41-67-15, Mississippi Code of 1972, is
- 692 reenacted as follows:
- 693 41-67-15. Nothing in this chapter shall limit the authority
- 694 of a municipality or board of supervisors to adopt similar
- 695 ordinances which may be, in whole or in part, more restrictive
- 696 than this chapter, and in those cases the more restrictive
- 697 ordinances will govern. The department shall not approve any
- 698 system that does not comply with an ordinance adopted by a
- 699 municipality or board of supervisors under the authority of this
- 700 section.
- 701 **SECTION 13.** Section 41-67-19, Mississippi Code of 1972, is
- 702 reenacted and amended as follows:
- 703 41-67-19. Each authorized agent of the department
- 704 implementing this chapter shall demonstrate to the department's
- 705 satisfaction that the person:
- 706 (a) Is competent to review and provide any requested
- 707 approval of design * * * and installation of individual on-site
- 708 wastewater disposal systems, as well as the operation, repair or
- 709 maintenance of those systems, to make soil permeability tests or

- 710 soil and site evaluations, and to conduct inspections of
- 711 individual on-site wastewater disposal systems in accordance with
- 712 this chapter and rules and regulations adopted under this chapter;
- 713 and
- 714 (b) Has successfully completed the * * * department's
- 715 certification training program * * *.
- 716 **SECTION 14.** Section 41-67-21, Mississippi Code of 1972, is
- 717 reenacted and amended as follows:
- 718 41-67-21. (1) The * * * department * * * shall require a
- 719 property owner and/or lessee to repair a malfunctioning individual
- 720 on-site wastewater disposal system on the owner's or lessee's
- 721 property before the thirtieth day after the date on which the
- 722 owner or lessee is notified by the department of the
- 723 malfunctioning system.
- 724 (2) The property owner and/or lessee shall take adequate
- 725 measures as soon as practicable to abate an immediate health
- 726 hazard.
- 727 (3) If an existing residential individual on-site wastewater
- 728 disposal system is malfunctioning, the system shall be repaired to
- 729 reduce the volume of effluent, to adequately treat the effluent
- 730 and to the greatest extent possible, to confine the discharge to
- 731 the property of the generator. If repairs are made to
- 732 significantly upgrade the existing individual on-site wastewater
- 733 disposal system, the department shall approve the system, if
- 734 requested.

- 735 (*** $\frac{4}{4}$) The property owner or lessee may be assessed a 736 civil penalty not to exceed Five Dollars (\$5.00) for each day the 737 individual on-site wastewater disposal system remains unrepaired 738 after the thirty-day period specified in subsection (1) of this
- 740 (* * $\star 5$) The board may assess the property owner or lessee
- 742 authorized * * * $\underline{\text{under}}$ Section 41-67-3(* * $\underline{\text{3}}$) a civil penalty

of an individual on-site wastewater disposal system

- 743 not to exceed * * * $\frac{1}{2}$ Five Dollars (\$5.00) for each day the system
- 744 fails to meet the performance standards of that system after the
- 745 thirty-day period specified in subsection (1) of this section.
- 746 (\star \star \star <u>6</u>) All penalties collected by the board under this 747 section shall be deposited in the State General Fund.
- 748 ($\star \star \star 7$) Appeals from the imposition of civil penalty under 749 this section may be taken as provided in Section 41-67-29.
- 750 **SECTION 15.** Section 41-67-23, Mississippi Code of 1972, is 751 reenacted and amended as follows:
- 752 41-67-23. The department or its authorized representative
- 753 may enter onto property and make inspections of any individual
- 754 on-site wastewater disposal system as necessary to ensure that the
- 755 system is in compliance with this chapter and the rules and
- 756 regulations adopted under this chapter. The department shall give
- 757 reasonable notice to any property owner, lessee or occupant prior
- 758 to entry onto the property. The owner, lessee, owner's

759 representative, or occupant of the property on which the system is

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section.

- 760 located shall give the department or its authorized representative
- 761 reasonable access to the property at reasonable times to make
- 762 necessary inspections.
- 763 **SECTION 16.** Section 41-67-25, Mississippi Code of 1972, is
- 764 reenacted and amended as follows:
- 765 41-67-25. (1) A person may not operate as an installer of
- 766 individual on-site wastewater disposal systems unless that person
- 767 is currently certified by the department. A person who installs
- 768 an individual on-site wastewater disposal system on his own
- 769 property for his primary residence is not considered an installer
- 770 for purposes of this subsection.
- 771 (2) An installer of * * * advanced treatment systems or
- 772 products must be a factory-trained and authorized representative.
- 773 The manufacturer must furnish documentation to the department
- 774 certifying the satisfactory completion of factory training and the
- 775 establishment of the installer as an authorized manufacturer's
- 776 representative.
- 777 (3) The * * * department shall issue a certification to an
- 778 installer if the installer:
- 779 (a) Completes an application form that complies with
- 780 this chapter and rules and regulations adopted * * * by the board;
- 781 (b) Satisfactorily completes the training program for
- 782 installation and maintenance provided by the department;
- 783 (c) Pays the annual certification fee which shall be an
- 784 amount not greater than Fifty Dollars (\$50.00); and

- 785 (d) Provides proof of having a valid general business
- 786 liability insurance policy in effect with liability limits of at
- 787 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
- 788 least One Hundred Thousand Dollars (\$100,000.00) in total
- 789 aggregate amount.
- 790 (4) Each installer shall furnish proof of certification to a
- 791 property owner, lessee, the owner's representative or occupant of
- 792 the property on which an individual on-site wastewater disposal
- 793 system is to be designed, constructed, repaired or installed by
- 794 that installer and to the department or its authorized
- 795 representative, if requested.
- 796 (5) The department shall provide for annual renewal of
- 797 certifications.
- 798 (6) (a) An installer's certification may be suspended or
- 799 revoked by the * * * department after notice and hearing if the
- 800 installer violates this chapter or any rule or regulation adopted
- 801 under this chapter.
- 802 (b) The installer may appeal a suspension or revocation
- 803 under this section as provided by law.
- 804 (7) The department * * * shall disseminate to the public an
- 805 official list of certified installers * * *.
- 806 (8) If any person is operating in the state as an installer
- 807 without certification by the board, the board, after due notice
- 808 and opportunity for a hearing, may impose a monetary penalty not
- 809 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

- 810 (9) The department * * * shall provide for annual renewal of 811 installer certifications to be applied for at the local department 812 offices.
- 813 **SECTION 17.** Section 41-67-27, Mississippi Code of 1972, is 814 reenacted and amended as follows:
- 815 41-67-27. * * * $\frac{1}{2}$ A person may not operate a business in or do
- 816 business in the State of Mississippi as a manufacturer of
- 817 components used in an individual on-site wastewater disposal
- 818 system without holding a valid manufacturer's registration issued
- 819 by the department. If any person is operating in the state as a
- 820 manufacturer without certification by the department, the
- 821 department, after due notice and opportunity for a hearing, may
- 822 impose a monetary penalty not to exceed Ten Thousand Dollars
- 823 (\$10,000.00) for each violation.
- **SECTION 18.** Section 41-67-28, Mississippi Code of 1972, is
- 825 reenacted and amended as follows:
- 41-67-28. (1) Except as otherwise provided in this chapter,
- 827 any person who shall knowingly violate this chapter or any rule or
- 828 regulation or written order of the board in pursuance thereof is,
- 829 upon conviction, guilty of a misdemeanor and shall be punished as
- 830 provided in Section 41-3-59.
- 831 (2) Each day of a continuing violation is a separate
- 832 violation.

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- 833 (3) (a) In addition to all other statutory and common law
- 834 rights, remedies and defenses, any person who purchases an

individual on-site wastewater disposal system and suffers any ascertainable loss of money or property, real or personal, may bring an action at law in the court having jurisdiction in the county in which the installer or manufacturer has the principal place of business, where the act allegedly occurred, to recover any loss of money or damages for the loss of any property resulting from any of the following:

- 842 (i) Improper installation of an individual on-site 843 wastewater disposal system due to faulty workmanship;
- (ii) Failure of an individual on-site wastewater
 disposal system to operate properly due to failure to install the
 system in accordance with any requirements of the manufacturer or
 in compliance with any rules and regulations of the board; or
- 848 (iii) Failure of an individual on-site wastewater 849 disposal system to operate properly due to * * * installation.
- 850 (b) Nothing in this chapter shall be construed to
 851 permit any class action or suit, but every private action must be
 852 maintained in the name of and for the sole use and benefit of the
 853 individual person.
 - (4) A person who violates this chapter thereby causing a discharge off the property of the generator shall be liable to the party aggrieved or damaged by that violation for the actual damages and additional punitive damages equal to a maximum of twenty-five percent (25%) of the actual damages proven by the aggrieved party, to be taxed by the court where the suit is heard

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- 860 on an original action, by appeal or otherwise and recovered by a
- 861 suit at law in any court of competent jurisdiction. In addition,
- 862 the court may award the prevailing party reasonable attorney's
- 863 fees and court costs. Before filing suit, the party aggrieved or
- 864 damaged must give thirty (30) days' written notice of its intent
- 865 to file suit to the alleged violator.
- 866 (5) (a) Any person who violates Section \star \star 41-67-7(5) or
- 867 41-67-11(2) may be assessed an administrative fine in the amount
- 868 of Five Hundred Dollars (\$500.00) and the public water system may
- 869 discontinue service to that property owner until the failure to
- 870 comply with Section * * * 41-67-7(5) or 41-67-11(2) has been
- 871 corrected.
- 872 (b) All violators shall be given thirty (30) days'
- 873 notice before any adverse action.
- 874 (c) Any violator shall have the right to appeal an
- 875 adverse determination through the procedures set out in Section
- 876 41-67-29.
- 877 **SECTION 19.** Section 41-67-29, Mississippi Code of 1972, is
- 878 reenacted as follows:
- 879 41-67-29. Any person who is aggrieved by any final decision
- 880 of the board may appeal that final decision to the chancery court
- 881 of the county of the situs in whole or in part of the subject
- 882 matter. The appellant shall give a cost bond with sufficient

- 883 sureties, payable to the state in a sum to be fixed by the board
- 884 or the court and to be filed with and approved by the clerk of the

885 The aggrieved party may, within thirty (30) days following a final decision of the board, petition the chancery court for an 886 887 appeal with supersedeas and the chancellor shall grant a hearing 888 on the petition. Upon good cause shown the chancellor may grant 889 the appeal with supersedeas. The appellant shall be required to 890 post a bond with sufficient sureties according to law in an amount 891 to be determined by the chancellor. The chancery court shall 892 always be deemed open for hearing of appeals and the chancellor 893 may hear the appeal in termtime or in vacation at any place in his 894 district. The appeal shall have precedence over all civil cases, 895 except election contests. The chancery court shall review all 896 questions of law and of fact and may enter a final order or remand 897 the matter to the board for appropriate action as may be indicated 898 or necessary under the circumstances. Appeals may be taken from 899 the chancery court to the Supreme Court in the manner as now 900 required by law, but if a supersedeas is desired by the party 901 appealing to the chancery court, that party may apply therefor to 902 the chancellor, who shall award a writ of supersedeas, without 903 additional bond, if in the chancellor's judgment material damage 904 is not likely to result. If material damage is likely to result, 905 the chancellor shall require a supersedeas bond as deemed proper, 906 which shall be liable to the state for any damage. 907 SECTION 20. Section 41-67-33, Mississippi Code of 1972, is

reenacted and amended as follows:

909	41-67-33. (1) The department shall adopt and use procedures
910	for conducting reviews requested by any person aggrieved by the
911	disapproval or requirements for an on-site wastewater disposal
912	system as provided by the department in written form under Section
913	41-67-6. The procedures shall include that the person may request
914	review by submitting a written request of review to the Director
915	of the Office of Environmental Health. The request for review
916	shall identify the matter contested and state the person's name,
917	mailing address and home and daytime phone numbers. Within ten
918	(10) business days of the receipt of the request for review, the
919	department shall issue in writing a ruling and determination to
920	the person and if any corrections are necessary to any form
921	previously issued by the department, then new forms shall be
922	submitted to the person.

department by submitting a report for a proposed system to the department from a licensed professional engineer that the proposed wastewater treatment system will properly treat and maintain wastewater on the property and proof that the licensed professional engineer has errors and omissions insurance. The department shall grant the variance but still have authority for final approval to inspect that the system is installed as designed. All forms from the department relating to allowed wastewater systems shall include the variance option.

933	(* * ± 3) Any person aggrieved by the ruling issued by the
934	Director of the Office of Environmental Health may apply for a
935	hearing. Any hearing shall be conducted by a hearing officer
936	designated by the department. At the hearing, the hearing officer
937	may conduct reasonable questioning of persons who make relevant
938	factual allegations concerning the proposal. The hearing officer
939	shall require that all persons be sworn before they may offer any
940	testimony at the hearing, and the hearing officer is authorized to
941	administer oaths. Any person so choosing may be represented by
942	counsel at the hearing. A record of the hearing shall be made,
943	which shall consist of a transcript of all testimony received, all
944	documents and other material introduced, the staff report and
945	recommendation, and any other material as the hearing officer
946	considers relevant. He shall make a recommendation within a
947	reasonable period of time after the hearing is closed and after he
948	has had an opportunity to review, study and analyze the evidence
949	presented during the hearing. The completed record shall be
950	certified to the State Health Officer, who shall consider only the
951	record in making his decision, and shall not consider any evidence
952	or material that is not included. All final decisions regarding
953	the disapproval or requirements for an on-site wastewater disposal
954	system shall be made by the State Health Officer. The State
955	Health Officer shall make his written findings and issue his order
956	after reviewing the record, not to exceed thirty (30) days
957	following his receipt of the record.

- 958 **SECTION 21.** Section 41-67-35, Mississippi Code of 1972,
- 959 which prohibits a person from operating as a maintenance provider
- 960 unless the person is certified as one by the department or is a
- 961 certified installer, is repealed.
- 962 **SECTION 22.** Section 41-67-37, Mississippi Code of 1972, is
- 963 reenacted and amended as follows:
- 964 41-67-37. (1) A person may not operate as a certified
- 965 professional evaluator in this state unless that person is
- 966 currently certified by the department or is a * * * licensed
- 967 professional engineer.
- 968 (2) A person must meet one (1) of the following
- 969 requirements, in addition to the additional requirements set forth
- 970 in other sections of this chapter and rules and regulations of the
- 971 board, in order to be eligible to become a certified professional
- 972 evaluator:
- 973 (a) Be a professional geologist registered in the State
- 974 of Mississippi;
- 975 (b) Be a professional soil classifier licensed in the
- 976 State of Mississippi; or
- 977 (c) Be a person who possesses a demonstrable, adequate
- 978 and appropriate record of professional experience and/or training
- 979 as determined by the department.
- 980 (3) The department shall issue a certification to a

- 981 certified professional evaluator if the certified professional
- 982 evaluator:

983		(a)) Co	omplete	s an	app	olicati	ion f	orm	that	complies	with
984	this	chapter	and	rules	adopt	ted	under	this	cha	apter;	;	

- 985 (b) Satisfactorily completes the certified professional evaluator training program provided by the department;
- 987 (c) Pays the annual certification fee; and
- 988 (d) Provides proof of having an errors and omissions 989 policy or surety in effect with liability limits of at least Fifty 990 Thousand Dollars (\$50,000.00) per occurrence and at least One 991 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.
- 992 (4) Each certified professional evaluator shall furnish

 993 proof of certification to a property owner or the owner's

 994 representative of the property before performing a site evaluation

 995 of the property on which an individual on-site wastewater disposal

 996 system is to be designed, constructed, repaired or installed by

 997 the certified professional evaluator and to the department or its

 998 authorized representative, if requested.
- 999 (5) The department shall provide for annual renewal of 1000 certifications.
- 1001 (6) The department * * * shall disseminate to the public an official list of certified professional evaluators * * *.
- 1003 (7) If any person who is not a * * * <u>licensed</u> professional

 1004 engineer operates in the state as a certified professional

 1005 evaluator without certification by the * * * <u>department</u>, the * * *

 1006 department, after due notice and opportunity for a hearing, may

1007	impose a mon	netary penalty	not to	exceed	Ten	Thousand	Dollars
1008	(\$10,000.00)	for each vio	lation.				

- 1009 **SECTION 23.** Section 41-67-39, Mississippi Code of 1972, is 1010 reenacted and amended as follows:
- 1011 41-67-39. (1) A person may not be engaged in the business
 1012 of removing and disposing of the sludge and liquid waste (septage)
 1013 from individual on-site wastewater disposal systems in this state
 1014 unless that person has a valid * * * certificate issued by the
 1015 department.
- 1016 (2) The department shall issue a * * * certificate to a

 1017 pumper if the pumper:
- 1018 (a) Completes an application form that complies with 1019 this chapter and rules adopted under this chapter;
- 1020 (b) <u>Satisfactorily completes the certified pumper</u>
 1021 training program provided by the department;
- 1022 (* * \times <u>c</u>) Satisfactorily complies with the requirements 1023 of his/her pumping and hauling equipment;
- 1024 ($\star \star \star \underline{d}$) Provides documentation of a disposal site 1025 approved by the Department of Environmental Quality, Office of 1026 Pollution Control;
- 1027 (** * $\underline{\bullet}$) Pays the annual license fee; and

 1028 (* * $\underline{\bullet}$) Provides proof of having a valid general

 1029 business liability insurance policy in effect with liability

 1030 limits of at least Fifty Thousand Dollars (\$50,000.00) per

- 1031 occurrence and at least One Hundred Thousand Dollars (\$100,000.00)

 1032 in total aggregate amount.
- 1033 (3) Each pumper or designated agent thereof, upon request,

 1034 shall furnish proof of * * * certification to an individual before

 1035 entering a contract with that individual for the removing and

 1036 disposing of the sludge and liquid waste (septage) from an

 1037 individual on-site wastewater disposal system.
- 1038 (4) The department * * * shall disseminate to the public an official list of certified pumpers * * *.
- 1040 (5) If any person operates in the state as a certified
 1041 pumper without a license by the board, the board, after due notice
 1042 and opportunity for a hearing, may impose a monetary penalty not
 1043 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.
- 1044 (6) The department may suspend or revoke a pumper

 1045 certification if the pumper * * * disposes of septage or other

 1046 liquid waste in an unpermitted or unapproved site and/or violates

 1047 this chapter or rules and regulations under this chapter.
- 1048 (7) A municipal wastewater treatment facility may make a

 1049 site available for certified pumpers to dispose of septic or other

 1050 liquid waste.
- 1051 (8) The department shall provide for annual renewal of certifications.
- 1053 (\star \star \star $\underline{9}$) The department must provide for renewal pumper 1054 certifications to be applied for at the local department offices.

- 1055 **SECTION 24.** The following shall be codified as Section
- 1056 41-67-41, Mississippi Code of 1972:
- 1057 41-67-41. (1) There is created the Wastewater Advisory
- 1058 Council for the purpose of advising the department regarding
- 1059 individual on-site wastewater disposal systems. The advisory
- 1060 council shall be composed of the following:
- 1061 (a) One (1) appointee of the State Health Officer;
- 1062 (b) One (1) appointee of the Chairman of the State
- 1063 Board of Health;
- 1064 (c) One (1) appointee of the Chairman of the State
- 1065 Board of Health that represents a Mississippi Aerobic Treatment
- 1066 Unit (ATU) manufacturer;
- 1067 (d) One (1) appointee of the Chairman of the State
- 1068 Board of Health that represents a certified installer;
- 1069 (e) One (1) appointee of the Chairman of the State
- 1070 Board of Health that represents a septic tank or aggregate
- 1071 disposal manufacturer;
- 1072 (f) One (1) appointee of the Executive Director of the
- 1073 Mississippi Department of Environmental Quality;
- 1074 (g) One (1) appointee of the Executive Director of the
- 1075 Office of Pollution Control;
- 1076 (h) One (1) appointee of the Executive Director of the
- 1077 Mississippi Soil and Water Conservation Commission;
- 1078 (i) One (1) appointee of the Director of the
- 1079 Mississippi State Board of Registered Professional Geologists;

1080	(j)	One	(1)	appointee	of	the	Chairman	of	the	Department
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- 1081 of the Mississippi State University School of Civil and
- 1082 Environmental Engineering Companies;
- 1083 (k) The federally appointed Mississippi State Soil
- 1084 Scientist, or his designee;
- 1085 (1) One (1) appointee of the Executive Director of the
- 1086 American Council of Engineering Companies;
- 1087 (m) One (1) appointee of the Executive Director of the
- 1088 Home Builders Association of Mississippi;
- 1089 (n) One (1) appointee of the Executive Director of the
- 1090 Mississippi Engineering Society;
- 1091 (o) One (1) appointee of the Executive Director of the
- 1092 Mississippi Manufactured Housing Association;
- 1093 (p) One (1) appointee of the Executive Director of the
- 1094 Mississippi Rural Water Association;
- 1095 (q) One (1) appointee of the Executive Director of the
- 1096 Mississippi Association of Supervisors;
- 1097 (r) One (1) appointee of the President of the
- 1098 Mississippi Pumpers Association;
- 1099 (s) One (1) appointee of the President of the
- 1100 Mississippi Water and Pollution Control Operators Association,
- 1101 Inc.;
- 1102 (t) One (1) appointee of the Executive Director of the
- 1103 Mississippi Association of Realtors; and

1104		(u)	One	(1)	appointee	of	the	Executive	Director	of	the
1105	Mississippi Municipal			League.							

- 1106 (2) The members of the advisory council shall elect a 1107 chairman and vice chairman from its membership.
- 1108 (3) The terms of appointments for each member shall be for a 1109 period of two (2) years.
- 1110 (4) The advisory council shall have quarterly meetings, with 1111 at least one (1) of those meetings taking place between forty-five 1112 (45) and sixty (60) days before the meeting of the board.
- 1113 (5) The department shall staff all advisory council meetings 1114 and record minutes of those meetings.
- 1115 **SECTION 25.** Section 41-67-31, Mississippi Code of 1972, is 1116 amended as follows:
- 1117 41-67-31. Sections 41-67-1 through 41-67-29 and Sections 1118 41-67-33 through * * * $\frac{41-67-41}{2}$ shall stand repealed on July 1119 1, * * * 2018.
- 1120 **SECTION 26.** This act shall take effect and be in force from 1121 and after July 1, 2013.