

By: Representative Ketchings

To: Insurance

## HOUSE BILL NO. 222

1 AN ACT TO AMEND SECTION 83-17-203, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE DEFINITION OF A "PERSON" ACTING AS AN  
3 INSURANCE AGENT SHALL INCLUDE ANY INDIVIDUAL, PARTNERSHIP OR  
4 CORPORATION INCORPORATED UNDER THE MISSISSIPPI LIMITED LIABILITY  
5 COMPANY ACT; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 83-17-203, Mississippi Code of 1972, is  
8 amended as follows:

9 83-17-203. The terms "agent" and "solicitor" as used in this  
10 article refer to and include all persons, residents of this state,  
11 engaged in any of the activities enumerated in Section 83-17-201,  
12 but do not include (a) persons employed by insurance agents or  
13 agencies or companies solely for the performance of clerical,  
14 stenographic, and similar office duties, or (b) the supervising  
15 general, state, special agents or others similarly employed by a  
16 supervising general agent or insurance company or carrier, neither  
17 of whom shall be eligible to apply for or secure a certificate of  
18 authority or license as a resident countersigning agent as defined  
19 herein or in other provisions of the insurance laws of this state;  
20 and said "supervising general, state, special agents" as used in  
21 this article refer to and include all persons, firms,  
22 partnerships, and corporations having authority to appoint or  
23 supervise resident local agents in this state on behalf of  
24 insurance companies; but nothing contained in this subsection (2)  
25 shall prohibit the licensing as an agent of a person appointed to  
26 act as agent for a company operating through agents who represent  
27 only one (1) company or group of companies under the same control

28 or management; or (c) the attorney-in-fact or the traveling  
29 salaried representative of a reciprocal insurance exchange; the  
30 term "attorney-in-fact" or the "traveling salaried representative"  
31 as used in this article refers to and includes all persons, not  
32 otherwise licensed under the provisions of this article, who  
33 represent or are employed by any underwriter, association, or  
34 reciprocal insurance exchange writing policies in Mississippi  
35 other than through resident agents, who in any manner solicit  
36 business on behalf of such underwriters, associations, or  
37 reciprocal insurance exchanges. It is expressly provided,  
38 however, that this section shall not prevent the licensing of any  
39 person now licensed as an agent who would, but for the provisions  
40 of subsection (2) hereof be eligible for such license; provided  
41 further, a local agent operating as a general agent may be  
42 licensed in such dual capacity so long as the general agency is  
43 operated in connection with a local agency, or where the owners or  
44 majority of the stockholders have a substantial interest in such  
45 local and general agency.

46 The term "insurance solicitor" as used in this article refers  
47 to and includes any person, a resident of this state, directly  
48 connected with and principally employed by and authorized by an  
49 insurance agent to solicit and negotiate or assist in any manner  
50 in the sale and issuance of policies or contracts of insurance  
51 solely on behalf of such agents; and no license shall be renewed  
52 for any solicitor unless it is conclusively shown that more than  
53 fifty percent (50%) of his total annual employment income for the  
54 preceding year is derived from commissions on insurance; and for  
55 the purposes of this article, life, accident and health insurance  
56 commissions shall be included in calculating said fifty percent  
57 (50%). The agent appointing such solicitor shall be responsible  
58 for the acts of the solicitor. Any violation of the insurance  
59 laws by the solicitor may be grounds for revocation of license of  
60 both the agent and the solicitor after proper hearing. The  
61 commission of any unlawful act by the solicitor shall be prima  
62 facie evidence that the agent had knowledge of such act.

63 The term "insurance agent" as used in this article refers to  
64 and includes all insurance agents not thus employed as "insurance

65 solicitors." No license or renewal license as a resident local  
66 agent shall be granted to any person to act as said agent who is  
67 not actively engaged therein by soliciting and servicing the  
68 insurance-buying public as an agent individually, or as a bona  
69 fide employee of an agent or agency; and no renewal license shall  
70 be issued to any agent until it is conclusively shown by filing an  
71 affidavit with the commissioner of insurance or otherwise that not  
72 more than thirty-five percent (35%) of the aggregate amount of  
73 commissions of the said agent was derived from "controlled  
74 business" as referred to and defined hereinafter.

75 The terms "insurance company" and "insurance carrier" as used  
76 in this article refer to and include all stock, mutual,  
77 reciprocal, and other types of insurance companies, carriers,  
78 associations, or exchanges writing the type or types of insurance  
79 to which this article applies.

80 The term "person" as used in this article includes any  
81 individual, partnership or corporation incorporated pursuant to  
82 Sections 79-10-1 through 79-10-117, being the Mississippi  
83 Professional Corporation Act, and Sections 79-29-901 through  
84 79-29-933, being the Mississippi Limited Liability Company Act.

85 SECTION 2. This act shall take effect and be in force from  
86 and after July 1, 1999.