

By: Representative Moore

To: Insurance

HOUSE BILL NO. 1243
(As Sent to Governor)

1 AN ACT TO REQUIRE COMPLETION OF CERTAIN COURSES OF STUDY AND
2 CONTINUING EDUCATIONAL REQUIREMENTS AS PREREQUISITES FOR LICENSING
3 AND RENEWAL OF LICENSES AS INSURANCE AGENTS IN THE STATE OF
4 MISSISSIPPI; TO PRESCRIBE THE BASIC PRELICENSING EDUCATIONAL AND
5 CONTINUING EDUCATIONAL REQUIREMENTS FOR INSURANCE AGENTS; TO
6 ESTABLISH STANDARDS BY WHICH PRELICENSING AND CONTINUING EDUCATION
7 SHALL BE EVALUATED FOR AWARDING OF CREDIT; TO AMEND SECTIONS
8 83-17-101 AND 83-17-203, MISSISSIPPI CODE OF 1972, TO DEFINE THE
9 TERM "INACTIVE AGENT"; AND FOR RELATED PURPOSES.

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

11 SECTION 1. (1) Every individual seeking to be licensed as a
12 life, health and accident insurance agent in the State of
13 Mississippi, as a condition of issuance of an original license,
14 must furnish the Commissioner of Insurance certification on a form
15 prescribed by the commissioner that he or she has completed an
16 approved prelicensing course of study for the line of insurance
17 requested.

18 (2) The prelicensing course of study hours shall consist of
19 no less than twenty-four (24) classroom hours for life and/or
20 health/accident insurance or property and casualty insurance.
21 Twelve (12) classroom hours are required on life only; and twelve
22 (12) classroom hours are required for health/accident only.

23 (3) Every individual seeking annual renewal of life, health
24 and accident licenses, or annual renewal of property and casualty
25 licenses, shall complete satisfactorily twelve (12) hours of study
26 in approved courses in his primary line of insurance during each
27 twelve-month period except the initially licensed year. The
28 individual may take an additional twelve (12) hours in his
29 secondary line of insurance.

30 (4) The continuing educational requirements of this section

31 shall not apply to:

32 (a) Any individual that is exempt from taking the
33 written examination as provided in Section 83-17-109(1)(b), (c)
34 and (e);

35 (b) Any individual that is licensed with a license
36 limited to industrial life, industrial health and accident, small
37 loan property, industrial fire and full-coverage auto;

38 (c) A person not a resident of this state who meets the
39 continuing educational requirement in the state in which such
40 person resides and Mississippi has a reciprocal agreement with
41 that state; or

42 (d) Inactive licensees as defined in Sections 83-17-101
43 and 83-17-203.

44 SECTION 2. (1) To qualify for credit towards satisfaction
45 of the requirements of this section, an educational program must
46 be a formal program of learning which contributes directly to the
47 professional competence of the licensee and such program must meet
48 the standards outlined herein for continuing educational programs.

49 The subject of each course must be approved for the lines of
50 insurance for which the licensee is granted educational credit.

51 (2) Formal programs requiring attendance or self-study may
52 be considered for credit if:

53 (a) A detailed outline is prepared and presented to the
54 Department of Insurance for approval;

55 (b) The program is at least two (2) credit hours in
56 length, which each fifty (50) minute period being equal to one (1)
57 credit hour;

58 (c) The program is conducted by a qualified instructor;

59 (d) A record of registration and attendance is
60 maintained for a period of five (5) years and is available to the
61 Department of Insurance for review; and

62 (e) If program is self-study, the agent must pass an
63 exam.

64 (3) Continuing educational credit shall be allowed for

65 service as an instructor of certified programs at any program for
66 which participants are eligible to receive continuing educational
67 credit. Credit for such service shall be awarded on the first
68 presentation only unless a program has been substantially revised.

69 (4) The course must be directly related to life, health and
70 accident insurance or property and casualty insurance. A business
71 course of general nature, insurance marketing or sales course
72 shall not be approved.

73 (5) The courses or programs of instruction successfully
74 completed which shall meet the standards of the Commissioner of
75 Insurance for continuing educational requirements for the year in
76 which the course is taken are:

77 (a) Any part of the Life Underwriter Training Counsel
78 Life Course Curriculum or Health Course;

79 (b) Any part of the American College "CLU-ChFC,"
80 "RHU-REBC" diploma or certificate curriculum;

81 (c) Any part of the Insurance Institute of America's
82 programs;

83 (d) Any course as approved by the Department of
84 Insurance for property and casualty insurance agents; and

85 (e) Any designated insurance course taught by an
86 accredited college or university per credit hour granted.

87 (6) The commissioner specifically reserves the right to
88 approve or disapprove credit for continuing education claimed
89 under this section.

90 (7) The Commissioner of Insurance may require any original
91 publisher or provider to submit all material to be used in his or
92 her program to the Department of Insurance or his designee for
93 review.

94 (8) All providers shall maintain a record of persons
95 attending each course for not less than five (5) years and shall
96 provide certificates of completion with hours earned to students
97 upon their successful completion of each course. The certificate
98 shall bear the course identification number as assigned by the

99 Commissioner of Insurance or his designee.

100 (9) The Commissioner of Insurance may, in his discretion,
101 designate an independent evaluation educational service to
102 evaluate and administer education programs, subject to his
103 direction and approval. The evaluation fee charged by such
104 educational service shall be paid by the applicant to the service.

105 SECTION 3. (1) A prelicensing and continuing educational
106 advisory committee, comprised of seven (7) individuals who are
107 representatives from each segment of the life, health and accident
108 industry and the property and casualty industry may be appointed
109 by and shall serve at the pleasure of the Commissioner of
110 Insurance to advise the commissioner concerning prelicensing and
111 continuing educational standards. Each committee member shall
112 agree to serve a minimum of two (2) years. The chairman of the
113 committee shall be appointed by and shall serve at the pleasure of
114 the commissioner.

115 (2) A majority of those present at any meeting of the
116 educational advisory committee shall be a quorum for purposes of
117 performing the duties of the committee under this section.

118 (3) The committee may advise the commissioner on program
119 content and exceptions as permitted under this section.

120 (4) The committee shall be available to consider other
121 related matters as the commissioner may assign.

122 SECTION 4. (1) Applications for original licenses shall be
123 accompanied by a signed statement, under oath, on a form
124 prescribed by the Commissioner of Insurance, listing the courses
125 that were taken in compliance with this section or a certificate
126 of attendance signed by the educational provider.

127 (2) Each licensee shall submit annually certificates of
128 attendance signed by the continuing educational provider setting
129 forth the program in which he has participated during the
130 reporting period. Each licensee shall maintain a record of each
131 continuing education certificate for a period of no less than five
132 (5) years.

133 (3) The responsibility for establishing whether a particular
134 course or other program for which credit is claimed is acceptable
135 and meets the continuing educational requirements as set forth in
136 this section rests solely on the licensee.

137 SECTION 5. The Commissioner of Insurance, upon written
138 request, may grant exception to or extend the time in which a
139 licensee must comply with the continuing educational requirements
140 of this section for reasons of poor health, military service or
141 other reasonable and just causes.

142 SECTION 6. (1) Any individual failing to meet the
143 requirements of this section and who has not been granted an
144 extension of time within which to comply or who has submitted to
145 the Commissioner of Insurance a false or fraudulent certificate of
146 compliance shall be subject to suspension or revocation of all
147 licenses issued for any kind or kinds of insurance. The
148 individual shall be notified of his right to a hearing. No
149 further license shall be issued to such person for any kind or
150 kinds of insurance until such time as the person has demonstrated
151 to the satisfaction of the commissioner that he or she has
152 complied with all requirements of this section and all other laws
153 applicable thereto.

154 (2) The Commissioner of Insurance may suspend, revoke or
155 refuse to renew a course provider's authority to offer courses for
156 any of the following causes:

157 (a) Advertising that a course is approved before the
158 commissioner has granted such approval in writing;

159 (b) Submitting a course outline with material
160 inaccuracies, either in length, presentation time or topic
161 content;

162 (c) Presenting or using unapproved material in
163 providing an approved course;

164 (d) Failing to conduct a course for the full time
165 specified in the approval request submitted to the commissioner;

166 (e) Preparing and distributing certificates of

167 attendance or completion before the course has been approved;

168 (f) Issuing certificates of attendance or completion
169 before the completion of the course;

170 (g) Failing to issue certificates of attendance or
171 completion to any licensee who satisfactorily completes a course;

172 (h) Failing to notify promptly the Commissioner of
173 Insurance of suspected or known improper activities; or

174 (i) Any violation of state law.

175 (3) A course provider is responsible for the activities of
176 persons conducting, supervising, instructing, proctoring,
177 monitoring, moderating, facilitating or in any way responsible for
178 the conduct of any of the activities associated with the course.

179 (4) In addition, the Commissioner of Insurance may require
180 any of the following upon a finding of a violation of this
181 section:

182 (a) Refunding all course tuition and fees to licensees;

183 (b) Providing licensees with a suitable course to
184 replace the course that was found in violation; or

185 (c) Withdrawal or approval of courses sponsored by such
186 a provider for a period determined by the commissioner.

187 SECTION 7. Section 83-17-101, Mississippi Code of 1972, is
188 amended as follows:

189 83-17-101. Whenever used in this article, certain terms
190 shall be defined as follows:

191 (a) The term "agent" shall include all individuals,
192 partnerships, and any corporation, who act in any manner, directly
193 or indirectly, as such in the solicitation of, negotiation for, or
194 procurement or making of a contract of life, health or accident
195 insurance, or making of an annuity contract, and includes hospital
196 service association agents; except that the term "agent" shall not
197 include any regular salaried officer or employee of a licensed
198 insurer or of a licensed insurance agent who does not solicit or
199 accept from the public applications for any such contract. A
200 regular salaried officer or employee of an insurer authorized to

201 do business in this state shall not be deemed to be an "agent" by
202 reason of rendering assistance to or on behalf of a licensed
203 insurance agent, provided that such salaried officer or employee
204 devotes substantially all of his time to activities other than the
205 solicitation of applications for life, health or accident
206 insurance or annuity contracts and receives no commission or other
207 compensation directly dependent upon the amount of business
208 obtained. The possessor of an insurable interest in any risk or
209 subject of insurance shall not be deemed an agent by reason of
210 procuring or maintaining, or agreeing to procure or maintain,
211 insurance extending to such interests, together with the interest
212 or interests of others in such risk or subject of insurance,
213 however the cost may be borne.

214 (b) The term "inactive agent" shall mean an individual
215 who is retired, disabled or has not obtained from the Commissioner
216 of Insurance a current continuous certificate. An inactive agent
217 shall not solicit new business or service existing business, but
218 may receive renewal commissions.

219 (c) The term "supervising general agent" as used in
220 this article refers to and includes any person, partnership,
221 association or corporation, having authority to serve as trustees,
222 managers or administrators, except attorneys at law, for such
223 licensed insurance companies or their insureds in the handling of
224 insurance programs underwritten by such licensed insurance
225 companies, or in which they may be participating.

226 (d) The term "insurance contract" shall mean any
227 contract or policy affecting life, health or accident insurance or
228 any annuity contract on behalf of any company or insurer engaged
229 in the business of writing life, health or accident insurance or
230 annuity contracts.

231 (e) The term "excess risk" shall mean all or any
232 portion of a life, health or accident insurance risk or contract
233 of annuity for which application is made to an agent and which
234 exceeds the amount of insurance or annuity which will be provided

235 by the insurer for which such agent is licensed.

236 (f) The term "rejected risk" shall mean a life, health
237 or accident insurance risk or annuity contract for which
238 application has been made to an agent and which insurance or
239 annuity contract is declined by the insurer for which such agent
240 is licensed.

241 (g) The term "commissioner" shall mean the Commissioner
242 of Insurance of the State of Mississippi.

243 (h) The terms "company" and "insurer" shall mean a
244 corporation, association, hospital and/or medical service
245 association, exchange, order or society writing life, health and
246 accident and/or hospital insurance or annuity contracts, but shall
247 not include fraternal societies as defined in Section 83-29-1.

248 (i) The term "person" shall mean any individual,
249 partnership or corporation incorporated pursuant to Sections
250 79-10-1 through 79-10-117, being the Mississippi Professional
251 Corporation Act, and Sections 79-29-901 through 79-29-933, being
252 the Mississippi Limited Liability Company Act, except as otherwise
253 limited by Section 83-17-105.

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

256 83-17-203. The terms "agent" and "solicitor" as used in this
257 article refer to and include all persons, residents of this state,
258 engaged in any of the activities enumerated in Section 83-17-201,
259 but do not include (1) persons employed by insurance agents or
260 agencies or companies solely for the performance of clerical,
261 stenographic, and similar office duties, or (2) the supervising
262 general, state, special agents or others similarly employed by a
263 supervising general agent or insurance company or carrier, neither
264 of whom shall be eligible to apply for or secure a certificate of
265 authority or license as a resident countersigning agent as defined
266 herein or in other provisions of the insurance laws of this state;
267 and said "supervising general, state, special agents" as used in
268 this article refer to and include all persons, firms,

269 partnerships, and corporations having authority to appoint or
270 supervise resident local agents in this state on behalf of
271 insurance companies; but nothing contained in this subsection (2)
272 shall prohibit the licensing as an agent of a person appointed to
273 act as agent for a company operating through agents who represent
274 only one (1) company or group of companies under the same control
275 or management; or (3) the attorney-in-fact or the traveling
276 salaried representative of a reciprocal insurance exchange; the
277 term "attorney-in-fact" or the "traveling salaried representative"
278 as used in this article refers to and includes all persons, not
279 otherwise licensed under the provisions of this article, who
280 represent or are employed by any underwriter, association, or
281 reciprocal insurance exchange writing policies in Mississippi
282 other than through resident agents, who in any manner solicit
283 business on behalf of such underwriters, associations, or
284 reciprocal insurance exchanges. It is expressly provided,
285 however, that this section shall not prevent the licensing of any
286 person now licensed as an agent who would, but for the provisions
287 of subsection (2) hereof be eligible for such license; provided
288 further, a local agent operating as a general agent may be
289 licensed in such dual capacity so long as the general agency is
290 operated in connection with a local agency, or where the owners or
291 majority of the stockholders have a substantial interest in such
292 local and general agency.

293 The term "inactive agent" shall mean an individual who is
294 retired, disabled or has not obtained from the Commissioner of
295 Insurance a current continuous certificate. An inactive agent
296 shall not solicit new business or service existing business, but
297 may receive renewal commissions.

298 The term "insurance solicitor" as used in this article refers
299 to and includes any person, a resident of this state, directly
300 connected with and principally employed by and authorized by an
301 insurance agent to solicit and negotiate or assist in any manner
302 in the sale and issuance of policies or contracts of insurance

303 solely on behalf of such agents; and no license shall be renewed
304 for any solicitor unless it is conclusively shown that more than
305 fifty percent (50%) of his total annual employment income for the
306 preceding year is derived from commissions on insurance; and for
307 the purposes of this article, life, accident and health insurance
308 commissions shall be included in calculating said fifty percent
309 (50%). The agent appointing such solicitor shall be responsible
310 for the acts of the solicitor. Any violation of the insurance
311 laws by the solicitor may be grounds for revocation of license of
312 both the agent and the solicitor after proper hearing. The
313 commission of any unlawful act by the solicitor shall be prima
314 facie evidence that the agent had knowledge of such act.

315 The term "insurance agent" as used in this article refers to
316 and includes all insurance agents not thus employed as "insurance
317 solicitors." No license or renewal license as a resident local
318 agent shall be granted to any person to act as said agent who is
319 not actively engaged therein by soliciting and servicing the
320 insurance-buying public as an agent individually, or as a bona
321 fide employee of an agent or agency; and no renewal license shall
322 be issued to any agent until it is conclusively shown by filing an
323 affidavit with the Commissioner of Insurance or otherwise that not
324 more than thirty-five per cent (35%) of the aggregate amount of
325 commissions of the said agent was derived from "controlled
326 business" as referred to and defined hereinafter.

327 The terms "insurance company" and "insurance carrier" as used
328 in this article refer to and include all stock, mutual,
329 reciprocal, and other types of insurance companies, carriers,
330 associations, or exchanges writing the type or types of insurance
331 to which this article applies.

332 SECTION 9. This act shall take effect and be in force from
333 and after July 1, 2000.